



An assessment of Botswana's compliance with regional trade agreements with specific reference to trade policy

MKC Edward

 **orcid.org 0000-0002-7156-241X**

Mini dissertation accepted in partial fulfilment of the
requirements for the degree *Master of Laws in International
Trade Law* at the North-West University

Supervisor: Dr JC Kanamugire

Graduation: October 2023

Declaration

I, Maungo Katlo Carol Edward student number 40277672, declare that the mini dissertation titled **An Assessment of Botswana's compliance with regional trade agreements with specific reference to trade policy** is my original work and has not been submitted for examination anywhere before. This mini dissertation is submitted for examination to NWU in partial requirement of the degree LLM in International Trade Law.

Acknowledgements

May praise be given to God, the Creator of all! My heartfelt gratitude goes further to my supervisors Dr JC Kanamugire and Professor MLM Mbao for their guidance throughout the research process. I would not have been able to complete this paper without their support, they were truly the wind beneath my wings. I am also indebted to my language editor, Ms RS Ngubane.

Abstract

The study assessed Botswana's compliance with regional trade agreements with specific reference to trade policy. The importance of this study is to evaluate whether Botswana's trade policy complies with its regional integration obligations. In order to achieve the aforementioned, this study consists of a four folded study which includes: determining how trade agreements become part and parcel of Botswana's national law, highlighting the regional trade agreements to which Botswana is a member state, analyzing the opportunities and challenges which Botswana's trade policy faces and scrutinizing Botswana's compliance with its regional trade agreements.

The research method adopted to this end is a literature study. Various primary and secondary sources are scrutinized, these include journal articles, case law, legislation, textbooks, and electronic sources. In order to assess whether Botswana has complied with its regional trade agreements, the starting point is to determine whether the regional agreements have been incorporated into Botswana's national law or not. Botswana is a member state to the SADC Protocol on Trade (2005), SACU Agreement (2002), the SADC, EAC, COMESA Tripartite Free Trade Area, the SACUM-UK Economic Partnership Agreement (2019), the EU-SADC Economic Partnership Agreement (2016), the Botswana-Zimbabwe Trade Agreement, the Botswana-Malawi Trade Agreement and a signatory to the African Continental Free Trade Area (AfCTA). Botswana seeks to diversify its economy and comprehends that regional integration is an effective tool in achieving its goal of economic diversification.

For the past previous decades, Botswana has been trading in good faith with its regional trading states. However, from the year 2018, Botswana has been implementing bans and restrictions on the importation of certain merchandise from its trading states. As evident from the study the bans and restrictions that Botswana has implemented are in violation of the regional trade agreements that Botswana is a member state of. This study, therefore, provides recommendations that Botswana could consider in order to comply with its regional trade agreements.

Keywords

Trade, compliance, trade policy, regional integration, economic development.

List of Abbreviations

ADR	African Development Review
AfCTA	African Continental Free Trade Area
AGOA	African Growth Opportunity Act
AU	African Union
BNAR	Botswana Notes and Records
ED	Economic Diversification
EDD	Economic Diversification Drive
EU	European Union
EOLB	Essays on the Laws of Botswana
FDI	Foreign Direct Investment
FTA	Free Trade Area
GJEME	Global Journal of Emerging Market Economies
IJLASE	International Journal of Liability and Scientific Enquiry
JOAAM	Journal of Accounting and Management
LDD	Law, Democracy & Development
MFA	Multi-Fibre Agreement
NTB'S	Non-Tariff Barriers
REC'S	Regional Economic Communities
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAJM	South African Journal of Business Studies
UBLJ	University of Botswana Law Journal

JOAT Journal of African Trade
WTO World Trade Organisation

Table of contents

Declaration..... i
Acknowledgements..... iii
Abstract..... iv
Keywords v
List of Abbreviations..... vi
Chapter One: Introduction 1
1.1 Background of the study..... 1
1.2 Problem Statement..... 2
1.3 Motivation 5
1.4 Research question 6
1.5 Research aim and objectives 7
1.6 Research methodology..... 7
1.7 Framework..... 7
1.8 Relevance for the research unit..... 8
1.9 Statement regarding ethics 8
1.10 Summary..... 8
Chapter Two: Incorporation of regional trade agreements into the laws of Botswana..... 9
2.1 Introduction 9
2.2 International Law..... 9
2.3 The sources of international law 10
2.4 Reception of international law through the monism and dualism system 10
2.5 Incorporation of regional trade agreements into Botswana’s laws 13
2.6 But how are international instruments domesticated in the laws of Botswana? 14
2.7 Botswana’s obligations under international conventions 15
2.7 Summary..... 18
Chapter Three: Trade Agreements which Botswana has entered into..... 19
3.1 Introduction 19
3.2 The Regional Trade Agreements that Botswana is a party to 19

3.2.1 Southern African Development Community (SADC) Protocol on Trade (2005).....	20
3.2.2 Southern African Customs Union (SACU) Agreement (2002).....	21
3.2.3 African Continental Free Trade Area (AfCTA)	23
3. 2.4 The SADC, EAC and COMESA Tripartite Free Trade Area.....	24
3.2.5 SACUM-UK Economic Partnership Agreement (EPA)	25
3.2.6 EU-SADC Economic Partnership Agreement.....	27
3.2.7 Botswana-Zimbabwe Trade Agreement.....	27
3.2.8 Botswana-Malawi Trade Agreement.....	27
3.3 Botswana efforts in promoting regional integration	28
3.4 Botswana’s Trade Policy Framework.....	29
3.5 The implementers of Botswana’s Trade Policy.....	33
3.6 Summary	34
Chapter Four: An assessment of Botswana’s compliance with regional trade agreements....	35
4.1 Introduction	35
4.2 Main objectives of Botswana’s Policy.....	36
4.3 Priority Sectors in achieving Economic Diversification	37
4.3.1. Textile and Clothing Sector.....	37
4.3.2 Agricultural Sector	40
4.3.3 Investment Sector	45
4.5. Botswana’s challenges	47
4.6. An assessment of Botswana’s compliance with regional trade Agreements	50
4.7 Summary.....	59
Chapter Five: Conclusions and Recommendations.....	61
5.1 Conclusion.....	61
5.2 Recommendations	63
6. Reference List.....	65

Chapter One: Introduction

1.1 Background of the study

Botswana is considered to be the least corrupt country in Africa.¹ It is also viewed as one of the competitive economies in Africa.² However Botswana's trade potential is restricted by the fact that it is a landlocked country with a relatively small population.³ Botswana's economic performance is founded on its successful exports; diamonds are the country's main exports.⁴ The Diamond industry accounted for 91.6 percent, live cattle with 1.1 percent, Copper with 2.2 percent, Salt and Soda Ash at 1.1 percent, Machinery and electrical equipment at 1.1 percent and other goods at 3 percent of the GDP.⁵ Nonetheless Botswana needs to diversify the export base in order to decrease its over dependence on diamonds as they will eventually become exhausted with time.⁶

Developing countries must diversify their economies away from natural resources extraction and primary industrial production, in order for them to obtain economic development.⁷ Consequently manufacture for export emerges as a major policy imperative.⁸ Regional economic cooperation is regularly encouraged as a means of facilitating trade among member countries in a particular region.⁹ Regional economic cooperation is an effective global trade tool.¹⁰ The free circulation of goods, people, services and capital between state markets is defined as regional economic integration.¹¹ Since the achievement of independence of many African states,¹² these states have seen regional economic integration as the means to boost economic

¹ Thomas and Marandu 2017 *SAJBM* 76.

² Thomas and Marandu 2017 *SAJBM* 76.

³ Thomas and Marandu 2017 *SAJBM* 76.

⁴ Thomas and Marandu 2017 *SAJBM* 76.

⁵ Statistics Botswana 2021 <http://www.statsbots.org.bw>

⁶ Thomas and Marandu 2017 *SAJBM* 76.

⁷ Thomas and Marandu 2017 *SAJBM* 76.

⁸ Thomas and Marandu 2017 *SAJBM* 75.

⁹ Thomas and Marandu 2017 *SAJBM* 75.

¹⁰ Thomas and Marandu 2017 *SAJBM* 75.

¹¹ Kayizza-Mugierwa, Anyanwu and Coeicao 2014 *ADR* 1.

¹² Kayizza-Mugierwa, Anyanwu and Coeicao 2014 *ADR* 1.

growth and reduce unemployment and poverty in Africa.¹³ However experience has shown that these prospects can only happen from encouraging the opportunity for deeper regional economic integration.¹⁴

African states have taken great steps to advance regional economic integration and a huge part of it is intra-regional trade.¹⁵ These comprise of the formation of the African Union and the different regional economic communities which desire integration through developing custom unions, free trade, and common markets.¹⁶ The African Union (AU) was established on the 9th of July 2002,¹⁷ its formation was motivated by the desire for a united and strong Africa.¹⁸ The AU emerged as an evolution from the out-of-date Organisation of the African Unity (OAU).¹⁹ The purpose of the AU is to increase cooperation, stimulate the Pan-African cognizance and integration among African countries for the purpose of economic integrity and growth.²⁰

This mini dissertation assesses Botswana's compliance with regional trade agreements with specific reference to trade policy so as to establish whether Botswana's trade policy is in line with the country's regional trade agreement obligations.

1.2 Problem Statement

Botswana became independent in 1966 and since then, the country has become active in executing trade related interventions in order to achieve the country's broad economic objectives.²¹ Botswana adopted the export-led growth strategy in 1998 and more policy frameworks have been developed with the aim of achieving entrepreneurial development, diversification of the economy and promoting free

¹³ Kayizza -Mugierwa, Anyanwu and Coeicao 2014 *ADR* 1.

¹⁴ Kayizza-Mugierwa, Anyanwu and Coeicao 2014 *ADR* 1.

¹⁵ Kayizzi-Mugierwa, Anyanwu and Coeciao 2014 *ADR* 2.

¹⁶ Kayizzi-Mugierwa, Anyanwu and Coeciao 2014 *ADR* 2.

¹⁷ Yusuf 2019 *JoAUS* 35.

¹⁸ Yusuf 2019 *JoAUS* 35.

¹⁹ Yusuf 2019 *JoAUS* 35.

²⁰ Yusuf 2019 *JoAUS* 35.

²¹ Malefane and Odhiambo 2016 *GJEME* 22.

trade.²² The government of Botswana introduced policy interventions in the form of, *inter alia*, reduction in taxes,²³ with great focus on the manufacturing sector;²⁴ this was around mid-1990.²⁵ Botswana seeks to attain amplified trade flows via trade liberalisation,²⁶ through trade agreements that it has entered into.²⁷ Botswana is a member state to the World Trade Organisation (WTO).²⁸ WTO member states are mandated to inform the WTO about trade related measures that they apply.²⁹ Accordingly, in the year 2007 Botswana notified WTO of the removal of agricultural safeguards, export subsidies and the implementation of measures for addressing technical barriers of trade.³⁰

Besides being a member of the WTO, Botswana signed the Interim Economic Partnership Agreement with the European Union (EU) to uphold its beef exports under preference to the EU.³¹ Botswana signed the South African Development Community (SADC) Trade Protocol in 1996 and ratified it in September 2000.³² The key goals of the SADC Trade Protocol is to offer improved intra-SADC free trade by generating conditions that are beneficial for free trade within SADC states.³³ The trading policy decisions and options under the SADC Trade Protocol consist of Non-Tariff Barriers (NTB's),³⁴ Tariff Reductions in SADC and membership to multiplicity of regional trading blocs.³⁵ The African Growth and Opportunity Act (AGOA) is an initiative of the US government which seeks to encourage trade between the United States (US) and Africa.³⁶ AGOA was signed in September 2000, and it permits Sub-Saharan African states quota free and duty free access into the US market on condition that they comply with specific country and product eligibility conditions.³⁷

²² Malefane and Odhlambo 2016 *GJEME* 25.

²³ Malefane and Odhlambo 2016 *GJEME* 25.

²⁴ Malefane and Odhlambo 2016 *GJEME* 25.

²⁵ Malefane and Odhlambo 2016 *GJEME* 25.

²⁶ Malefano and Odhlambo 2016 *GJEME* 26.

²⁷ Malefano and Odhlambo 2016 *GJEME* 26.

²⁸ Malefano and Odhlambo 2016 *GJEME* 26.

²⁹ Malefano and Odhlambo 2016 *GJEME* 26.

³⁰ Malefano and Odhlambo 2016 *GJEME* 26.

³¹ Zizhou 2009 <http://www.tips.org.za>.

³² Africa Portal 2006 <https://www.africaportal.org>.

³³ Africa Portal 2006 <https://www.africaportal.org>.

³⁴ Africa Portal 2006 <https://www.africaportal.org>.

³⁵ Africa Portal 2006 <https://www.africaportal.org>.

³⁶ Africa Portal 2006 <https://www.africaportal.org>.

³⁷ Africa Portal 2006 <https://www.africaportal.org>.

Botswana is a member of the South African Customs Union (SACU).³⁸ The SACU Agreement mostly deals with free trade in goods and also has requirements for import and export prohibitions and restrictions,³⁹ free trade of transit of goods,⁴⁰ dispute settlement,⁴¹ protection of infant industry,⁴² common revenue pool and revenue sharing formula.⁴³ Furthermore its objectives are to facilitate the development of common policies and strategies which consist of, industrial development policy, trade policy, agricultural policy and competition policy.⁴⁴ A new SACU Agreement was signed by member states in 2002 and the said agreement came into force in the year 2007.⁴⁵ The new agreement is meant to address Botswana, Lesotho, Namibia and Swaziland's concerns of the revenue sharing formula, the need for a more democratic decision-making process and spreading development benefits to the less developed member states.⁴⁶

The SACU agreement is considered to be the most notable trade agreement that Botswana has entered into.⁴⁷ The SACU agreement promotes duty free trade within the SACU area and a rather high degree of protection against imports from the rest of the world.⁴⁸ Due to the membership for the WTO, in the recent years SACU tariffs -against the rest of the world- have been gradually reduced and this has amplified competition from world imports in Botswana and other SACU member states.⁴⁹ Tariff reduction in the SACU area has been armoured by the Free Trade Agreement between South Africa and EU,⁵⁰ under which barriers to imports into SACU area from EU are being reduced.⁵¹

³⁸ Zizhou 2009 <http://www.tips.org.za>.

³⁹ Zizhou 2009 <http://www.tips.org.za>.

⁴⁰ Zizhou 2009 <http://www.tips.org.za>.

⁴¹ Zizhou 2009 <http://www.tips.org.za>.

⁴² Zizhou 2009 <http://www.tips.org.za>.

⁴³ Zizhou 2009 <http://www.tips.org.za>.

⁴⁴ Zizhou 2009 <http://www.tips.org.za>.

⁴⁵ Zizhou 2009 <http://www.tips.org.za>.

⁴⁶ Zizhou 2009 <http://www.tips.org.za>.

⁴⁷ UNCTAD 2006 <http://unctad.org>.

⁴⁸ UNCTAD 2006 <http://unctad.org>.

⁴⁹ UNCTAD 2006 <http://unctad.org>.

⁵⁰ UNCTAD 2006 <http://unctad.org>.

⁵¹ UNCTAD 2006 <http://unctad.org>.

Over the years Botswana's trade structure and trade policy has been massively persuaded by the state's participation in different bilateral and multilateral trading agreements, and its membership of the SACU Agreement.⁵² Despite these various agreements, Botswana's trade policy pursues to obtain the broadest possible free and dependable access for the country's industrial products and service.⁵³ Botswana's policy also targets improving Botswana's access to industrial raw materials for the objective of meeting the nation's aims of accomplishing not just the development of production activities but also economic export diversification.⁵⁴

One may then assume that in the years to come, transformation of the many trading arrangements in light of the need to conform with WTO agreements, may result in immense competition in Botswana and abroad for entrepreneurs and industrialists in the country.⁵⁵ This will therefore call for a strengthened negotiating regime,⁵⁶ and a very advanced and unswerving trade policy.⁵⁷ It is ,therefore, imperative to assess the extent to which Botswana's trade policy complies with the country's treaty obligations under the various treaties that it has entered into.

1.3 Motivation

Botswana's National trade policy is demarcated as the regulations, international agreements and pronouncement on trade which outline how Botswana will carry on trade with regional, multilateral and bilateral partners.⁵⁸ Guidelines relating to trade matters do not only address policies that deal with physical trade but also consist of an infinite variety of legal and economic tools which provide the structure for taking part in domestic and international trade.⁵⁹ In a nutshell, trade policy incorporates any strategy directed predominantly at the level or pattern of trade. ⁶⁰

⁵² UNCTAD 2006 <http://unctad.org>.

⁵³ UNCTAD 2006 <http://unctad.org>.

⁵⁴ UNCTAD 2006 <http://unctad.org>.

⁵⁵ UNCTAD 2006 <http://unctad.org>.

⁵⁶ UNCTAD 2006 <http://unctad.org>.

⁵⁷ UNCTAD 2006 <http://unctad.org>.

⁵⁸ UNCTAD 2017 <http://unctad.org>.

⁵⁹ UNCTAD 2017 <http://unctad.org>.

⁶⁰ UNCTAD 2017 <http://unctad.org>.

The government of Botswana is dedicated to the development of trade policies with the objective of achieving economic diversification and global competitiveness.⁶¹ In order to pursue these targets, the Government has assimilated a chain of trade strategies and guidelines.⁶² The Private Sector Development Strategy and Industrial Development Policy were introduced with the intention to steer Botswana through export development, economic diversification and employment generation.⁶³ Botswana applies various trade policy instruments aimed at certain areas of the supply chain to improve private sector competitiveness.⁶⁴ Some of these trade policy instruments include The National Export Strategy which affords a strategy for the country and its private sector to attain maximal benefits out of its trading arrangements⁶⁵ and the Economic Diversification Drive which is contemplated by the Botswana government as the answer to economic development and vivacious universally competitive private sector.⁶⁶ Some of these mechanisms are cross-cutting and influence various areas of the supply chain and they outline Botswana's economic landscape and trade.⁶⁷

Botswana is a member state to numerous trade agreements⁶⁸ and the focus or motivation of this mini dissertation will be to critically analyse whether Botswana's trade policy is in line with the country's regional trade agreement obligations.

1.4 Research question

Does Botswana's trade policy comply with its regional integration obligations as articulated in various regional trade agreements?

⁶¹ UNCTAD 2017 <http://unctad.org>.

⁶² UNCTAD 2017 <http://unctad.org>.

⁶³ UNCTAD 2017 <http://unctad.org>.

⁶⁴ UNCTAD 2017 <http://unctad.org>.

⁶⁵ UNCTAD 2017 <http://unctad.org>.

⁶⁶ UNCTAD 2017 <http://unctad.org>.

⁶⁷ UNCTAD 2017 <http://unctad.org>.

⁶⁸ Such as the World Trade Organisation (WTO), Southern Customs Union (SACU), South African Development Community (SADC) Trade Protocol etc.

