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# **SADC Review – Study into the illicit trade in excisable products with particular reference to alcohol and tobacco products**

## **REPORT**

Presented to:  
SADC Secretariat in Gaborone, Botswana

By

Anthony Lester

Elizabeth Allen

GFA Consulting Group, Hamburg, Germany

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**Your contact persons  
at GFA Consulting Group:**

Claudia Martens

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## Report

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Address:

GFA Consulting Group GmbH  
Eulenkrogstraße 82  
22359 Hamburg  
Germany

Telephone: +49-40-60306-311

Telefax: +49-40-60306-119

E-Mail: [afrika@gfa-group.de](mailto:afrika@gfa-group.de)

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<sup>1</sup> Enquiries to: Head: Public Relations Unit, SADC Headquarters, Private Bag 0095  
Gaborone, Botswana, Tel: + 267 395 1863; Email: [LMartin@sadc.int](mailto:LMartin@sadc.int)  
Website: [www.sadc.int](http://www.sadc.int)

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## **1. EXECUTIVE SUMMARY**

### **1.1 Context**

Our findings are based on research and information obtained during the inception research phase in Gaborone, including evaluation of the information provided to us by the 14 Member States in the questionnaire. This was followed by visits to 6 countries selected on the basis of information available at the start of the review. These were a 10 day visit to South Africa and 5 day visits to Zimbabwe, Namibia, Swaziland, Zambia and Mozambique. In such a short time in each country and without the opportunity to interview all key senior stakeholders in all the countries visited, our findings should be regarded as a snapshot of what we found rather than the complete picture of what was happening in each country.

### **1.2 Definition of Illicit Trade**

For simplicity we have adopted the definition of illicit trade set out in Article 1 of the World Health Organization (WHO) Framework Convention of Tobacco Control (FCTC) as “any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice intended to facilitate such activity.”

### **1.3 Key Findings**

#### **1.3.1 Effect of tax increases on revenue and consumption**

The evidence we found in Zambia and Mozambique has served to illustrate that tax increases, either by increasing excise or VAT rates or by a levy (such as recently introduced in Botswana for alcohol), do not increase revenue unless accompanied by robust control and enforcement. Nor do increases in taxation result in decreases in consumption to any significant degree.

The impact of tax increases drives a switch to consumption of lower quality or illicit products. Research has shown that the best way to achieve reduced consumption e.g. of cigarettes has been through a long term campaign of raising awareness of the health implications and providing support to those who wish to stop smoking. High tax rates encourage some smokers to try to give up smoking and may discourage some from starting to smoke but the impact of high taxes on actual consumption has been found to be marginal. Smoking is no longer culturally as acceptable as it was and education has played a large part.

#### **1.3.2 Size of illicit trade in alcohol and tobacco products**

We are satisfied that there is a significant loss of excise revenue (and VAT) across the region as a result of illicit trade in alcohol and tobacco products. There has been little official effort devoted to estimating the size of this illicit

trade but many of the members of industry we consulted in the countries visited were able to provide us with estimates based on their knowledge of retail sales through contact with distributors and retailers. Only in South Africa did we find academic and independent private sector statistically robust research based on actual purchases by consumers. The Universities of Cape Town and Stellenbosch had both been working on methodologies for estimating consumption and thus the size of illicit trade. The private sector estimate of illicit trade based on purchases by consumers arrived at a similar conclusion to one of the academic studies based on consumption.

### **(a) Cigarettes**

The size of the estimated illicit cigarette trade in South Africa, estimated through academic or private sector research, was:

- 23 % of total consumption in South Africa (about 6.3 billion sticks – estimated revenue loss US\$ 323 million).

In the other countries visited, the estimates below of the size of illicit trade were provided by industry:

- 12% to 15% of total consumption in Namibia (50 million sticks: estimated revenue loss of US\$ 4 million);
- 10% to 13% of total consumption in Zambia (estimated revenue loss of US\$2 million);
- 10% to 12% of total consumption in Swaziland (10 million sticks: estimated revenue loss of US\$ 0.8 million);
- 1% to 2% of total consumption in Mozambique (estimated revenue loss of US\$ 250,000); and
- Minimal proportion in Zimbabwe.

### **(b) Alcohol**

There has been some limited and incomplete academic and private sector research in this sector in South Africa. We found few estimates available from industry in any country visited but we heard that:

- For 2009, about 160,000 hectolitres of spirits and about 400,000 hectolitres of wine were estimated by industry as illicit in South Africa (estimated revenue loss of US\$ 96 million );
- No estimate available for Swaziland but one importer estimated that legitimate sales of spirits had reduced by 40% in 2010 (estimated revenue loss of US\$ 3 million);
- Mozambique is experiencing significant illicit consumption of imported and national products. One rough estimate from an interviewee was

that about 60% of all consumption is illicit. Industry estimate is that up to 50% of nationally produced spirits is not tax paid and 50% plus of imported product is illicit. Following steep increases in the excise duty rate, revenue receipts for spirits and wine fell in 2009 by 35%. (Estimated revenue loss about \$US1.6 million from domestic production and US\$1.2 million from imports = US\$ 2.8 million.);

- In Namibia, industry's best rough estimate was "less than 10%". (No revenue loss estimate available);
- In Zambia, there is significant smuggling of genuine and counterfeit premium brand spirits, wine and beer products. One interviewee estimated, unofficially, that the excise loss was about K15 bn a year or approximately US\$ 3.1 million with a possible additional US\$ 3 million advised by industry in relation to losses from opaque beer. (Excise duty receipts on imported spirits and clear beer fell by 35% in 2010);
- In Zimbabwe, an industry estimate of illicit alcohol was between 100,000 and 150,000 litres a month and growing (estimated revenue loss US\$ 2 million).

### **1.3.3 Nature of illicit trade in alcohol and tobacco products**

For tobacco, the illicit trade is a problem for all countries visited but it manifests itself in different ways in each country. Some countries are sources of illicit cigarettes e.g. Zimbabwe whilst all others are transit countries such as Zambia, Botswana and Namibia. The main destination country is South Africa but some illicit cigarettes find their way onto the market in all countries, particularly in and around border areas and centres of high density population. There have been some instances of counterfeit cigarettes from Dubai entering SADC through Tanzania and the main ports in South Africa and Namibia but, for the most part, the illicit trade is of smuggled genuine products.

For alcohol, we found evidence of smuggled genuine premium and low quality products from South Africa and of premium brand and counterfeit spirits, mainly whiskies, from Europe, with a massive unregulated market in traditional and home-brewed beer and spirits. We were informed of untaxed locally produced cane spirits (and, in South Africa, partially taxed wine products) entering the market in South Africa, Mozambique and Zambia.

There is a glut of very cheap spirits produced in South Africa, Mozambique and Zambia using supplies of bulk ethanol from South Africa, Swaziland and, possibly, Zimbabwe and Malawi. A concern for the health and social welfare departments in several countries is the presence of small plastic sachets and bottles of fruit flavoured spirits sold at informal markets and at legal outlets to minors. Although we were told that these products are illegal for the South African market, they are produced in South Africa, ostensibly

for export to Angola and DRC but have been found in Namibia and Zimbabwe.

Whilst there is an element of cross-border shopping by individuals and small scale commercial operators, the extent of illicit trade, particularly in South Africa, suggests that it has to be organized by criminal syndicates and it must, in a large part, involve corruption.

#### **1.3.4 Good Practice**

We found different examples of good practice in each country we visited which we can commend to other SADC Member States.

- We were particularly encouraged by the modernization programme underway in South African Revenue Service (SARS) which included provision of e-filing and the central selection of border interventions and allocation of staff to carry out those interventions, thus reducing scope for corruption. We also commend the recent development of partnerships with industry to tackle illicit trade.
- In Zimbabwe, we were impressed by the clear and stable organizational structure, the professionalism of the training centre and the speedy conduct of mutual assistance enquiries.
- In Namibia, there are plans to install several scanners to enhance border controls and we were impressed with the commitment, enthusiasm and desire to learn from others that we found in the very small investigation and excise teams.
- In Swaziland, we endorsed the comprehensive plans to transform the efficiency and effectiveness of the new Swaziland Revenue Authority and the comprehensive Anti-Corruption plans outlined to us by the Head of Internal Affairs as well as the change in legislation to require duty payment on import of cigarettes for warehousing even if they are destined for re-export.
- In Zambia, we were impressed by the professional and national approach to audit and control of excise producers recently introduced and with the comprehensive anti-corruption strategy and robust supporting activities.
- In Mozambique, we commended the clear structure, strong organization and focus on customs enforcement, including considerable investment in scanners, and the success of the mutual assistance and international co-operation efforts.

We also found many areas for improvement and these are covered in the sections on findings and recommendations.

### 1.3.5 Counter-measures

#### **(a) High level commitment to fighting illicit trade not always reflected in the focus and priority given to excise.**

The extent and quality of counter-measures varied between countries visited. It was evident that excise has taken a back seat across the region whilst the focus has been either on customs or on direct tax issues. Ministries of Finance and National Treasuries are now concerned at the revenue leakage from excise and rightly so. The problem is that there has been little or no focus on the needs of excise in the various departmental re-organisations and modernization programmes. All too often excise is regarded as “collecting itself” and the context of high level discussions has been more about the position of the excise in the organization (with customs or with taxes) rather than on making excise fit for purpose.

All tax administrations visited expressed a top level commitment to the fight against illicit trade and a zero-tolerance of corruption and many had ambitious modernization plans. We found motivated staff and managers with enthusiasm and drive and openness to new ideas and initiatives in most countries. We also found a general lack of investment in and top level focus on excise as a distinct and significant revenue stream.

#### **(b) Clear organization structure and accountability**

In most countries, even those which were re-organising, there was a clear structure for customs enforcement but not all countries had a clear or stable structure for excise accountability. In some cases, excise was seen as “part of customs” whilst in others it was part of the internal tax structure. As long as the structure and accountabilities for excise revenues and control are clear and there is good liaison between both the excise and the customs staff and procedures, where excise sits in the organization does not matter.

Unfortunately, we found that, in some countries, there is little liaison, co-operation and sharing of intelligence and data across customs and excise. Excise produces significant revenue for each country and can produce more if leakage can be reduced. Excise should have a senior manager accountable for overseeing national control, liaising with policy, setting the standard of control and enforcement, directing the efforts of the excise resources and ensuring that excise is given sufficient prominence in departmental plans and resourcing.

#### **(c) Tax Policy – rates and structures**

Across the region there was no consistency of approach on the rates and structures of excise tax. Many operated *ad valorem*<sup>2</sup> systems and, not surprisingly, were experiencing difficulties with valuation.

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<sup>2</sup> By value.

There are a number of *key principles* we advise should be followed in determining tax policy on alcohol and tobacco products throughout the region. These are:

- **The level of taxation must be perceived by consumers as being affordable and realistic.**
- **Specific<sup>3</sup> taxation is preferable to the *ad valorem* method of excise taxation. (See also Annexe 8).**
- **Tax rates should be balanced to maximize revenue and achieve health and social objectives without being set so high as to lead to increased consumption of illicit products or reduced disposable income for basic necessities.**
- **Alcohol and tobacco products should be perceived as being taxed fairly in comparison with the tax burden reflected in retail prices in neighbouring countries.**
- **All drinks containing alcohol should be taxed on the amount of alcohol in the container.**

A properly administered and enforced tax system for alcohol and tobacco products can be a valuable source of government revenue. It also provides a platform for joint outcome based approaches across government policy areas e.g. health, crime and consumer protection. Taxes based on the principles set out above can provide a steady stream of revenue for governments. They remove the opportunities for undervaluation and avoidance by the few excise producers and importers who can be rigorously controlled by excise officials. Additionally, the collection of excise duty at source and tight control over the manufacture and movement of excise product should ensure revenue is secured from legitimate businesses and parallel illicit trading discouraged.

#### **(d) Data Quality**

It should be noted that the information provided by the Member States in the questionnaires fell far short of that required for analysis and we had to devote time during the inception period to finding information from other sources and interviewing some senior officials in Botswana to inform our selection of country visits.

During the country visits we also had to devote time to amplifying, verifying and clarifying the information that was provided on the questionnaires. Only one country, Angola, failed to provide any information in response to the questionnaire.

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<sup>3</sup> Levied on units of quantity or volume.

We found that all countries visited suffered from poor quality data despite collecting vast amounts of information. We found a country which had several versions of some data, another country reported serious backlogs in data capture, and another country had misgivings about the credibility of the data and so on.

We report a major concern about the poor quality of data available in all the countries visited. Although huge amounts of data are collected there is little attention paid to its' reliability and accuracy. Importantly, there is a failure to verify the accuracy and credibility of data collected. There is also a failure to analyse the information available to evaluate the impact of changes in tax policy (including the impact of VAT and levies) or to inform strategies and actions to counter illicit trade.

### **(e) Evaluation of policy and operational changes**

It was obvious that the data collected is not analysed to inform policy or operations as we consider it should be if the impact of changes in tax rates and structures and of operational changes (e.g. how has illicit trade altered as a result of the installation of a scanner at post A) are to be monitored effectively. In most countries we visited, there seemed to have been little in the way of analysis or evaluation of the impact of changes either on revenues, crime, health and social welfare policies though we heard many opinions as to what might be taking place. As a result, there has been no internal pressure to improve the quality of data.

### **(f) Zero tolerance of corruption**

All of the countries we visited indicated a high level commitment to tackling corruption but there were variations in the scope and implementation of anti-corruption policies. In this respect, we commend the Anti-Corruption strategies outlined to us by SARS and by the Zambia Revenue Authority and the plans for such a strategy being developed by the Swaziland Revenue Authority. Such policies include:

- Wide internal and external publicity;
- Internal training;
- Emphasis in management training and profiles;
- Process audits to identify opportunities for corruption and recommend changes as well as to identify and investigate actual corruption; and
- The centralized separation of selection of goods for examination and allocation of examinations from the operational staff that carried out examinations.

### **(g) Enforcement strategy and action plans**

We were impressed by the enforcement strategy and approach we found in Mozambique and in SARS. There is good use of intelligence and a risk based approach to selection plus targeting of specific high risk goods, sources, destinations and transporters. However, we were concerned that, in most countries, the strategy and action plans did not provide the same focus to excise as it did to customs operations. We were pleased to note that, recently, SARS has developed both an enforcement strategy and action plans relating specifically to tobacco products and to alcohol and that there is now a channel for industry to provide information on suspect activities and persons that the revenue administrations can use to detect crimes.

In both the Mozambique Revenue Authority and in SARS, the enforcement capability includes the use of intelligence, risk management, flexible anti-smuggling teams, investigation and post-clearance audit.

Throughout the region, advances are being made both in the installation of scanners and the development of one-stop-border shops. Also, the commitment, enthusiasm and willingness to learn was a feature of our country. A key finding across the region was that excise had been marginalized and left behind in the efforts to improve customs activities.

The extent of effectiveness of mutual assistance varied across the region but there was feedback from several countries that one revenue authority, in particular, either failed to respond at all to requests for information and assistance or cited “confidentiality” as a reason for being unable to assist.

There is always more that might be done to fight fraudsters and protect the revenue. Knowing the extent and nature of the problem is an essential first step in developing a comprehensive long-term strategy across the region to ensure that legitimate industry can operate on a level playing field in the market place without being undermined by the illicit activities of smugglers and fraudsters. The only country we visited where there has been some statistically robust efforts (by the industry and academics and only for cigarettes) to estimate the size of the illicit trade was South Africa.

### **(h) Capacity and capability**

The excise training provided in all countries visited was limited to basic training. The quality and extent of basic training varied between countries but, in our judgement, the specialist technical and practical training essential for robust excise control was not being provided in any country.

This is one of the most important areas for improvement identified. Excise is not just another domestic tax. It requires specialist knowledge of the industry and production processes so that areas of potential revenue leakage are identified and controlled. It also requires specialist skills in

measuring strength and quantities of bulk excisable liquids and the ability to analyse the business performance and declarations of one operator in comparison with others in the sector. Zambia has recognized the need for a national overview of excise producers and has recruited professionally qualified auditors to spearhead their national excise control with notable success.

### **(i) Other**

Other areas for improvement in the revenue administrations include:

- Inadequate control of the supply chain;
- A need to include excise accounts and declarations in the modernization programmes underway;
- Inadequate resources devoted to excise control;
- The lack of clear and user friendly guidance both for staff (the excellent audit guide produced by the Zambia Revenue Authority is a notable exception) and for industry;
- Inadequate legislation on offences and penalties (for Ministries of Trade/Commerce Inspectors of retail outlets); and
- Delays and inadequate sentencing when prosecutions take place.

In addition to recommending a toolkit for individual countries to implement, our report makes recommendations for a SADC wide toolkit and for the development of comprehensive but interlinked strategies in each SADC country to tackle the illicit trade. SADC will only be able to make inroads into the illicit trade if all Member States work together to ensure that there are no “weaker” points where illicit trade can enter the community and thrive. Illicit trade will not be reduced overnight. It will take co-operation and effort across SADC to make a real impact. And, demand needs to be tackled as well as securing the supply chain.<sup>4</sup>

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<sup>4</sup> See Annexe 13 for a snapshot of supply chain controls in each SADC Member State.

## 2. SUMMARY OF RECOMMENDATIONS

### 2.1 SADC “Toolkit” – for implementation by SADC

All the SADC Member States are losing revenue as a result of the illicit trade in alcohol and cigarettes. We have recommended the development of a strategic approach in our reports on the country visits.

**We now recommend that SADC develops an overarching strategy which co-ordinates and facilitates the efforts of the individual countries by providing specialist guidance and support as appropriate.**

Such an overarching strategy should contain the following elements:

#### **Moving Towards a Harmonised Approach to Excise Taxation**

- SADC should fast track the development of excise guidelines to support a harmonized approach to excise taxation and improved control and enforcement.
- As part of the development of excise guidelines we recommend that SADC should -
  - promote the concept that the ability to manufacture, warehouse or move excise goods under bond should be a privilege not a right;
  - develop a SADC wide requirement for excise specific licensing of all transporters of excise goods under bond/financial security by the Member States;
  - develop a regional requirement for all excise producers to hold bonds or financial security sufficient to cover revenue at risk; and
  - develop and promote adherence to a strict Code of Ethics for all Customs and Revenue officials.
- SADC should facilitate agreement of a long term phased plan to ensure that all Member States move from *ad valorem* to specific rates of tax for excise products and provide them with support in adapting their administration and controls to cater for this change.

#### **Co-ordination and Support for Better Control and Enforcement (through the SADC Tax Sub-Committee)**

- A permanent Excise Working Group should be set up under the SADC Tax Subcommittee to prepare the regional strategy and oversee implementation of the recommendations from this report to tackle illicit

trade in alcohol and tobacco products and to provide a *forum* for discussion of all excise issues.

- SADC should:
  - facilitate a co-ordinated approach by Member States to sizing the extent of illicit trade in alcohol and cigarettes and estimating revenue loss;
  - facilitate the identification by Member States of the most useful data to collect to support policy evaluation and effective regional control and enforcement of taxes on excisable products;
  - maintain and analyse the regional database to inform regional control and enforcement by comparing the “quantity gap” for each product with the result of the sizing methodology based on consumption and provide regular reports to Member States;
  - set up a regional *forum* with the alcohol and tobacco industries’ representatives specifically to improve the ability of Member States to fight illicit trade and develop SADC wide Memoranda of Understanding with key international producers in the region;
  - promote a consistent regional approach to the implementation of standards required for the track and trace component of the World Health Organization’s Framework Convention of Tobacco Control;
  - facilitate the speedy introduction of the proposed SADC Community Transit System as excisable goods in transit present high risks for excise revenue leakage;
  - facilitate the moves to one-stop-shop border posts supported by scanners and facilities for examining tankers at all key border points in the region both to facilitate trade and reduce the opportunities for smuggling;
  - facilitate the development of a regional approach to the control of the wholesale and the retail supply chain for alcohol and retail supply chain for tobacco products; and
  - fast track the implementation of the SADC Agreement on Assistance in Tax Matters (AATM) and develop effective administrative procedures to support control and enforcement of excise taxes.
- Under the SADC AATM, an early project should be to set up a SADC system to enable speedy electronic access to details of all excise operators, bonded warehouses and licensed excise transporters so that

enforcement and excise staff in any Member State can easily check the validity of taxpayer information on import, export and transit entries.

### Capability building

- SADC should:
  - develop specialist advanced excise courses through a regional training centre with experience of developing and delivering high quality training such as the Zimbabwe Revenue Authority Training Centre which can then provide training across the region;
  - facilitate an excise policy workshop to raise awareness of the taxation options and of evaluation of options for change as well as post-implementation evaluations of the impacts of changes in rates and structures; and
  - facilitate awareness of the World Health Organization's Framework Convention on Tobacco Control (FCTC) and Global Alcohol Strategy through a seminar for senior representatives from all Member States.

## 2.2 “Toolkit” of recommendations for implementation by individual SADC countries

**Here again, we recommend that each country takes a strategic rather than a silo based approach to tackling the problem.** Member States should include the following components in developing their strategic approach:

### Tax Policy and Data Quality

- Launch a major effort to clean up data and ensure that data collected is only that which is necessary for robust policy analysis, control and enforcement and that it is timely, accurate and evaluated to inform policy and control.
- The widely accepted key principles set out in this report should be followed in the design of changes in tax policy (including VAT/GST and levies) on alcohol and tobacco products.

### Modernise Excise

- Ensure that administrative policies for excise operators, customs warehousing and transportation of excise goods under bond support the fight against illicit trade. Operating a business involving excise goods should be considered a privilege not a right.

- The movement of imports of alcohol and cigarettes between customs warehouses should be limited to one, and a time limit equating to the normal shelf life of cigarettes be applied to the period allowed for storage of cigarettes in customs warehouse.
- Review excise legislation to ensure that it is clear, simple to administer and covers not only the rate and method of excise taxation and tax collection, but its control and enforcement.
- Ensure that the legislation on offences and penalties reflects the seriousness of the crimes and that the judiciary is educated to understand the relationship between smuggling excise goods and organized crime.
- Provide user friendly guidance on excise requirements to taxpayers and staff and comprehensive guidance to staff on audit and enforcement controls.
- As part of the SADC wide approach to the implementation of the track and trace standards required under the Framework Convention on Tobacco Control, develop supply chain control requirements that can track and trace products from manufacture to retail supply through an excise specific licensed wholesale and retail distribution chain.

#### **Improve excise control and enforcement**

- A comprehensive enforcement strategy and detailed action plan to tackle the supply side of illicit trade involving all other enforcement authorities including the police, local councils and other Ministries (e.g. Trade/Commerce) as appropriate.
- Zero tolerance to corruption through a comprehensive anti-corruption strategy based on a SADC Code of Ethics and backed by robust and well publicized actions.
- Measure the extent of illicit trade and set shared outcome based reduction targets across all government stakeholders.
- Focus on developing one-stop-shop border posts at all major customs land border posts with scanners, sniffer dogs and better examination facilities e.g. for tankers. Support this with intelligence and risk-based enforcement including the use of flexible mobile anti-smuggling teams and post-clearance audit.
- Provide focus on excise control and enforcement through appointment of a national excise senior manager with appropriate support to set and monitor control standards and enforcement actions, ensure appropriate resources are devoted to excise control and to co-ordinate operations

with customs enforcement colleagues. This senior person should be accountable for all excise operations.

- Improve the control of excise producers. Excise inspections tend to be predictable (office hours Monday to Friday) and superficial. There need to be out-of-hours unannounced visits to ensure that off-record production and deliveries are not taking place.
- Improve excise capability by ensuring that all excise staff have either professional audit qualifications or receive SADC generated specialist advanced excise training.
- Develop a database (could be a spreadsheet) containing up-to-date details of all excise operators – whether licensed producers, import agents or transporters of goods under bond to facilitate quick and easy responses to mutual assistance queries.
- Extend the enforcement strategy to cover the demand as well as the supply side of the problem by working with Ministries of Health, Social Welfare and Education in devising and playing an active part in campaigns to raise public awareness of the implications of purchasing illicit products especially for young people and thus reduce demand.
- Open discussions with the appropriate consumer protection Ministry to both seek their assistance in the fight against illicit trade and to educate their inspectors in how to check that duty has been paid on excisable goods. The same awareness and responsibility needs to be provided to VAT officials.
- Make use of mutual assistance provisions under existing bilateral agreements until such time as the SADC AATM and supporting administrative procedures are in place. The procedures for exchange of information under the AATM must be quick and easy to use. Make sure your authority never uses “confidentiality” inappropriately as a reason for an authority to withhold information required to verify entries or investigate suspicions.