1.5 Research aim and objectives

The aim of this mini dissertation is to assess the extent to which Botswana's trade policy conforms to its regional treaty obligations. The objectives of the investigation are to (i) determine how trade agreements become part and parcel of Botswana's national law, (ii) consider the regional trade agreements which Botswana is a party to, (iii) scrutinize Botswana's compliance with regional trade agreements and (iv) analyse the opportunities and challenges which Botswana's trade policy faces.

1.6 Research methodology

The research method which will be utilised in this study is the qualitative method. By its very nature, the study will be conducted through a desktop study. The researcher will use the PER Referencing style (the North West University Faculty of Law Referencing style). The researcher will make use of conference papers, journal articles, international conventions or treaties, statutes, cases, books, chapters in books and internet sources trade in order to assess Botswana's compliance with regional trade agreements with specific reference to trade policy.

1.7 Framework

The study consists five inter-related chapters as follows; Chapter One is an introduction. It covers the background of the study, problem statement, motivation, research question, research aim and objectives, research methodology, and framework of the mini dissertation. Chapter Two will cover the incorporation of international law in Botswana's national law. Chapter Three will focus on the regional integration trade agreements which Botswana has entered into and Botswana's trade policy framework. Chapter Four will assess Botswana's compliance with regional trade agreements, in addition the opportunities and challenges that Botswana's trade policy encounters. Chapter Five will provide the conclusion and recommendations of the study.

1.8 Relevance for the research unit

This mini dissertation sought to evaluate whether Botswana's trade policy complies with its regional treaty obligations or not. The theme of the study falls within the scope of the Research Unit, namely *Law, Justice and Sustainability*, specifically within the project of Finance, Trade, and Innovation. The relevance of this research stems from the fact that like many countries, Botswana has undertaken to promote sustainable economic development and has done so by being a party to a number of trade treaties. The mini dissertation will therefore deliberate on the regional trade agreements which Botswana has entered into and the country's regional trade agreement obligations. Botswana's trade policy framework will also be analysed. The opportunities and challenges that Botswana's trade policy encounters will be discussed, and recommendations will be made.

1.9 Statement regarding ethics

This is a desktop research and no interviews with persons or questionnaires will be distributed to people to complete. It does not create any potential risk to North West University or any other person. Therefore, there is no need for ethical clearance to conduct this research study.

1.10 Summary

This chapter discussed the background of the study, problem statement, motivation, research question, aim and objectives, research methodology, framework, and research unit. The next chapter will elaborate on the incorporation of international law into the laws of Botswana.

Chapter Two: Incorporation of regional trade agreements into the laws of Botswana

2.1 Introduction

The assessment of Botswana's compliance with regional trade agreements depends on whether the regional trade agreements that Botswana has entered into have been domesticated into the laws of Botswana. Regional trade agreements are a source of international law,⁶⁹ and in order for international law and trade agreements to be binding upon Botswana, they must be domesticated into the laws of Botswana.⁷⁰ The Constitution of Botswana bestows Parliament with the authority to make laws.⁷¹ Power to make such laws is at best a directive principle of the Constitution of Botswana.⁷² This Chapter discusses the domestication of international law and trade agreements in the laws of Botswana. Furthermore the Chapter will highlight that treaty making power is entrusted to the executive branch, subject to ratification by parliament.

2.2 International Law

International law may be described as the body of regulations which are obligatory on states in their relation with one another,⁷³ and furthermore it establishes the obligations and mutual rights of states.⁷⁴ The system of international law also incorporates non-state bodies, for example international organisations.⁷⁵

⁶⁹ A 38(1)(a) of the Statute of the International Court of Justice (1945).

⁷⁰ Section 57 of the Constitution of Botswana 1996.

⁷¹ Section 57 of the Constitution of Botswana 1996.

⁷² Section 57 of the Constitution of Botswana 1996.

⁷³ Orkhelashvili *Akhust's Morden Introduction to International Law* 1.

⁷⁴ Orkhelashvili *Akhust's Morden Introduction to International Law* 1.

⁷⁵ Orkhelashvili *Akhust's Morden Introduction to International Law* 1

International law may also be referred to as public international law.⁷⁶ The existence of state sovereignty, subjected to no superior authority and the limitation of each state's public authority to its own territory, results in no other opportunity to legally control the relationships between them except via the rules approved and assented to by the states.⁷⁷

2. 3 The sources of international law

Article 38 (1) of the Statute of the International Court of Justice (ICJ) stipulates that the court is mandated to decide in accordance with international law disputes and it is to apply;⁷⁸ international conventions;⁷⁹ international custom;⁸⁰ the general principles of law recognised by civilised nations ⁸¹ and conditional to the provisions of Article 59, judicial decisions and the teachings of qualified publicists of the different nations, as subsidiary means for the determination of rules of law .⁸²

2.4 Reception of international law through the monism and dualism system

There are two contradictory and diametrically opposed theories, the monist and the dualist theories which have dogged the debate over the reception of international law within the domestic sphere.⁸³ Their merit is that they both articulate the difference in which the status and indeed the relevance of international legal norms in international law can be defined.⁸⁴ However, pure dogmatic adherences to these theories obscure the role that international legal norms may play in national law: that of providing the opportunity to individuals to claim rights and obligations protected at international level.⁸⁵

⁷⁶ Orkhelashvili *Akhust's Morden Introduction to International Law* 1.

⁷⁷ Orkhelashvili *Akhust's Morden Introduction to International Law* 4.

⁷⁸ Sweet and Maxwell *Cases and Materials on International Law* 34.

⁷⁹ A 38 (1)(a) of the Statute of the International Court of Justice (1945).

⁸⁰ A 38 (1)(b) of the Statute of the International Court of Justice (1945).

⁸¹ A 38 (1)(c) of the Statute of the International Court of Justice (1945).

⁸² A 38 (1)(d) of the Statute of the International Court of Justice (1945).

⁸³ Tshosa 2007 *EOLB* 229.

⁸⁴ Tshosa 2007 *EOLB* 229.

⁸⁵ Tshosa 2007 *EOLB* 229.

Monism or the doctrine of automatic incorporation as it is sometimes referred to, is that international and national law belong to a single normative system as related parts of one legal structure.⁸⁶ Proponents of this theory view all law as a single normative system made up of irrevocable legal rules, whether these rules are mandatory on states or individuals, or on entities other than states.⁸⁷ International law and national law are manifestations of one single concept of law binding on human beings.⁸⁸ The monists are of the position that international legal rules and various national legal orders create a single universal system and in cases of conflict, national legal orders take a subsidiary position.⁸⁹

Dualism known as the adoption or transformation theory tends to radically treat international law and municipal law as two entirely separate normative laws.⁹⁰ Dualism emphasises that rules of international and national law exist distinctly and unable to profess to have an influence on, or set aside the other.⁹¹ The proponents of this theory were predisposed by their positivist beliefs and adopted the consensual approach to investigate the relationship between international law and national law.⁹² They were of the belief that international law was based on the consent of sovereign states, and therefore this made it a distinct and independent legal system while national law is based on the internal will of the state.⁹³ Rules of international law, to be specific, only become national law when the state causes them to be so.⁹⁴

In fact in a situation in which a conflict is to arise, those who have subscribed to the dualist theory are of the view that international law will reign supreme because states have the sovereign will to determine which norms of international law are to have effect in national law.⁹⁵ However, in reality, this is not what is being observed

⁸⁶ Tshosa 2007 *EOLB* 230.

⁸⁷ Tshosa 2007 *EOBL* 230

⁸⁸ Tshosa 2007 *EOLB* 230

⁸⁹ Tshosa 2007 *EOLB* 230.

⁹⁰ Tshosa 2007 *EOLB* 230.

⁹¹ Tshosa 2007 *EOLB* 230.

⁹² Tshosa 2007 *EOLB* 230.

⁹³ Tshosa 2007 *EOLB* 230

⁹⁴ Tshosa 2007 *EOLB* 230.

⁹⁵ Tshosa 2007 *EOLB* 230.

by states, the outcome of international law generally and treaties specifically will always depend on the domestic law, especially regulations of constitutional law.⁹⁶

In the United Kingdom, the status of International law is regulated by the classical monist theory, according to which the rules of customary international law are directly applicable in the United Kingdom's legal system.⁹⁷ This principle was laid down in *Trendtex Trading Corporation Ltd v Central Bank of Nigeria*⁹⁸ where the court held that the defence of sovereign immunity did not apply to commercial transactions, which rule forms part and parcel of the English common law.⁹⁹ Another case to be considered is that of *Triquet v Bath*¹⁰⁰ where the court held that the law of nations is in full extent part of the law of England.¹⁰¹ The reception of customary international law into the law of England is automatic without the need for the court to decide upon it.¹⁰² In South Africa, customary international law is regarded as part of South African law as long as it does not clash with the Constitution of South Africa or any South African legislation which is in operation.¹⁰³ This is said to be the monism approach of the implementation of the international law into South African law. Section 233 of the Constitution of South Africa commands every court to prefer any reasonable interpretation of legislation which is in line with international law over any interpretation which is not.¹⁰⁴ A dualist approach is followed by South Africa with regard to the domestic effect of international treaties.¹⁰⁵ For a treaty to be obligatory in South Africa, the treaty must be incorporated into domestic legislation.¹⁰⁶

In Botswana, customary international law is part of the national law as discussed in *Republic of Angola v Springbok Investment*.¹⁰⁷ In this case, the court highlighted that the situation in Botswana with respect to customary international law is that it

⁹⁶ Tshosa 2007 *EOLB* 230.

⁹⁷ *Trendtex Trading Corporation Ltd v Central Bank of Nigeria* 1977 1 All E.R page 881.

⁹⁸ *Trendtex Trading Corporation Ltd v Central Bank of Nigeria* 1977 1 All E.R page 881.

⁹⁹ *Trendex Trading Corporation Ltd v Central Bank of Nigeria* 1977 1 All E.R page 881.

¹⁰⁰ *Triquet v Bath* 1764 3 Burr page 1478.

¹⁰¹ *Triquet v Bath* 1764 3 Burr page 1478.

¹⁰² *Triquet v Bath* 1794 3 Burr page 1478.

¹⁰³ Section 232 of the *Constitution of the Republic of South Africa*, 1996.

¹⁰⁴ Section 233 of the *Constitution of the Republic of South Africa*, 1996.

¹⁰⁵ Section 231 of the *Constitution of the Republic of South Africa*, 1996.

¹⁰⁶ Section 231 of the *Constitution of the Republic of South Africa*, 1996.

¹⁰⁷ *Republic of Angola v Sprinbok Investment* 2005 1 BLR page 159 (HC).

automatically forms part of the national law.¹⁰⁸ The court went on to state that the rules of customary international law form part of the laws of Botswana, as a member state of the wider family of nations, this is in so far as they do not conflict with Botswana's legislation or the common law and it is the duty of the court to apply them.¹⁰⁹ However, it is to be noted that treaty law does not form part and parcel of the laws of Botswana unless if they are incorporated by legislation to be part of national laws.¹¹⁰

2.5 Incorporation of regional trade agreements into Botswana's laws

Botswana is a dualist state and the position in Botswana is that without incorporation, an international instrument is merely looked to as an aid in the interpretation of ambiguous and unclear statutory provisions.¹¹¹

Amissah P, as he then was, in the *Dow* case¹¹² expressed the position as thus: "*If an international convention, agreement, treaty, protocol, or obligation has been incorporated into domestic law, there seems to me to be no problem since such convention, agreement, and so on will be treated as part of the domestic law for purposes of adjudication in a domestic court. If it has merely been signed but not incorporated into domestic law, a domestic court must accept the position that the Legislature or the Executive will not act contrary to the undertaking given on behalf of the country by the Executive in the convention, agreement, treaty, protocol or other obligation.*"¹¹³

The *Dow* case is supported by that of *Kenneth Good v Attorney General*¹¹⁴ in which the applicant, an Australian citizen had been employed by the University of Botswana as a lecturer in political science.¹¹⁵ His contract had been renewed from time to time for a period of 15 years, however on the 18th of February 2005, the

¹⁰⁸ *Republic of Angola v Sprinbok Investment* 2005 1 BLR page 159 (HC).

¹⁰⁹ *Republic of Angola v Sprinbok Investment* 2005 1 BLR page 159 (HC).

¹¹⁰ *Republic of Angola v Springbok Investment* 2005 1 BLR page 159 (HC).

¹¹¹ *Dow v Attorney General* 1992 BLR 119 (CA)

¹¹² *Dow v Attorney General* 1992 BLR 119 (CA)

¹¹³ *Dow v Attorney General* 1992 BLR 119 (CA).

¹¹⁴ *Kenneth Good v Attorney General* 2005 1 BLR 462 (HC).

¹¹⁵ *Kenneth Good v Attorney General* 2005 1 BLR 462 (HC).

President of Botswana declared the applicant to be a prohibited immigrant and he was told to leave Botswana.¹¹⁶ An urgent application was made by the applicant to the court and his argument was that his deportation would be a violation of his constitutional rights, assured in the Constitution of Botswana under Chapter 2. In deciding the matter, the court considered international conventions protecting the rights of individuals including non-citizens.¹¹⁷ The court concluded that in Botswana a treaty is considered to be binding if it is incorporated into domestic law.¹¹⁸ The application was therefore dismissed.¹¹⁹

2.6 But how are international instruments domesticated in the laws of Botswana?

In order for the treaties to be enforceable, they must be domesticated into the national *juris corpus* by an Act of Parliament.¹²⁰ The reason behind this is that the conclusion of treaties with foreign states is an executive act entered into by the President alone.¹²¹ If treaties were to automatically become part and parcel of law in Botswana and were enforceable by the courts without the intervention of Parliament, this would amount to a violation of legislative powers by the President without the authorisation of the Constitution of Botswana.¹²²

A vital aspect of Botswana's system of government is the separation of powers between three branches of government.¹²³ These three branches of government are the Executive, Legislature and Judiciary. The Executive is considered to be the only component of the political system which exists in every nation.¹²⁴ The biggest mandate of the Executive is to execute the functions of the state.¹²⁵ The Judiciary

¹¹⁶ *Kenneth Good v Attorney General* 2005 1 BLR 462 (HC).

¹¹⁷ *Kenneth Good v Attorney General* 2005 1 BLR 462 (HC).

¹¹⁸ *Kenneth Good v Attorney General* 2005 1 BLR 462 (HC).

¹¹⁹ *Kenneth Good v Attorney General* 2005 1 BLR 462 (HC).

¹²⁰ Ntsereko *Constitutional Law in Botswana* 45.

¹²¹ Ntsereko *Constitutional Law in Botswana* 45.

¹²² Ntsereko *Constitutional Law in Botswana* 45.

¹²³ Ntsereko *Constitutional Law in Botswana* 35.

¹²⁴ Ntsereko *Constitutional Law in Botswana* 43.

¹²⁵ Ntsereko *Constitutional Law in Botswana* 43.

consists of the Court of Appeal, High Court, the subordinate courts and any other courts that Parliament may from time to time create.¹²⁶

The Legislature which is responsible for incorporating treaties into Botswana's law co-exists with the Executive and Judiciary.¹²⁷ It is a major branch of government which does not only pass laws but it is also a public forum where members discuss burning issues of the state and forward their recommendations to the Executive.¹²⁸ Section 86 of the Constitution of Botswana provides that Parliament shall have the power to make laws for peace, order and good governance of Botswana.¹²⁹ Another name for Legislature is Parliament.

Section 57 of the Constitution of Botswana stipulates that the Parliament of Botswana will consist of the National Assembly and President.¹³⁰ Parliament has the power to create laws which are to be excised by Bills passed by the National Assembly,¹³¹ after reference in the cases specified in section 88(2) of the Constitution to the Ntlo ya Dikgosi,¹³² and assented to by the President.¹³³ Section 87(5) of the Constitution states that when a Bill has been passed and it is assented in accordance with the provisions of the Constitution, it will become law and the President will cause it to be published in the Gazette as a law.¹³⁴ There is no law that is created by Parliament which can come into force until it has been published in the Gazette.¹³⁵ All laws made by Parliament are styled as "Acts" and the words of enactment shall be "enacted by the Parliament of Botswana".¹³⁶

2.7 Botswana's obligations under international conventions

International conventions incorporate in them the principle of international law being, the *adage pacta sunt servanda* (agreements are to be kept). Article 2 of The

¹²⁶ Ntsereko *Constitutional Law in Botswana* 164.

¹²⁷ Ntsereko *Constitutional Law in Botswana* 82.

¹²⁸ Ntsereko *Constitutional Law in Botswana* 82.

¹²⁹ Section 86 of the *Constitution of Botswana*, 1966.

¹³⁰ Section 57 of the *Constitution of Botswana*, 1966

¹³¹ Section 87(1) of the *Constitution of Botswana*, 1966.

¹³² Ntlo ya Dikgosi refers to House of Chiefs.

¹³³ Section 87(1) of the *Constitution of Botswana*, 1966.

¹³⁴ Section 87(5) of the *Constitution of Botswana*, 1966

¹³⁵ Section 86(6) of the *Constitution of Botswana*, 1966.

¹³⁶ Section 86(7) of the *Constitution of Botswana*, 1966.

Vienna Convention on The Laws of Treaties 1969 defines a treaty as an international agreement concluded between States and governed by international law. The agreement may be embodied in one or two related instruments.¹³⁷

According to the rules of international law, neither a constitutional obligation nor the endorsement of a statute warrants justification for a treaty violation,¹³⁸ as provided in Article 27 of the Vienna Convention on The Laws of Treaties which states that a party cannot not resort to the terms of its internal law as validation for its non-performance of its obligations under a treaty.¹³⁹ Furthermore, this rule is without prejudice to Article 46 of the Vienna Convention on the Laws of treaties.¹⁴⁰

In terms of Article 13 of the Draft Declaration on the Rights and Duties of States 1979, states have the responsibility of carrying out in good faith the duties which arise from treaties and a states is not to implore provisions of its constitution or any of its other laws as a reason for the failure to execute its duties¹⁴¹.

In the case of *Free Zones*¹⁴² the court noted the general rule is that a state could not allege a law in its municipal law as an explanation to a claim based on international law. In that case the Permanent Court of International Justice said that it was confident that France could not depend on on her own laws to restrict the scope of her international obligations.¹⁴³

Another case that accentuates that States must not implement domestic laws that violate their obligations under international treaties is the *British American Tobacco (U) LTD v The Attorney General of Uganda*.¹⁴⁴ The facts of the case were that British American Tobacco (U) LTD contested that section 2 (a) and (b) of the Republic of Uganda's Excise Duty (Amendment) Act No. 11 of the 2017 was not in harmony with numerous provisions of the Treaty for the Establishment of the East African

¹³⁷ A 2 of the Vienna Convention on the Laws of Treaties (1969).

¹³⁸ A 27 of the Vienna Convention on the Laws of Treaties (1969).

¹³⁹ A 27 of the Vienna Convention on the Laws of Treaties (1969).

¹⁴⁰ A 46 of the Vienna Convention on the Laws of Treaties (1969).

¹⁴¹ A 27 of the Vienna Convention on the Laws of Treaties (1969).

¹⁴² *Free Zones of Upper Savoy and the District of Gex* 1932 P.C.I.J.

¹⁴³ *Free Zones of Upper Savoy and District of Gex* 1932 P.C.I.J.

¹⁴⁴ *British American Tobacco (U) LTD v The Attorney General of Republic of Uganda* Reference No 7. of 2017.

Community, the Protocol on the Establishment for the East African Customs Union and

the Protocol on the Establishment of the East African Community Common Market.¹⁴⁵ The Applicant's prayers were that the Attorney General of Uganda take required measures to safeguard the Applicant's rights under the Treaty. British American Tobacco (U) LTD is a Partner Member state of the EAC.¹⁴⁶

The application was based on legal principles of *pacta sunt servanda* (agreements are to be kept) in good faith.¹⁴⁷ The British American Tobacco (U) LTD was of the position that The Republic of Uganda was expected to uphold its obligations under the treaties that it was a state member to.¹⁴⁸ The following provisions supported the application: Articles 6(d) and (e), 7(1) (c), 75(1), (4) and (6) and 80(1) of the Treat, Articles 15(1) and (2) of the Customs Union Protocol, as well as Articles 4,5, 6 and 32 of the Common Market Protocol.¹⁴⁹ The Respondents argued that Article 6 of the WHO FCTC recognised that tax and price measures were an operative way of decreasing tobacco intake.¹⁵⁰ In addition, when Uganda's Parliamentary Committee reflected upon the Excise Duty (Amendment) Bill it suggested the differential treatment for locally manufactured viz imported merchandises to bring it in tandem with the practice that supposedly succeeded in other states in the region, and to prevent smuggling and its hostile results on locally manufactured cigarettes.¹⁵¹ In addition, the committee sought to encourage the growth of local industries and promote utilization of locally produced cigarettes.¹⁵²

¹⁴⁵ British American Tobacco (U) LTD v The Attorney General of Republic of Uganda Reference No7. of 2017.

¹⁴⁶ British American Tobacco (U) LTD v The Attorney General of Republic of Uganda Reference No 7. of 2017.

¹⁴⁷ British American Tobacco (U)LTD v The Attorney General of Republic of Uganda Reference No7.of 2017.

¹⁴⁸ British American Tobacco (U) LTD v The Attorney General of Republic of Uganda Reference No 7. of 2017.

¹⁴⁹ British African Tobacco (U) LTD v The Attorney General of Republic of Uganda Reference No 7. of 2017.

¹⁵⁰ British African Tobacco (U) LTD v The Attorney General of Republic of Uganda Reference No 7. of 2017.

¹⁵¹ *British African Tobacco (U) LTD v The Attorney General of Republic of Uganda Reference No 7. of 2017.*

¹⁵² *British African Tobacco (U) LTD v The Attorney General of Republic of Uganda Reference No7. of 2017.*

The court held that section 2 (a) and (b) of the Excise Duty (Amendment) Act, No. 11 of 2017 did not breach and violate Articles 75 (6) of the Treaty, Articles 1(1) and 15(1) (a) of the Customs Union Protocol and Articles 6(1) of the Common Market Protocol.¹⁵³ It was also held that the misapplication of the provisions of section 2(a) and (b) of the Excise Duty (Amendment) Act by the issuance of Payment Registration Slips for additional taxes in respect of the Applicants cigarettes was illegal, null and void.¹⁵⁴ The court emphasised that treaties were binding, and were to be executed in good faith and in keeping with the principle of *pacta sunt servanda*.¹⁵⁵

Article 26 of The Vienna Convention on The Laws of Treaties also states that¹⁵⁶ every treaty in force is to be upheld by the parties to it and must be executed in good faith.¹⁵⁷

2.7 Summary

This chapter has discussed the incorporation of international law into Botswana's national law. This also applies to the treaties or conventions in which Botswana is a state party. The next chapter discusses the trade agreements in which Botswana is a state party.

¹⁵³ *British African Tobacco (U) LTD v The Attorney General of the Republic of Uganda Reference No 7. of 2017.*

¹⁵⁴ *British African Tobacco (U) LTD v The Attorney General of th Republic of Uganda Reference No 7. of 2017.*

¹⁵⁵ *British African Tobacco (U) LTD v The Attorney General of the Republic of Uganda Reference No 7. of 2017.*

¹⁵⁶ A 26 of the Vienna Convention on the Laws of Treaties (1969).

¹⁵⁷ A 26 of the Vienna Convention on the Laws of Treaties (1969).

Chapter Three: Trade Agreements which Botswana has entered into

3.1 Introduction

In recent years, Africa has witnessed the rise of numerous regional economic communities (REC's) that are mostly encouraged by political groupings.¹⁵⁸ At the moment every African country is a member state of at least more than one economic grouping.¹⁵⁹ The proliferation of REC's on the African continent shows that the issue of regional integration is quite imperative for African states.¹⁶⁰ However this does not come as a shock as about 35 percent of the population and one-third of the economies in Africa are landlocked countries and their development and trade rely heavily on what transpires in their coastal neighbouring countries.¹⁶¹

RECs have the ability to contribute to the development of intra-Africa trade and may strengthen Africa's bargaining power in trade negotiations and assist in ensuring more policy credibility.¹⁶² If the welfare effect is managed prudently, it is unambiguously positive.¹⁶³ When good policies and regionalism are coupled together, they produce excellent welfare gains.¹⁶⁴

This chapter will discuss Botswana's efforts in promoting regional integration through regional trade agreements. It also highlights the regional trade agreements that Botswana has entered into and how these trade agreements have inspired the structure of Botswana's trade policy.

3.2 The Regional Trade Agreements that Botswana is a party to

Botswana is a member state to crucial regional agreements. These will be discussed hereafter.

¹⁵⁸ Geda and Seid 2015 *JOAT* 19.

¹⁵⁹ Geda and Seid 2015 *JOAT* 19.

¹⁶⁰ Geda and Seid 2015 *JOAT* 20.

¹⁶¹ Geda and Seida 2015 *JOAT* 20.

¹⁶² Geda and Seida 2015 *JOAT* 20.

¹⁶³ Geda and Seida 2015 *JOAT* 20.

¹⁶⁴ Geda and Seida 2015 *JOAT* 20.

3.2.1 Southern African Development Community (SADC) Protocol on Trade (2005)

The Southern African Development Community (SADC) was initially established as the Southern African Development Coordination Conference (SADCC) in 1980.¹⁶⁵ The groupings sought to lower economic reliance on the then apartheid South Africa and to create economic links for the establishment of an equitable and genuine regional integration across the mobilisation of resources for the promotion of inter-state and regional policies.¹⁶⁶ When most of the Southern African countries obtained their independence,¹⁶⁷ SADCC revised its mission by putting more emphasis on economic and political issues in the post-colonial period.¹⁶⁸ This resulted in the creation of the Southern African Development Community in 1992.¹⁶⁹

The founding tool or instrument of the SADC is the SADC Treaty.¹⁷⁰ It is the umbrella legal instrument of SADC.¹⁷¹ The Treaty entered into force on the 30th of September 1993.¹⁷² SADC is an organisation with legal personality, this means that as per Article 3 of the SADC Treaty which stipulates that SADC has the capacity and power to enter into contracts, to sue and be sued, attain, and own or relinquish immovable property.¹⁷³ Article 5 (1) (a) and (b) indicates that the main aim of the SADC Treaty has been to stimulate economic and social development cooperation and economic integration.¹⁷⁴ Furthermore the treaty highlights economic integration as the solution to the attainment of self-sustaining development, economic development, and management, sustainable utilisation of natural resources.¹⁷⁵ Article 7 stipulates that States listed in the Preamble will upon signature and ratification be members of SADC.¹⁷⁶ These states are The Republic of Angola, The Republic of Botswana, The Kingdom of Lesotho, The Republic of Malawi, The Kingdom of Eswatini, The Republic

¹⁶⁵ Mapuva and Mapuva 2014 *LDD* 24

¹⁶⁶ Mapuva and Mapuva 2014 *LDD* 24.

¹⁶⁷ Mapuva and Mapuva 2014 *LDD* 24.

¹⁶⁸ Mapuva and Mapuva 2014 *LDD* 24.

¹⁶⁹ Mapuva and Mapuva 2014 *LDD* 24.

¹⁷⁰ UNCTAD 2015 <http://unctad.org>.

¹⁷¹ UNCTAD 2015 <http://unctad.org>.

¹⁷² UNCTAD 2015 <http://unctad.org>.

¹⁷³ A 3 of the SADC Treaty (1992).

¹⁷⁴ A 5 (1)(a)(b) of the SADC Treaty (1992).

¹⁷⁵ Mapuva and Mapuva 2014 *LDD* 25.

¹⁷⁶ A 7 of the SADC Treaty (1992).

of Mozambique, The Republic of Namibia, The United Republic of Tanzania, The Republic of Zambia and The Republic of Zimbabwe.¹⁷⁷

The organisation's legal arrangements extend beyond trade in goods, as it comprises of a large number of protocols.¹⁷⁸ Article 22 provides that SADC member states conclude protocols as may be essential in each area of cooperation, which will break down the intentions and scope of, and institutional mechanisms for, cooperation and integration.¹⁷⁹ It is to be noted that the protocols only bind the SADC states which are a part to them, in other words just because a state is a member of SADC it does not mean that it automatically becomes a member state to all the SADC protocols.¹⁸⁰ The Headquarters of SADC are in Gaborone, the Capital City of Botswana.¹⁸¹

3.2.2 Southern African Customs Union (SACU) Agreement (2002)

Southern African Customs Union (SACU) dates back to the 1889 Customs Union Convention between the British Colony of Cape of Good Hope and Orange Free State Boer Republic, it is the world's oldest customs union.¹⁸² On 29 June 1910 a new Agreement was extended to the Union of South Africa and British High Commission territories, being Basutoland (Lesotho), Bechuanaland (Botswana), Swaziland (Eswatini) and South West Africa (Namibia).¹⁸³ The Agreement's task was to stimulate economic growth through regional organisation of trade.¹⁸⁴

The Agreement established a revenue-sharing formula for the allocation of customs and excise revenues collected by the union,¹⁸⁵ free flow of SACU merchandise that are manufactured within SACU, without any quantitative restrictions and duties,¹⁸⁶ common external tariff on all merchandises imported into the Union from the rest of

¹⁷⁷ Preamble of the SADC Treaty (1992).

¹⁷⁸ The SADC website lists the following Protocols: Protocol on Facilitation of Movement of persons (2005), Protocol Against Corruption (2001), Protocol on Energy and Protocol on Industry, just to mention a few.

¹⁷⁹ A 22 of the SADC Treaty (1992)

¹⁸⁰ UNCTAD 2015 <http://unctad.org>.

¹⁸¹ SACU 2013 <https://www.sacu.int>.

¹⁸² SACU 2013 <https://www.sacu.int>.

¹⁸³ SACU 2013 <https://www.sacu.int>.

¹⁸⁴ SACU 2013 <https://www.sacu.int>.

¹⁸⁵ SACU 2013 <https://www.sacu.int>.

¹⁸⁶ SACU 2013 <https://www.sacu.int>.

the world,¹⁸⁷ and common pool of customs duties as per the total volume of external trade and excise duties based on the total production and consumption of excisable goods.¹⁸⁸ In 1925 South Africa established import substitution industrialisation strategies supported by the common external tariffs on non-SACU products.¹⁸⁹ The policies assured a regional market for South African producers, however relegated the British High Commissioner regions to manufacturing primary commodities.¹⁹⁰ During Apartheid, South Africa was the overseer of the SACU revenue pool,¹⁹¹ setting SACU exercise policy and exercise policy.¹⁹²

When issues of decision-making and management arose, the British High Commission regions then proposed for the review of the 1910 SACU Agreement.¹⁹³ This resulted in the 1969 SACU Agreement which was signed by the independent states of Botswana, Lesotho, Swaziland and South Africa.¹⁹⁴ The agreement birthed two changes being: a multiplier in the revenue formula that boosted revenue annually by 42% and the inclusion of excise duties in the revenue pool.¹⁹⁵

SACU states boarded on fresh negotiations in 1994 which resulted in the SACU Agreement in 2002; this was after Namibia gained its independence in 1990 and the end of Apartheid South Africa in 1994.¹⁹⁶ The SACU Agreement 2002 aims to enhance the integration of member states into the global economy through improved investment and trade.¹⁹⁷ Goods grown, produced or manufactured within the SACU area, on importation from the area of one SACU state to the area of another SACU state, are to be free of customs duties and quantitative restrictions, except as provided elsewhere in the Agreement.¹⁹⁸ SACU member states are to

¹⁸⁷ SACU 2013 <https://www.sacu.int>.

¹⁸⁸ SACU 2013 <https://www.sacu.int>.

¹⁸⁹ SACU 2013 <https://www.sacu.int>.

¹⁹⁰ SACU 2013 <https://www.sacu.int>.

¹⁹¹ SACU 2013 <https://www.sacu.int>.

¹⁹² SACU 2013 <https://www.sacu.int>.

¹⁹³ SACU 2013 <https://www.sacu.int>.

¹⁹⁴ SACU 2013 <https://www.sacu.int>.

¹⁹⁵ SACU 2013 <https://www.sacu.int>.

¹⁹⁶ SACU 2013 <https://www.sacu.int>.

¹⁹⁷ A 2 (f) of the SACU Agreement (2002).

¹⁹⁸ A 18 of the SACU Agreement (2002).

attempt to harmonise technical regulations and product standards within the common customs area.¹⁹⁹

3.2.3 African Continental Free Trade Area (AfCTA)

Botswana is a signatory to the African Continental Free Trade Area (AfCTA), which is the biggest free trade area since the creation of the World Trade Organisation.²⁰⁰ AfCTA came into force on the 30th of May 2019.²⁰¹ The agreement covers trade in goods, investment, competition policy, trade in services, investment and intellectual property rights.²⁰² AfCTA is an instrument of the African Union (formally OAU) which was created on the 25th of May 1963 in Addis Ababa, Ethiopia.²⁰³ The OAU was born out of the fight for decolonisation and the Pan-Africanist Movement.²⁰⁴ Its greatest achievement was in its role in leading the liberation and decolonisation of the African continent, its battle against racist minority rule in Southern Africa and against apartheid, and building a common social economic agenda.²⁰⁵

However there are those who are of the position that the OAU had a poor and mixed record with respect to its other objectives.²⁰⁶ In other words the OAU had failed to achieve unity and integration of the African people.²⁰⁷ In addition, it had failed to promote real social economic development of the continent.²⁰⁸ This resulted in member states beginning to see the need to re-organise the objectives of the OAU,²⁰⁹ in order to meet the related challenges of globalism and economic integration in Africa.²¹⁰ This resulted in the creation of a new regional organisation, the African Union (AU).²¹¹ The goals of the AU are to speed up the political and

¹⁹⁹ A 28 (2) of the SACU Agreement (2002).

²⁰⁰ Botswana Unified Revenue Service 2022 <https://www.burs.org.bw>.

²⁰¹ Botswana Unified Revenue Service 2022 <https://www.burs.org.bw>.

²⁰² A 6 of the AfCTA Agreement (2019).

²⁰³ T Maluwa 2007 *UBLJ* 6.

²⁰⁴ T Maluwa 2007 *UBLJ* 10.

²⁰⁵ T Maluwa 2007 *UBLJ* 12.

²⁰⁶ T Maluwa 2007 *UBLJ* 12.

²⁰⁷ T Maluwa 2007 *UBLJ* 12.

²⁰⁸ T Maluwa 2007 *UBLJ* 12.

²⁰⁹ T Maluwa 2007 *UBLJ* 12.

²¹⁰ T Maluwa 2007 *UBLJ* 12.

²¹¹ T Maluwa 2007 *UBLJ* 12.

social economic unification of Africa,²¹² uphold sustainable improvement at the social, cultural and economic levels including the assimilation of African states.²¹³ The AU is comprehended at two levels, namely a manifestation of Africa's collective response to the twin-challenges of regional integration and globalism, and secondly, as an expression of a re-surgent pledge to the belief of Pan-Africanism and the persistent pursuit for deeper African unity.²¹⁴

The intentions of the AfCTA agreement are to establish one market for services, products, facilitated by movement of persons, in order to strengthen the economic integration of the African continent and in harmony with the Pan African goal of a flourishing, peaceful and united Africa.²¹⁵ The agreement seeks to improve the competitiveness of the economies of state parties within Africa and global market.²¹⁶ Furthermore, it seeks to encourage industrial growth via diversification and regional value chain expansion, agriculture enlargement and food security.²¹⁷

3. 2.4 The SADC, EAC and COMESA Tripartite Free Trade Area

The member states of three regional economic communities (REC's) of SADC, East Africa Community (EAC) and the Common Market for East and Southern Africa (COMESA) signed an agreement on the 12TH of June 2012 to discuss the establishment of a tripartite FTA comprising of the three REC's.²¹⁸ One of the objective of the tripartite arrangement is deeper integration in the region and the reduction of tariffs and non –tariff barriers from Cape to Cairo.²¹⁹ Doing business in Africa is expensive, due to the poor status of communication lines, roads and railway.²²⁰

The FTA does not seek to combine SADC, EAC and COMESA but rather the absorption of the existing FTA's in SADC, EAC and COMESA into a particular FTA

²¹² A 3 (c) of the Constitutive Act of African Union (2001).

²¹³ A 3 (j) of the Constitutive Act of African Union (2001).

²¹⁴ T Maluwa 2007 *UBLJ* 5.

²¹⁵ A 3 (a) of the African Continental Free Trade Area (2019).

²¹⁶ A 3 (f) of the African Continental Free Trade Area (2019)

²¹⁷ A 3(g) of the African Continental Free Trade Area (2019).

²¹⁸ Saurombe 2013 *IJLASE* 116.

²¹⁹ Sauromber 2013 *IJLASE* 116.

²²⁰ Saurombe 2013 *IJLASE* 116.

within the context of intra-regional liberalisation.²²¹ The FTA is a trade bloc which consists of 26 countries that make up half of the AU membership.²²²

3.2.5 SACUM-UK Economic Partnership Agreement (EPA)

The Preamble of the SACUM-UK-Economic Partnership Agreement stipulates that the parties to the Agreement are Botswana, Eswatini, Lesotho, Namibia and Mozambique and the parties shall be referred to as SACUM.²²³ The United Kingdom of Great Britain and Northern Ireland is also a party to the agreement and shall be referred to as UK.²²⁴ The SACUM-UK EPA was signed in October 2019 and came into operation after UK's exit from the European Union (EU) in December 2020.²²⁵ Under the agreement the UK has embarked on offering quota-free, duty-free and access to products exported from Mozambique and the SACU member, except for South Africa.²²⁶ Likewise, Mozambique and SACU member states pledge to gradual tariff liberalisation for merchandises imported from the UK.²²⁷ The Agreement also includes rules of origin, discipline, trade remedies, provisions on trade-related dispute settlement, competition and government procurement.²²⁸

The goals of the SACUM-UK-EPA Agreement are: (a) to help end poverty by establishing trade partnerships that are consistent with the SDG's, sustainable development and Annex VII of the Agreement²²⁹ (b) to encourage economic cooperation, regional integration and good governance to create and put in place a regional regulatory framework for trade and investment between the parties and among SACU member states and Mozambique that is transparent, predictable and essential,²³⁰ (c) to encourage the gradual assimilation of Mozambique and SACU member states into the world economy in line with their political and development

²²¹ Saurombe 2013 *IJLASE* 117.