### **3. BACKGROUND AND CONTEXT**

The background to and scope of the study are set out in the detailed terms of reference reproduced at Annexe 1.

In brief, the SADC region is facing significant challenges with regard to the illicit trade in excisable products, in particular, tobacco and alcohol. The National Treasury of South Africa in close consultation with the South African Revenue Service produced two technical papers and made a detailed presentation to the SADC Tax Subcommittee in September 2009 on the illicit trade in excisable products as it impacts South Africa. Following

the presentation, the SADC Tax Subcommittee agreed that a study to evaluate the extent of the problem in the SADC region and to recommend solutions was required. This assignment was commissioned to fulfil that wish.

The purpose of this study is to support the implementation of Article 6 of Annex 3 of the Protocol on Finance and Investment (FIP) with regard to excise taxation and the illicit trade in excisable products in the SADC Region. Specifically, to evaluate the extent of and provide recommendations for solutions for combating the illicit trade in excisable products in the SADC region, with particular emphasis on the illicit trade in alcohol beverages and tobacco products.

## **4. CONDUCT OF THE REVIEW**

### **4.1 Chronology**

The study started in late September 2010 and has been completed by the end of May 2011. The assignment had six distinct Phases: 1. Design and submission of questionnaires; 2. initial research and inception; 3. country visits and emerging findings; 4. summary and draft report; 5. validation workshop; and 6. final report.

Detailed questionnaires were issued to all Member States in early October. The questionnaire is available separately from the SADC Secretariat. It covered the full spectrum of aspects of excise including policy and legislation, administration, control and enforcement, the interface with customs, with other public sector agencies and with industry. Member States were asked to return completed questionnaires within four weeks.

The study was intended to be based on information yielded from a mixture of: analysis of the completed questionnaires complemented by desk-based research (Phase 2); and visits to at least five selected Member States (Phase 3). The analysis under phase 2 was intended to inform the selection of the Member States for more detailed information gathering.

Interviews of stakeholders were facilitated and recorded by the use of an aide memoire designed during this inception period and a country specific report was produced following each country visit. An emerging findings report was submitted to the Secretariat after two country visits with this draft full study report including recommendations submitted after all visits had been completed. After consideration of the report by the Secretariat and the Member States, there was a validation workshop on 24/25 May 2011 with representatives from all Member States participating. The Member States' representatives approved all the recommendations in this report. This report was then submitted to the SADC Secretariat.

## 4.2 Definition of illicit trade

For simplicity, we have adopted the definition of illicit trade set out in

Article 1 of the World Health Organisation (WHO) FCTC<sup>5</sup> as “*any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice or conduct intended to facilitate such activity*”.

We have subdivided this definition for the purposes of this study into three generally recognized sub-groups:

**Smuggled genuine products ("contraband")** refers to products illegally traded across international or provincial borders. These may be genuine goods that are illegally imported and sold without payment of taxes in the country / state of consumption.

**Counterfeit** tobacco production is the illegal manufacturing in which the manufactured products bear a trademark without the consent of the owner of the trademark. Illegally manufactured products can be sold on the domestic market or smuggled into another country without payment of taxes.

**Local Tax Evasion** refers to illegal methods of avoiding payment of local taxes on alcohol or tobacco products. These products are traded within the country of manufacture as well as providing stock for smuggling into other countries.

In addition to the above categories, there is a comparatively recent phenomenon being seen in many countries of cigarettes produced for a domestic market with considerable extra production specifically for smuggling into countries where there is no legal market for them. Cross-border shopping is common to many high taxing countries. Genuine product that has been purchased in one country is brought into another country and consumed without payment of taxes in that country. This is classified as illicit trade only if the quantities involved are in excess of national personal allowances or are deemed commercial in size.

## 4.3 Responses from SADC Member States

Very few questionnaires issued to Member States were completed fully in time for analysis during the second phase. Further information was received subsequently in response to several reminders from the SADC Secretariat and added to during the country visits. Only one questionnaire (from RSA) has been completed to the extent we needed for full comparative analysis of the information.

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<sup>5</sup> Framework Convention on Tobacco Control, Geneva, World Health Organization, 2003.

To compensate, we used a wide range of other sources during the inception phase to inform our study. These include:

- the SADC tax database;
- the FIP;
- the Regional Indicative Strategic Development Plan;
- the 2007/8 Official SADC Trade, Industry and Investment Review;
- the SADC Customs Modernization and Trade Facilitation Project;
- the International Tax and Investment Center (ITIC) international papers from the international anti-illicit trade in tobacco products conference in Brussels 2009;
- Other ITIC publications including “The Guidebook to the Successful Implementation of a Specific Tax on Alcohol” and “The Illicit Trade in Tobacco Products and How to Tackle It”;
- Papers prepared for the Africa Tax *Forum* held in Cape Town, February 2010;
- the SADC high level tax seminar, Livingstone 2010;
- the World Customs Organization (WCO) annual Tobacco Report 2009;
- the International Centre for Alcohol Products (ICAP);
- the World Health Organization (WHO);
- a wide range of Internet sources; and
- input from trade associations and members of industry.

We also took advantage of the goodwill of senior officials in the Botswana Ministry of Trade, The Botswana Ministry of Finance and the Botswana Unified Revenue Service (BURS) who kindly gave of the time and knowledge at short notice to provide us with some useful high-level information on the recently introduced alcohol levy and the issues raised for administration and control.

#### **4.4 Country visits**

We selected the countries for in-depth research on the basis of information available during the inception phase.

The selection of the other SADC countries for in-depth research was based on:

- a. Inputs from officials, key industry players and other information available suggest that a country plays a significant role in illicit trade in:
  - i. Alcohol: or
  - ii. Tobacco.

On this basis, we opted to carry out the in-depth research visit for alcohol in **Namibia** which was identified, both by an industry stakeholder and by the questionnaire response from RSA, as a key destination country for illicit alcohol and in **Zimbabwe** which was indicated as a key source country for illicit tobacco both in the questionnaire response from RSA, by a prominent industry member and in the high-level discussion with senior officials from BURS.

- b. The need to balance visits to SACU and non-SACU countries.
- c. To access lessons learnt and good practice, there should be a visit to a country where the authorities have tried different approaches to illicit trade or have achieved notable successes through strategies or new operational approaches. This indicated **Zambia and Swaziland**.
- d. To follow up on information from officials that **Mozambique** was a transit route for illicit cigarettes from Zimbabwe and from the Middle East.

Details of the countries visited with dates and lists of people and organizations interviewed are at Annexe 2.

#### 4.5 Excise regimes across SADC

Our Terms of Reference required us to report on the excise tax regimes currently pertaining in Member States. This information was requested of Member states as part of the initial questionnaire and is set out in tabular form at Annexe 3. For consistency, tax rates are expressed in US\$ converted from local currency using the \$ exchange rate as at 1 April 2011.

The excise regimes of Member States cover a wide range of products from air conditioning machines (South Africa and other SACU countries) to works of art (Mozambique) and include taxes (environmental levy in South Africa) on some products, e.g. plastic bags, aimed at protecting the environment. In addition to excise taxes, some Member States apply levies to excisable products, e.g. Fuel and Road Accident Levy (South Africa) and Alcohol Levy (Botswana). Excise regimes common to most Member States include Alcohol, Tobacco, Petroleum, and Motor Vehicles.

Excise tax structures and in particular tax rates vary widely across Member States. Alcohol, Tobacco and Petroleum products are taxed on either a Specific Duty or Ad Valorem basis and in some cases a mixture of the two. Other products, for the most part, are generally taxed on an Ad Valorem basis.

Not surprisingly, given the different excise regimes and wide differences in tax rates across SADC, Member States identified, variously, problems with illicit trade in Alcohol, Tobacco, Fuel and Motor Vehicles with illicit trade in Alcohol and Tobacco products being the most widely shared areas of concern.

## 5. GLOBAL PICTURE

### 5.1 A global problem

A number of experts have tried to estimate the size of the illicit trade in cigarettes. The Framework Convention Alliance<sup>6</sup> (2008) estimate that the global illicit cigarette trade was 10.7% of total sales in 2006, or 600 billion cigarettes. In 2009, Joossens, Merriman, Ross and Raw estimated the figure at 657 billion cigarettes a year or 11.6% of the global market. Several academics, government bodies and international organisations have produced estimates of illicit trade or illicit consumption in individual countries or regions. Most recently, KPMG have estimated that the percentage of illicit consumption of cigarettes in the EU is 8.6%.

The illicit trade in alcohol is also a global problem in relation to spirits where counterfeit brands are found in many countries. Few academic and private sector estimates of the size of the problem are available. Illicit home brew stills can also feature in countries where spirits are highly taxed and favoured by the local population e.g. Russia and Scandinavia. The EU has suffered revenue losses, primarily in Member States where the rate of taxation on alcohol is high, as a result of diversion of product moving under bond across member states. The revenue leakage and concern about the involvement of criminal gangs have led to the recent development of a new pan-EU mandatory electronic Excise Movement and Control System.

### 5.2 General background to the problem

Illicit trade is driven by the economic opportunity it offers for the smuggler and illicit vendor to make money, and also for the consumer to save money. Thus, illicit trade occurs where there is an opportunity for economic benefit, which is perceived to outweigh the risks involved.

The illicit trade in alcohol and tobacco products has significant implications for tax revenues, health and social objectives and spending as well as for the profitability and expansion of legitimate businesses and consequences for employment, crime and respect for the law.

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<sup>4</sup> The Framework Convention Alliance is an international alliance of more than 350 NGOs representing public health, tobacco control, consumers, human rights and other civil society advocates.

Illicit trade is a global phenomenon. Smuggling flourishes where there are profits to be made as a result of tax rate differences between neighbouring countries, where the goods concerned are easily transported and the subject of many thousands of individual movements each day 24/7, where revenue enforcement is poorly co-ordinated, legislation facilitates fraud, anti-corruption strategies are ineffective, distribution chains are easily set up with outlets poorly controlled and general public acceptability of illicit products – often concentrated in areas of social deprivation. The impact of the recent recession has served to expand the proportion of the population who are unable to afford to buy legitimate products but still want to purchase their alcohol or tobacco. These people will have been attracted to the illicit market because price drives their behaviour.

### **5.3 Globally recognized contributory factors to existence and growth of illicit trade in alcohol and tobacco products**

These are:

- Price differentials between countries which create incentives for cross-border smuggling combined with porous borders;
- High cigarette tax burden creates an incentive for wholesale smuggling—even when tax systems are harmonized;
- Affordability of what are addictive products;
- High levels and concentrations of social deprivation;
- Public ignorance or acceptance of illicit products;
- High levels of official corruption;
- Existence, size and concentration of the informal market (e.g. sales of cigarettes by retailers and street vendors especially in areas of high social and economic deprivation);
- High profits and low costs of smuggling attract a well-organized criminal establishment;
- Ineffective control of the legitimate supply chain;
- Ineffective enforcement resulting in low risk of detection;
- Inadequate penalties either in legislation or as imposed by judiciary;
- Penalties imposed on cigarette and alcohol smuggling may be far less than for drugs smuggling;
- Judicial systems that can be manipulated e.g. through legal ploys which result in delay.

## 6. FINDINGS

### 6.1 Regional overview

Our review has found that there is excise (and VAT/GST) revenue leakage to a greater or lesser extent in all the SADC countries visited. Some are source countries e.g. Zimbabwe for cigarettes, South Africa, Namibia, Mozambique and Zambia for finished alcohol products; and Swaziland, South Africa and, possible, Zimbabwe and Malawi for bulk spirits (ethanol).

Goods are smuggled into the region from Europe (premium brand spirits), China and Dubai (cigarettes – mainly counterfeit but some contraband) through the major ports of Durban, Cape Town, Walvis Bay and Beira as well as through Dar es Salaam with cigarettes also moved by train from Zimbabwe to the intended destination country for warehousing and distribution. A common feature of the SADC countries we visited are the long and porous borders which are easily breached by smugglers often at night. Smuggling operations involving the co-ordination of large numbers of individuals to carry illicit goods over the border and then store them in houses and/or transport them to market can only be organized at criminal syndicate level.

The industry has its' own estimates of the extent of illicit trade that is undercutting them in the marketplace. Officials have an idea of the extent based on seizure and anecdotal evidence. No official “tax gap” analyses have taken place so there is no official baseline against which to mobilize resources across Government and to track progress in reducing revenue leakage and ancillary health and social problems.

The problems are not new and are not unique to the region. Our findings from our country visits are described in more detail below.

### 6.2 Tax policy related issues

#### 6.2.1 Tax rate increases do not necessarily result in additional revenue or decreased consumption

Zambia has reduced taxation on beer and increased revenue. Mozambique increased taxation on wines and spirits and revenue decreased significantly. The evidence from international studies shows that increases in taxation do not result in any significant decreases in consumption. Alcohol and tobacco products are addictive.

Alcohol has strong cultural roots because of its association with festivals, celebrations, parties and family occasions. Without robust control and enforcement, increases in taxation merely drive a switch to consumption of lower quality or illicit products.

For cigarettes, there has been some academic research in the USA which has demonstrated that increases in tax on cigarettes have led to reduced purchases by some smokers but the smokers have smoked the reduced number of cigarettes to the hilt thus consuming the most harmful part of the product. So less revenue, less legitimate sales and more health damage can occur as a result of tax rises. Where consumers switch to low quality products the health implications can be worse. Where consumers switch to illicit products, legitimate producers and employment suffer whilst the health implications can be serious as there is no quality control on counterfeit alcohol.

The evidence we found in Zambia and Mozambique has served to illustrate that tax increases, either by increasing excise or VAT rates or by a levy (such as recently introduced in Botswana for alcohol), do not increase revenue unless accompanied by robust control and enforcement.

Research has shown that the best way to achieve reduced consumption e.g. of cigarettes has been through a long term campaign of raising awareness of the health implications and providing support to those who wish to stop smoking. High tax rates encourages some smokers to try to give up smoking and may discourage some from starting to smoke but the impact of high taxes on actual consumption has been found to be marginal. Smoking is no longer culturally as acceptable as it was and education has played a large part.

There is a complex relationship between tax rates on addictive products, restrictions on sales and human behaviour. Many young people are attracted by “forbidden fruit” and actively seek out illicit cigarettes and alcohol because the legitimate products are forbidden to them. An academic study in the UK found that people in areas of high social and economic deprivation resent the imposition of high taxation on the products that they see as providing them with a major source of relaxation and pleasure and are ready prey for the distributors of illicit goods.

The message for tax policy makers is the need to balance tax rates with health, social and economic objectives if unintended consequences for these areas are to be minimized.

### **6.2.2 Tax structures, rates and affordability**

The situation across SADC is variable. There is no consistency in policy across SADC as to the use of specific or *ad valorem* rates of tax either for alcohol or tobacco products. South Africa operates a transparent specific duty structure on both alcohol and tobacco products relating the duty rate to the retail selling price. The SACU countries all adopt the same excise tax rates but Botswana has introduced an additional levy of 30% on alcohol and Swaziland is also considering introducing a special levy on alcohol and tobacco products. The VAT rate on these products varies from 12% in Botswana to 25% in Swaziland.

Mozambique has *ad valorem* rates underpinned by minimum specific duty rates for cigarettes, wine and spirits but not including cane spirits. Zambia has a mixture of specific rate for opaque beer and *ad valorem* rates for the other products. A summary of the tax rates in SADC is at Annexe 3. The situation in the countries we visited is set out in Annexe 4.

Many developed countries are working towards a long-term structure whereby excise tax on alcohol is based on the alcohol content of the product to better reflect the health impacts of consumption. Whilst this may be a laudable long term goal, at present, the structure of excise tax on alcohol in the region is finely balanced. Until the economy grows out of the current global recession, it may be unwise to make any significant changes especially where such changes would make the product of choice of the poorer members of society unaffordable. Maintaining balance and stability helps the legitimate manufacturers, distributors and retailers to weather the storm.

However, SADC countries might wish to indicate an intention to move in phases towards a harmonized structure based on specific rather than *ad valorem* taxation which will support health objectives and reduce the opportunity for fraud based on under declared values. To ensure that producers and consumers have sufficient time to adjust to new arrangements a long-term plan is essential.

For alcohol, this could mean moving, over time, to reduce the tax differential between spirits, beer and wine based products so that the tax charged more accurately reflects the alcohol content. For tobacco products, a specific tax is again considered preferable to one based on *ad valorem* because it helps to reduce the cost difference between the higher priced premium brands and lower quality legal products.

Indexation of excise tax/levy rates to consumer prices means that excise falls as a proportion of average wages over time so we suggest indexation of excise taxes linked to wages. This helps to ensure that reduced affordability in times of economic downturn does not drive previous consumers of legal product to turn to the illicit market.

Tax policy experts favour a consistent and transparent methodology for determining tax rates. This helps legitimate industry plan and avoids unexpected sudden tax rate changes. Rates of tax on alcohol and tobacco products are driven both by the need to raise revenue and by the health agenda which seeks to reduce consumption of products seen as damaging to health. However, government goals both for revenue raising and health can be seriously undermined if the legally available products cease to be affordable to those who are minded to consume them. Both alcohol and tobacco products are addictive and both are associated with leisure activities and with enjoyable social occasions. If those who wish to consume these products either cannot afford to buy them legally (or are

below the minimum legal age to make such purchases), they are often tempted by cheap non-taxed products. Some may also be duped by fraudulent suppliers into purchasing illicit products. Affordability is therefore a key indicator of demand for illicit goods and the tax burden whether excise, VAT, GST or Levy must be taken into account in determining the affordability of products. The GDP of each country is different. For comparison, we took the average daily per capita income needed to buy 1 unit of product in each country.

Where affordability of alcohol and tobacco products decreases it can be unwise to increase tax rates as this can drive demand for illicit products.

In determining tax rates, therefore, we consider that it is important to monitor the impact of tax burden and to strike a balance between price and affordability.

### **6.2.3 Clarity and adequacy of tax legislation and guidance**

Tax legislation and procedures for excise in many countries have been based on those in operation in the UK in the 1960s and barely changed since that time. We found excise accounts in one country in a format that had not been revised in decades. These old legislation and procedures often require industry to provide unnecessary data for modern controls which, in turn, is never used by the authority. This is inefficient to both parties. The modernization programmes we found focused on customs; excise has been left in the quill pen era.

Where legislation is complex, open to interpretation or not easily understood by the taxpayer population there is scope for error – deliberate or otherwise. Unfortunately, because of the quantity of primary and secondary legislation in place, it was impossible for us to assess the scope for misunderstanding, avoidance and evasion as a result of legislation determining the tax structure, rates and scope. We were advised of difficulties involving the taxation of “ready-to-drink” products where our view is that the alcohol content should determine the rate and amount of tax levied. We were also advised of a loophole in one country whereby tax paid wine can be diluted after the tax point and a resulting larger quantity sold without payment of the additional tax due.

In most of the countries we visited there was little guidance published to taxpayers in a user-friendly form to guide them in the procedures and internal controls required to meet the legislative requirements. As an exception, we found that South Africa does publish external reference guides for taxpayers.

Apart from the excellent comprehensive audit guide produced in Zambia and internal guidance on excise risk based compliance in South Africa, we found little guidance available to excise and post-clearance audit officials on how to exercise robust control of excise operators.

#### 6.2.4 Working with stakeholders

*Fora* for formal consultation with key industry stakeholders exist in the RSA but not in most of the other countries visited. National Treasuries and Finance Departments have the prerogative of setting tax rates and determining tax structures. We found that the Treasury or Finance Department does involve the tax administration and enforcement authorities in development of options for policy options. The National Treasury in South Africa has published excise tax consultation review documents.

The alcohol and tobacco producers are key revenue contributors as well as key providers of employment both directly and indirectly. Those stakeholders we met with accepted that excise taxes would always be levied on the products they produce and are keen to protect whatever market advantage the current excise tax system provides.

In Botswana, we were advised that the domestic beer producers had not been consulted before the Alcohol Levy was introduced with the result that imported beer bore tax based on the FOB price instead of to the CIF price resulting in advantageous retail selling prices which undermined sales of domestic products. The local producers had subsequently complained. As a result, the law was being changed to ensure that domestic alcohol products were not disadvantaged.

In general, the liquor producers have concerns about the equality of taxation across beer, wines and spirits and, particularly, about the extent and growth of production of untaxed traditional beer. The ethanol producers have concerns about the use of legally produced ethanol in illicit liquor production, the taxation of their product which is, for the most part, used for non-potable purposes and the lack of robust controls on bulk alcohol movements. These ethanol producers are lobbying to ensure that neutral spirit of strength greater than 80% is excluded from any definition of “Liquor Product” in South Africa.

The tobacco producers we met expressed concerns related to administrative, enforcement and pan-SADC co-operation to tackle illicit trade rather than concerns about tax policy rates or structures.

Both the alcohol and tobacco producers have concerns about ineffective enforcement of controls on excise goods across the region.

It is considered good practice in many countries to involve the major stakeholders in the development of policy changes so that policymakers can gain a clear understanding of the implications of the various options for change for producers, distributors and consumers and we recommend that, especially when considering changing the structure of taxation, policy makers should publish proposals and invite feedback from the industry, from academics and from consumers.

### **6.2.5 Working with other public sector stakeholders**

We wanted to talk with representatives from the Police, the consumer protection Ministry and the Ministry of Health in all of the countries we visited but, unfortunately, time and circumstances did not permit.

We did have discussions with Trade Inspectors (in Namibia and Mozambique), with the Department of Trade and the National Liquor Authority in South Africa, with Health officials (in Namibia, Zimbabwe and Mozambique), with officials from the Ministry of Agriculture in South Africa and Ministries of Finance/National Treasury in South Africa, Zimbabwe, Swaziland and Zambia.

Our conclusion from these discussions is that there is considerable disconnect between the policies of the revenue administrations and those of other departments. There are many ways in which the interests of these organizations overlap and so much opportunity for synergy in tackling illicit trade that are not being used at present. Trade inspectors visit premises that are wholesale and retail outlets in their consumer protection role but those we met had no information or awareness of neither how to identify illicit products nor how to help the revenue authority in reducing the availability of illicit products through the legitimate supply chain. Health Ministries are busily trying to reduce cigarette consumption and to encourage responsible drinking but do not work alongside the revenue administrations to raise public awareness of the implications of consuming illicit alcohol and tobacco products. There are many opportunities for synergy and we make recommendations for a strategic cross-government approach to tackle illicit trade.

### **6.3. Administration policy**

All aspects of administrative policy need to underpin the fight against illicit trade. This should start with the concept that operating a business involving the production, storage or movement of excise goods under bond is high risk and needs to be viewed as a privilege not a right. We did not find this concept in operation to the extent required in any country we visited.

All excise operators, bonded warehouse keepers, agents handling excise goods and transporters of excise goods under bond need to be licensed or registered with the details kept up to date and all licences reviewed at regular intervals – at least annually. Licences should, ideally, be tailored to the particular premises and operations of the business concerned so that any minor contraventions can be dealt with by an amendment to licence particulars e.g. no further deliveries to be allowed from X supplier or to Y destination.

Attention must be paid to ensuring that security requirements are in place to ensure that the risk of revenue leakage is covered by a bond or financial security. If there are unacceptable discrepancies or shortages the revenue

administration must call for the duty required to safeguard the revenue. We found that manufacturers were not required to provide bonds or financial security in all the countries we visited. This needs to be rectified as a matter of urgency.

Returns or balanced accounts and payments all need to be captured electronically for ease of analysis and linked or integrated with customs e-transaction facilities. All assessments and appeals, offences and penalties also need to be captured electronically and monitored as does the interface of the taxpayer's compliance history with customs and other tax records.

## 6.4 Supply chain control

Some authorities are trying to control the supply of products through tax stamps for cigarettes. Throughout the world the use of tax stamps has been discredited because:

- They are easily counterfeited – often within weeks of initial issue.
- They are difficult to control because they have to be issued to overseas producers.
- They impose additional costs on producers.
- They provide the authorities with the task of conducting tender exercises and then controlling the issue and use of the tax stamps as well as controlling the products on which they should be applied.
- They provide spurious confidence to consumers that tax has been paid and that the products are legitimate.
- They are rarely controlled in the wholesale and retail supply chain.

South Africa is now considering replacing the “diamond stamp” on cigarettes with another mechanism for marking products and is considering the results of a pilot of a unique digital identifier being undertaken by British American Tobacco (SA). Mozambique is in the middle of a lengthy tender process which is intended to result in the application of tax stamps to alcohol and to cigarettes. Zambia has tax stamps on cigarettes but the industry complained that packets not bearing tax stamps are openly on sale in retail outlets and that there is no enforcement action taken by authorities. Malawi is also, reportedly, in the process of introducing tax stamps.

The use of tax stamps has been widely discredited. For further information see Para.8.2.16. A snapshot of the supply chain controls in place in the SADC Member States as at May 2011 is at Annexe 13.

## 6.5 Control of taxpayer compliance

Taxpayers come with a spectrum of behaviours from those who try their best to comply with legislation but who may make honest mistakes to those

who deliberately set out to defraud the revenue and profit from smuggling and other illegal activities. The revenue and customs organizations need to be able to analyse taxpayer behaviours and tailor interventions according to the compliance history of the taxpayer. There will be a need to encourage voluntary compliance by providing clear legislation and guidance to taxpayers and offering support to help them comply. There is also a need to identify those who are negligent or who have intent to defraud and to control these taxpayers robustly taking enforcement measures as appropriate.

We commend the commitment of Zambia and others to encouraging voluntary compliance but this has to be balanced with robust action taken (and seen to be taken) against informal distributors of illicit products and organized smuggling syndicates.

Revenue administrations should allocate their resources and develop training and guidance to deal with the different taxpayer behaviours using risk assessment. Whilst controls of excise operators will always need to include visits/inspections and audits, the frequency and extent of the controls should be tailored to the compliance history of the taxpayer and to risks assessed. There should be scope for reduced effort on those who have a good compliance record across taxes and have robust internal controls no matter what their size. Those who do not have such good compliance histories, including newly licensed operators and transporters, will require additional control effort.

## **6.6 Enforcement**

As for compliance, there needs to be a comprehensive enforcement strategy to counter smuggling and fraud specifically in alcohol and tobacco products. Such a strategy will involve devoting resources to intelligence gathering and analysis, investigation effort, risk management, flexible anti-smuggling teams available 24/7 to work with local excise control staff and with other enforcement agencies such as the Police and Ministry of Trade inspectors of licensed retail outlets. Joint targets will need to be set for tax gap reduction and action plans developed to achieve this.

## **6.7 Reducing demand**

Illegal trade in cigarettes and alcohol undermines public health initiatives to curb tobacco consumption and promote responsible drinking by making cheap and often poor quality products available in an unregulated environment where they may be sold to vulnerable groups such as minors. We have heard of illicit alcohol either being composed of poor quality spirits with colouring being sold as whiskies or brandies and thus contravening consumer protection legislation. Worse still, we heard of home-brewed illicit spirit concoctions which can include substances such as battery acid being sold in villages, townships and informal markets. These products can have serious health consequences for the consumers.

Experience shows that increasing tax rates, introducing restrictions on sales in bottle stores or bars or imposing special levies does not have the desired impact on consumption. Those who want to consume alcohol always find ways to do so. If the legal product is either unaffordable or not available, then consumers turn to the illicit market and the criminal prosper at the expense of the revenue and their own health.

## **6.8 Modernization and E-Facilities**

Several countries we visited have ambitious modernization programmes for customs. Throughout the region, authorities are making great strides in developing e-facilities for customs transactions. As with excise legislation and administration policy, excise transactions still seem to be in the quill pen era. They are paper-based and not always linked or integrated (except at individual transaction level) with customs data. They cannot provide a national overview of the pattern of excise trade and overall volume of imported and home-produced excisable products in the market. E-facilities make analysis of compliance and of industry trends and norms much easier to perform. Such analysis is essential for effective excise control and facilitates a cross-check on the size of illicit trade measured according to a comparison between consumption and legally declared goods.

In Zimbabwe, we found that modernization proposals included exploring the prospect of linking remotely with the accounting records of major producers to populate declarations/accounts from source and thus reduce costs and improve quality of data for all concerned. This proposal is at an early stage and it will be interesting to monitor its development.

## **6.9 General**

All the countries we visited need to develop methodologies for measuring the extent of revenue lost to illicit trade or “tax gap”. They can then use a baseline to set outcome based targets for reduction and measure success on a consistent basis over time. Governments need to know if their taxation, health, employment, industry development and consumer protection policies are being successful. The nearest we found to a measure of effectiveness was in Mozambique where we were told that the effectiveness of enforcement action was measured by reference to street prices. This strikes us as a good measure of the effectiveness of enforcement action but it does not provide the full picture regarding revenue loss and the achievement of government policy objectives.

## **7. CONCLUSIONS**

After the inception phase and the visits to six of the SADC countries, we are satisfied that there is a major problem of illicit trade in alcohol and tobacco products in the region. The problem varies in nature and extent in each country depending on the size of the economy, tax rates and structure

and the effectiveness of public sector and industry controls. Smuggling rather than counterfeit seems to be the major customs source of illicit trade and inadequate focus on excise control and enforcement for domestic production together are common features found across the region though Zambia is now making commendable efforts to adopt a nationally driven professional approach to excise controls. Where there are a vast number of customs warehouses licensed to receive excise goods and no method of ensuring that the goods can be tracked and properly accounted for there is a high risk of revenue leakage.

Across the region, more emphasis needs to be given to monitoring and evaluating the impact of changes in tax rates and structure and to the effect on illicit trade of the entire tax burden including VAT or General Sales Tax and any levies on excisable goods. Comprehensive cross-government strategies and action plans need to be developed to tackle illicit trade in alcohol and cigarettes. Robust anti-corruption strategies and actions need to be common across the region and a quick and easy electronic mechanism developed to facilitate exchange of information. Capacity and capability building are needed in policy analysis and evaluation and specialist excise training. Efforts need to be made in all countries to work with the Ministries or Departments of Health in developing practical ways to implement the Framework Convention on Tobacco Control and the Global Alcohol Strategy.

We consider that attention needs to be given in all countries to review and modernization of excise – from tax and administration policy, legislation, and procedures through to control and enforcement. Ensuring capture of appropriate and accurate data to facilitate policy evaluation and risk analysis of taxpayers and movements of excisable goods is essential.

We suggest that consideration is given to commissioning a further review of the situation in 18 to 24 months time.

## **8. RECOMMENDATIONS**

### **8.1 A SADC Strategic Approach**

The components of illicit trade in alcohol and tobacco products are wide-ranging. They can only be tackled effectively by a comprehensive long-term cross government strategy supported by formally agreed cross government action plans to control supply and reduce demand. This is our main recommendation.

All the SADC Member States are losing revenue as a result of the illicit trade in alcohol and cigarettes. We have recommended the development of a strategic approach in each country we visited.

**We recommend that SADC facilitates the development of a comprehensive long-term regional strategy to tackle the illicit trade in alcohol and tobacco products.** Such an overarching strategy should contain the following elements:

### **Moving Towards a Harmonised Approach to Excise Taxation**

- SADC should fast track the development of excise guidelines to support a harmonized approach to excise taxation and improved control and enforcement.
- As part of the development of excise guidelines we recommend that SADC should:
  - promote the concept that the ability to manufacture, warehouse or move excise goods under bond should be a privilege not a right;
  - develop a SADC wide requirement for excise specific licensing of all transporters of excise goods under bond/financial security by the Member States;
  - develop a regional requirement for all excise producers to hold bonds or financial security sufficient to cover revenue at risk; and
  - develop and promote adherence to a strict Code of Ethics for all Customs and Revenue officials.
- SADC should facilitate agreement of a long term phased plan to ensure that all Member States move from *ad valorem* to specific rates of tax for excise products and provide them with support in adapting their administration and controls to cater for this change.

### **Co-ordination and Support for Better Control and Enforcement (through the SADC Tax Sub-Committee)**

- SADC should:
  - facilitate a co-ordinated approach by Member States to sizing the extent of illicit trade in alcohol and cigarettes and estimating revenue loss;
  - facilitate the identification by Member States of the most useful data to collect to support policy evaluation and effective regional control and enforcement of taxes on excisable products;
  - maintain and analyse the regional database, to inform regional control and enforcement by comparing the “quantity gap” for each product with the result of the sizing methodology based on consumption and provide regular reports to Member States;

- set up a regional *forum* with the alcohol and tobacco industries' representatives specifically to improve the ability of Member States to fight illicit trade and develop SADC wide Memoranda of Understanding with key international producers in the region;
  - promote a consistent regional approach to the implementation of standards required for the track and trace component of the World Health Organization's Framework Convention of Tobacco Control;
  - facilitate the development of a regional approach to the control of the wholesale and the retail supply chain for alcohol and retail supply chain for tobacco products;
  - facilitate the speedy introduction of the proposed SADC Community Transit System as excisable goods in transit present high risks for excise revenue leakage;
  - facilitate the moves to one-stop-shop border posts supported by scanners and facilities for examining tankers at all key border points in the region both to facilitate trade and reduce the opportunities for smuggling; and
  - fast track the implementation of the SADC Agreement on Assistance in Tax Matters (AATM) and develop effective administrative procedures to support control and enforcement of excise taxes.
- Under the SADC AATM, an early project should be to set up a SADC system to enable speedy electronic access to details of all excise operators, bonded warehouses and licensed excise transporters so that enforcement and excise staff in any Member Country can easily check the validity of taxpayer information on import, export and transit entries.

### **Capability building**

- SADC should:
  - develop a specialist advanced excise course through a regional training centre with experience of developing and delivering high quality training such as the Zimbabwe Revenue Authority Training Centre which can then provide training across the region;
  - facilitate an excise policy workshop to raise awareness of the taxation options and of evaluation of options for change as well as post-implementation evaluations of the impacts of changes in rates and structures; and

- facilitate awareness of the World Health Organization's Framework Convention on Tobacco Control (FCTC) and Global Alcohol Strategy through a seminar for senior representatives from all Member States.

## Implementation

- A permanent Excise Working Group should be set up under the SADC Tax Subcommittee to prepare the regional strategy and oversee implementation of the recommendations from this report to tackle illicit trade in alcohol and tobacco products as well as providing a *forum* for discussion of all excise issues.

We recognize that formal cross region agreements take time to develop and agree. In the meantime, all the SADC countries are losing revenue and some immediate actions can and should be taken. We identify these in Para. 8.3

The remainder of this section looks at each of the components of the recommended strategy.

### 8.1.1 A regional approach to excise taxation

Large differences in tax rates applicable to excise products in different SADC countries can fuel smuggling. This is particularly apparent in the SADC region where we found the comparatively high tax burden (*vis-à-vis* neighbouring countries) and large consumer demand for cheap alcohol and cigarettes is driving smuggling. A decrease in affordability of addictive products usually increases demand for illicit products.

There is currently a mixture of *ad valorem* and specific excise taxes on alcohol and tobacco products across the region. Revenue administrations often have difficulty in administering *ad valorem* based excise duties because the declared values are difficult to verify and change frequently depending on exchange rate fluctuations and changes in freight costs. Where high inflation is not a problem, the World Bank<sup>7</sup> and other experts advise that specific taxation of cigarettes and alcohol is easy to administer and control, provides more certainty for business and the revenue and reduces the avenues for fraud though the opportunities for profit by smuggling depend more on factors such as the strength of excise production, movement and border controls, affordability of legitimate products and consumer demand.

The World Bank identifies that it is the ease of evasion of border controls, rather than the price differentials, that most determines the level of tobacco

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<sup>7</sup> World Bank – Economics of Tobacco Control Toolkit - Tool 4 - Design and Administer Tobacco Taxes - Ayda Yurekli 2010 see <http://go.worldbank.org/9MVBNU0J00>.

smuggling in a country and, in particular, facilitation of smuggling through corruption.

To ensure that there is a consistent and comprehensive drive to enforce zero-tolerance of corruption across the region **we recommend that SADC should develop and promote adherence to a strict Code of Ethics for all Customs and Revenue officials.**

We consider that the closer that the SADC countries can come to equalizing the tax rates (including any levies) on alcohol and tobacco products the less the attraction of high profits for the smugglers. However, as long as there is tax levied on these addictive products, there will always be some profit to be made by smugglers and fraudsters. Reducing tax rates should reduce but cannot solve the problem of illicit trade. Harmonizing tax rates may help to reduce illicit trade, but as long as illicit profits are available the smugglers will use the weakest points of entry into the market and corruption to continue their activities.

**We recommend that SADC countries consider developing a long term phased plan to (a) more closely harmonize the rate of taxation (excise or levy) on alcohol and tobacco products and (b) structure taxation on a “specific” rather than “ad valorem” basis with indexation linked to wages rather than to consumer prices.**

There is a move in some developed countries to better reflect the externalities of consumption of alcohol products by structuring excise taxes to reflect the amount of “harm” contained in the product. For alcohol, the concept is to tax according to the litres of absolute alcohol in the finished product. There is a general drive by Health Ministries to reinforce the responsible drinking message by structuring taxation of alcohol in this way. Whilst several countries do tax alcohol with specific rates based on litres of absolute alcohol, this tends to be according to bandings for the types of product i.e. spirits, wine and beer rather than a linear progress of tax rate according to the litres of absolute alcohol in all alcohol products.

Whilst there is such divergence in tax rates and structure for alcohol and cigarettes at present, we do no more than bring this move to the attention of Member States.

In moving towards harmonization of excise taxes, we consider it important to first determine the scope of an excise taxation regime (should it be confined to alcohol, tobacco products, fuel and environmental taxes with luxury goods taxed through the VAT or General Sales Tax regime?). The next step should be to decide on the appropriate excise tax structures for the various products concerned. We advise that for alcohol and tobacco products, except in economies suffering from hyperinflation, a specific tax should be applied by volume /strength of product using banding for broad ranges of strength for each product type. The final area for consideration is the potential for harmonization or approximation of excise tax rates. Rates

of tax should be determined with a view to reducing the differences in affordability between Member States until such time as per capita GDPs across the SADC region are more closely aligned. In this context, harmonization of tax scope, structure and supporting administrative policies is achievable more quickly and easily than the more politically sensitive issue of harmonizing tax rates.

### **8.1.2 A regional approach to sizing the illicit trade and revenue lost**

As a first step, governments and their law enforcement agencies need to understand the size and implications of the illicit trade in alcohol and tobacco products identify those involved and the links with illicit trade in other goods. There are several initial indicators of the presence and growth of illicit trade in tobacco products. These include:

- An unexplained drop in legal market sales - usually noticed first by the industry and trade;
- Disturbances in the flow of Government revenues;
- An increase in seizures of illegal product – either in frequency or quantities;
- The emergence of brands which do not display the correct markings or which are not legally distributed and sold in the country;
- Changes in the results of anti-illicit trade surveys.

There are currently no reliable global statistics on the size of the illicit trade problem. The World Bank Tobacco Toolkit<sup>8</sup> published in 2005 estimated the scale at 6% to 9% of total tobacco consumption. A recent study estimates that approximately 11% of the global cigarette market is illicit, representing over 600 billion cigarettes a year<sup>9</sup>. However these numbers are not based on an independent single methodology or process but are simply compilations of existing estimates from different sources, covering various countries and points in time until 2008.

#### **(a) Measurement**

Whilst there is general agreement that tobacco products are one of the most illegally trafficked goods in the world, measuring quantities precisely is very difficult. However it is important that individual governments attempt to establish the scale of illicit tobacco use and tax avoidance to enable informed policy decisions and provide a baseline against which to assess the success of anti-illicit trade strategies.

The objectives of an illicit trade measurement tool are to:

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<sup>8</sup> Understand, Measure and Combat Tobacco Smuggling, World Bank Economics of Tobacco Toolkit (2005).

<sup>9</sup> Framework Convention Alliance (2008); International Union Against Tuberculosis and Lung Disease (2009).

- Measure the incidence and relative share of illicit cigarettes including consumer usage and purchasing behaviour.
- Enable analysis of trends over the long term and evaluate their development.
- Ensure consistency across time, country and population, independently from smoking behaviour or consumers' acceptance of illicit trade.

There are a number of methodologies used by revenue and customs authorities, regional and international organisations and the industry to measure the illicit trade size. Ideally studies should be carried out on a large scale because the complex underlying mechanisms of inflows from source markets and outflows to destination markets are best captured in a regional manner.

The application of a robust methodology is the first crucial step in the process as it needs to stand up to independent scrutiny and be accepted by all parties concerned. The results of solid and robust methodologies are usually instrumental in raising awareness of the authorities and the general public about the seriousness of the problem and can serve to influence the allocation of resources.

### **(b) Methodologies**

There is no universally recognized methodology to assess the size of the illicit alcohol and tobacco trade and different approaches might be required to meet potential budget restrictions, particularly in developing countries. At the same time multiple methods can be used concurrently to establish a more accurate picture.

At its most basic, customs seizure data can be an indicator of a problem even though they are generally believed to represent only a small portion of the illicit trade volume. Moreover, seizures statistics can be important in identifying trends and changes in routes and types of illicit trade at an early stage.

Other methods include smoker surveys, empty pack and cigarette butt collection analysis, comparisons between household survey estimates of alcohol or tobacco products consumption, government statistics of tax-paid alcohol and tobacco products, trade monitoring etc.

In order to achieve robust results, it is critical to acknowledge the inherent strengths and weaknesses of the chosen method. For example:

- Primary data collection needs to be undertaken in a scientific, systematic and structured manner that ensures a representative sample and stands up to close scrutiny. For pack collection this must include physical checks to confirm their nature (counterfeit/genuine) and source country if possible.

- Consumer surveys – there is extensive evidence that smokers under report their smoking levels to a significant degree and so consumer reporting cannot be relied upon to determine accurately the overall consumption levels although it gives reliable smoking prevalence data.
- International trade data is usually unreliable as import and export statistics are not readily available in electronic format and can be subject to data entry mistakes when compiled. To address the shortcomings and inefficiencies of a paper based trade system, the EU has recently installed a computerised Excise Movement Control System (EMCS) partly to facilitate reconciling the import/export movements of excisable goods within its member states.
- Representativeness of the sample – samples should be representative of the situation in the actual market/country/region and should be able to provide volume and proportion estimates of illicit products preferably by brand.
- Government/industry statistics – the quality of illicit trade estimate is dependent on the quality of existing data on legal cigarette consumption and/or sales in the country. In many countries these are not readily available or verifiable.

A good example of effective and reliable primary data collection is the empty pack collection research commissioned by the German tobacco industry. The methodology has been certified independently by the TÜV<sup>10</sup>, a German validation body and the resulting data are used in official Government statistics.

A first step in developing a measurement methodology is to identify and evaluate the sources of data available in Member States. This data may need to be amplified by focus group or other small sample studies. A comparatively inexpensive way of getting started is to fund academic research by the Economics department of a regional university.

The most developed methodologies combine several of the stated approaches. Different approaches to assess the size of the illicit trade in tobacco products might be required to meet potential budget restrictions, particularly in developing countries or those in transition. However irrespective of the methodology, applying repetitive annual or bi-annual studies allow the best analysis of long term trends which in turn serve to validate whether the methodology is indeed effective.

Studies estimating illicit consumption in individual countries are usually more accurate. For example, KPMG has estimated that in 2009 the counterfeit and contraband share of cigarette consumption in the EU was

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<sup>10</sup> Technischer Überwachungs-Verein, Technical Inspection Association

8.9% based on an identical research methodology applied to each of the 27 Member States.

KPMG's methodology is outlined at Annexe 5.

**We recommend that SADC should facilitate a co-ordinated approach by Member States to sizing the extent of illicit trade in alcohol and cigarettes and estimating revenue loss.**

### **8.1.3 A regional approach to data quality and its use in monitoring excise**

All revenue administrations collect a large amount of data from taxpayers and other sources. This is a valuable source of information both for policy analysis and development and for control and enforcement of excise operators. At the regional level, we consider that there will be benefits from the capture of data revealing the total quantities of excisable products imported and produced in the region and comparing the figures with the total quantities declared for duty payment in Member States, the total remaining in stock in warehouse and the total exported. This exercise should reveal the level of undeclared products which have been diverted from the legitimate supply chain and help to provide a minimum revenue loss figure for comparison with the result of a tax gap sizing methodology based on consumption. However, such an exercise will not capture undeclared local production nor excisable products smuggled into the region. Accurate capture and analysis of seizure statistics (border and inland) can inform improved trend and risk analysis for revenue control and enforcement. The World Customs Organization is keen to facilitate improvement in data capture and analysis of seizures.

**We recommend that SADC should facilitate the identification by Member States of the most useful data to collect to support effective regional control and enforcement of taxes on excisable products.**

**We recommend also that, once the mechanisms are in place in SADC to capture the data identified by Member States as most useful, SADC should maintain and analyse the regional database, compare the “quantity gap” for each product with the result of the sizing methodology based on consumption and provide regular analyses to Member States.**

### **8.1.4 Regional partnerships with industry and with trade associations**

The EU has in place legally binding and enforceable co-operation agreements with the four leading tobacco manufacturers (British American Tobacco, Imperial Tobacco, Japan International Tobacco and Philip Morris) which supply 95% of the EU tobacco market. The Agreements include industry commitment to:

- Track and trace tobacco products;
- Implement a “know-your-customer” policy;
- Implement anti-money laundering provisions and transparent payment procedures; and
- Supply markets commensurate to local demand.

Additionally, the Agreements provide for clear processes in case of seizures and for close co-operation with OLAF (the EU Anti-Fraud Office) and the law enforcement authorities of the EU Member States.

With or without legally binding agreements, the legitimate tobacco producers have a common interest in reducing illicit trade and can assist enforcement agencies by providing expertise training on the cigarette supply chain and detection methods for customs and enforcement officials.

We consider that there are benefits to both the revenue administrations and to legitimate industry to commit to these agreements and commend this as good practice for SADC to consider following.

Whilst such Memoranda of Agreement are useful for dealings with key multinational companies, there is also a need for revenue administrations/customs and excise to have a channel of communication with those trade associations representing industry as a whole. Otherwise, the needs of the smaller players in the industry can be overlooked.

**We therefore recommend that revenue administrations set up a *forum* for dialogue with the trade associations representing the tobacco products and alcohol industries with a view to opening a channel for consultation about the implications of changes in tax structure and a channel for information and co-operation in tackling illicit trade.**

#### **8.1.5 A consistent regional approach to the implementation of supply chain controls required by the World Health Organization’s Framework Convention of Tobacco Control (FCTC)**

All countries that we visited are either already signatories to the WHO’s Framework Convention on Tobacco Control (FCTC) or are intending to become signatories. This Convention was adopted by the World Health Assembly in May 2003 and entered into force on 27 February 2005. Article 15.1 of the WHO FCTC states that:

*“The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to sub-regional, regional and global agreements, are essential components of tobacco control”.*

The scope of the Protocol includes measures on:

- Supply chain security including -
  - tracking and tracing;
  - customer identification;
  - record keeping;
  - licensing or equivalent approval systems;
  - free zones; and
  - destruction.
- Offences and Enforcement.
- International co-operation.

#### **8.1.6 Supply chain controls for cigarettes under FCTC**

The Protocol is designed to reduce illicit trade in tobacco products by securing the legitimate supply chain. If the products moving across the globe can be tracked, traced and authenticated and legitimate manufacturers apply “know your customer” policies; then it should become easier for enforcement authorities to detect the point where products are diverted to the illicit market and the criminals who trade in them.