²²² Saurombe 2013 *IJLASE* 117.

²²³ Preamble of the SACUM-UK Economic Partnership Agreement (2019).

²²⁴ Preamble of the SACUM-UK-Economic Partnership Agreement (2019).

²²⁵ Tralac <https://www.tralac.org>.

²²⁶ Tralac <https://www.tralac.org>.

²²⁷ Tralac <https://www.tralac.org>.

²²⁸ Tralac <https://www.talac.org>.

²²⁹ A 1 (a) of the SACUM-UK Economic Partnership Agreement (2019).

²³⁰ A 1 (b) of the SACUM-UK Economic Partnership Agreement (2019).

priorities²³¹ (d) advance Mozambique and SACU member states ability to handle trade-related issues and formulates trade policy²³² (e) encourage the condition for increasing investment and private sector initiatives and improving supply capacity, economic growth and competitiveness in Mozambique and the SACU member states²³³ and (f) to support the existing relations between the parties on the basis of mutual interest and solidarity.²³⁴ The agreement seeks to boost economic and commercial relationships, merge and the SACU Agreement and the application of the Protocol on Trade in the South African Development Committee (SADC) Region, supporting a new trade dynamic between the Parties by means of the progressive, asymmetrical liberalisation of trade between them and reinforce, broaden and deepen cooperation in all areas relevant to trade.²³⁵

The parties comprehend that regional integration is a fundamental tool of their partnership.²³⁶ Furthermore, it is the best way to fulfill the goals of the Agreement.²³⁷ The Agreement between the parties creates a free trade area that is established in harmony with the General Agreement on Tariffs and Trade (GATT 1994), specifically Article XXIV thereof. ²³⁸ Article 24 of the SACUM-UK EPA states that goods coming from Namibia, Botswana, Lesotho, Eswatini and Mozambique and will be imported into the UK in line with the duty free quota free treatment set out for those countries in ANNEX I.²³⁹ The Agreement should not contradict with the regional integration programmes and the development policies which SACU state members and Mozambique are a party to.²⁴⁰

²³¹ A 1(c) of the SACUM-UK Economic Partnership Agreement (2019).

²³² A 1 (d) of the SACUM-UK Economic Partnership Agreement (2019).

²³³ A 1(e) of the SACUM-UK Economic Partnership Agreement (2019).

²³⁴ A 1 (f) of the SACUM-UK Economic Partnership Agreement (2019).

²³⁵ A 1 (f) of the SACUM-UK Economic Partnership Agreement (2019).

²³⁶ A 3 of the SACUM-UK Economic Partnership Agreement (2019).

²³⁷ A 3 of the SACUM-UK Economic Partnership Agreement (2019).

²³⁸ A 20 of the SACUM-UK Economic Partnership Agreement (2019).

²³⁹ A 24 of the SACUM-UK Economic Partnership Agreement (2019).

²⁴⁰ A 2 (2) of the SACUM-UK Economic Partnership Agreement (2019).

3.2.6 EU-SADC Economic Partnership Agreement

The Agreement is an economic partnership between Botswana, Mozambique, Lesotho, South Africa, Namibia, Eswatini and EU states.²⁴¹ It was signed on the 10th of June 2016 and came into operation on the 1st of November 2016.²⁴² The Agreement creates a free trade area between the parties, and it is in line with the General Agreement on Tariff and Trade (GATT 1994), specifically Article XXIV of the GATT.²⁴³ Products originating from Mozambique, Botswana, Swaziland, Lesotho, Namibia and Lesotho are imported into the EU in accordance with duty free treatment which is set out in ANNEX 1.²⁴⁴ Goods coming from South Africa are imported into the EU in accordance with treatment outlined in ANNEX 1.²⁴⁵ In respect to the free circulation of goods, customs duties will be taxed only once for merchandise originating in the EU or in the SADC EPA states when they are imported into the territories of the SADC EPA states or EU.²⁴⁶

3.2.7 Botswana-Zimbabwe Trade Agreement

The Botswana-Zimbabwe Trade Agreement entered into force on the 1st of June 1988.²⁴⁷ In terms of the Agreement, goods originating from either Botswana or Zimbabwe are exempted from payment of customs duties, however this is upon the condition that they meet a minimum of 25 percent local content.²⁴⁸

3.2.8 Botswana-Malawi Trade Agreement

Since 1956 Malawi and Botswana have maintained a customs union agreement, and it works on *ade facto* basis.²⁴⁹ All goods wholly obtained and manufactured in either country, are traded on a reciprocally duty- free basis.²⁵⁰

²⁴¹ Tralac <https://www.tralac.org>.

²⁴² Tralac <https://www.tralac.org>.

²⁴³ A 20 (1) of the UE-SADC Economic Partnership Agreement (2016).

²⁴⁴ A 24 (1) of the EU-SADC Economic Partnership Agreement (2016).

²⁴⁵ A 24 (2) of the EU-SADC Economic Partnership Agreement (2016).

²⁴⁶ A 29 of the EU-SADC Economic Partnership Agreement (2016).

²⁴⁷ A 1 of the Botswana-Zimbabwe Trade Agreement (1988).

²⁴⁸ Botswana Unified Revenue Service 2022 <https://www.burs.org.bw>.

²⁴⁹ Malawi Investment and Trade Centre 2022 <https://mitc.mw>.

²⁵⁰ Malawi Investment and Trade Centre 2022 <https://mitc.mw>.

3.3 Botswana efforts in promoting regional integration

Botswana has made immense efforts towards promoting regional integration by being a member state of quite a number of regional agreements. Botswana strives to cultivate trade relations between it and its neighbouring countries. One of Botswana's biggest trading partners in Southern Africa is South Africa.²⁵¹ On the 3rd of August 2022, at the Botswana-South Africa Business Forum, the Minister of International Relations and Cooperation of South Africa noted that South Africa was interested in exploring cooperation in the mining and minerals beneficiation.²⁵² She also stated that South Africa was keen on exploring ways to boost automotive components manufacturing that will contribute to job creation in Botswana and South Africa.²⁵³ In another effort to promote regional integration on the 10th of May 2022, Excellencies Dr Mokgwetsi E.K Masisi and Edgar Chagwa Lungu, the former President of Zambia, officially commissioned the Kazungula Bridge.²⁵⁴ The bridge does not only seek to facilitate trade activities between Botswana and Zambia's but it also plays a huge part in regional integration in Southern Africa.²⁵⁵ The bridge has a combined transport configuration consisting of a single rail track, two car lanes in each direction and pedestrian walkways on both sides.²⁵⁶

Despite Botswana's geographical position, it has managed to make great exertions to open up to international trade. It has strengthened its integration in the region by being a member of several regional agreements. The World Bank reported that in the year 2020, international trade accounted for 78 % of Botswana's GDP.²⁵⁷

²⁵¹ The Article titled 'Trade Between Bots-SA robust' writes that; Botswana runs a huge import bill which stood at US\$ 8.2 billion in the 2021, and that most of it was from South Africa. Currently there are more than 38 Memorandum of Understanding (MoUs) between Botswana and South Africa.

²⁵² South African Government 2022 <https://www.gov.za>.

²⁵³ South African Government 2022 <https://www.gov.za>.

²⁵⁴ Botswana Investment & Trade Centre 2022 <http://www.goBotswana.com>.

²⁵⁵ Botswana Investment & Trade Centre 2022 <http://www.goBotswana.com>.

²⁵⁶ Botswana Investment & Trade Centre 2022 <http://www.goBotswana.com>.

²⁵⁷ The World Bank 2023 <https://data.worldbank.org>.

3.4 Botswana's Trade Policy Framework

Botswana Trade Policy is a reflection of the Government's attempt to benefit from the country's strength while tackling its obstacles.²⁵⁸ These obstacles are the country's land related position; reliance on a limited number of product exports and a small number of export markets; a minor industrial base and a small domestic market, including impediments in respect to supply-side constraints.²⁵⁹ The National Trade Policy is brought into with the developing trends and best practices in the "21st Century" Trade Policy Framework.²⁶⁰ The Policy focuses on negotiating mutually beneficial trade agreements, including integrating the economy into global supply chains.²⁶¹

Botswana also embraces significant liberal policies which are aimed at reducing tariffs and non-tariff barriers, encouraging a free market economy and the implementation of policies that mix selective protectionism with openness as well as developments of export processing zones and science and technology parks.²⁶² This is in congruence with the United Nations Economic Commission for Africa's "Smart Protectionism", which suggests that trade policy in Africa must be "highly selective" in order to advance sectors that promote national development goals.²⁶³

The National Trade Policy indicates the diversity and complexity, including the cross cutting nature of trade.²⁶⁴ To this end, Trade Policy formulation and implementation is the responsibility of all the stakeholders in Botswana.²⁶⁵ The government sets the broad policy framework for all the stakeholders, who then play their respective roles in the economy individually and collectively.²⁶⁶ For example the parastatal institutions and private sector play the role of implementers, and the voice of the vulnerable groups and the general public and beneficiaries of the policy as traders

²⁵⁸ Botswana's National Trade Policy 2019.

²⁵⁹ Botswana's National Trade Policy 2019.

²⁶⁰ Botswana's National Trade Policy 2019.

²⁶¹ Botswana's National Trade Policy 2019.

²⁶² Botswana's National Trade Policy 2019.

²⁶³ Botswana's National Trade Policy 2019.

²⁶⁴ Botswana's National Trade Policy 2019.

²⁶⁵ Botswana's National Trade Policy 2019.

²⁶⁶ Botswana's National Trade Policy 2019.

and consumers is played by the civil society.²⁶⁷ In conclusion, Botswana's trade policy is established upon a participatory, supportive and inclusive process.²⁶⁸

Botswana's trade policy is informed by the country's domestic policies, legislation and trade agreements.²⁶⁹ The policies and legislation express the background against which trade policy is executed in the domestic economy. These provide the private a sector friendly business and investment setting with a view to addressing supply-side constrains.²⁷⁰ A variety of strategies and policies are being implemented primarily focused on advancing economic diversification. Botswana trade-supportive policies and legislation consist of:

- The National Development Plan (NDP11) and Vision 2036-it defines the extensive trade policy framework of Botswana and envisages Botswana having attained economic prosperity in which trade plays a prevailing role in the realization of the economic diversification and poverty eradication;²⁷¹
- Economic Diversification Drive: Medium to long term strategies; this policy foresees expansion of the economy through the growth of globally competitive enterprises that need less or no Government support;²⁷²
- Revised Industrial Development Policy- Its intentions are producing a conducive setting for the private sector to mature and succeed under conditions of fair and free trade;²⁷³
- National Quality Policy-Its goal is strengthening Botswana's Quality improvement institutions and support exporters to comply with WTO/TBT requirements. It also raises awareness on the key elements of the WTO/TBT Agreements among public and private sector stakeholders;²⁷⁴
- Aid for the Trade Strategy; its purpose is to enable Botswana's overall economic growth by beefing up the country's competitiveness and diversifying

²⁶⁷ Botswana's National Trade Policy 2019.

²⁶⁸ Botswana's National Trade Policy 2019.

²⁶⁹ Botswana's National Trade Policy 2019.

²⁷⁰ Botswana's National Trade Policy 2019.

²⁷¹ Botswana's National Trade Policy 2019.

²⁷² Botswana's National Trade Policy 2019.

²⁷³ Botswana's National Trade Policy 2019.

²⁷⁴ Botswana's National Trade Policy 2019.

its exports and competitiveness. The policy also seeks to integrate Botswana's economy into the multilateral trading system;²⁷⁵

- Special Economic Zone Policy; its goal is to develop a vibrant and globally competitive sector through the provision of investors-friendly environment that is free from government bureaucratic hassles and other procedural complications that hinder business effectiveness;²⁷⁶
- Investment Strategy Botswana: Its intentions are to form an encouraging environment for domestic and foreign firms to invest and prosper in Botswana;²⁷⁷
- National Entrepreneurship Policy-the objective of this policy is to make entrepreneurship a culture for Botswana by advancing the development of SMME's and opportunity driven entrepreneurs as well as export orientated enterprise;²⁷⁸
- AGOA National Response Strategy (2015-2025)-the goal is at warranting that Botswana benefits from the export opportunities availed by the extension of the AGOA initiative; ²⁷⁹
- Citizen Economic Empowerment Policy-Its mandate is that Batswana take part and profit from the economic opportunities by the revised trade policy;²⁸⁰
- Botswana's National Export Strategy (NES)- it has been established to guide Botswana firms to create export competitiveness, gain market information and financial resources and consequently accomplish competitiveness that allows them to pierce global markets.²⁸¹

The policies set out above cut across trade in goods and services, other supportive policies include the Development Policy and National Poverty Reduction Strategy.²⁸²

As highlighted above, Botswana's Trade Policy is inspired by the various trade agreements that Botswana is a member state to, both regional and international

²⁷⁵ Botswana's National Trade Policy 2019.

²⁷⁶ Botswana's National Trade Policy 2019

²⁷⁷ Botswana's National Trade Policy 2019.

²⁷⁸ Botswana's National Trade Policy 2019

²⁷⁹ Botswana's National Trade Policy 2019.

²⁸⁰ Botswana's National Trade Policy 2019.

²⁸¹ Botswana's National Trade Policy 2019.

²⁸² Botswana's National Trade Policy 2019.

trade agreements.²⁸³ However, the National Quality Policy and the AGOA National Response Strategy (2015-2025) are very direct as they speak to Botswana's obligations under the World Trade Organisation and the Africa Growth Opportunity Act (AGOA).²⁸⁴

The chief reform of international trade since the end of the Second World War is the World Trade Organisation (WTO).²⁸⁵ The World Trade Organisation came into being on the 1st of January 1995.²⁸⁶ Although the General Agreement on Tariffs and Trade (GATT) primarily focused on trade in goods, the WTO and its agreements also deal with trade in services and intellectual property.²⁸⁷ The agreements outline principles of permitted exceptions and liberalization.²⁸⁸ In addition, the agreements consist of lower customs tariff, individual countries commitments to open and keep open service markets and other trade barriers.²⁸⁹ WTO members go through periodic inspection of their trade practices, every evaluation contains reports by the WTO Secretariat and the country concerned.²⁹⁰ The WTO has 164 member states,²⁹¹ representing over 98 percent of international trade. Botswana has been a member of WTO since 31st of May 1995 and a member of the GATT since 28th of August 1987.²⁹²

The AGOA National Response Strategy (2015-2025) is motivated by the Africa Growth Opportunity Act (AGOA) that Botswana is a party to.²⁹³ African states have been requesting amplified trade with developed states of the west in order to advance economic growth.²⁹⁴ Increased trade is to be seen though preferential access to developed economies markets, especially in manufactured goods.²⁹⁵ AGOA

²⁸³ Botswana's National Trade Policy 2019.

²⁸⁴ Botswana's National Trade Policy 2019.

²⁸⁵ World Trade Organisation 2022 <http://www.wto.org>.

²⁸⁶ World Trade Organisation 2022 <http://www.wto.org>.

²⁸⁷ World Trade Organisation 2022 <http://www.wto.org>.

²⁸⁸ World Trade Organisation 2022 <http://www.wto.org>.

²⁸⁹ World Trade Organisation 2022 <http://www.wto.org>.

²⁹⁰ World Trade Organisation 2022 <http://www.wto.org>.

²⁹¹ World Trade Organisation 2022 <http://www.wto.org>.

²⁹² World Trade Organisation 2022 <http://www.wto.org>.

²⁹³ Botswana National Trade Policy 2019.

²⁹⁴ Mokhawa and Osei-Hwedie 2003 *BNAR* 111.

²⁹⁵ Mokhawa and Osei-Hwedie 2003 *BNAR* 111.

was a response to Africa's plea,²⁹⁶ as it allows African states access to the world's most lucrative and major market.²⁹⁷ AGOA was initiated by President Clinton's administration and enacted into law in the year 2000.²⁹⁸ The main objective of the AGOA is to advance economic and trade cooperation between the United States of America and sub-Saharan African countries by allowing all products from eligible sub-Saharan African states, quota free and duty free access into the United States market.²⁹⁹ However, only states with no trade agreements with the United States of America can be member states of AGOA.³⁰⁰

3.5 The implementers of Botswana's Trade Policy

The Ministry of Investment, Trade and Industry is accountable for the coordination, advancement and execution of the trade policy.³⁰¹ This task is to be performed with the consultation of key stakeholders, such as the Government ministries and departments, parastatals, civil society, local authorities and private sector.³⁰² The Ministry of Investment, Trade and Industry has delegated its obligations to the National Committee for Trade Policy Negotiations (NCTPN).³⁰³ The Ministry of Finance and Development Planning has the assignment of guaranteeing that a national position is communicated to SADC via the SADC National Committee (SNC).³⁰⁴ The SNC congregates the national stakeholders, business representatives and non-governmental organisations.³⁰⁵ The Ministry of Agriculture bears the critical obligation of enforcing sanitary phytosanitary (SPS) measures and the protection of local horticultural products and this is done through permit allocations and temporary bans.³⁰⁶

²⁹⁶ Mokhawa and Ose-Hwedie 2003 *BNAR* 111.

²⁹⁷ Mokhawa and Osei-Hwedie 2003 *BNAR* 111.

²⁹⁸ Mokhawa and Osei-Hwedie 2003 *BNAR* 111.

²⁹⁹ Mokhawa and Osei-Hwedie 2003 *BNAR* 111.

³⁰⁰ Mokhawa and Osei-Hwedie 2003 *BNAR* 111.

³⁰¹ UNCTAD 2017 <http://unctad.org>.

³⁰² UNCTAD 2017 <http://unctad.org>.

³⁰³ UNCTAD 2017 <http://unctad.org>.

³⁰⁴ UNCTAD 2017 <http://unctad.org>.

³⁰⁵ UNCTAD 2017 <http://unctad.org>.

³⁰⁶ UNCTAD 2017 <http://unctad.org>.

3.6 Summary

This Chapter discussed the regional trade agreements which Botswana is a state party. The benefit to Botswana from these agreements has been highlighted in this chapter. The next chapter will be an assessment of Botswana's compliance with the regional trade agreements.

Chapter Four: An assessment of Botswana's compliance with regional trade agreements

4.1 Introduction

The government of Botswana has for over two decades pursued economic diversification (ED) as a development strategy.³⁰⁷ The objective was to reduce Botswana's reliance on the mining industry, through the promotion of other industries.³⁰⁸ The Financial Assistance Policy (FAP) was adopted in 1982 as a source of private sector investment grants for advancing into production activities.³⁰⁹ The aim of the FAP was to diminish the economy's reliance on the public service, large scale mining, beef cattle production, and to stimulate employment creation.³¹⁰ FAP was in existence until 2000.³¹¹

The government is committed to diversifying the economy through the Economic Diversification Drive short term strategy and the Economic Diversification Drive medium to long term strategy.³¹² The short term strategy relies on government intervention like the usage of preference margins,³¹³ local procumbent and citizen's economic empowerment strategies.³¹⁴ The medium to long term strategy stresses the diversification of the economy via the development of globally competitive enterprises that need little or no government support and protection.³¹⁵

Chapter four assesses Botswana's regional trade agreements compliance, the Chapter discusses Botswana's main trade policy objective which is economic diversification and the challenges that Botswana has encountered in trying to fulfil its obligations under the various trade agreements.