Participants in the supply chain must take measures to prevent diversion of tobacco products and machinery into illicit trade channels.

As a matter of principle, measures intended to promote responsible business conduct should apply equally to all participants in the field, regardless of size.

Article 7 aims to establish a tracking and tracing system which helps to combat the diversion of genuine product and should therefore be an integral part of efforts to fight illicit trade. It is important to note that tracking is the ability to monitor the forward movement of finished goods through the supply chain and tracing is the ability to recreate that movement up to a certain point in the supply chain to help determine where the product was diverted into illegal channels.

Tobacco manufacturers use different IT platforms and manufacturing processes but the major international firms are adopting the same standards. These are:

- ‘Open’ coding standard – all information reported is in a standard format regardless of the manufacturer. The open standard is compliant with international coding standards;

- Reporting standard – all reports come in the same format and content regardless of the manufacturer enabling customs officials to use the same methodology to read the codes whichever the manufacturer of the brand; and
- Standard report source – government officials can have one point of contact for report requests.

These standards enable all manufacturers, large or small, to adopt a solution that is fit for purpose according to their unique systems, processes and resources.

We understand that consideration is currently being given in South Africa to the use of BATSA's "CODENTIFY" unique digital marker and product database system which is being piloted currently. The full "CODENTIFY" system provides a track and trace facility which, whilst owned by the manufacturers, can be operated by a third party to provide revenue officials with access to the production and distribution database in order to better identify illicit products. This system is currently in operation in the EU with access to manufacturers' databases provided to the EU Fraud Investigation Office (OLAF) and revenue officials under the terms of the EU Agreements with the four major international tobacco companies.

Our belief is that, whilst the CODENTIFY system meets the above standards, other manufacturers may already adopt or may wish to adopt different systems. Rather than require a named system to be adopted, to improve control of the legitimate supply chain, **we recommend that SADC provides a forum for raising awareness of the FCTC proposals and facilitates a common Revenue Authority approach to track and trace and other FCTC requirements across the region for subsequent agreement with the Ministries of Health in all the SADC Member States.**

There is more detailed information on the FCTC in Annexe 7.

### **8.1.7 The WHO Global Alcohol Strategy**

Whilst the FCTC applies only to Tobacco Products there is every indication that the WHO will be driving for a similar convention to improve controls over illicit alcohol products as part of its global alcohol strategy. There are similar supply chain control issues and we advise the Member States to open discussions with the Ministry of Health to consider the most appropriate solution for alcohol.

### **8.1.8 The urgent need for a regional community transit system**

We found that goods in sealed containers or tankers entered for transit to a SADC destination which involves transit through a separate SADC country are rarely examined at the borders. The assumption is that the loading of the goods has been supervised and that the declaration is correct. As long

as seals are intact at entry and exit of the transit country, the load is not checked. In fact, not all loadings of transit goods are supervised and, even when they are supervised, there are scams available to would be fraudsters e.g. using weighbridge weights for tankers of ethanol which are incorrect on entry of the supposed “empty” tanker which, in fact, contains some water that is then flushed out prior to filling with ethanol. As a result, the declared filled quantity is less than the quantity actually filled in the tanker.

Most of the transit entries from South Africa (alcohol and cigarettes) and Zimbabwe (cigarettes) seem to be destined for Angola or DRC. Several transit countries have found goods destined for these markets appearing in their own domestic informal markets. As a result, the Zimbabwe Revenue Authority is now escorting all transit loads through the country to ensure there are no diversions en route. This is expensive and resource consuming. There has to be a better method of control.

**We recommend that SADC must facilitate the speedy introduction of the proposed SADC Community Transit System as excisable goods in transit present high risks for excise revenue leakage.**

#### **8.1.9 The need for more efficient and effective border controls**

Most of the SADC countries suffer from having lengthy and porous land boundaries. There are also many customs border posts and ports. It is a major task to control all the official entry points into the various SADC countries. Some countries have border patrols by police or another agency to attempt to secure the porous border but, nevertheless ant smuggling of small quantities by many individuals takes place. Often this is organized with a truck depositing a load of alcohol or cigarettes near the border, the goods are then offloaded and passed or carried over the border - often under cover of night - and then stored in houses the other side for loading onto another truck and into small vehicles for distribution. This sort of organized ant smuggling is difficult to control and requires intelligence and joint cross border operations to tackle.

At the official customs border crossings, we saw a spectrum of control. At the best, there were secure fences and interventions based on risk and intelligence directed from the centre. At the worst, there was a free for all with no apparent control of goods or people entering the customs area, and all customs resources deployed on reactive work dealing with entries and paper checks. We did not see a border post with facilities for examination and measurement of bulk ethanol tankers. These vehicles do not go through scanners because of safety concerns. Staff are not trained or equipped to dip and take measurements of bulk ethanol so declarations are accepted at face value. It is hardly surprising that we heard of undeclared spirits production and sales of cheap illicit spirits in many countries.

**We recommend that SADC should facilitate the move to one-stop-shop border posts supported by scanners and facilities for examining**

**tankers at all key border points in the region both to facilitate trade and reduce the opportunities for smuggling.**

#### **8.1.10 The need for more robust controls of wholesale and retail outlets**

In all the countries we visited, we found that responsibility for control of wholesale and retail outlets for excisable products was the responsibility of either the Ministry of Trade or Commerce or the local council. Officials inspecting these premises had no awareness of the need to ensure that the outlets were not stocking and supplying excisable products on which excise duty had not been paid. VAT officials are also controlling these licensed outlets and they, too, were not provided with the necessary awareness or responsibility to take action if excisable products on which duty has not been paid are found at the premises of a wholesale or retail outlet.

Whilst we believe that only a small proportion of illicit products enter the market through legitimate outlets, we heard from industry that it does take place and, since, this is an area that is subject to control both by consumer protection agencies and VAT officials, **we recommend that revenue administrations in Member States open discussions with the appropriate consumer protection Ministry to both seek their assistance in the fight against illicit trade and to educate the inspectors in how to check that duty has been paid on excisable goods. The same awareness and responsibility needs to be provided to VAT officials.**

**A snapshot of current controls on wholesale and retail outlets across the SADC region is at Annexe 13.**

#### **8.1.11 The urgent need for an effective mutual assistance process across the region**

In all countries we found that officials at the operational end need to be able to verify the details on entries e.g. to see if the declared destination for transit goods is a legitimate licensed operator or the transporter is a legitimate licensed person. All too often, we heard of cases where, on investigation, the declared importer turned out to be a fictitious person with a fictitious address and a temporary mobile phone number.

We asked officials in all countries about the effectiveness of the existing bilateral mutual assistance Memoranda of Understanding between countries. In those countries where a non-bureaucratic approach prevailed, Mozambique and Zimbabwe, the International section would phone the appropriate contact in the other country and obtain the information quickly. In some of the other countries, we heard that a written request was needed which had to be countersigned before it was sent to the International Section and then it took weeks or months to receive a reply. In some cases, we were told that a response was never received. We also heard, in one

revenue authority, that a request for information sent to the International Section there never received a response. This is not good enough. Quick and easy access is needed for exchange of information relating to movements of goods. The goods move quickly and without the ability to verify information quickly, officials will never be able to prevent quite easily detectable frauds.

**We recommend that SADC should fast track the implementation of the Agreement on Assistance in Tax Matters (AATM) and develop effective administrative procedures to support control and enforcement of excise taxes.**

Under the SADC AATM an early project should be to set up a SADC system to enable speedy electronic access to details of all excise operators, bonded warehouses and licensed excise transporters so that enforcement and excise staff in any Member Country can easily check the validity of taxpayer information on import, export and transit entries.

We recommend such a development as an early deliverable in paragraph 8.3.

#### **8.1.12 Improve excise control and enforcement**

The standard of excise control and enforcement is weak throughout the region. More detail is provided in Paragraph 8.2 below. There is an urgent need for improvement.

**We recommend that SADC fast tracks the development of excise guidelines.**

**We recommend also that SADC initiates work to develop a specialist training course for excise staff throughout the region and encourages Member States to review their resource requirements in the light of this review.**

#### **8.1.13 The need for urgent development of excise guidelines to improve standards of control of excise goods**

We found a poor standard of control of excise in all the countries visited with the exception of Zambia. Zambia has recently introduced a professionally staffed national excise audit section. All the countries visited placed considerable focus and priority on customs and even where the enforcement structure was at its' best, there was a lack of focus on excise. In some places, we felt that the special qualities of excise and requirements for control had not been recognized. It was considered just another domestic tax with a few operators and given low priority in the overall plans of the revenue administration. This report contains many recommendations to improve excise control throughout SADC and the efforts of individual Member States need to be given impetus and oversight by a regional *forum* of senior officials.

**We recommend that SADC sets up a permanent Excise Working Group to prepare the regional strategy and oversee implementation of the recommendations from this report to tackle illicit trade in alcohol and tobacco products and to provide a *forum* for discussion of all excise issues.**

#### **8.1.14 A long-term plan for harmonisation of taxation on excisable products**

As long as there are marked differences in taxation rates and overall tax burden in the price of cigarettes and alcohol between the SADC countries against a background of wide divergence in economic prosperity, there will be a strong incentive for smugglers to profit. This is aided by a ready market of consumers who find the legal products unaffordable or unobtainable (e.g. because they are minors). Whilst harmonization of tax rates may not be achievable in the short-term because of different levels of affordability across the region, there is plenty of scope to better align or, indeed, harmonize scope, structure and administrative policies underpinning excise taxation.

**We recommend that SADC promotes a long-term plan for harmonization of excise taxation in line with the economic development in the region. Until there is more uniformity in economic strength, the stronger economies will need to provide support (enforcement and control facilities, active mutual assistance and funding of one-stop-shop border posts etc.) to the countries with weaker economies.**

#### **8.1.15 Capacity building**

We found that excise controls were weak and predictable in all countries we visited. Zambia has made a major investment in recruitment of professionally qualified auditors to spearhead its national excise audit and inspection approach but the section has only recently been set up and, whilst the results so far have been impressive, there has been insufficient time for the professional auditors to select and train excise staff in the regions though this selection and training is now underway.

As there was no specialist advanced excise training in any of the countries we visited and it would be uneconomic for most countries to develop such training and deliver it when there are so few staff deployed on excise control.

**We therefore recommend that SADC develops such a specialist course through a regional training centre with experience of developing and delivering high quality training such as the Zimbabwe Revenue Authority Training Centre and that the training is then provided to all excise staff that need it across the region**



## 8.2 “Toolkit” for SADC Member States

The following is a summary of the toolkit which is followed by a more detailed description of each component.

**We recommend that all Member States’ revenue administrations spearhead a broad long term cross-government strategy to tackle both the supply and demand of illicit alcohol and tobacco products. This should be done in stages; starting with a departmental action plan to tackle the illicit supply and distribution chain.**

Member States should include the following components in developing their strategic approach:

### **Tax Policy and Data Quality:**

- Launch a major effort to identify and collect only that data necessary to inform policy and improve control and enforcement. Data must be timely, accurate, maintained, evaluated and used to inform policy, measuring the “tax gap” and control of excise.
- The widely accepted key principles set out in this report should be followed in the design of changes in tax policy (including VAT/GST and levies) on alcohol and tobacco products.

### **Modernise Administration Policies for Excisable Products:**

- Ensure that administrative policies for excise operators, customs warehousing and transportation of excise goods under bond support the fight against the illicit trade. Operating a business involving excise goods should be considered a privilege not a right.
- Limit the movement of imports of alcohol and cigarettes between customs warehouses to one and apply a time limit equating to the normal shelf life of cigarettes to the period allowed for storage of cigarettes in customs warehouse.
- Review excise legislation to ensure that it is clear, simple to administer and covers not only the rate and method of excise taxation and tax collection, but its control and enforcement.
- Ensure that the legislation on offences and penalties reflects the seriousness of the crimes and that the judiciary are educated to understand the relationship between smuggling excise goods and organized crime.
- Provide user friendly guidance on excise requirements to taxpayers and staff and comprehensive guidance to staff on audit, inspection and enforcement controls.

- As part of the SADC wide approach to the implementation of the track and trace standards required under the Framework Convention on Tobacco Control, develop supply chain control requirements that can track and trace products from manufacture to retail supply through an excise specific licensed wholesale and retail distribution chain.

### **Modernise and Improve Excise Control and Enforcement**

- Develop and implement a comprehensive enforcement strategy and detailed action plan to tackle the supply side of illicit trade involving all other enforcement authorities including the police, local councils and other Ministries (e.g. Trade/Commerce) as appropriate.
- Enforce zero tolerance of corruption through a comprehensive anti-corruption strategy based on a SADC Code of Ethics and backed by robust and well publicized actions.
- Measure the extent of the illicit trade, as far as possible, and set shared outcome based reduction targets across all government stakeholders.
- Focus on developing one-stop-shop border posts at all major customs land border posts with scanners, sniffer dogs and better examination facilities e.g. for tankers. Support this with intelligence and risk-based enforcement including the use of flexible mobile anti-smuggling teams and post-clearance audit.
- Extend the enforcement strategy to cover the demand as well as the supply side of the problem by working with Ministries of Health, Social Welfare and Education in devising and playing an active part in campaigns to raise public awareness of the implications of purchasing illicit products especially for young people and thus reduce demand.
- Provide an increased focus on excise control and enforcement through appointment of a national excise senior manager with appropriate support to set and monitor control standards and enforcement actions, ensure appropriate resources are devoted to excise control and to coordinate operations with customs enforcement colleagues. This senior person should be accountable for all excise operations.
- Improve the control of excise producers. Excise inspections tend to be predictable (office hours Monday to Friday) and superficial. There need to be out-of-hours unannounced visits to ensure that off-record production and deliveries are not taking place.
- Open discussions with the appropriate consumer protection Ministry to both seek their assistance in the fight against illicit trade and to educate their inspectors in how to check that duty has been paid on excisable goods. The same awareness and responsibility needs to be provided to VAT officials.

- Improve excise capability by ensuring that all excise staff have either professional audit qualifications or receive SADC generated specialist advanced excise training.
- Develop a database (could be a spreadsheet) containing up-to-date details of all excise operators – whether licensed producers, import agents or transporters of goods under bond to facilitate quick and easy responses to mutual assistance queries.

Make use of mutual assistance provisions under existing bilateral agreements until such time as the SADC AATM and supporting administrative procedures are in place. The procedures for exchange of information under the AATM must be quick and easy to use. Make sure your authority never uses “confidentiality” inappropriately as a reason for an authority to withhold information required to verify entries or investigate suspicions.

### **8.2.1. Developing a strategic approach**

First, we advise Member States to develop an enforcement strategy and detailed action plan to tackle illicit trade from the supply side including the activities of the consumer protection Ministry and the Police and Border Agency (where this exists).

Then, through co-operation with other key stakeholder ministries, e.g. Health and Education the strategy may be extended to cover the demand side of the problem and become a truly national cross-government strategy to tackle the illicit trade in alcohol and tobacco products.

It is particularly important that the Ministries of Health and Trade / Commerce lead the action on tackling demand, as it is their health and consumer protection policies which are also undermined as a result of the infiltration of illicit products and the surrounding criminality in areas of social and economic deprivation. At present, the consumer protection inspectors do not act on behalf of the Revenue Authority either in notifying the new licences granted to excise producers or in checking that all alcohol or cigarettes on sale are tax paid. The Ministry of Education might also be involved to draw up awareness material for students on the dangers and other implications of consumption of illicit goods.

### **8.2.2 Anti-corruption strategy**

The World Bank agrees with academic researchers that empirical evidence has shown that the most important determinant in tobacco smuggling is the level of corruption in a country (as measured by the Transparency Index see Annexe 6). The estimates reveal that each one-point increase in a country's transparency index is associated with a two percent decrease in estimated tobacco smuggling. This implies that anti-illicit trade policies that

target corruption can be successful even when countries impose heavy tax burdens on products.

All the countries we visited indicated a high level commitment to tackling corruption. Some countries had comprehensive anti-corruption policies and action plans with activities including wide internal and external publicity, internal training, and emphasis on management training, control and accountability, process audits to identify and limit opportunities for corruption and recommend changes as well as to identify and investigate actual corruption. Another effective feature is the centralized separation of selection of goods for examination and allocation of examinations from the operational staff that carried out examinations. In this respect, we commend the Anti-Corruption strategies outlined to us by SARS and by the Zambia Revenue Authority and the plans for such a strategy being developed by the Swaziland Revenue Authority.

We consider that the use of a Management Profile and Management Control Programme are sensible tools for reinforcing the responsibilities of managers and should be part of a comprehensive approach to eliminating corruption.

**We recommend that all SADC Member States adopt wide-ranging zero tolerance strategies and comprehensive action plans to fight corruption.**

### **8.2.3 Know the “enemy”**

It is difficult to be more than reactive unless Member States have an understanding both of the size of illicit trade in alcohol and tobacco products and the nature of the trade. Only then can a baseline be set with reduction targets and a comprehensive Anti-Illicit Trade Strategy produced.

This information is needed both at a regional SADC level and at Member State level to inform national strategies and action plans. Paragraph 8.1.2 provides information on regional measurement, the principles of which are equally appropriate for Member States. Sophisticated measurement methodologies may be too expensive for many countries, but sponsorship of an academic approach can be an inexpensive way of obtaining a “tax gap” baseline or a check on the analysis of quantities of products in the domestic market according to customs data and excise production and duty declaration figures. There are other checks e.g. checks of national consumption survey results against quantities declared for duty payment and monitoring overall volumes of imports, production, storage, losses in comparison with declared exports and quantities declared for duty payment. This sort of comparison can only be achieved by countries with a specific tax rate and, for cigarettes, mandatory capture of the quantity of cigarettes imported and exported (in addition to the kgs weight required under the Harmonised System).

**We recommend that all Member States explore how best to measure their excise “tax gap” and set up a sizing methodology to provide a baseline for a targeted enforcement strategy.**

#### **8.2.4 National outcome based performance targets**

What gets measured gets done. Once a government measurement methodology is in place, **we recommend that each revenue administration sets a baseline of the extent of illicit trade or “tax gap”, agrees a cross-government outcome based target for reduction and measures it annually to understand the effectiveness of enforcement and other actions.**

Whilst it is desirable to be ambitious in setting such a target, it is important to bear in mind the time it takes to:

- Complete changed administrative policies;
- Rollout new facilities and modernization technology; and
- Complete negotiations with other public sector organizations to ensure that all key official stakeholders have agreed on the part they can each play in achieving the desired outcome.

It will also be important to ensure that all members of staff, at the borders and those controlling excise producers, storage warehouse keepers and transporters of excise goods, understand the new focus and priorities and the important part that each should play. Those involved in the fight against illicit trade will need a simple user friendly communication network within their organizations. Sustained commitment by leadership will be essential over the years ahead.

#### **8.2.5 Develop an enforcement strategy**

An effective targeted enforcement strategy is the cornerstone of any comprehensive anti-illicit trade strategy. Without it, the other elements will be of little use. It is often the first step in the process as it is seen as the quickest solution to the problem. However, to be effective it does require considerable investment in skilled resources and tools.

##### **(a) Invest in appropriate and effective resources**

At country level, the main enforcement bodies are usually customs, border guards or specialised police units. Fully trained human resources and the effective organisation, management and deployment of intelligence are the key tool in the fight against illegal trade. Investigation and enforcement resources need to know the legal requirements for successful prosecutions and be able to use IT tools and analyse data sources. They should be kept up-to-date with intelligence and technical developments e.g. counterfeit

techniques etc. Leadership, management, appropriate remuneration and ethics training can help to counter a culture of corruption.

Effective enforcement also requires investment in technology solutions that address:

- The analysis of production, import and export traffic and trends, together with real-time risk assessment of movements of goods, real-time response operations and feedback/analysis of intervention results; and
- Supply chain security in terms of tracking and tracing products through the supply chain and authentication of products seized and verification of tax declared in comparison with production.

Other tools that have proved effective are sniffer dogs and scanning machines at transit points for international trade. Intelligence from all available sources and analysis of seizures can help identify changes of methods used by illicit traders and risk management can help to prioritise the use of resources to tackle the urgent and high priority threats to the revenue.

#### **(b) Educate the public**

It is important that revenue and enforcement authorities engage with the public to inform them of their new strategic direction. The media, both nationally and locally, provide an excellent tool to educate the population at large about the implications of the illicit trade so that successful prosecutions receive maximum publicity.

Government agencies and the industry need to educate consumers and the wider public about the impact of illicit trade, the involvement of criminal and terrorist organizations and the consequences of consumption of illicit alcohol and cigarettes.

#### **8.2.6 Enforcement - Excise goods in transit and for export**

There are many millions of movements of goods moving both across internal SADC borders and borders with other countries. The drive for trade facilitation and economic growth puts pressure on Customs to “pass” apparently legitimate loads without inspection. However, **we recommend that excise goods in transit within SADC and for export to third countries should be subjected to scanners and a risk-based proportion of physical checks on the loads.**

#### **8.2.7 Enforcement – A “Track and Trace” system**

A perennial problem for enforcement authorities is tracing the finished goods back to their point of manufacture and of duty payment or the point of diversion from the legal supply chain. Tracking is the ability to monitor

the forward movement of finished goods through the supply chain. Both tracking and tracing are useful tools in identifying where and how goods have left the legitimate supply chain for the informal market.

There are sophisticated digital tax identification track and trace systems now in place for cigarettes within the EU. Such requirements are part of the provisions of the WHO's Framework Convention on Tobacco Controls (FCTC) which will need to be implemented in national legislation in all the signatory countries. All the SADC countries we visited are either signatories to the FCTC or have applied for permission to become signatories.

The same digital technology which uses laser printing of unique identifiers on packets of cigarettes is now also being used, voluntarily, by the largest drinks manufacturer in the world. This is the authentication and checking of duty payment control system for the future and is likely to be required for alcohol products in due course as the WHO are now beginning to focus on their global Alcohol Strategy which is likely to follow the same course as the FCTC for cigarettes.

The ability to exchange and manage data consistently on a global basis to international standards is vital. This point is highlighted in the WHO FCTC Expert Report on Tracking and Tracing of 22 February 2010 entitled "Analysis of the available technology for unique markings in view of the global track-and-trace regime proposed in the negotiating text for a protocol to eliminate illicit trade in tobacco products". The report has an assessment of the current systems and approaches available. Major points made in the report are:

- The need for aggregation of packaging is fundamental (i.e. linking pallets to master cases and then to cartons).
- It is vital that implementation starts from the top down (i.e. from pallet or master case). It is not feasible to jump straight to pack level tracking and tracing without addressing first the intermediate levels.
- The most sophisticated "paper stamp" based solutions available globally do not meet the proposed requirement for tracking and tracing. They do not support global data or data transfer standards nor do they support aggregation of packaging along the supply chain. In short, these "paper stamp" systems cannot meet the FCTC requirement.

**We recommend that revenue administrations approach all domestic producers of alcohol and tobacco products and discuss how best to meet the "track and trace" requirements of the FCTC and also what "track and trace" requirements should be applied to alcohol.**

We heard, from the Ethanol Producers Association of South Africa (EPASA) that there were considerable quantities of tax unpaid bulk cane spirits entering countries fraudulently and that these spirits were used in the

production of cheap whiskies and brandies for transit and sale to Angola and DRC.

The supply chain control for bulk alcohol needs to be tackled differently. EPASA suggested requiring each licensed distillery to use a unique non-hazardous marker so that officials would be able to identify illicit product as a result of the absence of the required marker.

**We recommend that Member States consider adopting this method of identification of the source of ethanol in spirits drinks.**

### **8.2.8 Enforcement - Mutual Assistance**

Under the SADC Model Customs Act, Member States are empowered to consult each other on the establishment of common border posts and take such steps as may be deemed appropriate to ensure that goods exported or imported through common frontiers pass through the competent and recognized customs office and along approved routes.

Member States can and should maintain special surveillance over the movement of particular goods suspected to be the subject of illicit traffic towards the importing Member States. This should include increased physical checks (on contents not just seals) on vehicles transporting alcohol or tobacco products, particular vehicles or transporters whether or not the goods are in transit between Member States (including SACU Countries).

Because of the need to prevent and detect transit fraud and frauds involving duty at source in SACU countries, excise and enforcement officials need easy and quick access to the taxpayer details for all entries of excisable goods moving under customs regimes – whether transit, import or export. We heard of goods declared on entries as going to fictitious destinations using fictitious agents who provided temporary mobile cell phone numbers and false names and addresses. There is an urgent need for officials to be able to check the declarations on such entries.

**We recommend that under the SADC AATM, an early project should be to set up to set up a SADC system for speedy electronic access to details of all excise operators, bonded warehouses and licensed excise transporters so that enforcement and excise staff in any Member State can easily check the validity of taxpayer information on import, export and transit entries.**

### **8.2.9 A balanced evidence-based tax policy**

Excise tax rates should primarily be set to optimize tax revenues over the long term. When setting tax rates, governments need to take into account the level of economic development, the purchasing power of the consumer and the tax rates in neighbouring countries. Experience shows that radical

excise “shocks” are more likely to lead to the emergence or growth of illicit trade.

There are a number of principles we advise should be followed in determining tax policy on alcohol and tobacco products. These are:

- **The level of taxation must be perceived by consumers as being affordable and realistic.** When addictive products become unaffordable because of high tax rates or reduction in personal income, consumers may divert their resources from essential expenditure e.g. food and clothing for their families, in order to feed their addictions.
- **Specific taxation is preferable to other methods of taxation – particularly the *ad valorem* method.** Other than the tax rate the only factor that should determine the tax on an alcohol product is the quantity of alcohol in that product. This can be measured easily and verified. Alcohol-specific taxation is neutral and predictable for business and for the revenue administrations. It promotes market stability and leads to a reliable stream of government tax revenues with a minimum of tax avoidance. *Ad valorem* taxes facilitate undervaluation fraud and encourage consumers to shift to low tax or even tax-exempt alcohol products. This lowers revenue collections. *Ad valorem* taxes also invite smuggling and stimulate consumers to trade down to poorer quality products in order to reduce the amount of tax they pay. For more information on this subject (See Annexe 8).
- **Tax rates set too high** for maximum revenue gain inevitably lead to cross border shopping, smuggling counterfeiting and tax evasion.
- **Alcohol and tobacco products should be perceived as being taxed fairly** in comparison with the tax burden reflected in retail prices in neighbouring countries. If consumers perceive that the rate of taxation is unfair they are likely to opt for the cheaper illicit product.
- **All drinks containing alcohol should be taxed on the amount of alcohol in the container.** This ensures that the tax reflects the harmful content of alcohol beverages and encourages consumers to drink responsibly.

**We recommend that the key principles set out above are followed in the design of changes in tax policy (including VAT/GST and levies) on alcohol and tobacco products.**

#### **8.2.10 Quality and completeness of data available**

Unfortunately, in every country we visited, the quality of data was unreliable and incomplete to enable analysis and evaluation of policy and for control e.g. the number of excise operators in different categories and their taxpayer details. Worryingly, the control and enforcement officials we met

did not appear to make use of the data available to give them a picture of the overall quantity of excisable product they were responsible for controlling or to monitor the excise activities of excise traders under their control. To do this, officials need to know the overall national production of excise products, how much is imported, how much is in stock in warehouse, how much is duty paid for consumption and how much is exported. In this way, it is possible to get both a feel for the way the market works and spot the areas of discrepancy where the totals do not balance, thus triggering investigation into the reasons for the discrepancy.

We were also concerned that, in all countries visited, excise warehouse account/ tax declaration data is not submitted electronically. In only one country, South Africa, are excise warehouse accounts captured electronically. This makes it almost impossible for officials to analyse historic trends, cross sector trends, compliance history etc effectively. Until these accounts and declarations are captured and, ideally, submitted electronically it will be difficult for excise control and enforcement to be really effective.

**We recommend that Member States all launch a major effort to clean up data and ensure that data collected is only that which is necessary for robust policy analysis, control and enforcement and that it is stored electronically and is timely, accurate and evaluated to inform policy and control. Modernization programmes should include provision for direct electronic submission of excise warehouse accounts and declarations.**

#### **8.2.11 Administrative policies**

All tax administration policies need to support the Anti-Illicit trade strategy. Operating with excisable products under bond should be regarded as a privilege not a right.

Those who wish to set up new businesses as operators of warehouses or as transporters (including foreign based transporters) should be subjected to rigorous “fit and proper person” checks. The licences for such operators should be tailored to fit the circumstances of each business so that activities allowed in each set of premises are described and can then be restricted in the light of minor misdemeanours. We heard that, currently, licences are rarely revoked since that would be a rather drastic sanction for a minor irregularity. Ideally, each licence should be tailored to the activities and compliance history of the operator, so that minor contraventions can be penalized by a change to the licence conditions i.e. restriction on operating hours or operations until the revenue administration is satisfied with compliance. Failure to comply with such a restriction should result in immediate revocation of the excise licence, effectively closing down business operations.

We are also concerned because of the large number of warehouses all of which can receive, store and remove excisable goods under bond. Because of the comparatively short shelf-life of cigarettes and the need to restrict opportunities for the fraudulent to move imported cigarettes between customs warehouses until the goods disappear under cover of a complex paper trail, it would be reasonable to impose restrictions on the movements of cigarettes imported for re-export e.g. one warehouse movement only and export within three months. We note that Swaziland has banned the import of cigarettes under bond for re-export in order to stop the widespread abuse of this privilege. This action has reduced but not stopped illicit trade in cigarettes as the smugglers have now moved to organised ant smuggling across the porous borders as described elsewhere. However, the action taken has undoubtedly reduced the overall extent of smuggling and made the smuggling operation more difficult for the organisers.

**We recommend that revenue administrations review their administrative policies and guidance to ensure that it supports effective control and voluntary compliance by taxpayers.**

#### **8.2.12 Effective modern excise legislation and regulations**

To be effective, legislation needs to be clear, simple to administer and to cover properly not only the rate and method of alcohol and tobacco taxation and tax collection, but its enforcement too. Important legislative requirements include:

- Clear offences and appropriate penalties.
- The systematic destruction of all seized illicit tobacco and alcohol products, raw materials, manufacturing equipment and components.
- Means to recover tax revenue losses and costs for destruction of seized goods, for example through asset confiscation.
- Supply chain control e.g. manufacturing, wholesale and retail licences, security markings.
- It is very important that the destruction of confiscated goods occurs within a reasonable timeframe to reduce storage costs and ensure it cannot be misappropriated for recycling into the illicit trade.
- It is not recommended, in any circumstances, that legislation allows government agencies to auction or otherwise sell any seized items which are directly related to the manufacture or sale of excisable products including counterfeit and contraband alcohol or cigarettes, manufacturing equipment, ethanol and other ingredients e.g. filter papers or bottle tops/labels.

- As a fundamental principle, all regulatory measures aimed at reducing tobacco or alcohol consumption should take into account their potential impact on illicit trade.
- Authorities should ensure that any measures being developed to reduce the legal accessibility, visibility and availability of tobacco or alcohol products to consumers are considered carefully by enforcement authorities before implementation so that no unintended impetus is given to illicit trade by -
  - Impeding the ability of health and consumer protection enforcement agencies to identify illicit products;
  - Making it more difficult for government agencies to identify contraband or for consumers to distinguish between counterfeit and genuine products when making a purchase; and
  - Helping those retailers who choose to deal in illicit products to mix them with genuine products.

**We recommend that Member States review their excise legislation to ensure that it is clear, simple to administer and covers not only the rate and method of excise taxation and tax collection, but its control and enforcement. We also recommend that government agencies do not auction or sell any seized items and that they are destroyed as soon as practicable.**

### **8.2.13 Limit warehousing facilities**

Many sources told us about frauds involving cigarettes entered for warehousing on import without payment of excise tax. The goods were subsequently moved and loads broken down many times within the warehousing regime until the goods were impossible to trace. Until the track and trace provisions of the FCTC come into force in all countries, it will be almost impossible for the authorities to identify individual packets of cigarettes as illicit. Even with track and trace facilities, the ability for loads to be moved and broken down many times across the warehousing facilities in some SADC countries will still provide an easy method for fraud as the illicit goods will only be discovered when the unique digital number on a packet is checked with the track and trace database. Enforcement authorities will not have the resources to do this.

We also consider that a very high number of customs warehouses, make for significant difficulty in tracking and tracing goods which can move between these warehouses and disappear from official sight under cover of a complex paper trail. It makes sense to try to limit the number of customs warehouses that are allowed to store excisable goods. We commend the action taken by Swaziland to require duty at import on all cigarettes including those claimed to be for re-export. This may be a step too far in

some countries but, at the very least; action should be taken to restrict the movement of imports of excisable products between customs warehouses.

**We recommend that either customs warehousing is not allowed at all for imports of cigarettes or that it is allowed only once and that the goods must be delivered to home use within a reasonable period e.g. 2 or 3 months.**

#### **8.2.14 Require all transporters of alcohol and tobacco products under bond to hold an excise specific licence.**

Whilst some SADC countries, e.g. South Africa, require transporters of excise goods to be registered, others do not. As a result, there is no control over transporters who are not registered. They may be given a penalty and have a vehicle seized but this does not prevent them from carrying another illicit load of excise goods across a SADC border. **We recommend that all Member States should make such registration or licensing a requirement for the transportation of tobacco products and should maintain up-to-date details of their registered operators for checking under the Mutual Assistance provisions referred to in Paragraph 8.3.1 below.**

#### **8.2.15 Encourage voluntary compliance**

There is a wide spectrum of behaviours among taxpayers – from those who want to comply with those who seek to defraud the revenue. The response of the revenue administration needs to be targeted to the taxpayer behaviour through a clear compliance strategy. This should be designed to encourage voluntary compliance among those who want to comply through:

- Clear and straightforward legislation and procedures.
- Education and advice and e-facilities to reduce errors and costs for both industry and the authorities.

Whilst this paragraph deals with encouraging voluntary compliance it is important for authorities to realize that many taxpayers will only be persuaded to comply voluntarily **if** they can see that the authorities are taking robust enforcement measures against those who do not comply.

Whilst legislation is published externally, we found little guidance either to revenue administration staff or to taxpayers on how to interpret the legislation and how to comply with procedures required by the revenue administration. A notable exception was the excellent comprehensive guide to audit produced by the Zambian Revenue Authority.

**We recommend that attention is given to providing clear, simple and use-friendly comprehensive guidance to both taxpayers and officials to enable them to understand how the requirements of the law need to**

**be interpreted in practice and what controls need to be put in place by industry and by officials.**

### **8.2.16 Fiscal markers versus unique digital identifiers**

Countries use different methods to collect and control tobacco taxation revenues. Excise administrative systems are usually based on checking factory output, bonded warehouse and import volumes. This can be complemented by the use of fiscal markers (e.g. paper tax stamps or digital coding) affixed to each individual sales package. These markers can be used either as an additional audit mechanism or as a means of tax payment itself (i.e. they bear the actual tax payment for the product to which they are applied).<sup>11</sup>

However even the most sophisticated paper tax stamp system cannot protect fully a market against the threat of illicit products and have failed to protect excise revenue. Like cigarettes, paper tax stamps are subject to very high quality counterfeiting, often within weeks of appearing, to avoid easy detection. Paper stamps are also vulnerable to theft and re-use by smugglers.

With today's technology, a digital tax verification solution offers a far more secure and affordable approach to tax collection and auditing. It uses advanced unique digital coding technology printed directly onto packs effectively replacing either a tax stamp or a fiscal marker. It is easily readable and can also serve as an authentication tool since the duplication of a genuine encrypted code is virtually impossible. Governments obtain real-time and secure information about the volume of cigarettes produced both in and for their country – thus offering full transparency on the amount of excise duties to be collected by each manufacturer and importer. Digital tax verification for tobacco products is fully in line with e-government and e-customs initiatives.

Digital tax verification is the way forward and, as the most cost effective system, it is accessible to both developed and emerging countries.

### **8.2.17 Offences, penalties and a functioning judiciary**

A large part of the ultimate success of any anti-illicit trade strategy depends on the judiciary and its capability to quickly deal with cases submitted by the enforcement bodies.

The interventions of enforcement authorities need to be based on adequate laws passed by national legislatures and supported by appropriate penalties which have to be made available to and used by courts to disrupt the activities of the criminals.

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<sup>11</sup> See Annexe 13 for a snapshot of the use of tax stamps/fiscal markers across SADC.

### **8.2.18 Capacity and capability**

The business operations of excise producers, warehouses and transporters of excise goods require specialist knowledge of the trade sectors and business operations involved. Without this knowledge and understanding of the key risks to the revenue in the business processes, excise controls will be weak and the revenue will suffer where the operators or their employees are inclined to dishonesty.

Excise inspections and audits need to be undertaken by staff with sufficient technical understanding of the industry process to identify the possible avenues for leakage and to make intelligent assessments (using materials used in the production, equipment on site and sales of the different products produced) of the credibility of the declarations made by operators. Those carrying out audits of excise taxpayers should also either be professionally accredited auditors or have received specialist training in audit planning and techniques.

Excise staff at local stations and staff controlling excise goods in customs bonded warehouses also need to be able to identify illicit products or movements and to know what action to take when they have suspicions. We were advised that there is limited excise training as part of the basic training course and it does not cover these aspects. There is only a small number of excise control staff so it is difficult to make the case for investment in developing and providing a specialist excise training course.

**We recommend that specialist technical and practical excise training is provided for all excise officers to enable them to:**

- **Understand the industrial processes and be able to compare all inputs e.g. ingredients and bottles, tops and labels purchased with outputs declared and to test measure declared quantities on a risk basis;**
- **Identify the areas for potential fraud and revenue leakage;**
- **Assess each excise operator's declarations against the industry norms and trends;**
- **Understand the interaction with illicit trade; and**
- **Audit staff and their manager(s) should also either be professionally accredited auditors or receive specialist training in audit planning and techniques.**

Specialist excise and audit training is not currently provided in most SADC Member States. So we are recommending a SADC wide solution of setting up a Centre of Expertise for Excise Training in a country with an acknowledged expertise in delivering training. That Centre of Expertise

could then develop specialist training courses for delivery to all excise control and audit staff in SADC.

### **8.2.19 Embrace ICT modernization**

Our main message is not to forget excise when developing modernization proposals and e-facilities. There may be few excise taxpayers in comparison with other tax groups but they do contribute considerable revenue and e-facilities may assist the revenue in ensuring that they contribute the correct amounts and assist legitimate businesses by reducing their compliance costs.

**We recommend that excise accounts/returns and entries be included in modernization plans being developed by revenue administration.**

### **8.2.20 Develop national partnerships**

Whilst most of the countries we visited told us about joint actions taken in carrying out raids and road blocks etc., we found no evidence of any overarching agreements between all the enforcement agencies on the part each will play in tackling illicit trade and no formal channel for exchange of intelligence.

We suggest that the Member States develop overarching agreements with other enforcement agencies to tackle illicit trade.

Efforts so far have been directed solely at reactive activities rather than at a wide-ranging long-term combined effort across all appropriate government bodies and legitimate industry. The Ministry of Commerce or Trade usually licenses businesses and maintains a database of all those who hold licences to trade and could be asked both to check that all alcohol and cigarettes on display at retail stores are tax paid and, if tax stamps are introduced, that the tax stamps are affixed to bottles and packets. The Ministry of Commerce/Trade could also be asked to inform the revenue administration of every new application to operate as a manufacturer or importer/exporter of alcohol or cigarettes as a cross check to ensure that all domestic producers are, in fact, identified as taxpayers and their production controlled.

Ministries of Health are heavily involved in the proposals to implement the WHO's Framework Convention on Tobacco Control (see Annexe 7). Ministries of Health may also be planning some schools awareness programmes which would be a good opportunity for revenue administrations to input some material on the dangers and implications of purchasing illicit cigarettes.) Without the involvement and support of the Ministry of Health in tackling the illicit trade which undermines health policies and objectives, the full benefit of a combined strategy will not be realised.

**We recommend that revenue administrations approach both their Ministry of Commerce and Industry/Trade and their Ministry of Health to agree on scope for mutual co-operation especially in implementation of the provisions of the Framework Convention on Tobacco Control.**

### **8.2.21 Partnerships with industry**

South Africa has frequent high level meetings with industry associations specifically focused on tackling illicit trade in alcohol and cigarettes. We did not find the same frequent high level meetings in place in the other countries though enforcement officials told us how useful intelligence from the industry had been in aiding their enquiries. Several countries are now planning to approach the Tobacco Institute of Southern Africa (TISA) for input to customs training on recognition of illicit cigarettes. We did not find any formal Memoranda of Agreement in place either with trade associations or with individual multinational producers.

Whilst the TISA has now become the accepted industry representative trade association for the SADC region, there is no similar SADC wide trade association for alcohol producers. Indeed, the alcohol industry in each country is extremely fragmented. In South Africa, the major alcohol players are represented by the South African Liquor Brandholders Association (SALBA) and the Ethanol Producers of South Africa (EPASA). In Zimbabwe, we found two associations representing the alcohol industry but the two do not agree on policy. We met with a large group of alcohol producers and distributors in Namibia which is in discussion with Namibia Customs and Excise. However, in other countries visited, there seemed to be no representative trade association for alcohol to discuss cross-industry issues with Government though there will always be some industry members who are prepared to sit down with revenue administrations to work out practical ways in which the legitimate industry can work with Government and devise a way forward which can help legitimate industry to compete in the market.

There are considerable benefits to be obtained from the synergy of working with key industry stakeholders to tackle illicit trade. Several countries have formal Memoranda of Agreement with the industry stakeholders that commit both parties to certain behaviours and actions. The EU (OLAF – the EU Anti-Fraud Unit) has specific agreements in place with the Tobacco Industry which might act as models for the SADC countries to adopt. The UK also has Memoranda of Agreement with the key Alcohol Industry stakeholders.

**We recommend that the Member States develop:**

- **An Alcohol and Tobacco Products industry *forum*; and**
- **Memoranda of Understanding between the revenue administration and key industry stakeholders to commit both parties to stated behaviours and actions.**

### **8.2.22 Tackle demand as well as supply**

There are no magic wands to reduce consumption. Tax increases have been shown to deter mainly those who may wish to take up smoking and those who wish to give up smoking for health reasons. Tax increases have not been shown to many people from drinking partly because this is more generally culturally acceptable e.g. at family celebrations and as part of dining and leisure activities.

The most effective way of reducing demand may be to work with Health, Social Welfare and Education Ministries to raise public awareness of the implications of consuming illicit products. These ministries can provide support for those who want to reduce their own consumption and advise parents, teachers and young people on the implications of consuming illicit products.

Research in the UK has found that most people who purchase illicit products do so from friends in the community, at work or in informal markets and rarely from legal outlets. Those who sell illicit cigarettes and alcohol as part of an organized criminal syndicate operation are most likely also selling other illicit products including drugs. Parents can be persuaded to take an interest in helping to reduce the opportunities for their children to purchase illicit products if they understand the implications. Children can be made aware of the dangers through education programmes in schools.

**We recommend that the revenue administrations in all countries engages with the Ministries of Health, Social Welfare and Education to develop a strategy aimed at increasing public awareness and reducing demand for illicit alcohol and tobacco products as part of a long-term comprehensive strategy to counter this trade.**

## **8.3 Early actions for both SADC and Member States**

### **8.3.1 Provide an easy electronic cross region checking facility on the taxpayer details of excise operators including transporters**

A valuable early development should be an electronic procedure and databases or spreadsheets maintained by the individual countries for access by enforcement and excise operational staff across SADC to enable them to check out the validity of declarations e.g. warehouse destinations in other countries.

**We recommend that SADC fast tracks the implementation of the AATM and development of effective administrative procedures.**

### **8.3.2 Start to improve the standard of excise control across the region**

The standard of excise control and enforcement is weak throughout the region. There is an urgent need for improvement.

**We recommend that SADC fast tracks the development of excise guidelines.**

**We recommend also that SADC initiates work to develop a specialist training course for excise staff throughout the region and encourages Member States to review their resource requirements in the light of this review.**

## **9. RAISING AWARENESS**

In the course of our country visits we found that we were raising awareness of the importance of excise and the need to focus on tackling illicit trade in alcohol and tobacco products through a comprehensive and regional approach. We found many officials eager to learn of techniques for control and enforcement and of information about best practice in all areas of excise taxation – whether policy, control or enforcement. There is a tremendous interest and level of commitment to improve control and we have tried to use this study as a catalyst for improvement.

We have passed on publicly available information on tax policy and methods of sizing illicit trade to all those who showed an interest in these subjects. There has been some good individual feedback to us as consultants from officials in the countries we have visited. It remains to be seen whether our report and recommendations find favour in the wider SADC community of excise officials.

## **10. VALIDATION AND WAY FORWARD**

### **10.1 VALIDATION**

A validation workshop was held on 24<sup>th</sup> and 25<sup>th</sup> May 2011 in Johannesburg. Representatives from 13 of the SADC Member States participated in the event. Details of the participants and programme are at Annexe 14.

The report findings were agreed to be a fair reflection of the situation pertaining in Member States. All of the study recommendations were endorsed. The consultants were asked to amplify some subject areas in the report.

The Member States who had received in-depth country visits reported that they had benefited from the exercise and some were already implementing the country visit report recommendations. Three Member States (Lesotho, Malawi and DRC) indicated that they would wish to have similar visits. The SADC Secretariat agreed to pursue this possibility.

## **10.2 Way forward – Member States’ Toolkit**

Participants at the workshop identified the priority recommendations in the Member States’ Toolkit as:

### **10.2.1 Develop a national strategic approach to tackling illicit trade**

Each Member State needs to work up its own strategic approach and action plans.

### **10.2.2 Tackle corruption**

All Member States are committed to tackling corruption. Current efforts need to be both maintained and enhanced.

### **10. 2.3 Data quality**

Member States need to clean up existing data to better understand the current position on illicit trade. They also need to identify what data they need to capture to better inform policy development, analysis and evaluation and to improve control and enforcement and develop a process to capture that data and ensure its’ timeliness, accuracy and completeness.

There is also a need to develop interfaces between excise data and relevant customs and other tax data to better inform intelligence and risk management and thus improve control and enforcement.

### **10.2.4 Excise modernization**

Delegates considered that there was an urgent need to modernise excise, including:

- Development and application of risk based compliance strategies, tools and techniques;
- Upskilling of excise staff and management;
- Application of ICT for submission, capturing, checking and analysis of Excise accounts and declarations and trader information to improve efficiency and release resources from the current burden of manual processes;
- Appointment of a senior manager with specific responsibility for excise nationally.

### **10.2.5 Capacity Building**

Training is needed at various levels in:

- Excise awareness for senior revenue officials (seminar);
- Quality management through analysis of data (i.e. using intelligence from seizure data for trend analysis and profiling risks and methods to better target interventions or using information from audit assessments to identify policies, legislation, forms and guidance which have led to genuine errors or tax avoidance to improve administration and reduce errors which, in turn, will reduce costs for taxpayers and revenue administrations) – (seminars);
- Policy development and evaluation including administration policy (seminars);
- Advanced excise training for operational officials and managers (modules);
- Training in audit planning and techniques for audit officials and managers (modules).

### **10.2.6 Partnerships**

Partnerships need to be developed with:

- All other relevant public sector organizations including local authorities;
- Trade associations and key industry members through MOUs.

### **10.2.7 Political and senior management commitment**

Development of a cross-government strategy to tackle illicit trade will require political commitment and robust support from senior officials in the revenue/customs authorities.

### **10.2.8 Improved tools including infrastructure**

Investment is needed in inspection facilities and equipment for revenue/customs officials to be able to make physical checks and interventions. Scanners, sniffer dogs, measuring equipment, inspection pits and gantries for tankers and container offloading facilities are all required. Expenses for these can be shared through development of one-stop-border posts.

### **10.2.9 Modernizing excise legislation**

In general, legislation needs to be modernised to fit with modern business practice and with revised tax policy and administration policies. One Member State considered that legislation for excise needs to be separated from Customs legislation.