³⁰⁷ Africa Portal 2005 <https://www.africaportal.org>.

³⁰⁸ Africa Portal 2005 <https://www.africaportal.org>.

³⁰⁹ Africa Portal 2005 <https://www.africaportal.org>.

³¹⁰ Africa Portal 2005 <https://www.africaportal.org>.

³¹¹ Africa Portal 2005 <https://www.africaportal.org>.

³¹² Pansiri and Yalala 2017 BJOBV 69.

³¹³ Pansiri and Yalala 2017 BJOBV 69.

³¹⁴ Pansiri and Yalala 2017 BJOBV 69.

³¹⁵ Pansiri and Yalala 2017 BJOBV 69.

4.2 Main objectives of Botswana's Policy

Although Botswana has been globally acknowledged as an "African Economic Miracle" Botswana does not have an equally excellent performance record on the realisation of economic diversification.³¹⁶ Due to this, economic diversity is the main focus on the Government's development plan.³¹⁷ Economic diversification may be defined as expanding a country's source of economic development and income in a way that the country becomes more or less equally reliant on all sectors of the economy.³¹⁸ On the other hand, an economy is expanded if no sector may be identified as the main catalyst of growth.³¹⁹ The Ministry of Trade and Industry has the responsibility of establishing a conducive environment for economic development and the development of Botswana.³²⁰ This is to be realised via an active involvement of the private sector which has been recognised as a huge engine of development through The National Development Plan 10 (NDP10).³²¹

The major goal of the Economic Diversification Drive (EDD) initiative, which is in accord with other trade policies and plans of Botswana is to expand the economies and export base of Botswana and sectors that will still advance even after diamonds are depleted.³²² The goals include; to expand exports and export markets via a vibrant and competitive private sector.³²³ to establish globally competitive sectors that will be growth pillars of the Botswana economy,³²⁴ to make Botswana an investor and investment destination of choice for a globally competitive private sector, to develop goods and services that comply with domestic and international standards,³²⁵ to create a diversified animated technology-driven economy that

³¹⁶<https://unfccc.int>.

³¹⁷ <https://unfccc.int>.

³¹⁸ <https://unfccc.int>.

³¹⁹ <https://unfccc.int>.

³²⁰ <https://unfccc.int>.

³²¹ <https://unfccc.int>.

³²² <https://unfccc.int>.

³²³ <https://unfccc.int>.

³²⁴ <https://unfccc.int>.

³²⁵ <https://unfccc.int>.

makes sustainable employment,³²⁶ and to conduct research and development for informed decision-making.³²⁷

4.3 Priority Sectors in achieving Economic Diversification

4.3.1. Textile and Clothing Sector

SACU members view The Textile and Clothing sector as a sensitive sector; great inputs have been made in protecting this sector.³²⁸ SACU members introduced the Duty Credit Certificate Scheme (DCCS) in 1993.³²⁹ DCCS came into operation after a lengthy period of consultation with the TC industries.³³⁰ The goal of the DCCS was to afford the TC industries to provide sustainable employment and to also achieve global competitiveness within the region.³³¹ The South African International Trade Administration Commission (ITAC) administer DCCS.³³² DCCS is an export incentive for SACU TC companies.³³³ It was established to boost outward orientation of manufacturers and as a policy it had played a huge role in the growth of the TC industries in the SACU region since 1993.³³⁴ The DCCS functioned on the basis of companies getting import duty credits certificates on certain prescribed export of the TC products to markets outside the SADC region.³³⁵ The decision to award the certificate was founded on proven exports and the certificates were then used to claim a decrease of duties for imports.³³⁶ A duty credit would then permit the qualifying parties firms credit this against the value of the duties payable when importing certain prescribed TC products.³³⁷

DCCS had a major success record; it includes the following but the list is not exhaustive: (a) it exposed the region's industries to the demanding international

³²⁶ <https://unfccc.int>.

³²⁷ <https://unfccc.int>.

³²⁸ Africa Portal 2013 <https://www.africaportal.org>.

³²⁹ Africa Portal 2013 <https://www.africaportal.org>.

³³⁰ Africa Portal 2013 <https://www.africaportal.org>.

³³¹ Africa Portal 2013 <https://www.africaportal.org>.

³³² Africa Portal 2013 <https://www.africaportal.org>.

³³³ Africa Portal 2013 <https://www.africaportal.org>.

³³⁴ Africa Portal 2013 <https://www.africaportal.org>.

³³⁵ Africa Portal 2013 <https://www.africaportal.org>.

³³⁶ Africa Portal 2013 <https://www.africaportal.org>.

³³⁷ Africa Portal 2013 <https://www.africaportal.org>.

markets, therefore knowledge and skills within the industries and associated multipliers, ³³⁸(b) it enabled the growth of the TC industries in the SACU region and also created employment,³³⁹ (c) it averted the cave in of the TC industries in Botswana, Lesotho, Eswatini, and Namibia following the abolishment of the MFA, and it also established a bigger profile to the SACU TC industries by placing the industries on a universal trading map.³⁴⁰

However, DCCS also encountered obstacles, which included: (a) the credit were sold to merchants who have paid as much as 30 to 40 % discount, which they then use to import garments, thus decreasing demand for domestically produced apparel and eventually hurting the domestically orientated clothing firms,³⁴¹ (b) DCCS was perceived as providing preference to clothing exporters as opposed to textile counterparts and as such the resale of DCCS was abused to undercut local textile producers,³⁴² (c) the BNLS states rely on the South African market for finding the outlets for the certificate due to the fact that most DCCS were in South Africa and lastly,³⁴³ (d) the DCCS was gazetted by the Department of Trade and Industry in South Africa and not at SACU Secretaries. DCCS was terminated in 2005.³⁴⁴

Motswapong and Grynberg are of the view that the Textile and Clothing (TC) sector in Botswana has been connected to international and regional trade agreements which invite investors.³⁴⁵ They argue that the sector is not competitive and is only in existence due to the trade agreements which Botswana is a party to.³⁴⁶ Historically, in the late 1970's and early 1980's the sector went through a huge shake-up phase which was due to the Zimbabwean companies relocating their companies from Zimbabwe to Francistown, Botswana.³⁴⁷ The relocations were inspired by the companies seeking access to the SACU market.³⁴⁸ The moving of companies resulted

³³⁸ Africa Portal 2013 <https://africaportal.org>.

³³⁹ Africa Portal 2013 <https://africaportal.org>.

³⁴⁰ Africz Portal 2013 <https://africaportal.org>.

³⁴¹ Africa Portal 2013 <https://media.africaportal.org>.

³⁴² Africa Portal 2013 <https://media.africaportal.org>.

³⁴³ Africa Portal 2013 <https://africaportal.org>.

³⁴⁴ Africa Portal 2013 <https://www.africaportal.org>.

³⁴⁵ Africa Portal 2013 <https://www.africaportal.org>.

³⁴⁶ Africa Portal 2013 <https://www.africaportal.org>.

³⁴⁷ Africa Portal 2013 <https://www.africaportal.org>.

³⁴⁸ Africa Portal 2013 <https://www.africaportal.org>.

in the boost of the TC sector in Botswana and this was evident by the fact that by the end of 1980, sixty percent of the foreign owned TC industries in Botswana belonged to Zimbabweans.³⁴⁹ Furthermore, most of the industries were exporting their production into Zimbabwe,³⁵⁰ taking advantage of the Botswana and Zimbabwe trade agreement that permits for duty free trade of locally manufactured goods among the two states.³⁵¹

The introduction of FAP in 1982 by the Botswana government was to contribute to the growth of the TC sector.³⁵² FAP grants were approved for TC production and the majority of the companies which were sponsored were from Selebi Phikwe.³⁵³ At the time, the Botswana government aided the companies in order to motivate economic diversification so as to sustain the town in case the Bamangwato Concession Limited mine stopped operating.³⁵⁴ The goal of FAP was to manufacture products for export or to substitute for the imports and to lower the economy's reliance on other sectors such as the mining sector,³⁵⁵ and this resulted in the competitiveness of the TC sector.³⁵⁶ However, FAP was phased out in 2000 after a report indicated that there was administrative incapacities, abuse, fraud and inadequate monitoring.³⁵⁷

Citizen Entrepreneurs Development (CEDA) replaced FAP in 2002.³⁵⁸ CEDA provides subsidized loans to Botswana citizens who seek to advance into productive activities.³⁵⁹ Similar to FAP the key goal of CEDA is to promote employment creation and ED.³⁶⁰ The only distinguishing factor between FAP and CEDA is that CEDA does not offer grants but subsidized grants.³⁶¹ Furthermore, CEDA offers an entrepreneur monitoring system, a credit guarantee facility which seeks to promote entrepreneur

³⁴⁹ Africa Portal 2013 <https://www.africaportal.org>.

³⁵⁰ Africa Portal 2013 <https://www.africaportal.org>.

³⁵¹ Africa Portal 2013 <https://www.africaportal.org>.

³⁵² Africa Portal 2013 <https://www.africaportal.org>.

³⁵³ Africa Portal 2013 <https://www.africaportal.org>.

³⁵⁴ Africa Portal 2013 <https://www.africaportal.org>.

³⁵⁵ Africa Portal 2013 <https://www.africaportal.org>.

³⁵⁶ Africa Portal 2013 <https://www.africaportal.org>.

³⁵⁷ Africa Portal 2013 <https://www.africaportal.org>.

³⁵⁸ Africa Portal 2005 <https://www.africaportal.org>.

³⁵⁹ Africa Portal 2005 <https://www.africaportal.org>.

³⁶⁰ Africa Portal 2005 <https://www.africaportal.org>.

³⁶¹ Africa Portal 2005 <https://www.africaportal.org>.

access to credit and venture capital is also available in order to promote equity funding.³⁶²

In 2010, the government of Botswana created a rescue plan to revive the TC sector due to worries over the deteriorating production in the sector and job losses.³⁶³ The plan was established after the economic collapse which took place in the beginning of the 2008/2009 financial year.³⁶⁴ P 38 million was set aside for the support measures covering a period of 2 years, from 2010 to 2011.³⁶⁵ Every firm was granted a subsidy of P20 per day to be paid to citizen employees in the industry on reimbursement basis.³⁶⁶ Industry source indicates that in some cases the government paid between 30 up to as much as 100% of the wages.³⁶⁷ 237 companies benefited from the programme comprising 209 small entities, 15 medium and 13 large scale firms.³⁶⁸ The support measure created more than 200 jobs and this incorporated labours that had been retrenched in 2008 due to the recession.³⁶⁹ In January 2010 the average total employment in the TC sector was 2816. 5705 people were covered by the support measure by the end of 2011 and 90 % were women.³⁷⁰ The support measure had positively benefited the sector, but it expired at the end of 2011.³⁷¹

4.3.2 Agricultural Sector

In 1966 most Batswana greatly relied on agriculture as a source of income, food and employment.³⁷² As a matter of fact, approximately 40 percent of the Gross Domestic Product (GDP) was from the agricultural sector and it was the main economic activity.³⁷³ However, the agricultural sector started to lose its value in economic importance after the discovery of minerals in the late 1960s to the

³⁶² Africa Portal 2005 <https://www.africaportal.org>.

³⁶³ Africa Portal 2013 <https://www.africaportal.org>.

³⁶⁴ Africa Portal 2013 <https://www.africaportal.org>.

³⁶⁵ Africa Portal 2013 <https://www.africaportal.org>.

³⁶⁶ Africa Portal 2013 <https://www.africaportal.org>.

³⁶⁷ Africa Portal 2013 <https://www.africaportal.org>.

³⁶⁸ Africa Portal 2013 <https://www.africaportal.org>.

³⁶⁹ Africa Portal 2013 <https://www.africaportal.org>.

³⁷⁰ Africa Portal 2013 <https://www.africaportal.org>.

³⁷¹ Africa Portal 2013 <https://www.africaportal.org>.

³⁷² Africa Portal 2004 <https://www.africaportal.org>.

³⁷³ Africa Portal 2004 <https://www.africaportal.org>.

1970s.³⁷⁴ Between 2000 and 2001 the share of the Agricultural sector in the GDP had dropped below 3 percent.³⁷⁵ In the financial year of 2000/01 the Agricultural sector was categorised as the second least substantial economic activity in respect to contribution to the total GDP.³⁷⁶ The sector has since been demoted to the last position.³⁷⁷

At the time of the National Development Plan 8 (NDP8) phase (2003-2009), agricultural policies included diversification of the agricultural production base and agricultural output and productivity.³⁷⁸ After an analysis of the agricultural objectives was conducted,³⁷⁹ it was decided that most of the sectors objectives had not been altered ever since the 1st NDP after independence.³⁸⁰ The only exception was that from independence to the end of the NDP 6 period in the early 1991,³⁸¹ the main objective was self-sufficiency in food production.³⁸² However, the objective was abolished at the beginning of NDP7 and replaced with the objective to improve food security at household and national level.³⁸³ The reviewed national food objective advocates that in the future,³⁸⁴ emphasis will be on provision of infrastructure,³⁸⁵ human capital development and technology development.³⁸⁶ The objective is in line with the requirements of the trade protocol of SADC, SACU and the World Trade Organisation (WTO) which Botswana is a party to.³⁸⁷

In order to achieve the objective of self-sufficiency in food production,³⁸⁸ the Botswana government had put in place programmes between 1970s and the 1980s.³⁸⁹ Botswana Development Corporation (BDC) is a development financial

³⁷⁴ Africa Portal 2004 <https://www.africaportal.org>.

³⁷⁵ Africa Portal 2004 <https://www.africaportal.org>.

³⁷⁶ Africa Portal 2004 <https://www.africaportal.org>.

³⁷⁷ Africa Portal 2004 <https://www.africaportal.org>.

³⁷⁸ Africa Portal 2004 <https://www.africaportal.org>.

³⁷⁹ Africa Portal 2004 <https://www.africaportal.org>.

³⁸⁰ Africa Portal 2004 <https://www.africaportal.org>.

³⁸¹ Africa Portal 2004 <https://www.africaportal.org>.

³⁸² Africa Portal 2004 <https://www.africaportal.org>.

³⁸³ Africa Portal 2004 <https://www.africaportal.org>.

³⁸⁴ Africa Portal 2004 <https://www.africaportal.org>.

³⁸⁵ Africa Portal 2004 <https://www.africaportal.org>.

³⁸⁶ Africa Portal 2004 <https://www.africaportal.org>.

³⁸⁷ Africa Portal 2004 <https://www.africaportal.org>.

³⁸⁸ Africa Portal 2004 <https://www.africaportal.org>.

³⁸⁹ Africa Portal 2004 <https://www.africaportal.org>.

institution which was founded in the year 1970 as a limited liability company with the government of Botswana being the sole shareholder.³⁹⁰ BDC was formed to stimulate and assist in the development of industrial, commercial and agricultural enterprises within the agenda of Botswana's plan for economic development.³⁹¹ The mandate of BDC is to pilot the industrialisation of the country by giving financial assistance to investors with commercially viable projects.³⁹² BDC invests in all sectors of the economy except for large scale mining.³⁹³ These sectors consist of; service, agriculture, energy, property and infrastructure and industry.³⁹⁴ The formation of Botswana Agricultural Marketing Board (BAMB) in 1974 was to support producer's prices in the grain sub-sector.³⁹⁵ Grain and maize prices were equally supported through the pricing system which made certain that sorghum prices were more expensive than maize prices.³⁹⁶ This was carried out in order to discourage the production of sorghum, unlike maize; maize was found more suited in Botswana agro-ecological conditions.³⁹⁷ Furthermore, maize was considered to be the major stable product.³⁹⁸ In addition, BAMB was granted a monopoly position in the importation of sorghum and this resulted in private traders not being able to import the product except if they are acting for BAMB.³⁹⁹ The Arable Lands Development Programme (ALDEP) and the Accelerated Rainfed Arable Programme (ARAP) were introduced in 1980.⁴⁰⁰ The programmes were designed to advance dry land arable agricultural production and productivity.⁴⁰¹ ALDEP was to provide poor farmers with resources such as fencing material,⁴⁰² fertilisers,⁴⁰³ water catchment tanks,⁴⁰⁴ animal draft power,⁴⁰⁵ scotch carts and animal drawn implements.⁴⁰⁶ On the other hand,

³⁹⁰ BDC <https://www.bdc.bw>.

³⁹¹ BDC <https://www.bdc.bw>.

³⁹² BDC <https://www.bdc.bw>.

³⁹³ BDC <https://www.bdc.bw>.

³⁹⁴ BDC <https://www.bdc.bw>.

³⁹⁵ Africa Portal 2004 <https://www.africaportal.org>.

³⁹⁶ Africa Portal 2004 <https://www.africaportal.org>.

³⁹⁷ Africa Portal 2004 <https://www.africaportal.org>.

³⁹⁸ Africa Portal 2004 <https://www.africaportal.org>.

³⁹⁹ Africa Portal 2004 <https://www.africaportal.org>.

⁴⁰⁰ Africa Portal 2004 <https://www.africaportal.org>.

⁴⁰¹ Africa Portal 2004 <https://www.africaportal.org>.

⁴⁰² Africa Portal 2004 <https://www.africaportal.org>.

⁴⁰³ Africa Portal 2004 <https://www.africaportal.org>.

⁴⁰⁴ Africa Portal 2004 <https://www.africaportal.org>.

⁴⁰⁵ Africa Portal 2004 <https://www.africaportal.org>.

ARAP paid producers to take part in arable production activities by providing grants for planting,⁴⁰⁷ fencing,⁴⁰⁸ water development and input procurement.⁴⁰⁹ The effort that the government put into the self-sufficiency phase was to promote economic diversification,⁴¹⁰ income generation and employment opportunities.⁴¹¹ Following the abolish of the self-sufficiency objective, a decision was taken to implement parity pricing on grain producer prices.⁴¹² The outcome of this decision was that grain prices were in line with international patterns and the decision also resulted in households having access to less expensive food.⁴¹³ Another change that occurred is that BAMB's monopoly on sorghum imports ceased in 1992 and ARAP was terminated.⁴¹⁴

A variety of programmes were introduced during the self-sufficient phase, and they all aimed at providing farmers with grants in order for them to develop new or to expand innovativeness.⁴¹⁵ However, Botswana's current economy-wide policy direction has moved from grants to loan schemes.⁴¹⁶ In 2002 the government introduced the National Master Plan For Arable Agriculture and Dairy Development (NAMPAADP) another initiative seeking to defeat the declining trend in agricultural growth and to revamp the sectors contribution to Botswana's economy.⁴¹⁷ NAMPAADP strives to commercialize the agricultural sector so as to make the sector more competitive and to lower Botswana's dependence on imports.⁴¹⁸ In 2007 the government of Botswana implemented the Livestock Management and Infrastructure Development (LIMID) programme.⁴¹⁹ LIMID is a once off programme for all packages except animal husbandry; a farmer belonging to a group and has benefited from the programme is considered to have benefited and cannot apply for

⁴⁰⁶ Africa Portal 2004 <https://www.africaportal.org>.

⁴⁰⁷ Africa Portal 2004 <https://www.africaportal.org>.

⁴⁰⁸ Africa Portal 2004 <https://www.africaportal.org>.

⁴⁰⁹ Africa Portal 2004 <https://www.africaportal.org>.

⁴¹⁰ Africa Portal 2004 <https://www.africaportal.org>.

⁴¹¹ Africa Portal 2004 <https://www.africaportal.org>.

⁴¹² Africa Portal 2004 <https://www.africaportal.org>.

⁴¹³ African Portal 2004 <https://www.africaportal.org>.

⁴¹⁴ African Portal 2004 <https://www.africaportal.org>.

⁴¹⁵ FAP was one of the programmes and it was replaced by CEDA.

⁴¹⁶ African Portal 2004 <https://www.africaportal.org>.

⁴¹⁷ African Portal 2004 <https://www.africaportal.org>.

⁴¹⁸ African Portal 2004 <https://www.africaportal.org>.

⁴¹⁹ <https://www.gov.bw>.

the same aid as an individual.⁴²⁰ The objectives of LIMID are to supply infrastructure for safe and hygienic processing of poultry (meat), elevate food security through improved productivity of cattle,⁴²¹ small stock and tswana chickens,⁴²² improve range resource utilization and conversation,⁴²³ eliminate poverty and improve livestock management.⁴²⁴

The Integrated Support Programme for Arable Agricultural Development (ISPAAD) was introduced in 2008, it was intended to address obstacles that arable farmers encounter.⁴²⁵ It was foreseen that the performance of the arable sub sector would be significantly enhanced by launching agricultural service centres,⁴²⁶ fencing fields and facilitating arable farmers to obtain the necessary inputs and draught power to commence tillage operations.⁴²⁷ The Youth Development Fund (YDF) is an economic empowerment programme that was introduced in the 2009/10 financial year.⁴²⁸ YDF is a social economic programme for expanding and start-up businesses.⁴²⁹ It is for youths who pursue to get into different economic enterprises funded at 50 percent credit and 50 percent grant by the government of Botswana.⁴³⁰

Botswana Meat Commission (BMC) was established in 1996 by the BMC Act of 1966 Chapter 74:04.⁴³¹ BMC is a government parastatal entity and was created to coordinate the production of beef which grazes on chemically free grass land covering much of Botswana's 58000 square kilometres.⁴³² It is the main exporter of lean beef from Botswana.⁴³³ BMC features proximately in the market throughout the world.

⁴²⁰ <https://www.gov.bw>.

⁴²¹ <https://www.gov.bw>.

⁴²² <https://www.gov.bw>.

⁴²³ <https://www.gov.bw>.

⁴²⁴ <https://www.gov.bw>.

⁴²⁵ <https://www.gov.bw>

⁴²⁶ NDB <https://ndb.bw>.

⁴²⁷ NDB <https://.ndb.bw>.

⁴²⁸ <https://www.gov.bw>.

⁴²⁹ <https://www.gov.bw>

⁴³⁰ <https://www.gov.bw>.

⁴³¹ Bagopi *The impact of relationship marketing on customer satisfaction-a case of study of Botswana Meat commission (B.M.C) 2.*

⁴³² Bagopi *The impact of relationship marketing on customer satisfaction –a case of study of Botswana Meat Commission (B.M.C) 2.*

⁴³³ Bagpoi *The impact of relationship marketing on customer satisfaction-a case of study of Botswana Meat Commission (B.M.C) 2.*

BMC has obtained an exceptional reputation for quality.⁴³⁴ In order to make sure that it remains aggressive in the global arena and that it retains its clientele, BMC has effectively employed international Organisation of Standards (ISO) 9002 accredited in 1996 through South African Bureau of Standard (S.A.B.S) (ISO) as a quality organization ensures that companies affiliated to it produce quality products which meet customer specification at all times.⁴³⁵ In 2002 the ISO 9002 standard was revised to ISO 9001:2000 and BMC was also accredited by SABS in 2001.⁴³⁶ This is a clear indication that BMC produces quality products which compete in the global market.⁴³⁷

Cattle production is an imperative livelihood source in Botswana.⁴³⁸ It is greatly significant for the agrarian economy where income generation opportunities are not a lot.⁴³⁹ The industry is also an essential source of non-mineral foreign exchange for Botswana.⁴⁴⁰ Between 1972 and 2009, beef and beef by-products contributed an average of 10 % to the total export earnings.⁴⁴¹ In addition, they were the steadiest and leading source of non-mineral exports.⁴⁴² The prominence of the livestock sector is evident from its real value added, which has been the main driver of agriculture.⁴⁴³

4.3.3 Investment Sector

The low investment rate in developing countries is linked to low economic development and obstacles such low living standards and extensive poverty.⁴⁴⁴ Governments in developing countries have since resorted to opening up their

⁴³⁴ Bagopi *The impact of relationship marketing on customer satisfaction –a case of study of Botswana Meat Commission (B.M.C)* 3.

⁴³⁵ Bagopi *The impact of relationship marketing on customer satisfaction-a case of study of Botswana Meat Commission (B.M.C)* 3.

⁴³⁶ Bagopi *The impact of relationship marketing on customer satisfaction-a case of studt of Botswana Meat Commission (B.M.C)* 3.

⁴³⁷ Bagopi *The impact of relationship marketing on customs satisfaction-a case of study of Botswana Meat Commissio (B.M.C)* 3.

⁴³⁸ Africa portal 2011 <https://www.africaportal.org>.

⁴³⁹ Africa portal 2011 <https://www.africaportal.org>.

⁴⁴⁰ Africa Portal 2011 <https://www.africaportal.org>.

⁴⁴¹ Africa Portal 2011 <https://www.africaportal.org>.

⁴⁴² Africa Portal 2011 <https://www.africaportal.org>.

⁴⁴³ Africa Portal 2011 <https://www.africaportal.org>.

⁴⁴⁴ Magombeyi and Odhiambo 2017 *JOAAM* 16.

economies to Foreign Direct Investment (FDI) in order to attract investment capital.⁴⁴⁵ The investment gap in these states is a result of low savings which are not enough to upkeep investment demands.⁴⁴⁶ FDI does not only close the investment gap but it also creates job opportunities that the locals take advantage of.⁴⁴⁷ FDI also brings technology which is vital for marketing and management competence, refining production, competitiveness of the host country and advancing the integration of the host country into the global world.⁴⁴⁸ These constructive outcomes make FDI attractive to developing countries.⁴⁴⁹

The Botswana regime of employing socio-economic policies through the National Development Plans (NDPs) was started by the Transitional Plan for social and economic development of 1965.⁴⁵⁰ In 1980, Botswana's economy was dominated by mining, this was after the discovery of diamonds in 1967.⁴⁵¹ The aim was structuring capacity in the mining sector for exploiting mineral resources and negotiation of foreign direct investment deals with multinational companies.⁴⁵² Policies by the government that had the objective of attracting FDI included trade arrangements, regional integration, investment incentives, regulating reforms and formation of investment support policies.⁴⁵³ Immense efforts were also made by the Botswana government to channel diamond proceeds to build and stimulate economic development which is vital for investment.⁴⁵⁴

In order to offer investment promotion and oversee the promotion of investment and exports, the government formed the Botswana Export Development and Investment Authority (BEDIA) in 1997.⁴⁵⁵ The role of BEDIA was to campaign for the amendments of laws which negatively affect the creation of businesses in

⁴⁴⁵ Magombeyi and Odhiambo 2017 *JOAAM* 16.

⁴⁴⁶ Magombeyi and Odhiambo 2017 *JOAAM* 16.

⁴⁴⁷ Magombeyi and Odhiambo 2017 *JOAAM* 16.

⁴⁴⁸ Magombeyi and Odhiambo 2017 *JOAAM* 16.

⁴⁴⁹ Magombeyi and Odhiambo 2017 *JOAAM* 16.

⁴⁵⁰ Magombeyi and Odhiambo 2017 *JOAAM* 16.

⁴⁵¹ Magombeyi and Odhiambo 2017 *JOAAM* 16.

⁴⁵² Magombeyi and Odhiambo 2017 *JOAAM* 16.

⁴⁵³ Magombeyi and Odhiambo 2017 *JOAAM* 17.

⁴⁵⁴ Magombeyi and Odhiambo 2017 *JOAAM* 17.

⁴⁵⁵ Magombeyi and Odhiambo 2017 *JOAAM* 19.

Botswana.⁴⁵⁶ In order to promote investment in financial services to foreign investors, the government established the International Financial Services Centre (IFSC) in 2003.⁴⁵⁷ The IFSC mandate was aimed on off shore financial investment upgrade.⁴⁵⁸ A business that was eligible for IFSC status enjoyed benefits.⁴⁵⁹ The incentives included: low tax, access to expanding taxation avoidance treaty network, tax administration benefits and facilitation of work permits.⁴⁶⁰ The Special Economic Zone Policy was adopted in 2010.⁴⁶¹ The Special Economic Zone (SEZ) is a geographical economic area with its own administration SEZ authority.⁴⁶² SEZ creates an investor-friendly environment and its main intention is to expand the economy for sustainable growth after diamonds resource.⁴⁶³ SEZ are also incubators for competitiveness enterprises in Botswana. Six specialised zones were created; Agriculture hub, Diamond hub, transport hub, innovation hub, health hub and education hub.⁴⁶⁴

In 2012 IFSC merged with BEDIA.⁴⁶⁵ The merge gave birth to Botswana Investment and Trade Centre (BITC) which is mandated to promote shared service, band management and promote special economic zones.⁴⁶⁶

4.5. Botswana's challenges

The annihilation of FAP caused the decrease in exports and employments within the sector.⁴⁶⁷ There were companies that closed business while others relocated because of the elimination of the FAP subsidies.⁴⁶⁸ Motswapong writes that since the annihilation of FAP, the TC sector has encountered obstacles.⁴⁶⁹ In 2007 BEDIA

⁴⁵⁶ Magombeyi and Odhiambo 2017 *JOAAM* 19.

⁴⁵⁷ Magombeyi and Odhiambo 2017 *JOAAM* 20.

⁴⁵⁸ Magombeyi and Odhiambo 2017 *JOAAM* 20

⁴⁵⁹ Magombeyi and Odhiambo 2017 *JOAAM* 20.

⁴⁶⁰ Magombeyi and Odhiambo 2017 *JOAAM* 22.

⁴⁶¹ Magombeyi and Odhiambo 2017 *JOAAM* 22.

⁴⁶² Magombeyi and Odhiambo 2017 *JOAAM* 22.

⁴⁶³ Magombeyi and Odhiambo 2017 *JOAAM* 22.

⁴⁶⁴ Magombeyi and Odhiambo 2017 *JOAAM* 22.

⁴⁶⁵ Magombeyi and Odhiambo 2017 *JOAAM* 22.

⁴⁶⁶ Magombeyi and Odhiambo 2017 *JOAAM* 22.

⁴⁶⁷ Africa Portal 2013 <https://www.africaportal.org>.

⁴⁶⁸ Africa Portal 2013 <https://www.africaportal.org>.

⁴⁶⁹ Africa Portal 2013 <https://www.africaportal.org>.

recorded that there were 60 TC companies registered in Botswana.⁴⁷⁰ Nonetheless, this was before the economic crises which happened in the wake of the 2008/2009 financial year.⁴⁷¹ In December 2009 Caratex Botswana shut down, it was the biggest company in the TC sector as it had employed more than 5000 workers.⁴⁷²

The TC sector only began to recover once Botswana was given LDC preference under the African Growth and Opportunity Act (AGOA) by the USA in 2002.⁴⁷³ AGOA is the United States government's signature trade initiative with sub-Saharan Africa.⁴⁷⁴ AGOA was established in May 2000, the US Congress reauthorized it in June 2015.⁴⁷⁵ It provides duty free treatment to over 6,400 products.⁴⁷⁶ Even though Botswana was offered this treatment, the TC sector is still faced with many challenges;⁴⁷⁷ it has been unable to grow and to make use of the current trade preferences.⁴⁷⁸ Some of these challenges are: little working knowledge of investors in the export business about complexity of international marketing, poor infrastructure and high transaction costs, low production capacity, non-availability of training facilities locally for providing skills for the sector, high cost of sourcing raw material, a flow of cheap imports that undermine the sector, limited labour and management and limited research and unavailability of accurate data.⁴⁷⁹

The biggest challenges facing the agricultural sector consist of production volume and competence.⁴⁸⁰ The lack of support services and infrastructure hamper production. Furthermore, most of the production farmers are scattered apart making it difficult to offer facilities like telecommunications, roads, extension services, water and electricity.⁴⁸¹ The distribution of agricultural land has been user driven with restricted planning at community or district level on the location of different types of

⁴⁷⁰ Africa Portal 2013 <https://www.africaportal.org>.

⁴⁷¹ Africa Portal 2013 <https://www.africaportal.org>.

⁴⁷² Africa Portal 2013 <https://www.africaportal.org>.

⁴⁷³ Africa Portal 2013 <https://www.africaportal.org>.

⁴⁷⁴ U.S Embassy in Botswana <https://bw.usembassy.gov>.

⁴⁷⁵ U.S. Embassy in Botswana <https://bw.usembassy.gov>.

⁴⁷⁶ U.S Embassy in Botswana <https://bw.usembassy.gov>.

⁴⁷⁷ Africa Portal 2013 <https://www.africaportal.org>.

⁴⁷⁸ Africa Portal 2013 <https://www.africaportal.org>.

⁴⁷⁹ Africa Portal 2013 <https://www.africaportal.org>.

⁴⁸⁰ International Trade Administration <https://www.trade.gov>.

⁴⁸¹ International Trade Administration <https://www.trade.gov>.

production system.⁴⁸² This has resulted in development of support infrastructure inconceivable.⁴⁸³ Livestock remains to be an important sub sector because of the cattle industry.⁴⁸⁴ However, there is a challenge with the weak linkages with markets.⁴⁸⁵ Others obstacles affecting the board range of farm animals is the lack clustering of production centres.⁴⁸⁶ These affect the ability to access essential services such as extension services, energy, water, market and product interchange.⁴⁸⁷

Botswana has made immense efforts in drawing up laws and investment strategies that shield investors. The Constitution of Botswana provides for the protection of investors.⁴⁸⁸ In the case of expropriation for the development for community benefits, the party that has been distressed can pursue recourse through the Botswana courts and the government of Botswana is also obligated to pay compensation.⁴⁸⁹ The Acquisition of property Act and the Tribal Land Act also makes provisions related to expropriation. However, Botswana does not have one instrument which is easily reachable and that consists of all the laws.⁴⁹⁰ This results in some of the investors not knowing their rights.⁴⁹¹

The resolution of commercial disputes is also considered to be old-fashioned and feeble.⁴⁹² The establishment of an industrial court is provided in the Trade Dispute Act 2001 but the said court has been dealing with mostly labour related matters.⁴⁹³ There are no commercial courts in Botswana that have been assigned to deal with expedient commercial dispute resolution.⁴⁹⁴ There are also challenges in infrastructure development.⁴⁹⁵ Infrastructure development is vital for the regional

⁴⁸² International Trade Administration <https://www.trade.gov>.

⁴⁸³ UNDP <https://sustainabledevelopment.un.org>.

⁴⁸⁴ UNDP <https://sustainabledevelopment.un.org>.

⁴⁸⁵ UNDP <https://sustainabledevelopment.un.org>.

⁴⁸⁶ UNDP <https://www.sustainabledevelopment.un.org>.

⁴⁸⁷ UNDP <https://www.sustainabledevelopment.un.org>.

⁴⁸⁸ Magombeyi and Odhiambo 2017 *JOAAM* 27.

⁴⁸⁹ Magombeyi and Odhiambo 2017 *JOAAM* 27.

⁴⁹⁰ Magombeyi and Odhiambo 2017 *JOAAM* 27.

⁴⁹¹ Magombey and Odhiambo 2017 *JOAAM* 27.

⁴⁹² Magombeyi and Odhiambo 2017 *JOAAM* 27.

⁴⁹³ Magombeyi and Odhiambo 2017 *JOAAM* 27.

⁴⁹⁴ Magombeyi and Odhiambo 2017 *JOAAM* 27.

⁴⁹⁵ Magombeyi and Odhiambo 2017 *JOAAM* 27.

and international convenience.⁴⁹⁶ The financing gap across infrastructure sectors cannot be closed by public funds alone and this has resulted in the government considering Public-Private Partnerships in infrastructure provision.⁴⁹⁷

4.6. An assessment of Botswana's compliance with regional trade Agreements

The various regional agreements that Botswana is a member of, have different objectives; however, they also share a common goal which is to promote regional integration in Africa. SADC is devoted to poverty eradication and regional integration within the Southern Africa region through ensuring peace, economic development and security.⁴⁹⁸ SADC states pledge to implement measures to stimulate the attainment of the objectives of SADC, are to abstain from taking any measures likely to threaten the sustenance of its values,⁴⁹⁹ the accomplishment of its goals and the employment of the provisions of the Treaty.⁵⁰⁰ In accordance with the provisions of the SADC Treaty, SADC members consent to work together in the areas of (c) mining, trade, finance, industry and investment,⁵⁰¹ (d) social and human development and special programmes.⁵⁰²

AfCFTA, on the other hand, is established to create a single market for goods and services,⁵⁰³ the elimination of tariff and non-tariff barriers to trade and liberalisation of intra-African trade.⁵⁰⁴ AfCFTA incorporates as part of its cardinal principles, the requirements of progressive liberalisation, reciprocity and non-discrimination.⁵⁰⁵ Similarly, member states of SACU seek to adopt similar legislation with respect to customs and excise duties.⁵⁰⁶

⁴⁹⁶ Magombeyi and Odhiambo 2017 *JOAAM* 28.

⁴⁹⁷ Magombeyi and Odhiambo 2017 *JOAAM* 28.

⁴⁹⁸ Tanyanyiwa and Constance 2014 *JOHASS* 110.

⁴⁹⁹ A 6 (1) of the SADC Treaty (1992).

⁵⁰⁰ A 6(1) of the SADC Treaty (1992).

⁵⁰¹ A 21(3) (c) of the SADC Treaty (1992).

⁵⁰² A 21(3) (d) of the SADC Treaty (1992).

⁵⁰³ Nwanko and Ajijo 2020 *JOAL* 307.

⁵⁰⁴ Nwanko and Ajibo 2020 *JOAL* 307.

⁵⁰⁵ Nwanko and Aijo 2020 *JOAL* 307.