## **10.3 Key Issues/Challenges for Member States**

Delegates identified the following as key issues / challenges:

### **10.3.1 Excise legislative change**

Legislation takes time, effort and political commitment. It will be important not to rush into this until there is a clear picture of the tax scope, tax structure and standardised administrative processes and data capture requirements that are going to be needed across SADC Member States in their efforts to move towards a harmonised excise tax regime. Legislative modernisation should also involve consultation with key stakeholders.

### **10.3.2 Policy and process change**

Once the structure and shape of the desired excise tax regime is agreed, policies and processes should be implemented in planned phases with the involvement of key stakeholders in “testing” out the proposals for policies and any new or re-engineered business processes including piloting of new guidance and forms.

### **10.3.3 Measuring illicit trade**

Member States will need to identify data sources in their countries and develop a methodology to provide them with a rough baseline of the “tax gap” for alcohol and tobacco products.

### **10.3.4 Resource constraints**

Change costs money and takes time. It cannot be part of the day job of revenue officials who are already busy administering the current legislation and processes. A separate project team with an understanding of the business issues and of change management techniques will be needed. This team will need the robust support of senior management. Investing in an improved excise tax regime and supporting administration and enforcement will require commitment to funding that will need to be maintained for the period of the change. Capability building, ICT and infrastructure tools will also cost. The politicians and senior revenue officials will need to be convinced of the benefits in additional revenue, health, trade, employment, reduced crime etc if all the necessary improvements are to be funded.

### **10.3.5 Co-operation and co-ordination**

It may be difficult to achieve commitment from other government organizations that have different priorities and agendas. It may be difficult to develop appropriate relationships with key industry associations and stakeholders. There will need to be transparency and even-handedness in all dealings with industry. The alcohol industry, in particular, is more fragmented and less organized to speak to governments than the tobacco

industry. In both the tobacco and alcohol industries there is a range in the compliance, size and complexity of business entities – and one approach may not be appropriate for all.

## **10.4 Implementation – Member States**

The group considered that implementation should be the responsibility of each Member State. Strategies and phased action plans will need to be developed and political commitment obtained. Implementation should be monitored by senior management in each Member State and by SADC through 6 monthly reports/reviews.

## **10.5 Way forward - SADC level recommendations**

It was agreed that SADC should:

### **10.5.1 Set up a Specialist Excise Group**

It was therefore proposed to nominate a Vice-Chairperson for the Indirect Tax Working Group (ITWG) with responsibility for excise tax co-ordination. The Chairperson of the ITWG, with the support of the Chairperson of the SADC Tax Sub-Committee, advised that, in order to enable work to start immediately on excise co-ordination, Tanzania had volunteered to undertake this work, subject to later confirmation by the SADC sub-structures.

It was agreed that the way forward should be for the new Vice-Chair to convene a Task Force meeting of 6 selected Member States to develop guidelines and a road map for excise tax co-ordination in SADC and develop a strategy for tackling illicit trade in excisable goods taking full account of the recommendations of this study. The outcomes of the Task Force work would then be considered by a full Excise Specialist Group of all Member State.

### **10.5.2 Capacity Building**

It was agreed that there is a strong need for training in:

- Tax policy design;
- Administration policy design and implementation;
- Quality management through analysis of data;
- Advanced operational excise training; and
- Specialist excise audit approach and techniques (e.g. Zambia).

### **10.5.3 Improvement in Quality and Availability of Data in the Region**

SADC should:

- Identify the appropriate data to collect to facilitate excise co-ordination;
- Enhance and update the SADC tax database;
- Develop a simple electronic register of all licensed excise operators (producers, warehouse keepers, transporters) in the SADC region accessible to facilitate validation of excise movement declarations;
- Improve and utilities the quality of the seizure data available through the WCO (RILO) database.

### **10.5.4 SADC Excise Transit System**

The group agreed that there is a significant need for the speedy development and implementation of the SADC Customs Transit System incorporating the needs of excise.

### **10.5.5 AATM**

To fast track the ratification and implementation of the SADC Agreement for Assistance in Tax Matters to facilitate the exchange of information in excise matters in the region.

### **10.5.6 Supply Chain Controls**

It was agreed that SADC should agree on common standards for the implementation of the track and trace requirement of the FCTC.

### **10.5.7 One-Stop-border facilities**

It was agreed that SADC should facilitate and support the development of one-stop-border posts, tools and infrastructure across the region.

## 11. ACKNOWLEDGEMENTS

We would like to record our thanks to all those in the countries we visited who set up the schedules for our country visits and helped us in so many different ways to sort out the various practical difficulties we encountered. Thanks to their efforts we were able to obtain the information we needed for this report. There are too many names to mention everyone individually here. We would also like to thank all those from revenue administrations and Ministries in the countries concerned who gave of their time, knowledge and expertise to provide us with information and an insight into how the problems of illicit trade in alcohol and tobacco products are manifesting themselves and being addressed. We are also grateful to key industry members, respected academics at the Universities of Cape Town and Stellenbosch and to the Tobacco Institute of South Africa, the South African Liquor Brandowners Association and the Ethanol Producers of South Africa for their very frank and informative input to this study.

Finally, we wish to thank David Hollinrake at the SADC Secretariat for his unwavering support and to Guida Hope and Francis Nyathi who have helped us in so many ways.

**Liz Allen**

**Tony Lester**

## 12. GLOSSARY AND ABBREVIATIONS

<b>AATM</b>	SADC Agreement on Assistance in Tax Matters
<b>CBCU</b>	Customs Border Control Unit
<b>FCA</b>	Framework Convention Alliance
<b>FCTC</b>	Framework Convention on Tobacco Control
<b>ITIC</b>	International Tax and Investment Center
<b>MOU/MOA</b>	Memoranda of Understanding/Agreement
<b>MRA</b>	Mozambique Revenue Authority
<b>OLAF</b>	The EU's Anti-Fraud Investigation Unit
<b>PCA</b>	Post Clearance Audit
<b>SACU</b>	Southern Africa Customs Union
<b>SADC</b>	Southern African Development Community
<b>SALBA</b>	South African Liquor Brandowners Association
<b>SARS</b>	South African Revenue Service
<b>SRA</b>	Swaziland Revenue Authority
<b>TISA</b>	The Tobacco Institute of South Africa
<b>WCO</b>	World Customs Organization
<b>WHO</b>	World Health Organization
<b>ZIMRA</b>	Zimbabwe Revenue Authority
<b>ZRA</b>	Zambian Revenue Authority

### 13. LITERATURE/DOCUMENTS PROVIDED

#### (a) During the visit to South Africa

The appropriateness of using excise taxes to address the question of external costs related to alcohol consumption in the South African context and alternative interventions (ECONEX)

Cigarette taxes and smuggling in South Africa: Causes and Consequences by Craig James Lemboe – Faculty of Economic and Management Sciences, Department of Economics Dec. 2010

A mountain or a molehill: is the illicit trade in cigarettes undermining tobacco control policy in South Africa? – Trends in Organized Crime ISSN 1084-4791 Vol 13 No 4

The Economics of Tobacco Control in Low- and Middle- Income Countries – Evan H. Blecher – thesis presented for the degree of Doctor of Philosophy, School of Economics, University of Cape Town – Nov. 2010

The South African Revenue Service (SARS) Action Plan to combat cigarette smuggling.

SAB the South African Breweries Ltd. “Unregulated Alcohol in South Africa” 30 November 2010.

Memo “Assessing the Need for a Formal Study into the Illicit Trade of Alcoholic Beverages, specifically wine and spirits - 20 Dec.2008

SARS – “Cigarettes and Tobacco: Understanding the smuggling value chain – March 2006

“A review of the taxation of alcoholic beverages in South Africa and the appropriateness of the current duty regime.” National Treasury – A discussion document by the Economic Tax Analysis Chief Directorate – Sept. 2010

Alcoholic Beverages Excise Tax Policy Review - Memo to the Director-General and Minister of Finance – 2010

Illicit Trade Tracker Methodology – Research International copyright BAT (Holdings) Ltd 2005.

“A Review of Excise Taxation for Alcoholic Beverages in South Africa”– ITIC and Oxford Economics – Oct 2007

“The Taxation of Alcoholic Beverages in South Africa and its impact on the consumption levels of alcoholic beverages” South African National Treasury: Tax Policy Chief Directorate

“Enforcement and risk: The SARS approach: Illicit Economy

The South African Revenue Service (SARS) – Action Plan to combat cigarette smuggling – v1.2010

“Extent of illicit alcohol trade in South Africa” – Presentation to SARS by SALBA 2010

Alcohol and Tobacco Initiative – South African Revenue Service (SARS) 2009

SARS Illicit Trade in Tobacco Products (draft) 20

**(b) During the visit to Zimbabwe**

ZIMBABWE REVENUE AUTHORITY – Corporate Plan 2009 – 2011

Lamaz - 22 October 2010 Revision Presentation to Ministry Of Finance Concerning Excise Tariff Effects on Local Alcohol Manufacturing Industries

**(c) During the visit to Namibia**

Ministry of Finance Strategic Plan 2009/10

Namibia Customs Annual Report 08/09

Proposed Structure of the Directorate Customs and Excise

MOF Strategic Themes and Objectives

Namibia Global Youth Tobacco Survey Fact Sheet (Ages 13 -15)

Namibia Customs and Excise Objectives and Measures 2008/9 to 2012/13

Namibia Customs Guiding Philosophy

Namibia Customs: Our Mission

**(d) During the visit to Swaziland**

Draft corporate plan

The Customs and Excise Act 1971

SACU Customs Action Plan on enhancing cooperation, improving compliance and facilitation of trade in SACU

**(e) During the visit to Zambia**

Code of Ethics

Customs Services Division – Compliance Strategy

ZRA - ABR Compendium of Audit Procedures and Processes

Zambia Revenue Authority Annual Report 2008

Zambia Revenue Authority Annual Report 2009

SAB Miller presentation (electronic only)

Zambia Revenue Authority Corporate Plan 2011 – 2013 (electronic only)

**(f) During the visit to Mozambique**

“Tributaria” – quarterly publication by the Mozambique Revenue Authority,  
Edition 4 January 2011

Boletim Informativo – No 5 December 2010/January 2011

Tobacco Related Problem in Mozambique – Ministry of Health November  
200

**(g) Other reference documents**

International Trade and Investment Center:

- “The Illicit Trade in Tobacco Products and How to Tackle it (March 2011)”
- “Guidebook to the Successful Introduction of a Specific Excise Tax on Alcohol Beverages” (March 2011)

## ANNEXE 1: TERMS OF REFERENCE FOR A STUDY INTO THE ILLICIT TRADE IN EXCISABLE PRODUCTS IN THE SADC REGION

### 1. BACKGROUND INFORMATION

The Southern African Development Community (SADC)<sup>12</sup> has established goals to integrate the finance and investment sectors within the region through the Protocol on Finance and Investment (FIP), which was signed by the SADC Heads of State and Government in 2007<sup>13</sup>. The FIP will be implemented in terms of the strategic guidelines provided in the SADC Regional Indicative Strategic Development Plan (RISDP)<sup>14</sup>, which sets time specific targets for regional integration.

The FIP is a comprehensive policy framework for regional economic integration. It is a broad ranging document that encompasses the following areas (each of which constitutes a specific Annex to the FIP): cooperation on investment; macroeconomic convergence; cooperation in taxation and related matters; cooperation and coordination of exchange control policies; harmonisation of legal and operational frameworks; cooperation in payment clearing and settlement systems; cooperation in the area of information and communications technology amongst central banks; cooperation and coordination in the area of banking regulatory and supervisory matters; cooperation in respect of development finance institutions; cooperation in non-banking financial institutions and services; and cooperation amongst SADC stock exchanges. The FIP complements other SADC regional economic integration initiatives in the areas of customs cooperation and regional trade and thus lies at the heart of the envisioned SADC Common Market. The overarching aim of these initiatives is to enhance growth and thereby reduce poverty in region's Member States.

The EU is providing assistance for the implementation of the FIP through the Project "Support to the Implementation of the Protocol on Finance and Investment" that began in March 2009. The overall objective of the Project is to increase economic growth, reduce poverty and provide support to SADC Member States in order to achieve closer regional economic integration based on the harmonisation of the finance and investment sectors through the implementation of the FIP. The Project aims to achieve the following nine results:

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<sup>12</sup> Member States of SADC are: Angola, Botswana, the Democratic Republic of Congo, Lesotho, Madagascar (currently suspended), Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe.

<sup>13</sup> As of 17 August 2007, all Member States had signed the FIP and ratification is underway. A copy is available at: [www.sadc.int](http://www.sadc.int)

<sup>14</sup> A copy of the RISDP can be found at [www.sadc.int](http://www.sadc.int)

1. Strengthened capacities both at regional and national level to ensure proper implementation and domestication<sup>15</sup> of the FIP;
2. Harmonised national investment policies, legislation and practices drawing lessons from international “best practice”;
3. Achievement of progress in macroeconomic convergence;
4. Coordination of Member States tax regimes;
5. The implementation in Member States of monetary and supervisory policies that are more efficient, market oriented and harmonized with the other Member States ;
6. Liberalized current and capital accounts;
7. Enhanced Development Finance Institutions;
8. Harmonized framework for non-banking financial institutions (CISNA) and securities exchanges (COSSE); and
9. A mechanism for monitoring the implementation of the FIP is developed.

A consortium composed of GFA Consulting Group GmbH, Hamburg, Germany and Development Network Africa (Pty) Ltd, Pretoria, South Africa has been entrusted with providing technical assistance to the SADC Trade, Industry, Finance and Investment (TIFI) Directorate to ensure the proper and timely implementation of the Project programme and the efficient use of EDF resources. The Project will run until December 2012.

This assignment is being commissioned through the Project and relates specifically to Results Area 4 above.

### 1.1 SADC Tax coordination

Annex 3 to the FIP “Cooperation in Taxation and Related Matters“ provides a broad blueprint for SADC regional tax coordination through five substantive Articles as follows:

- Article 2 -- Tax Database
- Article 3 -- Capacity building
- Article 4 -- The appropriate treatment and use of tax incentives
- Article 5 -- Tax agreements
- Article 6 -- Indirect tax coordination

The SADC Tax Subcommittee, which reports through the SADC Committee of Senior Treasury Officials to the SADC Committee of Ministers for Finance and Investment, is responsible for the implementation of Annex 3. The SADC Secretariat facilitates the operation of the Tax Subcommittee via the TIFI Directorate of SADC. The Tax Subcommittee is made up of senior tax officials from each Member State, usually representing both the Ministry of Finance and the Revenue Authority where applicable. To facilitate implementation, the Subcommittee introduced (in 2004) three technical working groups, covering Tax Agreements, Tax Incentives, and Indirect Tax

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<sup>15</sup> “Domestication” refers to the adoption of the international obligations of a country into its domestic law.

Coordination. The Tax Subcommittee and its Working Groups meet twice a year with the ongoing aims of consensus-building and developing modalities for practical implementation at the Member State level.

### **1.2 Annex 3 - Article 6 Indirect taxation**

This is a very challenging and broad area that includes cooperation and coordination of the main indirect taxes such as Value Added Tax (VAT), Goods and Services Tax (GST) and excise duties. The main aims of this cooperation and coordination are threefold:

- To facilitate the SADC Common Market through cooperation and harmonisation in anticipation of the reduction in fiscal borders;
- To protect Member States' tax bases through the deterrent and detection of smuggling and fraud, including utilising information exchange and mutual assistance; and
- To improve the administration of indirect taxation to protect and enhance revenues, to provide fiscal space for regional trade initiatives including the reduction of customs tariffs.

As this assignment relates specifically to excise taxes, the relevant part of FIP Annex 3 implementation, which this assignment will support, is Annex 3 Article 6.

### **1.3 Background on Excise taxation**

Excise taxes (also referred to as “excise duties”) are taxes on consumption of selected goods (and less commonly, services). Typically, the kind of goods upon which excise duties are levied include: tobacco products; alcoholic beverages; perfumed spirits; hydrocarbon oils including road fuel; motorcars; and carbonated soft drinks. All such goods (upon which an excise duty is levied) can be referred to as “excisable products”. Although excise duties are intended to tax consumption, the tax is levied at the point of first entry into the production chain (e.g. the factory gate) and is therefore embedded in the cost of the goods through the supply chain to eventual consumption. Excise tax is normally charged in addition to other indirect taxes such as VAT. As excise taxes or duties are typically charged in addition to other indirect taxes, it is not uncommon for the tax element of the value of these products to be more than 50% of the retail selling price. Although excise duties are primarily levied on domestic production (such as breweries distilleries and tobacco factories) equivalent excises taxes have to be applied to similar imported goods, to avoid domestic production being unfairly prejudiced in comparison to imports. Consequently, excisable goods are of significant interest to customs authorities. In most countries in the World, and SADC member states are no exception, excise duties are applied to alcoholic beverages (potable alcohol) and tobacco products including cigarettes and it is the illicit trade in these products that is a major component of this assignment.

Alcohol and tobacco products are commodities that are highly marketable and highly traded between countries. As excise duty is a domestic tax on consumption within a jurisdiction, exports of excisable products outside a jurisdiction are normally made free of excise duty and similarly free of other indirect taxes such as VAT. The relatively high tax component in the value of excisable products destined for domestic consumption (as outlined above) compared to the much lower value of tax free goods for export makes the cross-jurisdictional trade of tax-free goods a high risk activity in revenue terms. Consequently, most international movements of excisable products are subject to special procedures, including under “bond” (where the shipper or owner provides a financial undertaking that the goods will be tax paid on delivery).

The combination of a high tax component and high marketability has long made excisable products attractive targets for smuggling, cross-border shopping counterfeiting illicit manufacture, export diversion etc and such activities form part of the “illicit trade” in excisable products.

The illicit trade in excisable products is a major problem worldwide that is negatively impacting the economies of many countries, and SADC member states are no exception in this regard.

All SADC Member States are producers of alcoholic beverages, some are additionally tobacco growers and producers of perfumed spirits and tobacco products and some additionally export these products. Also, all Member States are importers and consumers of such excisable products.

It should be noted that unusually in global terms, many SADC Member States do not apply excise duties to hydrocarbon oils or similar road fuel products. They rather apply road fund taxation or accident levies to such products. This is especially so with regard to those Member States who are also members of the Southern African Customs Union (SACU), which is also an excise union with common excise application and rates. This means that any illicit trade in hydrocarbon fuel products is unlikely to fall within the terms of this study, but this should be verified by the consultants as part of their research.

The Republic of South Africa is facing significant challenges with regard to the illicit trade in excisable products in South Africa and also as a conduit to the wider region. The National Treasury of South Africa in close consultation with the South African Revenue Service produced two technical papers and made a detailed presentation to the Tax Subcommittee in September 2009 on the illicit trade in excisable products as it impacts South Africa. Following the presentation, the SADC Tax Subcommittee agreed that the problem was clearly serious and a much wider one and that a study to evaluate the extent of the problem in the SADC region and to provide solutions to it was urgently required. This assignment is therefore being commissioned to fulfil that wish.

## 2 DESCRIPTION OF THE ASSIGNMENT

### 2.1 Purpose and outcomes

The assignment is a study, the purpose of which is to support the implementation of Article 6 of Annex 3 of the FIP with regard to excise taxation and the illicit trade in excisable products in the SADC Region. Specifically, to evaluate the extent of and provide recommendations for solutions for combating the illicit trade in excisable products in the SADC region, with particular emphasis on the illicit trade in alcoholic beverages and tobacco products.

FIP Annex 3 - Article 6 indirect taxes, the following extracts are relevant to and underpin this study.

*Paragraph 5. <sup>16</sup>State Parties shall, in an effort to minimise incidence of smuggling, take such steps as are necessary to harmonise the application of excise duty rates, with particular regard to tobacco products, alcoholic beverages and fuel products.*

*Paragraph 6. States Parties shall take such steps as are necessary to exchange information among themselves, and to engage in such programs of mutual assistance and corporation as may be appropriate, in order to prevent unlawful activities and, in particular, the smuggling of goods and the importation of counterfeit items.*

*Paragraph 7. State Parties shall in an effort to combat cross-border smuggling activities, identify areas of cooperation and agreement for: I protection of their respective tax bases; and II addressing the problem of tax leakage and gaps in tax compliance*

In summary, the purpose and expected results of the assignment are as follows - to:

- i. Report the excise tax regimes currently pertaining in Member States
- ii. Evaluate the extent of the illicit trade in excisable products in the SADC Region with particular emphasis on alcohol and tobacco products;
- iii. Evaluate and report on the counter-measures to the illicit trade currently being taken in the Member States and to evaluate their effectiveness;
- iv. Make practical recommendations (provide a “toolkit”, including counter-measures) that Member States can adopt *both individually and as a regional group*, to address and curtail the illicit trade;
- v. Achieve raised awareness and understanding of the issues, raised capacity of law enforcement officials and improved communication between government and the legitimate private sector.

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<sup>16</sup> State Parties is the contractual language used in the FIP to refer to Member States.

## 2.3 Scope of work

In summary, the purpose and results of the assignment will be achieved through a mixture of desk-based research, country visits to five selected Member States and a validation workshop including representatives from all of the Member States. The following provides more detail of the scope of work in each of the above results areas:

- i. *To report the excise tax regimes currently pertaining in Member States.*

This will be achieved through desk-based research including designing and issuing questionnaires to the SADC Member States at the outset of the assignment to establish the excise tax regimes pertaining in the Member States, including identifying the rates, products and the application of excises taxes (e.g. *ad valorem*/specific) of excisable products in the Member States and to present that information in tabular form that will be included in the assignment report.

- ii. & iii *To evaluate the extent of the illicit trade in excisable products in the SADC Region with particular emphasis on alcohol and tobacco products; and report on the counter-measures to the illicit trade currently being taken in the Member States and to evaluate their effectiveness.*

This will be achieved through desk based research including through the questionnaires as well as telephone and E mail enquiries to Regional officials to explore their perceptions of the illicit trade as it impacts them and also through interviews of the main governmental and private sector stakeholders in the five Member States selected for country visits. To this end an aide memoire/questionnaire of the points to be covered during interviews (including the perceived extent and scope of the illicit trade and any countermeasures in place and their perceived effectiveness) will be designed in advance of the country visit and populated by the Consultants during the country visits for each interview. An evaluation of effectiveness of countermeasures for will be made for each Member State visited based upon the judgment and experience of the Consultants and this will be further informed and amended as necessary by the validation workshop.

- iv. *To make practical recommendations (including appropriate counter-measures) that Member States can adopt either both individually and as a regional group, to address and curtail the illicit trade.*

This will be achieved based upon the judgment and experience of the Consultants. Informed by summarising, consolidating and analysing all the information obtained during the desk based research and country visits. The recommendations will they will be reported initially in the Draft Assignment Report and will be further reviewed and amended as

necessary in the light of the validation workshop and the final recommendations will be included in the Final Assignment Report.

- v. *To achieve raised awareness and understanding of the issues raised capacity of law enforcement officials and improved communication between government agencies and the legitimate private sector.*

This will be achieved partly through the interaction between the consultants and stakeholders during the desk based research and country visits but will also an outcome of the validation workshop that will directly raise the capacity of officials. The recommendations should include aspects aimed at improving communication and information exchange.

## **2.4 Chronology and detailed activities**

The assignment will have **six distinct Phases**: 1. Design and submission of questionnaires; 2. initial research and inception; 3. country visits and emerging findings; 4. summary and draft report; 5. validation workshop; and 6. final report. Summarised as follows:

**Phase 1 - Design and issue of questionnaires**

**Phase 2 - Initial evaluation, planning and inception**

**Phase 3 -- Member State visits, detailed stakeholder analysis**

**Phase 4 – Presentation of consolidated draft study report and summary presentation thereof to the Secretariat**

**Phase 5 – Facilitation of a workshop for validation of the study by SADC officials**

**Phase 6 -- Final report**

## **ANNEXE 2: COUNTRIES VISITED AND PEOPLE INTERVIEWED**

### **(a) Countries visited and dates of visits**

Republic of South Africa - 29 November to 10 December 2010

Zimbabwe – 31<sup>st</sup> January to 4<sup>th</sup> February 2011

Namibia – 7<sup>th</sup> February to 11<sup>th</sup> February 2011

Swaziland – 14<sup>th</sup> February to 18<sup>th</sup> February 2011

Zambia – 21<sup>st</sup> February to 25<sup>th</sup> February 2011

Mozambique – 28<sup>th</sup> February to 4<sup>th</sup> March 2011

We also interviewed some officials in Botswana during the inception period in November 2010.

### **(b) People interviewed - Republic of South Africa**

We interviewed members of:

#### **South African Revenue Service (SARS)**

**National Treasury**

**National Prosecution Authority**

**Department of Agriculture**

**International Trade Administration Commission of South Africa (ITAC)**

**National Liquor Authority**

**JTI**

Juan Kotze – Legal Adviser

#### **BATSA**

Salim Young – Legal Director

#### **TISA**

Francois van der Merwe – Chairman and CEO

#### **SAB Miller**

Thabo D Malatsi – Indirect Tax Specialist

Hema Moodley – Group Tax Manager

Andreas le Roux – EA Strategy and Business Support

S'Keke Kota - Regulatory Affairs Manager

Harald Hadvey – Strategy Director

### **Brandhouse**

Roland Rhooode – Brand Protection Manager

Johann Janse van Rensburg – Head of Risk, Security and Anti Illicit Trade  
(interviewed in UK prior to country visit)

### **Distell**

Wessel de Wet

### **Ethanol Producers Association of South Africa (EPASA)**

Alf Stevens - Secretary

### **South African Liquor Brandowners Association (SALBA)**

Riaan Kruger – Chief Executive Officer

Andres van Tonder

### **Illovo Sugar (South Africa) Ltd**

Burger Pretorius – Marketing Manager

### **Ncp Alcohols**

Peter Starling – Managing Director

### **ACADEMICS AND PRIVATE SECTOR CONSULTANTS**

Professor Corne van Valbeek – School of Economics, University of Cape Town

Professor Philip A Black – Faculty of Economic and Management Sciences,  
Department of Economics, University of Stellenbosch

Cobus Venter – Director ECONEX

Joe Boniaszczuk – Marketing Science Director, Research International

**(c) People interviewed - Zimbabwe**

We interviewed members of:

**Zimbabwe Revenue Authority****Ministry of Finance****Department of Health****Tobacco Industry and Marketing Board**

Manuel Gudu – Technical Services Executive

Fatima Munatswa – Finance and Administration Executive

**Tobacco industry**

Adam Molai – Savanna – Executive Chairman

Hebert Denhere – Savanna – Compliance Officer

Ed Vhudzijena – Savanna – Head-Supply Chain

**Alcohol Industry**

Vincent Soweto – New Peak Manufacturing (PVT) Ltd – ZABMA member

Alex Makamure – Delta – Company Secretary – ZABMA member

Marshal R. Mazengeza – Delta – Finance Manager – ZABMA member

Columbus Guyo – African Distillers Ltd - Operations Director – ZABMA member

Paul Da Silva – Kenge Breweries – LAMAZ member

Hayley Gordon – Kenge Breweries – LAMAZ member

Jonathan – Breko Manufacturing – LAMAZ member

Bronwyn Park – Ballistic – LAMAZ member

Cecilia Sewera – Straitia Beverages – LAMAZ member

Emmanuel Katsvamutima – Straitia Beverages – LAMAZ member

E. J. Mapanda – WGA Liquor (PVT) Ltd – LAMAZ member

Tafadza Michael Usore – Delphic Pvt Ltd – LAMAZ member

Bryan Chimbira – Delphic Pvt Ltd – LAMAZ member

Ethan Cader – LAMAZ member

Peter Makozho – LAMAZ member

**(d) People interviewed - Namibia**

We interviewed members of:

**Customs and Excise****Department of Health****Department of Trade and Industry****Self-Regulatory Alcohol Industry Forum (SAIF)**

Patricia Hoeksema – Corporate Social Investment, Namibia Breweries Ltd.

Jacques Barnard – Sales Manager, SMC Brands Namibia (Pty) Ltd.

Dieter Jentsch – Director, The House of Wines

Horst Heimstadt – Manufacturing Consultancy Services, Co-ordinator SAIF

Gideon M. L. Shilongo – Corporate Affairs Manager, Namibian Breweries Ltd.

**Tobacco Industry**

Michael Schefermann – Country Manager, BAT Namibia

**(e) People interviewed – Swaziland**

We interviewed members of:

**Swaziland Revenue Authority****Department of Trade****Tobacco Industry**

Godfrey Machanzi – Country Manager, BAT

**Liquor Industry**

Sanele Dlamini – Regional Buyer, Metro Cash and Carry

Patrick Shabangu – Liquor Manager, Metro Cash and Carry

Arthur Horne – Managing Director, AD Enterprises

Sipho Nkambule – Sales Representative, Distell

**Ethanol Producers – Royal Swaziland Sugar Corporation**

Mbongeni Zikabb – Marketing and Logistics Manager,

Hezekiel Dlamini – Purchasing and Materials Manager

Joseph Shiba – Purchasing Manager

Jemeth Simetane – Credit Manager

Muzie Matsebuha – Logistics Manager

David Muwandi – Assistant Distillery Manager

**(f) People interviewed – Zambia**

We interviewed members of:

**Zambia Revenue Authority**

**Ministry of Finance**

**British American Tobacco (Zambia) Plc**

Johan Grobbelaar – Managing Director

Milapi Nyambe – Security and Brand Enforcement Manager

**SAB Miller PLC**

Lazelle Terblanche – Group Tax Manager (Africa and Asia)

Devan Naidu – Indirect Tax Manager (Africa and Asia)

Gert Nel – Group Head of Finance Excellence

**SR Distilleries**

Accountant

**HEALTH - HMFS Positive Behaviour Change Communication**

Mayeya Ngalande – Executive Director

**(g) People interviewed – Mozambique**

We interviewed members of:

**Mozambique Revenue Authority (MRA)**

**Kudumba Investments LDA (SCANNING OPERATIONS)**

**Ministry Of Health**

**Ministry Of Trade**

**British American Tobacco**

Gilbey Malatsi – Managing Director

Hugo Gomes – Head of Compliance, Legal and Business Risk  
(Mozambique and Angola)

Lucas Conjo – Business Risk and Security

**Luso Vinhos LDA**

J. Francisco – Managing Director

**(g) People interviewed – Botswana**

(Note this was during the inception period – not a full country visit)

Members of:

**Ministry Of Finance and Development Planning**

**Ministry Of Trade and Industry**

**Botswana Unified Revenue Service**

### ANNEXE 3 TABLE 1A EXCISE TAX RATES 2010 /11: BEER AND SPIRITS\*

COUNTRY	MALT BEER		OPAQUE / TRADITIONAL AFRICAN BEER		ETHYL ALCOHOL Over 80% vol		ETHYL ALCOHOL Under 80% vol		CANE SPIRITS		DISTILLED SPIRITS (Wine / Grain)	
	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$		Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$
ANGOLA												
**BOTSWANA	LAA	7.93	Litre	0.01	LAA	13.68	LAA	13.68	LAA	13.68	LAA	13.68
DRC	By Value	18% or 23%					By Value	40%	By Value	40%	By Value	40%
LESOTHO	LAA	7.93	Litre	0.01	LAA	13.68	LAA	13.68	LAA	13.68	LAA	13.68
MALAWI	By Value	85%	By Value	30%			By Value	85%	By Value	85%	By Value	85%
MAURITIUS	Litre	0.77	Litre	0.77	By Value	0%	LAA	40.28	LAA	10.07	LAA	40.28
MOZAMBIQUE	By Value	40%			By Value	40%	By Value	65%	By Value or per litre	65% or 3.24	By Value or per Litre	65% or 3.88
NAMIBIA	LAA	7.93	Litre	0.01	LAA	13.68	LAA	13.68	LAA	13.68	LAA	13.68
SEYCHELLES	Litre	2.20					Litre	9.30	Litre	9.30	Litre	9.30
SOUTH AFRICA	LAA	7.93	Litre	0.01	LAA	13.68	LAA	13.68	LAA	13.68	LAA	13.68
SWAZILAND	LAA	7.93	Litre	0.01	LAA	13.68	LAA	13.68	LAA	13.68	LAA	13.68
TANZANIA	Litre	0.25	Litre	0.15			Litre	1.20	Litre	1.20	Litre	1.20
ZAMBIA	By Value	40%	Litre	0.03		Free	By Value	125%	By Value	125%	By Value	125%
ZIMBABWE	By Value	40%	By Value	40%			Litre	2.00	Litre	2.00	Litre	2.00

\* Excise tax rates 2010/ 2011 as provided by Member States. Tax rates for SACU countries are as at 1 April 2011

\*\* Botswana applies a Levy of 40% in addition to Excise on all alcohol products

LAA = Litre Absolute Alcohol; n/a = not applicable

### ANNEXE 3 TABLE 1B\* EXCISE TAX RATES 2010/2011: WINE and OTHER FERMENTED BEVERAGES

COUNTRY	UNFORTIFIED WINE		FORTIFIED WINE		SPARKLING WINE		OFB - CIDERS		OFB - UNFORTIFIED		OFB - FORTIFIED	
	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$
ANGOLA												
*BOTSWANA	Litre	0.34	Litre	0.64	Litre	1.02	Litre	0.40	Litre	0.40	Litre	5.59
DRC	By Value	20%	By Value	25%	By Value	30%	By Value	20%	By Value	20%	By Value	25%
LESOTHO	Litre	0.34	Litre	0.64	Litre	1.02	Litre	0.40	Litre	0.40	Litre	5.59
MALAWI	By Value	85%	By Value	85%	By Value	85%	By Value	85%	By Value	85%	By Value	85%
MAURITIUS	Litre	4.23	Litre	5.04	Litre	4.23	Litre	0.81	Litre	0.28	Litre	0.60
MOZAMBIQUE	By Value or per Litre	55% or 1.62	By Value or per Litre	55% or 1.62	By Value or per Litre	55% or 1.62	By Value	40%	By Value	40%	By Value	40%
NAMIBIA	Litre	0.34	Litre	0.64	Litre	1.02	Litre	0.40	Litre	0.40	Litre	5.59
SEYCHELLES	Litre	3.10	Litre	6.20	Litre	3.10	Litre	1.73	Litre	3.10	Litre	6.20
SOUTH AFRICA	Litre	0.34	Litre	0.64	Litre	1.02	Litre	0.40	Litre	0.40	Litre	5.59
SWAZILAND	Litre	0.34	Litre	0.64	Litre	1.02	Litre	0.40	Litre	0.40	Litre	5.59
TANZANIA	Litre	0.81	Litre	0.81	Litre	0.81			Litre	0.81	Litre	0.81
ZAMBIA	By Value	125%	By Value	125%	By Value	125%	By Value	125%	By Value	125%	By Value	125%
ZIMBABWE	Litre	0.40	Litre	0.40	Litre	0.40	By Value	40%	By Value	40%	By Value	40%

\* Excise tax rates as provided by Member States. Tax rates for SACU Countries are as at 1 April 2011

\*\* Botswana applies a levy of 40% in addition to excise on all alcohol products

## ANNEXE 3 TABLE 2 EXCISE TAX RATES 2010/2011: NON – ALCOHOLIC DRINKS AND CONTAINERS FOR ALCOHOL AND SOFT DRINKS

COUNTRY	TABLE WATER (STILL)		TABLE WATER (SPARKLING)		SOFT DRINKS (LEMONADES ETC.)		PLASTIC BOTTLES		ALUMINIUM CANS	
	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$
ANGOLA										
BOTSWANA										
DRC	By Value	10%	By Value	10%	By Value	5%				
LESOTHO										
MALAWI	By Value	10%	By Value	10%						
MAURITIUS							Per Unit	0.07	Per Unit	0.07
MOZAMBIQUE										
NAMIBIA										
SEYCHELLES										
SOUTH AFRICA										
SWAZILAND										
TANZANIA	Litre	0.04	Litre	0.04	Litre	0.04				
ZAMBIA	By Value	10%	By Value	10%	By Value	10%				
ZIMBABWE			By Value	25%	By Value	25%				

### ANNEXE 3 TABLE 3 EXCISE TAX RATES 2010/2011: CIGARETTES AND TOBACCO PRODUCTS

COUNTRY	CIGARETTES				CIGARS		CIGARETTE TOBACCO		PIPE TOBACCO	
	Taxable Unit	*Soft Pack / N. Ex 70mm Tax Rate US \$	*Hard Pack / Ex. 70mm Tax Rate US \$	Other Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$
ANGOLA										
BOTSWANA	Per 10	n/a	n/a	0.72	Per Kg	322.91	Per Kg	30.94	Per Kg	17.52
DRC	Per 20 + by value	n/a	n/a	0.11 or 0.30 + 20%						
LESOTHO	Per 10	n/a	n/a	0.72	Per Kg	322.91	Per Kg	30.94	Per Kg	17.52
**MALAWI	Per 1000	15.00 or 7.50	30.00 or 15.00		By Value	25%	By Value	90%	By Value	90%
MAURITIUS	Per 1000	n/a	n/a	92.32	Per Kg	318.92	By Value	230%	By Value	230%
*MOZAMBIQUE	By Value or per 1000	75% or 8.45 3.81	75% or 9.81		By Value or per 1000	75% or 4.85	By Value	75%	By Value	75%
NAMIBIA	Per 10	n/a	n/a	0.72	Per Kg	322.91	Per Kg	30.94	Per Kg	17.52
SEYCHELLES	Per 200	n/a	n/a	38.75						
SOUTH AFRICA	Per 10	n/a	n/a	0.72	Per Kg	322.91	Per Kg	30.94	Per Kg	17.52
SWAZILAND	Per 10	n/a	n/a	0.72	Per Kg	322.91	Per Kg	30.94	Per Kg	17.52
***TANZANIA	Per 1000	4.10	9.67	17.56	By Value	30%	Per Kg	8.87	Per Kg	8.87
ZAMBIA	By Value or per 1000	n/a	n/a	145% or 18.90	By Value	145%	By Value	145%	By Value	145%
ZIMBABWE	Per 1000	n/a	n/a	7.00	By Value	85%	By Value	85%	By Value	85%

\* Malawi and Mozambique apply differential excise duty rates to cigarettes depending on the packaging i.e. soft or hard packs

\*\* Malawi also applies differential rates depending on percentage (70%) of domestic content

\*\*\* Tanzania applies differential rates to cigarettes depending on the stick length i.e. exceeding or not exceeding 70mm and percentage (75%) of domestic content

## ANNEXE 3 TABLE 4 EXCISE TAX RATES 2010/2011: FUEL - PETROLEUM PRODUCTS AND ELECTRICITY

COUNTRY	PETROL		DIESEL		FUEL OIL		ILLUMINATING KEROSENE		LIQUID PETROLEUM GAS		ELECTRIC ENERGY	
	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$
ANGOLA												
BOTSWANA	Litre	0.006	Litre	0.006	Litre		Litre	0.006				
DRC												
LESOTHO	Litre	0.006	Litre	0.006	Litre		Litre	0.006				
MALAWI	By Value	30%	By Value	30%			By Value	15%				
MAURITIUS	Litre	0.36	Litre	0.36	Litre	0.11						
MOZAMBIQUE												
NAMIBIA	Litre	0.006	Litre	0.006	Litre		Litre	0.006				
SEYCHELLES	Litre	0.31	Litre	0.31	Litre	0.04	Litre	0.31	Per Kg	0.04		
*SOUTH AFRICA	Litre	0.384 incl. Levies	Litre	0.362 incl. Levies	Litre		Litre	0.006			Per kWh (Levy)	0.004
SWAZILAND	Litre	0.006	Litre	0.006	Litre		Litre	0.006				
TANZANIA	Litre	0.22	Litre	0.26	Litre	0.06	Litre	0.03				
**ZAMBIA	By Value	15%	By Value	10%	By Value	30%	By Value	15% or 30%	By Value	15%	By Value	3%
ZIMBABWE	Litre	0.20	Litre	0.16	Litre							

\* South Africa: Tax rates for Petrol and Diesel are inclusive of Fuel and Road Accident Fund Levies; Tax on Electricity is an Environmental Levy

\*\* Zambia Tax on Kerosene for Domestic use = 15%, and for Industrial use = 30%

### ANNEXE 3 TABLE 5 EXCISE TAX RATES 2010 / 2011: MOTOR VEHICLES AND MOTORCYCLES

COUNTRY	MOTOR VEHICLES					MOTORCYCLES			
	TAXABLE UNIT	Pax Cars	Pax Vehicles (10 or more)	Goods Vehicles	Used / 2 <sup>nd</sup> Hand	N. Ex. 250cc	Ex. 250cc – N.Ex. 800cc	Ex. 800cc	Used
ANGOLA									
*BOTSWANA	By Value	0.75% - 25%	0.75% - 25%	0.75% - 25%		0%	5%	7%	
DRC	By Value	2%	2%	2%	3%				
*LESOTHO	By Value	0.75% - 25%	0.75% - 25%	0.75% - 25%		0%	5%	7%	
**MALAWI	By Value	0% - 50%	50%	5%	0% - 100%				
**MAURITIUS	By Value	55% or 100%		5,10,20 or 40%	As for New	15, 30 or 45%	45%	45%	As for New
**MOZAMBIQUE	By Value	5%, 35%, 40%	35%	30%			15%, 35%	35%	
*NAMIBIA	By Value	0.75% - 25%	0.75% - 25%	0.75% - 25%		0%	5%	7%	
**SEYCHELLES	By Value	25,50 or 75%	0%	0%		0%	25%	25%	
*SOUTH AFRICA	By Value	0.75% - 25%	0.75% - 25%	0.75% - 25%		0%	5%	7%	
*SWAZILAND	By Value	0.75% - 25%	0.75% - 25%	0.75% - 25%		0%	5%	7%	
**TANZANIA	By Value	5% or 10%							
**ZAMBIA	By Value	20% or 30%	15%	10%					
***ZIMBABWE	By Value				5%				

\* SACU Countries – tax rate is calculated for each motor vehicle using a formula

\*\* Differential excise rates dependent on engine capacity or age for used vehicles

\*\*\* Zimbabwe – tax applies to used vehicles over 5 years

**ANNEXE 3 TABLE 6 EXCISE TAX RATES 2010 / 2011: BEAUTY PRODUCTS AND PERFUMES**

COUNTRY	BEAUTY PRODUCTS					PERFUMES / TOILET WATERS		
	TAXABLE UNIT	COSMETICS	SKIN CREAMS	POWDERS	SOAPS	PERFUME	TOILET WATERS	PRE/AFTER SHAVES
<b>ANGOLA</b>								
<b>BOTSWANA</b>	By Value	7%	7%	5%	-	7%	7%	7%
<b>DRC</b>	By Value	10%	10%	10%	10%	10%	10%	10%
<b>LESOTHO</b>	By Value	7%	7%	5%	-	7%	7%	7%
<b>MALAWI</b>	By Value	60%	60%	60%	20%	60%	60%	60%
<b>MAURITIUS</b>								
<b>MOZAMBIQUE</b>	By Value	30%	30%	30%	15%	30%	30%	30%
<b>NAMIBIA</b>	By Value	7%	7%	5%	-	7%	7%	7%
<b>SEYCHELLES</b>								
<b>SOUTH AFRICA</b>	By Value	7%	7%	5%	-	7%	7%	7%
<b>SWAZILAND</b>	By Value	7%	7%	5%	-	7%	7%	7%
<b>TANZANIA</b>	By Value	30%						
<b>ZAMBIA</b>	By Value	20%						
<b>ZIMBABWE</b>								

### ANNEXE 3 TABLE 7 EXCISE TAX RATES 2010 / 2011: TEXTILES, CLOTHING, ACCESSORIES AND JEWELLERY

COUNTRY	TAXABLE UNIT	TEXTILES	CLOTHING	APPAREL OF FUR/ ARTIFICIAL. FUR	ACCESSORIES OF FUR / ART. FUR	JEWELLERY / IMITATION JEWELLERY
ANGOLA						
BOTSWANA	By Value			7%	7%	
DRC						
LESOTHO	By Value			7%	7%	
MALAWI	By Value	20%	10%	10%	10%	60%
MAURITIUS						
MOZAMBIQUE	By Value			30%	30%	50%
NAMIBIA	By Value			7%	7%	
SEYCHELLES						
SOUTH AFRICA	By Value			7%	7%	
SWAZILAND	By Value			7%	7%	
TANZANIA						
ZAMBIA						
ZIMBABWE						

**ANNEXE 3 TABLE 8 EXCISE TAX RATES 2010/2011: FOODSTUFFS AND PET FOOD**

COUNTRY	TAXABLE UNIT	ANIMAL PRODUCTS	VEGETABLE PRODUCTS	VEGETABLE OIL	PREPARED FOODSTUFFS	PET FOOD (CATS & DOGS)
ANGOLA						
BOTSWANA						
DRC						
LESOTHO						
MALAWI	By Value	20%	10%	10%	20%	
MAURITIUS						
MOZAMBIQUE	By Value					30%
NAMIBIA						
SEYCHELLES						
SOUTH AFRICA						
SWAZILAND						
TANZANIA						
ZAMBIA						
ZIMBABWE						

**ANNEXE 3 TABLE 9 EXCISE TAX RATES 2010 / 2011: TV, VIDEO AND AUDIO**

COUNTRY	TAXABLE UNIT	TVs / Monitors	Video Cameras, Recorders / Players	Digital Cameras	Radios & Sound Recorders / Players	Hi Fi Equipment (Speakers / Amps)	Audio Tapes
<b>ANGOLA</b>							
<b>BOTSWANA</b>	By Value	7%	7%	7%	7%	7%	
<b>DRC</b>	By Value				13%		
<b>LESOTHO</b>	By Value	7%	7%	7%	7%	7%	
<b>MALAWI</b>	By Value	20%	20%	20%	20%	20%	20%
<b>MAURITIUS</b>							
<b>MOZAMBIQUE</b>							
<b>NAMIBIA</b>	By Value	7%	7%	7%	7%	7%	
<b>SEYCHELLES</b>							
<b>SOUTH AFRICA</b>	By Value	7%	7%	7%	7%	7%	
<b>SWAZILAND</b>	By Value	7%	7%	7%	7%	7%	
<b>TANZANIA</b>							
<b>ZAMBIA</b>							
<b>ZIMBABWE</b>							

**ANNEXE 3 TABLE 10 EXCISE TAX RATES 2010 / 2011: TELECOMS AND RELATED SERVICES**

COUNTRY	TAXABLE UNIT	CELLPHONES / CORDLESS TELEPHONE SETS	CELLULAR TELEPHONE AIRTIME	MOBILE TELEPHONE SERVICES	PAY PER VIEW TV SERVICES
ANGOLA					
BOTSWANA	By Value	7%			
DRC	By Value	10%			
LESOTHO	By Value	7%			
MALAWI	By Value	20%			
MAURITIUS					
MOZAMBIQUE					
NAMIBIA	By Value	7%			
SEYCHELLES					
SOUTH AFRICA	By Value	7%			
SWAZILAND	By Value	7%			
TANZANIA	By Value			10%	5%
ZAMBIA	By Value		10%		
ZIMBABWE					

**ANNEXE 3 TABLE 11 EXCISE TAX RATES 2010 / 2011: OTHER MISCELLANEOUS EXCISE PRODUCTS**

COUNTRY	TAXABLE UNIT	AIR CONDITIONING MACHINES	ARTICLES OF PLASTIC	ARTICLES OF RUBBER / ART. RUBBER	FIREARMS INCL. SPORTING GUNS	FIREWORKS	SPORTS EQUIP / GAMES INCL. VIDEO GAMES	PLASTIC BAGS
<b>ANGOLA</b>								
<b>BOTSWANA</b>	By Value	7%			7%	7%	7%	
<b>DRC</b>	By Value		13%	13%			?	
<b>LESOTHO</b>	By Value	7%			7%	7%	7%	
<b>MALAWI</b>	By Value	20%	10%		30%	35%	10% / 20%	
<b>MAURITIUS</b>	Per Unit							<b>0.03</b>
<b>MOZAMBIQUE</b>	By Value		15%					
<b>NAMIBIA</b>	By Value	7%			7%	7%	7%	
<b>SEYCHELLES</b>								
<b>SOUTH AFRICA</b>	By Value	7%			7%	7%	7%	Per unit 0.06.
<b>SWAZILAND</b>	By Value	7%			7%	7%	7%	
<b>TANZANIA</b>	By Value							120%
<b>ZAMBIA</b>	By Value							10%
<b>ZIMBABWE</b>								

## **ANNEX 4: SUMMARY OF TAX RATES, STRUCTURES AND AFFORDABILITY IN COUNTRIES VISITED**

### **NAMIBIA**

#### **Alcohol**

Namibia applies a specific duty on alcohol products based on the litres of absolute alcohol in finished products for retail sale. The total consumption tax burden (excise duties plus VAT) as a percentage of the average retail selling price for clear beer and spirits has remained relatively constant at around 29% and 48% respectively. The rate of excise tax is applied per litre of absolute alcohol (LAA) as a specific duty with beer being taxed at a lower rate – approximately 2/3rds of the rate applied to spirits. Excise rates are the same in all SACU countries and are set annually.