⁵⁰⁶ A 21 (1) of the SACU Agreement (2002)

Section 4 of the Customs Act of Botswana stipulates that the Act will apply to merchandise imported into Botswana from a SACU member state and merchandises destined for export from Botswana to SACU and SACU member states, conditional to any rules as may be thetical.⁵⁰⁷ Section 4 (2) of the Customs Act goes on to provide that unless otherwise provided in the SACU Agreement, no import duty will be payable on goods in free movement in a SACU member state if the imported goods in Botswana are (a) cleared for use in Botswana or for a customs procedure or (b) for tax purposes, regarded as cleared for use in Botswana.⁵⁰⁸ The Botswana Unified Revenue Services (BURS) has the obligation of carrying out tax assessment and collection tasks on behalf of the Botswana government.⁵⁰⁹ BURS assesses goods imported into Botswana as follows; goods that are imported into Botswana from outside the SACU market are accountable to 12 % VAT and tariff ratios which are set out in the customs and excise Tariff Schedule.⁵¹⁰ Goods imported from any SACU member state attract only 12 % VAT.⁵¹¹ It is evident that Botswana's customs and excise legislation is in harmony with Article 21 (1) of the SACU Agreement.⁵¹²

In 2020 it was recorded that the total number of foreign students registered in Botswana at tertiary bodies was one thousand, two hundred and four (1204).⁵¹³ The students came from 48 varies states around the world.⁵¹⁴ However, most of the students came from neighbouring SADC states.⁵¹⁵ Zimbabwe constituted 31.1 percent of the total, Eswatini at 9.3 percent, Lesotho at 9.1 percent and Zambia at 8.4 percent.⁵¹⁶

In the second quarter of 2022, Botswana recorded a total of 282, 2200 non-citizen arrivals and 88.2 % (249,946) of these were international visitors (tourists).⁵¹⁷The

⁵⁰⁷ Section 4(1) of the Customs Act 33 of 2018.

⁵⁰⁸ Section 4(2) of the Customs Act 33 of 2018.

⁵⁰⁹ BURS <https://www.burs.org.bw>.

⁵¹⁰ BURS <https://www.burs.org.bw>.

⁵¹¹ BURS <https://www.burs.org.bw>.

⁵¹² A 21 (1) SACU Agreement (2002).

⁵¹³ Statistics Botswana <https://www.statsbots.co.bw>.

⁵¹⁴ Statistics Botswana <https://www.statsbots.co.bw>.

⁵¹⁵ Statistics Botswana <https://www.statsbots.co.bw>.

⁵¹⁶ Statistics Botswana <https://www.statsbots.co.bw>.

⁵¹⁷ Statistics Botswana <https://www.statsbots.co.bw>.

remaining 11.8 % (33.274) being returning residents.⁵¹⁸ The majority of visitors originated from the SADC region, and were mostly from South Africa, Zimbabwe and Zambia.⁵¹⁹ The three countries accounted for 70.3 % (175,025) of all the tourists.⁵²⁰ The tourists came into the country for various reasons, most were in-transit and representing 42.3 % (105.330) of all tourists. Others came for business at 18.1 % (45.150) and holiday/leisure at 17.6 % (43.730) and the least number was for those who came for other purposes made 7.4 percent (18.504) of the total number of tourists.⁵²¹ Other purposes include medical reasons, shopping sports and religions.⁵²² The above figures indicate that Botswana cooperates with its trading partners in the areas of trade in services, investment and social and human development and special programmes. Botswana is very much complainant with Article 21 (3) (d) the SADC Treaty.⁵²³

In November 2022, Botswana imported goods worth P6, 793 million.⁵²⁴ 75.7 % (P5 276.5 million) of the goods were from the SACU region.⁵²⁵ The most imported merchandises from the customs union were fuel and food, Beverages & Tobacco with contributions of 22.7 % (P1.066.0 million).⁵²⁶ 15.4 % (P814.6 million) of the merchandises were chemicals and rubber products.⁵²⁷ Botswana received imports worth P468.2 million (6.7 %) from the EU in November 2022.⁵²⁸ The top merchandise imported from the EU was Chemical & Rubber at 14.2 % (P66.7 million).⁵²⁹ Machinery and Electrical Equipment accounted for 13.2 % (P61.9 million).⁵³⁰ The UK and Australia contributed 2.1 percent (P147.1 million) and 1.3% (P93.3 million), Diamonds were the top commodities imported.⁵³¹

⁵¹⁸ Statistics Botswana <https://www.stasbits.co.bw>.

⁵¹⁹ Statistics Botswana <https://www.statsbots.co.bw>.

⁵²⁰ Statistics Botswana <https://www.statsbots.co.bw>.

⁵²¹ Statistics Botswana <https://www.statsbots.co.bw>.

⁵²² Statistics Botswana <https://www.statsbots.co.bw>.

⁵²³ A 22 (3) (d) of the SADC Treaty (1992).

⁵²⁴ Statistics Botswana <https://www.statsbots.org.bw>.

⁵²⁵ Statistics Botswana <https://www.statsbots.org.bw>.

⁵²⁶ Statistics Botswana <https://www.statsbots.org.bw>.

⁵²⁷ Statistics Botswana <https://www.statsbots.org.bw>.

⁵²⁸ Statistics Botswana <https://www.statsbots.org.bw>.

⁵²⁹ Statistics Botswana <https://www.statsbots.org.bw>.

⁵³⁰ Statistics Botswana <https://www.statsbots.org.bw>.

⁵³¹ Statistics Botswana <https://www.statsbots.org.bw>.

Comparably, goods worth P8, 382.1 million were exported by Botswana in November 2022.⁵³²The EU received exports valued to P1, 715.4 million, which accounted for 20.5 % of the total exports.⁵³³ The main merchandise exported to the EU were Diamonds.⁵³⁴ States in the SACU region received 13.3 % (P1, 110.7 million) of the total exports.⁵³⁵ The major commodities exported to the SACU region were live cattle, Diamonds, Machinery % Electrical Equipment, accounting for 40.2% (P446.5 million), 23% (P258.0 million) and 7.5% (P83.6 million) of the total exports to SACU.⁵³⁶ The main recipient of the SACU destined exports were South Africa and Namibia at 10.2 % (P858.4 million) and 3.0 % (P249.7 million) of the total exports.⁵³⁷ The above figures indicate that Botswana has committed itself to intra-regional trade.

In 2018 the government of Botswana invoked the Control of Goods, Price and other Charges Act⁵³⁸ to ban the importation of bottled natural and mineral water in Botswana.⁵³⁹ The purpose of the ban is to promote the competitiveness and sustainability of domestic water bottling sector which is a reserved business activity for citizens.⁵⁴⁰ The objective of the ban is to stimulate investment in the sector which would lead to poverty eradication and job creation.⁵⁴¹ In the same year, 2018, the government of Botswana banned the importation of beetroot, green peppers, butternut, watermelon, green maize, tomatoes, carrots and potatoes. In 2020, the government of Botswana restricted the importation of baked good into Botswana.⁵⁴² Botswana stated that the application of the regulations was to stimulate the sustainability and competitiveness of the sectors.⁵⁴³

⁵³² Statistics Botswana <https://www.statsbots.org.bw>.

⁵³³ Statistics Botswana <https://www.statsbots.org.bw>.

⁵³⁴ Statistics Botswana <https://www.statsbots.org.bw>.

⁵³⁵ Statistics Botswana <https://www.statsbots.org.bw>.

⁵³⁶ Statistics Botswana <https://www.statsbots.org.bw>.

⁵³⁷ Statistics Botswana <https://www.statsbots.org.bw>.

⁵³⁸ Section 3 of the Control of Goods, Price and other Charges Act permits the Minister to control the import or export of any goods. The Minister may make such regulations as appear to him to be necessary or expedient for some purposes.

⁵³⁹ Sunday standard 2018 <https://www.sundaystandard.info>.

⁵⁴⁰ Sunday standard 2018 <https://www.sundaystandard.info>.

⁵⁴¹ Sunday standard 2018 <https://www.sundaystandad.info>.

⁵⁴² Panapress ://www.panapress.com.

⁵⁴³ Sunday standard 2018 <https://www.sundaystandard.info>.

In a further effort to boost the TC sector, in 2021 the Botswana government enforced limitations on the importation of shirts, ties, tunics, t-shirts, hats, pinafores, skirts, dresses, blouses, slacks, jerseys and tracksuits for public and private pre-school, primary and secondary schools.⁵⁴⁴ On the 20th of December 2022, Ackermans Botswana (Pty) and PEP Botswana holdings Limited (Pty) brought an urgent application before the High Court of Botswana seeking an order to be permitted to import uniform on the same terms and conditions as those set out in their expired permits.⁵⁴⁵ The High Court decided in their favour and directed that they be granted permits for the importation of school uniform from the period between December 2022 and January 2023.⁵⁴⁶ The government of Botswana has since filed an urgent application to suspend the court's order.⁵⁴⁷ This is pending the hearing and determination of the appeal.⁵⁴⁸ This means that pending the hearing of the appeal, local manufacturers are at liberty to supply school uniforms.⁵⁴⁹ There are currently 238 companies in Botswana which produce school uniform.⁵⁵⁰

A report has since indicated that Botswana food retailers import vegetables worth than P100 million annually.⁵⁵¹ In September 2021 retailers spent approximately 24 million in importing vegetables from farmers outside Botswana.⁵⁵² In the beginning of 2022, Botswana banned the import of certain vegetables from South Africa.⁵⁵³ Botswana makes a considerable share to the huge volume of fruit and vegetable that South Africa exports to countries in Southern Africa.⁵⁵⁴ The Botswana government explained that the reason for the ban was to boost the horticulture competitiveness.⁵⁵⁵ The items which have been banned include carrots, butternut, watermelons, ginger, turmeric, fresh herbs, chilli peppers, onions, beetroots,

⁵⁴⁴ Sunday standard <https://www.sundaystandard.info>

⁵⁴⁵ Sunday standard <https://www.sundaystandard.info>.

⁵⁴⁶ Sunday standard <https://www.sundaystandard.info>.

⁵⁴⁷ Sunday standard <https://www.sundaystandard.info>.

⁵⁴⁸ Sunday standard <https://www.sundaystandard.info>.

⁵⁴⁹ Sunday standard <https://www.sundaystandard.info>.

⁵⁵⁰ Sunday standard <https://www.sundaystandard.info>.

⁵⁵¹ Weekend Post <https://weekendpost.co.bw>.

⁵⁵² Weekend Post <https://weekendpost.co.bw>.

⁵⁵³ Weekend Post <https://weekendpost.co.bw>.

⁵⁵⁴ Weekend Post <https://weekendpost.co.bw>.

⁵⁵⁵ Weekend Post <https://weekendpost.co.bw>.

potatoes, cabbage, chilli and lettuce.⁵⁵⁶ The Botswana government stated that the ban is to encourage retailers to spend money in purchasing from farmers in Botswana.⁵⁵⁷ The ban also obtains motivation from the Economic Inclusion Act which induces private sector entities to have supplier development programmes with targeted citizens or targeted citizen-owned enterprises.⁵⁵⁸ The ban is to guarantee that retailers spend money in purchasing from local farmers.⁵⁵⁹

The ban on vegetables has since resulted in farmers in South Africa pressurising the South African government to hold talks with Botswana.⁵⁶⁰ The farmers claim that Botswana is in violation of the SACU Agreement which ought to have a common external trade border with free circulation of goods within the SACU area.⁵⁶¹ In order to critically evaluate the allegations of the South African farmers, reference will be made to the SACU Agreement and other regional trade agreements that Botswana is a member state of.

The goals the SACU Agreement are: the advancement of cross-border movement of goods between SACU states,⁵⁶² the development of institutions guaranteeing equitable trade benefits to the member states,⁵⁶³ the advancement of fair competition conditions in the common customs area,⁵⁶⁴ increasing investment prospects in the common customs area,⁵⁶⁵ the enhancement of economic development, competitiveness, industrialization and diversification of SACU states,⁵⁶⁶ the alliance of SACU states into the global economy by improved trade and investment⁵⁶⁷ and the improvement of common policies and plans.⁵⁶⁸ The objectives of the SACU Agreement make it clear that the Common Customs Area seeks to foster intra-regional trade between its member states.

⁵⁵⁶ Weekend post <https://weekendpost.co.bw>.

⁵⁵⁷ Weekend Post <https://weekendpost.co.bw>.

⁵⁵⁸ Weekend Post <https://weekendpost.co.bw>.

⁵⁵⁹ Weekend Post <https://weekendpost.co.bw>.

⁵⁶⁰ The Business Weekly & Review <https://businessweekly.co.bw>.

⁵⁶¹ The Business Weekly & Review <https://businessweekly.co.bw>.

⁵⁶² A 2(a) of the SACU Agreement (2002).

⁵⁶³ A 2 (b) of the SACU Agreement (2002).

⁵⁶⁴ A 2(c) of the SACU Agreement (2002).

⁵⁶⁵ A 2 (d) of the SACU Agreement (2002).

⁵⁶⁶ A 2 (e) of the SACU Agreement (2002).

⁵⁶⁷ A 2 (f) of the SACU Agreement (2002).

⁵⁶⁸ A 2 (g) of the SACU Agreement (2002).

Article 18 of the SACU Agreement goes on to provide that goods that have been grown, produced or manufactured in the SACU area, on importation from the area of a SACU state to the area of another SACU state, are to be free of customs duties and quantitative restrictions.⁵⁶⁹ However, a SACU state has the power to inflict restrictions on imports or exports in line with national laws and regulations for the protection of health of human beings,⁵⁷⁰ animals or plants,⁵⁷¹ the environment,⁵⁷² treasures of artistic, historic or archaeological value,⁵⁷³ public moral, intellectual property rights,⁵⁷⁴ national security⁵⁷⁵ and exhaustive national resource.⁵⁷⁶

Article 25 (1) of the SACU Agreement provides that SACU member states have the authority to ban or control the importation into or exportation from its territory of any merchandise for cultural, social, economic and any other reasons as may be decided upon by the Council.⁵⁷⁷ However, Article 25(1) should not be misinterpreted, Article 25 (1) does not mean that it allows the ban or control of the importation by any SACU state into its territory of merchandise produced, grown or manufactured in other areas of the SACU area in order to protect its own industries.⁵⁷⁸ Botswana, Eswatini, Lesotho, and Namibia can as a provisional measure charge supplementary duties on goods imported into their territory to empower infant industries therein to meet competition from other products or manufacturers in the SACU area.⁵⁷⁹ However, such charges are to be taxed fairly on goods grown or manufactured on other parts of the SACU area and like products imported outside that area, regardless of whether the latter goods are imported directly or from the area of another SACU state and on the condition that payment of the customs duties applicable to such goods on importation in the SACU area is made.⁵⁸⁰ An industry that has been established in the territory of a SACU state for not more than eight

⁵⁶⁹ A 18 (1) of the SACU Agreement (2002).

⁵⁷⁰ A 18 2(a) of the SACU Agreement (2002).

⁵⁷¹ A 18 2(b) of the SACU Agreement (2002).

⁵⁷² A 18 2(c) of the SACU Agreement (2002).

⁵⁷³ A 18 2(d) of the SACU Agreement (2002)

⁵⁷⁴ A 18 2(e) of the SACU Agreement (2002).

⁵⁷⁵ A 18 2(f) of the SACU Agreement (2002).

⁵⁷⁶ A18 2(g) of the SACU Agreement (2002).

⁵⁷⁷ A 25 (1) of the SACU Agreement (2002).

⁵⁷⁸ A 25 (1) of the SACU Agreement (2002).

⁵⁷⁹ A 26(1) of the SACU Agreement (2002).

⁵⁸⁰ A 26(1) of the SACU Agreement (2002).

years is considered to be an infant industry.⁵⁸¹ Protection afforded to an infant industry will be a period of eight years except otherwise decided by the Council.⁵⁸²

From the above jurisprudence, it is clear that the ban on the importation of natural and mineral water that was imposed in 2018, the ban on the importation of beetroot, green peppers, butternut, watermelon, green maize, tomatoes, carrots and potatoes that was imposed in 2018, the restriction on baked goods that was imposed in 2020, the ban on the importation of tunics, pinafores, skirts, dresses, shirts, blouses, slacks, jerseys, t-shirts, ties, tracksuits and hats for public and private pre-school, primary and secondary schools that was imposed in 2021; and the current vegetable ban that was imposed in 2022 which includes carrots, butternut, watermelons, ginger, turmeric, fresh herbs, chilli peppers, onions, beetroots, potatoes, cabbage, chilli and lettuce; are in violation of the SACU Agreement which proscribes any prohibitions or restrictions on goods that have been grown or manufactured in the SACU area, on importation from the territory of a SACU state to the territory of another SACU state. The above position is supported by Article 18 of the SACU Agreement.⁵⁸³

The SADC Trade Protocol prohibits member states from applying any quantitative restrictions on import of goods originating in the SADC member states;⁵⁸⁴ therefore Botswana is also in violation of the SADC Trade Protocol. Article 6 (a) of the SADC Trade Protocol seeks that SACU members implement policies and implementation measures to eradicate all current form of NTB's in addition refraining from incorporating new NTB'S. Article 7 of the SADC Trade Protocol stipulates that SADC members will not adopt any new quantitative restrictions and will in accordance with Article 3 remove current restrictions on import of goods originating in the SADC states where otherwise provided for in the Protocol.⁵⁸⁵

⁵⁸¹ A 26 (2) of the SACU Agreement (2002).

⁵⁸² A 26 (3) of the SACU Agreement (2002).

⁵⁸³ A 18 of the SACU Agreement (2002).

⁵⁸⁴ A 7 of the SADC Trade Protocol.

⁵⁸⁵ A 7 of the SADC Trade Protocol.

COMESA, EAC, SADC have implemented a Non-tariff Barriers (NTBs) monitoring, reporting and eliminating mechanism for the removal of NTBs.⁵⁸⁶ The mechanism permits stakeholders to report and monitor the resolution of barriers encountered as they conduct their business within the COMESA, EAC and SADC regions.⁵⁸⁷ The mechanism enriches transparency and follow-up of reported and identified NTBs. It is a web based NTBs reporting, monitoring and elimination mechanism. It is accessible to government functionaries, academic researchers, economic operators and other interested parties.⁵⁸⁸ Businesses within COMESA, EAC and SADC are encouraged to use this platform to report any NTBs.⁵⁸⁹ In 2020 Zimbabwe forwarded a complaint against the Botswana government on the NTB reporting platform.⁵⁹⁰ This was after the Botswana government announced that it would restrict the importation of baked goods into Botswana.⁵⁹¹ The complaint is still being assessed.⁵⁹² The Tripartite Agreement seeks to deepen integration in the region and reduce tariffs and non-tariff barriers.⁵⁹³ The EU-SADC Economic Partnership Agreement prohibits quantitative restrictions.⁵⁹⁴ The SACUM-UK Economic Partnership Agreement was also established to create a free trade area between member states, goods are to circulate freely between member states.⁵⁹⁵

There are, however, exceptions to the restrictions on goods originating in the SADC states: Article 9 of the SADC Trade Protocol stipulates that a member state may apply quantitative import and export restrictions if it is needed to guard public morals or to preserve public order,⁵⁹⁶ essential to safeguard human life, animal or plant life,⁵⁹⁷ required to maintain compliance with principles which are consistent with the requirements of WTO,⁵⁹⁸ obligatory to preserve intellectual property rights or to

⁵⁸⁶ Non-Tariff Barriers www.tradebarriers.org.

⁵⁸⁷ Non-Tariff Barriers www.tradebarriers.org.

⁵⁸⁸ Non-Tariff Barriers www.tradebarriers.org.

⁵⁸⁹ Non-Tariff Barriers www.tradebarriers.org.

⁵⁹⁰ Non-Tariff Barriers www.tradebarriers.org.

⁵⁹¹ Panaress <https://www.panapress.com>.

⁵⁹² www.tradebarriers.org.

⁵⁹³ Saurombe 2013 IJLASE 116.

⁵⁹⁴ A 39 of the EU-SADC Economic Partnership Agreement (2016).

⁵⁹⁵ A 20 of the SACUM-UK-Economic Partnership Agreement (2019).

⁵⁹⁶ A 9 (a) of the SADC Trade Protocol (2005).

⁵⁹⁷ A 9 (b) of the SADC Trade Protocol (2005).

⁵⁹⁸ A 9 (c) of the SADC Trade Protocol (2005).

evade deception trade,⁵⁹⁹ enforced for the security of national treasure of atisitic value,⁶⁰⁰ needed to avoid or relieve grave shortage of foodstuff in any exporting member state,⁶⁰¹ compulsory to guarantee conformity with exisiting duties under international law agreements ⁶⁰²and necessary to ban the importation or exportation of second-hand merchandise into or from its area under the Protocol.⁶⁰³

In addition, Article 21 of the SADC Trade Protocol provides that restrictions on goods may be imposed as a temporary measure to promote infant industry, however when imposing measures to protect infant industries terms and conditions must be put in place to prevent trade imbalance with the region and all measures are subject to WTO provisions.⁶⁰⁴ If a temporary measure is to be applied by a SADC member to protect an infant industry, an application has to be submitted to Committee of Ministers responsible for Trade (CMT).⁶⁰⁵ The CMT shall regularly review the protection measures imposed.⁶⁰⁶

Botswana has stated that the bans have been put in place in order to protect its sectors and promote growth of the sectors. Botswana's reasons for the bans and restrictions does not fall under any of the exceptions provided under Article 9 of the SADC Trade Protocol.

4.7 Summary

This chapter has elaborated on Botswana's compliance with regional trade agreements. Some efforts have been made by Botswana to comply with trade agreements in which it is a member state of. This can stimulate economic activities in Botswana and within the regions. However, Botswana has also imposed certain bans and restrictions on the importation of different products to its territory in order to protect its local economic sector. This is in violation of the some of the regional

⁵⁹⁹ A 9 (d) of the SADC Trade Protocol (2005).

⁶⁰⁰ A 9 (f) of the SADC Trade Protocol (2005).

⁶⁰¹ A 9 (g) of the SADC Trade Protocol (2005).

⁶⁰² A 9 (i) of the SADC Trade Protocol (2005).

⁶⁰³ A 9 (j) of the SADC Trade Protocol (2005)

⁶⁰⁴ A 21 of the SADC Trade Protocol (2005).

⁶⁰⁵ A 21 of the SADC Trade Protocol (2005).

⁶⁰⁶ A 21 of the SADC Trade Protocol. (2005).

trade agreements which Botswana is a state party of. Botswana needs to lift all the bans and restrictions that undermine its regional obligations with its regional trade agreements. The next chapter will be the conclusion and will also discuss the recommendations that Botswana may consider in order to circumvent this impasse.

Chapter Five: Conclusions and Recommendations

5.1 Conclusion

Botswana has really grown since independence, from being one of the poorest countries in the world to being currently an upper middle-income country. In 1966 agriculture and manufacture sectors contributed greatly to GDP, when there was no mining sector. As established through the study, since the discovery and exploitation of diamonds, the Agricultural sector was delegated to a back burner status. Botswana has since reawakened to the need to diversify its economy in order to reduce its over reliance on diamonds. Botswana's trade Policy is inspired by the Economic Diversification Drive (EDD) which was created to diversify Botswana's economy and to reduce the import bill.

The intention of the Economic Diversification Drive short term strategy is to promote the consumption of locally produced goods and services. The goal of the Economic Diversification Drive medium to long term strategy is to develop globally competitive sectors in Botswana. The government of Botswana has since identified various priority sectors; nonetheless this study has only considered the TC, Agriculture, and Investment sectors. These sectors have been taken into account in order to address the research question at hand, which is an assessment of Botswana's compliance with regional trade agreements with specific reference to Trade Policy. Furthermore, the aim of the study was to determine whether Botswana has sufficiently achieved economic integration with its regional trading partners. In achieving the aforesaid the objectives of the study were to: (i) determine how trade agreements become part and parcel of Botswana's national law, (ii) consider the regional trade agreements which Botswana is a party to, (iii) scrutinize Botswana's compliance with regional trade agreements and (iv) analyse the opportunities and challenges which Botswana's trade policy faces.

As established in chapter two, Botswana is a dualist state and regional trade agreements only become enforceable and binding in Botswana once the trade agreements are domesticated into Botswana's laws. In order for the agreements to

be enforceable, they must be domesticated into the national *juris corpus* by an Act of Parliament. Chapter three provided that Botswana is a member state to the SADC Protocol on Trade (2005), SACU Agreement (2002), the SADC, EAC and COMESA Tripartite FTA, SACUM-UK EPA, EU-SADC EPA, Botswana-Zimbabwe Trade Agreement, Botswana-Malawi Trade Agreement and a signatory to AfCTA. Botswana's Trade Policy and its objectives were also outlined under Chapter three. Chapter four highlights that the government of Botswana has adopted a number of policy measures in the form of grant schemes, tax measures, training, loans, mentoring and advisory services through development support institutions. The policy measures have been undertaken to empower citizens and to motivate them to take part in the country's ambition of becoming a diversified economy. Botswana's efforts in trying to boost the TC, Agriculture and Investment sectors are also discussed. Conversely, Botswana is faced with so many challenges in trying to boost these sectors: there is low production capacity in the TC sector, low production volumes and efficiencies in the agriculture sector and a weak commercial dispute resolution regime in the Investment sector.

In an effort to promote competitive and sustainable sectors Botswana has in the past years implemented bans and restrictions on the importation of certain merchandises into the country. In 2018 Botswana banned the importation of bottled natural and mineral water, in the same year there was another ban on the importation of beetroot, green peppers, butternut, watermelon, green maize, tomatoes, carrots and potatoes. In 2020, there was a restriction on baked goods imported into Botswana. In 2021, the government of Botswana implemented a ban on the importation of tunics, pinafores, skirts, dresses, shirts, blouses, slacks, jerseys, t-shirts, ties, tracksuits and hats for public and private pre-school, primary and secondary schools. Currently the country has banned the importation of certain vegetables into the country. After an intense scrutiny of the principles of the SACU Agreement and SADC Trade Protocol, it has been established that Botswana is not in compliance with her obligations under the trade agreements. Zimbabwe has since reported Botswana for non-compliance under the COMESA, EAC and SADC NTBs platform.

In conclusion, in order for Botswana to achieve sustainable economic development, it needs to diversify its economy. Programmes, policies and measures have been put in place by the government in order to promote the TC, Agriculture and Investment sectors which are among Botswana's priority sectors. Botswana is a member state to various regional trade agreements. The trade agreements have been domesticated into the laws of Botswana, making Botswana obligated to uphold the principles of the agreements. Botswana has since implemented bans and restrictions on the importation of certain goods into Botswana. The said bans and restrictions are not in compliance with its regional trade agreements and need to be revisited.

5.2 Recommendations

The following recommendations are therefore made in order for Botswana to comply with its regional trade agreements.

- 5.2.1 The government of Botswana should consider temporary restriction measures on goods instead of total import bans. Unlike bans, restrictions are time bound and less restrictive than bans which completely stop the importation of goods.
- 5.2.2 The government of Botswana is advised to make an application to the CMT under Article 21 of the SADC Trade Protocol. In the event that the application is approved, the CMT shall regularly review the protection measures imposed.
- 5.2.3 The government of Botswana is advised to also take advantage of Article 25 (1) of the SACU Agreement. Article 25 (1) allows member states to impose temporary restriction measures on goods in order to protect the infant industry. However, the measures are subject to WTO provisions.
- 5.2.4 Associations and Private sectors affected by the the imposed bans are advised to report NTBs on the www.tradebarriers.org platform. The

mechanism is an essential tool to the resolution of trade barriers including import bans.

The above recommendations- if implemented -should address the current challenges that Botswana is faced with in complying with regional trade agreements and restore amicable regional relations.

6. Reference List

Literature

Books

Harris *Cases and Material on International Law*

Harris D *Cases and Material on International Law* 7th ed (Sweet and Maxwell
London 2010)

Maudeni *40 Years of Democracy in Botswana 1965-2005*

Maudeni Z *40 Years of Democracy in Botswana 1965-2005* 1st ed (Mmegi
Publishing House Gaborone 2005)

Nsereko *Constitutional Law in Botswana*

Nsereko D D *Constitutional Law in Botswana* 1st ed (Pula Press Gaborone 2002)

Orakhelashvili *Akehurst's Modern Introduction to International Law*

Orakhelashvili A *Akehurst's Modern Introduction to International Law* 8th ed
(Routledge New York 2019)

Thesis and Dissetations

Bagopi EBL *The impact of Relationship Marketing on Consumer Satisfaction: a case study on Botswana Meat Commision (B.M.C) (LLM-dissertation North West University 2010)*

Journal Articles

Geda and Sied 2015 *Journal of African Trade*

Geda A and Sied EH "The potential for international trade and regional trade in Africa" 2015 *Journal of African Trade* 19-50

Kayizzi-Mugerwa, Anyanwu and Conceicao P 2014 *African Development Review*

Kayizzi-Mugerwa S, Anyanwu JC and Conceicao P "Regional Integration in Africa: An Introduction" 2014 *African Development Review* 1-6

Malefane and Odhlambo 2016 *Global Journal of Emerging Market Economies*

Malfane MS and Odhlambo NR "The Evolution of the Trade Policy in Botswana" 2016 *Global Journal of Emerging Markets Economies* 8(1) 22-34.

Magombeyi and Odhiambo 2017 *Journal of Accounting and Management*

Magombeyi MT and Odhiambo NM "Foreign Direct Investment in Botswana: Trends, Reforms and Challenges" 2017 *Journal of Accounting and Management* 15-32

Mapuva and Mapuva 2014 *Law, Democracy and Development*

Mapuva J and Mapuva LM "The SADC regional bloc: what challenges and prospects for regional integration." 2014 *Law, Democracy and Development* 23-26

Mokhawa and Osei-Hwedie 2003 *Botswana Notes and Records* 111

Mokhwawa G and Osei-Hwadie B "The African Growth and Opportunity act trade regime: opportunities and challenges for Botswana" 2003 *Botswana Notes and Records* 111-123

Tanyanyiwa and Constance 2014 *IOSR- Journal of Humanities and Social Science*

Tanyanyiwa VI and Constance H "Challenges and Opportunities for Regional
Intergartion in Africa" 2014 *IOSR-Journal of Humanities and Social Sciences*
103-114

Thomas and Manada 2017 *South African Journal of Business Management*

Thomas AO and Manada E "Rhetoric and Realities of Regional Integration:
Botswana SME Perspective on South African Trade" 2017 *South African Journal
of Business Management* 75-86

Tshosa 2007 *Essays on the Laws of Botswana*

Tshosa OB "The Status and Role of International Law in the National Law of
Botswana" 2007 *Essays on the Laws of Botswana* 229-246

Williams 2007 *Journal of Business & Economic Research*

Williams C "Research Methods" 2007 *Journal of Business & Economic Research*
65-72

Yusuf 2019 *Journal of African Union Studies*

Yusuf I "Has the African Union outlived its Relevance? A Retrospective and
Introspective Analysis" 2019 *Journal of African Union Studies* 35-50

Case Law

Dow v Attorney General 1992 BLR 119 (CA)

Kenneth Good v Attorney General 2005 1 BLR 262 (HC)

Free Zones of Upper Savoy and District of Gex 1932 P.C.I.J

Republic of Angola v Springbok Investments 2005 1 BLR 159 (HC)

Trendtex Trading Corporation Ltd v Central Bank of Nigeria 1977 1 All E.R 881

Triquet v Bath 1764 3 Burr 178

Legislation

Constitution of the Republic of South Africa, 1996

Constitution of the Republic of Botswana, 1966

International instruments

African Continental Free Trade Agreement (2018)

Constitutive Act of African Union (2001)

European Union - Southern African Development Community - Economic Partnership Agreement (2016)

Southern African Development Community Treaty (SADC) 1992

South African Development Trade Protocol (1996)

South African Customs Union Agreement (2002)

Southern African Customs Union – Mozambique - United Kingdom Economic Partnership Agreement (2019)

Statute of the International Court of Justice (1945)

Vienna Convention on the Laws of Treaties (1969)

Government Publications

Botswana National Policy 2019

Internet Sources

Africa Portal 2004 <https://www.africaportal.org>

Africa Portal 2004 *Diversification in Botswana Agricultural Sector: Issues, Prospects and Challenges* <https://www.africaportal.org> accessed 30 December 2022

Africa Portal 2005 <https://www.africaportal.org>

Africa Portal 2005 *Challenges for Agricultural Diversification in Botswana under the proposed SADC- EU- Economic partnership agreement* <https://www.africaportal.org> accessed 23 December 2022

Africa Portal 2011 <https://www.africaportal.org>

Africa Portal 2013 *Factors Underlining Communal Beef Cattle Marketing Decisions in Botswana: The role of Public and Private Transfers* <https://www.africaportal.org> accessed 01 January 2023

Africa Portal 2013 <https://www.africaportal.org>

Africa Portal 2013 *Key Issues in the Textile and Clothing Sector in Botswana* <https://www.africaportal.org> accessed 04 January 2023

BIDPA 2006 <http://media.africaportal.org>

BIDPA 2006 *A National Trade Policy for Botswana* <http://media.africaportal.org> accessed 18th April 2021

Botswana Development Corporation 2013-2022 <https://www.bdc.bw>

Botswana Development Corporation 2013-2022 *Mandate and Structure* <https://www.bdc.bw> accessed 23 December 2022

Botswana Unified Revenue Services 2022 <https://www.burs.org.bw>

Botswana Unified Revenue Services 2022 <https://www.burs.org.bw> accessed 30 December 2022

Botswana Unified Revenue Services 2022 <https://www.burs.org.bw>

Botswana Unified Revenue Services 2022 *Assesment and Payment*
<https://www.burs.org.bw> accessed 27 January 2023

Botswana Unified Revenue Services 2022 <https://www.burs.org.bw>

Botswana Unified Revenue Services 2022 *Mandate* <https://www.burs.org.bw>
accessed 27 January 2023

Government of Botswana date unknown <https://www.gov.bw>

Government of Botswana date unknown *Agriculture* <https://www.gov.bw>
accessed 23 January 2023

Government of Botswana Youth Development Fund date unknown
<https://www.gov.bw>

Govetment of Botswana Youth Development Fund date unknown *Youth
Development Fund* <https://www.gov.bw> accessed 25 January 2023

International Trade Administaration date unknown <https://www.trade.gov>

International Trade Administaration date unknown *Botswana-Agricultural
Sectors* <https://www.trade.gov> accessed 3 February 2023

Malawi Investment and Trade Center 2022 <https://www.mitc.mw>

Malawi Investment and Trade Center Bilateral Trade Agreements 2022
<https://www.mitc.mw> accessed 30 December 2022

National Development Bank date unknown <https://ndb.bw>

National Development Bank date unknown *ISPAAD* <https://ndb.bw> accessed
25 January 2023

None Tariff Barriers date unknown <https://www.tradebarriers.org>

None Tariff Barriers date unknown *About* <https://www.tradebarriers.org>
accessed 4 February 2023

None Tariff Barriers date unknown <https://www.tradebarriers.org>

None Tariff Barriers date unknown *Complaints* <https://www.tradebarriers.org>
accessed 4 February 2023

SACU 2013 <http://www.sacu.int>

SACU 2013 *About SACU* <http://www.sacu.int> accessed 30 December 2022

Statistics Botswana 2016-2023 <https://www.statsbots.co.bw>

Statistics Botswana 2016-2023 *Merchandise Trade* <https://www.statsbots.co.bw>
accessed 26 January 2023

Statistics Botswana 2016-2023 <https://www.statsbots.co.bw>

Statistics Botswana 2016-2023 *Social and Economic Statistics*
<https://www.statsbots.co.bw> accessed 6 January 2023

South African Government 2023 <https://www.gov.za>

South African Government 2023 Minister Pandor: Botswana South Africa
Business Forum <https://www.gov.za> accessed 29th January 2023

Sunday Standard 2018 <https://www.sundaystandard.info>

Sunday Standard 2018 *Bottled Water Ban: All Retailors Are Equal But Some Are
More Equal.* <https://www.sundaystandard.info> accessed 25 January 2023

Sunday Standard 2021 <https://www.sundaystandard.info>

Sunday Standard 2021 *Gov't Ban on School Uniform Boost Local Tailors.*
<https://www.sundaystandard.info> accessed 14 January 2023

The Business Weekly & Review 2022 <https://www.businesweekly.co.bw>

The Business Weekly & Review 2022 *SA to Confront Botswana on Fresh Produce*
<https://www.businessweekly.co.bw> accessed 25 January 2023

Weekend Post 2021 <https://www.weekendpost.co.bw>

Weekend Post 2021 *Gov't Ban Vegetable Imports*
<https://www.weekendpost.co.bw> info accessed 25 January 2023

World Bank 2022 <https://www.data.worldbank.org>

World Bank *Trade (% of GDP)- Botswana 2022* <https://www.data.worldbank.org>
accessed 30th December 2022

World Trade Organization 2022 <http://www.wto.org>

World Trade Organization 2022 *History of the multilateral trading system*
<http://www.wto.org> accessed 30th December 2022

United Nations Development Program 2023 <https://sustainabledevelopment.un.org>

United Nations Development Program 2023 *Economic Diversification Drive Initiative* <https://sustainabledevelopment.un.org> accessed 30 December 2022

United Nations Framework Convention on Climate Change 2011 <https://unfccc.int>

United Nations Framework Convention on Climate Change 2011 *Economic Diversification Drive(EDD) Medium to Long* <https://unfccc.int> accessed 30 December 2022

United States of America Embassy in Botswana date unknown
<https://bw.usembassy.gov>

United States of America Embassy in Botswana date unknown *Africa Growth & Opportunity Act* <https://bw.usembassy.gov> accessed 27 January 2023

UNCTAD 2017 <http://unctad.org>

UNCTAD 2017 *Trade Policy Framework: Botswana* <http://unctad.org> accessed 2 April 2022

UNCTAD 2006 <http://unctad.org>

UNCTAD 2006 *Botswana and the multilateral trading system: the impact of the WTO agreement, negotiations and implementation.* <http://unctad.org> accessed 3 April 2022

Zizhou 2009 <http://www.tips.org.za>

Zizhou 2009 *Linkages between Trade and Industrial Policies in Botswana* <http://www.tips.org.za> accessed 18th April 2021