#### **Tobacco Products**

The total consumption tax burden (excise duties plus VAT) as a percentage of the average retail selling price of cigarettes has remained constant at around 52%. The excise tax on tobacco products is applied as a specific duty per 10 cigarettes. The rate is the same in all SACU countries and is set annually.

#### **Affordability**

Our analysis of affordability over the past three years' shows only a small variation which indicates that other factors have been more significant in influencing the growth of illicit trade. Against the background of the recent recession, any reduction in individual or family income is likely to have resulted in a shift from the formal to the informal sector by people affected.

### **MOZAMBIQUE**

#### **Alcohol**

At present, Mozambique applies an *Ad Valorem* excise tax of 65% on Spirits, of 55% on Wine, and of 40% on Beer. Ethanol exceeding 80% alcohol for non-potable uses is chargeable at 40%. In addition to excise tax, alcohol products are chargeable with VAT at 17%.

The total consumption tax burden (excise duties plus VAT) as a percentage of the average retail selling price for locally produced malt beer and spirits is currently around 33% and 50% respectively.

### **Tobacco Products**

Currently, the excise tax on tobacco products is applied at an Ad Valorem rate of 75%. This rate was set in 2009 having previously been set at 65%.

The consumption tax burden (Excise and VAT) on cigarettes as a percentage of the average retail selling price for locally produced low-mid range cigarettes is currently about 26% which makes them amongst the lowest taxed in the SADC region and probably accounts for the relatively small illicit trade. This seems to be borne out by the fact that following the increase in excise tax rate on cigarettes in 2009, revenue receipts increased by 13.6% against an increase in tax rate of 15.4%.

### **Affordability**

Prior to 2009, all alcohol products were chargeable with excise at 40%. Unfortunately, we were unable to obtain the data necessary to make an analysis of the impact of the increases in excise duty made in 2009 on spirits and wine in terms of affordability. However, it is clear that the cost to the consumer of spirits and wine will have risen substantially. Against the background of the recent recession, rising costs together with any reduction in individual or family income is likely to have resulted in a shift of purchasing from the formal to the informal sector by people affected. It is worth noting that although revenue receipts from alcohol products as a whole rose by 7.4% in 2009, receipts from Wine and Spirits actually fell by 35% (Mt 141 million to Mt 91million).

Cigarettes are more affordable than alcohol and because of the low tax burden in comparison with neighbouring countries we consider there is scope for a modest increase in tax rates accordingly.

## **SOUTH AFRICA**

### **Alcohol**

South Africa applies a transparent alcohol excise duty rate structure that differentiates between alcohol beverages in line with international benchmarks determined in 2002. The total consumption tax burden (excise duties plus VAT) as a percentage of the weighted average retail selling price for wine, clear beer and spirits is set at 23%, 33%, and 43% respectively. The rate of tax is applied as a specific duty and the rate is usually changed annually.

### **Tobacco Products**

The excise tax on tobacco products is applied as a specific duty with the tax rate determined on an annual basis as a percentage (52%) of the average retail selling price. When manufacturers increase their prices, for whatever reason, a tax increase normally follows.

### **Affordability**

Our analysis of affordability over the past three year's shows only a small variation which indicates that other factors have been more significant in influencing the growth of illicit trade. Against the background of the recent recession, any reduction in individual or family income is likely to have resulted in a shift from the formal to the informal sector by people affected.

### **SWAZILAND**

#### **Alcohol**

At present, Swaziland applies the SACU rate of excise duty to alcohol products. The rates of excise taxes are applied as specific duties - for clear Beer and Spirits based on litres of absolute alcohol (LAA); and, for Wine and Traditional Beer based on bulk litres. The rates are set annually by South Africa and apply to all SACU countries.

In addition to excise, Swaziland applies a General Sales Tax (GST) to alcohol products at the current rate of 25% by value.

The total consumption tax burden (excise duties plus GST) as a percentage of the average retail selling price has increased only marginally in the last 3 years and for Clear Beer is currently 33.7%; and, for Spirits is 51.7%.

#### **Tobacco Products**

The excise taxes on tobacco products are applied as specific duties. The rates are set annually by South Africa and apply to all SACU countries.

In addition to excise, Swaziland applies a General Sales Tax (GST) to tobacco products at the current rate of 25% by value.

The total consumption tax burden (excise duties plus GST) as a percentage of the average retail selling price of a pack of 20 cigarettes is 56.5%. We were informed that Swaziland has the highest indirect taxes burden on cigarettes of all SADC countries

### **Affordability**

Our analysis of affordability over the past three years shows that the cost of alcohol products as a proportion of daily per capita income (GDP) has varied only slightly which indicates that other factors have been more significant in influencing the growth of illicit trade. However, against the background of the recent recession, any reduction in individual or family income is likely to have resulted in a shift of purchasing from the formal to the informal sector by people affected.

## ZAMBIA

### Alcohol

With the exception of opaque beer which is taxed at the specific rate of K145 per litre, Zambia applies *ad valorem* excise tax rates to alcohol products, currently, 125% for spirits and wine and 40% for clear beer. Except for clear beer the rates of excise duty have not changed for a number of years. For clear beer, the rate of excise duty has been reduced progressively from 75% in 2008, to 60% in 2009 and 40% in 2010. In consequence, excise receipts from locally produced clear beer increased in each year of reduction.

### Tobacco Products

The excise tax on tobacco products is applied as an *ad valorem* rate of 145% with for cigarettes only an alternative specific rate of K90,000 per 1000 sticks, whichever is the greater, is applied.

### Affordability

We were unable to consider the affordability of alcohol or tobacco products in Zambia due to the lack of data available. However, it is likely that the illicit trade in Zambia is fuelled by the differential in prices for cigarettes compared to neighbouring countries. For example, we were told by BAT that a pack of Pall Mall cigarettes in Zambia retails at US\$1.58 compared to 80 cents in Malawi, 65 cents in Zimbabwe and 50 cents in DRC.

## ZIMBABWE

### Alcohol

Because of hyperinflation, duty rates on spirits and wine had been changed to "*ad valorem*" rates in 2007. Beer duty has always been charged on an "*ad valorem*" basis. As the economic situation became more stable, in August 2010, the structure of the tax on spirits and wine was changed to a specific rate but charged on bulk rather than on alcohol by volume. The rate of tax on beer remains an "*ad valorem*" rate but may change to a specific rate now that the price of beer has stabilized as specific taxes are not open to fraud through mis-declared valuation and are therefore easier to control by revenue administrations. Specific duty rates also serve to promote premium rather than economy brands. However, specific rates charged on bulk rather than on alcohol by volume serve to disadvantage beverages with low spirit content and do not reinforce the health drive to promote responsible drinking since the health damage is caused by the amount of alcohol consumed not by the amount of liquid consumed.

### **Tobacco Products**

The excise tax on tobacco products is applied as a specific duty from 1 January 2011. It was previously levied as an “*ad valorem*” tax because of the loss of value of the specific excise duty during the period of hyperinflation.

### **Affordability**

Our analysis of affordability over the past three years indicates that other factors have been more significant in influencing the growth of illicit trade. Against the background of hyperinflation, currency change and the global recession, any reduction in individual or family income is likely to have resulted in a shift of purchasing from the formal to the informal sector by people who have very low incomes.

## **ANNEXE 5: KPMG METHODOLOGY FOR MEASURING ILLICIT TRADE IN CIGARETTES IN THE EU**

The KPMG methodology set out below is a good example of a combination of methodologies aimed at capturing the most accurate overall picture which has been applied for several years.

KPMG have been contracted since 2005 by Philip Morris International to make an independent assessment of the size of the illicit tobacco products trade market in the EU as part of their co-operation agreement with the European Commission and the Member States.

The methodology was developed during a comprehensive pilot study conducted in 2005 in Germany, Poland and Finland after which the results were rigorously challenged and tested and a number of refinements were implemented. Subsequently, four full years of research across all EU Member States have been conducted using the methodology.

There are three primary sources namely: empty pack surveys, legal domestic sales and consumer interviews. As its starting point, and because of the limitations of determining consumption levels from consumer research previously mentioned, the methodology uses legal domestic sales plus an empty pack survey to determine the overall consumption level based on the relative proportions of legal domestic versus other packs. Because these surveys are conducted across the 27 EU Member States, a further refinement is then made to account for outflows of product from each market i.e. those cigarettes sold in one country but ultimately consumed in a different country.

This enables KPMG to determine the volume of overall consumption split between legal domestic consumption (product legally sold and consumed in that country) and non-domestic consumption (product originating from outside that country). The next stage of the process is to determine the split between non-domestic consumption that has been legitimately brought back to the country by travellers and the proportion that is illicit. Legal flows are determined using primary research (over 159,000 consumers were interviewed in 2009) to quantify how many cigarettes travellers purchased while overseas during the year. These volumes are then deducted from the total non-domestic consumption level with the remainder being classified as illicit consumption.

Before results are finalised, data is cross referenced with all available alternative data sources together with anecdotal observations of trends and developments by Customs and other experts involved in fighting the illicit trade. Moreover, seizure data and econometric data can also provide good corroboration of results and trends.

In conclusion, the KPMG methodology uses multiple sources to quantify the scale of the illicit trade within the EU on an annual basis and reflects the complexity of that region and the limitations of some of the key primary and secondary sources available.

## ANNEXE 6: CORRUPTION PERCEPTIONS (TRANSPARENCY) INDEX

Country	GDP per Capita 2009 (US\$)	GDP per Capita SADC Ranking	CPI 2010	Transparency Index Ranking
Angola	4,081	6/14	1.9	168/178
Botswana	6,064	3/14	5.8	33/178
DRC	160	14/14	2.0	164/178
Lesotho	764	9/14	3.5	78/178
Malawi	326	13/14	3.4	85/178
Mauritius	6,735	2/14	5.4	39/178
Mozambique	428	12/14	2.7	116/178
Namibia	4,267	5/14	4.4	56/178
Seychelles	8,688	1/14	4.8	49/178
South Africa	5,760	4/14	4.5	54/178
Swaziland	2,533	7/14	3.2	91/178
Tanzania	509	10/14	2.7	116/178
Zambia	985	8/14	3	101/178
Zimbabwe	459	11/14	2.4	134/178

## **ANNEXE 7: FRAMEWORK CONVENTION ON TOBACCO CONTROL**

### **Article 15 of the Framework Convention on Tobacco Control**

#### **A. Background**

The WHO Framework Convention on Tobacco Control (FCTC) was adopted by the World Health Assembly in May 2003 and entered into force on 27 February 2005. Article 15.1 of the WHO FCTC states that:

*"The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to sub-regional, regional and global agreements, are essential components of tobacco control".*

FCTC Article 15 contains 7 clauses which are currently legally binding on 168 governments. However, in July 2007, the Conference of the Parties (COP) which is the governing body of the FCTC, decided to establish an Intergovernmental Negotiating Body (INB) open to all Parties to the FCTC to negotiate a Protocol on the illicit trade in tobacco products. The purpose of the Protocol is to create more detailed binding obligations for Parties aimed at curbing the illicit trade in tobacco products by building upon and complementing the existing legal obligations outlined in FCTC Article 15.

Once the Protocol is adopted by the COP, it is open for signature, ratification and/or accession by the Parties. It will enter into force as international law once 40 Parties have ratified it. As a multilateral treaty, it will be binding on Parties only once it is enabled into national law.

The three main elements of the Protocol: supply chain security, offences and enforcement and international co-operation are detailed below.

#### **B. Supply Chain Security**

The Protocol is designed to reduce illicit trade in tobacco products by securing the legitimate supply chain. This requires participants in the supply chain to take measures to prevent diversion of tobacco products and machinery into illicit trade channels. These measures are intended to promote responsible business conduct that must apply equally to all participants regardless of size.

If the global tobacco supply chain can be secured, then it should become easier for enforcement authorities to detect the point where products are diverted to the illicit market and the criminals who trade in them.

### (a) Tracking and Tracing

Article 7 aims to establish a tracking and tracing regime which helps to combat the diversion of genuine product as an integral part of efforts to fight illicit trade. Tracking is the ability to monitor the forward movement of finished goods through the supply chain and tracing is the ability to recreate that movement up to a certain point in the supply chain to help determine where the product was diverted into illegal channels.

The ability to exchange and manage data consistently on a global basis to international standards is vital. This point is highlighted in the WHO FCTC Expert Report on Tracking and Tracing of 22nd February 2010 entitled “*Analysis of the available technology for unique markings in view of the global track-and-trace regime proposed in the negotiating text for a protocol to eliminate illicit trade in tobacco products*”. The report has an objective and well balanced assessment of the current systems and approaches available to meeting the tracking & tracing requirements of the Protocol. Major points made in the report are:

- The need for aggregation of packaging is fundamental (i.e. linking pallets to master cases<sup>17</sup> to cartons etc.). It is vital that aggregation starts from the top down i.e. from pallet or master case. It is not feasible to jump straight to pack level tracking and tracing without putting in place of tracking through the intermediate levels.
- The most sophisticated ‘paper stamp’ based solutions available globally do not meet the proposed requirement for tracking and tracing. They do not support global data or data transfer standards. Nor do they support aggregation of packaging or track events along the supply chain. In short, these ‘paper stamp’ systems cannot meet the tracking & tracing requirements of the Protocol.

British American Tobacco, Imperial Tobacco, Japan Tobacco International and Philip Morris International have worked together to establish industry standards which meet the requirements of international standards for tracking and tracing. The industry standards comprise of an:

- ‘Open’ coding standard – all information reported is in a standard format regardless of the manufacturer. The open standard is compliant with international coding standards;
- Reporting standard – all reports come in the same format and content regardless of the manufacturer enabling customs officials to use the same methodology to read the codes whichever the manufacturer of the brand; and

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<sup>17</sup> A typical master case contains 50 cartons of 200 cigarettes equal to 10,000 cigarettes.

- Standard report source – government officials can have one point of contact for report requests.

These standards enable all manufacturers, large or small, to adopt a solution that is fit for purpose according to their unique systems, processes and resources.

Information collected by these tracking and tracing systems includes sensitive and confidential data and it remains critical that manufacturers can comply with the legislation covering data privacy and data protection.

Irrespective of the chosen solution for the global tracking and tracing system, enforcement officials see a need for it to be underpinned by a risk and response tool to analyse the enormous quantity of data, identify “risky” movement and inform enforcement authority interventions. The tool needs to have a feedback facility to capture the outcome of interventions and revise the risk assessment accordingly. It will also need a resource allocation facility to assign specific interventions to mobile task forces and border enforcement teams at any time of the day or night throughout the year.

#### **(b) Customer Identification**

Key participants in the supply chain must conduct due diligence with respect to customers (“first purchasers”), including:

- Verification of their legitimacy to trade in or purchase tobacco products;
- Determining whether transactions are commensurate with demand;
- Reporting suspicious transactions; and
- Terminating business relationships when laws have been broken.

#### **(c) Record Keeping**

Key participants in the supply chain would be required to maintain complete and accurate records of all relevant transactions for five years and to make records available to relevant authorities. Records should be shared between Parties to the Protocol.

#### **(d) Licensing or equivalent approval systems**

When accompanied by effective enforcement and deterrent penalties, the system would help ensure that only legitimate and law-abiding businesses are engaged in the manufacture, import and export of tobacco products and manufacturing equipment.

### **(e) Free Zones**

To reduce illicit trade, free zones need to be subject to the provisions of the Protocol (licensing, tax warehousing, record-keeping, tracking and tracing).

### **(f) Destruction**

The destruction of confiscated manufacturing equipment, tobacco, non-tobacco materials and illicit tobacco products is essential to prevent these items from finding their way back into the illicit trade or being used to produce additional illicit products.

## **C. Offences and enforcement**

This part of the Protocol provides for the legislative and enforcement aspects of dealing with the illicit trade problem. It outlines guidance for governments in terms of measures to deal with unlawful conduct including prosecutions and sanctions for criminal activity as well as liability. It covers search of premises and seizure of evidence, confiscation of assets, seizure payments, destruction of seized products and investigative techniques.

## **D. International co-operation**

The Protocol provides for all Parties to cooperate with each other and with competent international organizations, as mutually agreed, in sharing a wide range of enforcement information and best practices and to cooperate, with each other and/or through competent international and regional organizations in providing training, technical assistance and cooperation in scientific, technical and technological matters. It also provides for extradition of criminals and mutual legal assistance to enable criminals operating internationally to be brought to justice in foreign jurisdictions.

## **E. Conclusions**

The Protocol can assist all stakeholders by creating a platform for an international legislative framework for governments to address illicit trade. However, rigorous enforcement is needed as legislation alone cannot eliminate illicit trade. In addition, international coordination and cooperation with the private sector are fundamental to effectively tackling illicit trade.

There will be a lengthy period of transition as the Protocol is implemented by national governments. It will be important for authorities to use this time to prepare both their local tobacco industries and their enforcement resources for the Protocol and to introduce as much as possible into national legislation as quickly as they can. The Protocol cannot be completely effective until all Parties have implemented it across all participants in the supply chain.

The implementation of the Protocol will be far-reaching and have policy, resource and enforcement implications for revenue/customs authorities in the region.

## ANNEXE 8: SPECIFIC AND AD VALOREM TAXATION OF EXCISE PRODUCTS <sup>18</sup>

### 1. Definitions

“**Specific taxes based on alcohol content**” are excise taxes that are applied to beverages as a fixed amount per litre of pure alcohol; the amount of tax payable varies according to the alcohol strength of the product and the volume. The amount of tax owed is determined by multiplying the tax rate by the volume and alcohol content of the beverage. For example, given a tax rate of \$10 per litre of pure (100%) alcohol (LPA), the excise tax payable on a 70cl bottle of distilled spirits with an alcohol strength of 40% alcohol by volume (ABV) would be \$2.80, i.e.,  $(0.70 \text{ [cl]} \times 0.40 \text{ [%]} \times 10 \text{ (\$)}) = \$2.80$ .

“**Ad valorem taxes**” are levied as a proportion of the wholesale or retail value of a product. For example, a 20% ad valorem tax levied on a \$20 bottle of distilled spirits will yield \$4 in tax revenue.

A switch from an ad valorem tax to a specific tax will require revenue administrations to adopt some new administrative, compliance and enforcement processes. However, many of the administrative measures necessary to implement a specific tax are the same measures required for ad valorem tax systems.

### 2. Advantages of a Specific Tax Based on Alcohol Content

Both specific and ad valorem taxes have advantages and disadvantages. Overall, specific taxes based on alcohol content are generally preferred by most tax policy experts for a variety of reasons. Key reasons for implementing a specific tax based on alcohol content include:

**Easy to administer:** Specific taxes are more reliable than ad valorem taxes and easier to administer as all of the information needed to calculate the tax is on the label in the case of packaged goods, or on the shipping documents in the case of bulk goods. Payment is due usually when products leave the bonded production or storage environment, which can be monitored and controlled. Because there are a relatively small number of known tax payers, oversight and enforcement can be focused and efficient. In some ad valorem systems, the tax is paid on the incremental value added, like a VAT, at each stage in the supply chain, which implies a

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<sup>18</sup> Selected extracts from “The Successful Implementation of a Specific Tax on Alcohol” – International Tax and Investment Center (March 2011).

very high number of taxpayers. The cost of enforcement increases with the number of tax payers.

**Difficult to evade:** Specific taxes are based on volume and alcohol content, information that is known at the time the tax is collected and that can be independently, quickly, and inexpensively verified if in doubt. In contrast, ad valorem taxes require confidence in the invoice price, which can never be known or verified with complete certainty.

**Support responsible drinking decisions:** Basing the tax on the alcohol content supports the public health objectives of alcohol excise taxes. The amount of tax varies according to the amount of alcohol in the product and not according to choice of product; products with higher alcohol content are subject to a higher tax burden than products with lower alcohol content. Thus, specific taxes create economic incentives for consumers to drink responsibly. As ad valorem taxes vary with the value of the beverage rather than its alcohol content, there is no correlation between the alcohol content and the tax paid, severing the link between the public health policy objective of the tax and the economic incentives that the tax creates. Ad valorem tax structures create perverse results where low-value, high ABV products attract much less tax than high-value, low ABV products. Accordingly, ad valorem taxes create economic incentives for consumers to drink larger volumes of inexpensive high-alcohol content products, whereas specific taxes create incentives for consumers to moderate their consumption. In fact, in its “Global Strategy to Reduce the Harmful Use of Alcohol,” the WHO recommends establishing a system for specific taxation based on “setting tax levels in proportion to the alcohol content of the beverage or on the basis of the type of beverage or other consideration, for example imposing extra taxes on alcohol beverages that might have a special appeal to adolescents”.

**Non-discriminatory:** Provided they are applied at the same rate for all directly competitive products, specific taxes are non-discriminatory as they apply equally to all products based on their alcohol content.

**Foster consumer choice:** Ad valorem taxes exacerbate differences in price, frequently putting many premium, high-quality products out of the reach of many consumers. Insurance and freight costs are normally added to the taxable value of imported products, which increases the sales price of these products even further. Because specific taxes are not based on value, they do not distort the underlying differences in prices based on differences in quality. Accordingly, the range of products available to consumers tends to be wider under specific tax systems.

**Discourage illicit trade:** Internationally traded spirits tend to be higher valued, higher quality products. As discussed above, ad valorem systems exacerbate the differences in price, particularly for imported premium spirits. The profit margins, and therefore the economic incentives, for

contraband and illicit markets increase with the tax burden. Provided they are set at reasonable rates, specific taxes based on alcohol content reduce the profit margins and economic incentives for illicit markets. Further, because for a specific tax, there has to be revenue oversight of the entire production process, it is more difficult for domestic producers to divert unrecorded alcohol to non-tax paid channels. Such revenue oversight is not normally present in ad valorem systems where the emphasis is on the invoice accounting and value of the product.

**Reduce barriers to trade:** By applying an equal tax burden to all products, regardless of their origin, type or value, specific taxes promote competition, expand trade and lead to an overall increase in economic activity; and

**Encourage investment and product development.** Because they do not penalize high quality products, specific taxes provide incentives for producers to develop high quality products to the overall benefit of consumers. Ad valorem taxes, in contrast, result in retail sales prices that are frequently so high that new, innovative, and high-quality products are unmarketable.

Whilst it is possible to set the specific tax rate as a fixed amount per bulk litre or gallon of liquid irrespective of the alcohol content, it is preferable to base the tax on the volume of pure alcohol contained in the product to ensure consistency and fairness across products. In a volumetric specific system (i.e., based on bulk litres and not alcohol content), importers of bulk can import high-concentration spirits, pay the tax per bulk litre, and then dilute the product to bottle strength, thereby lowering the effective tax rate. Spirits are frequently transported at high strength to reduce transportation costs, particularly when exported in bulk. Most spirits are bottled and sold between 35–40% ABV, but may be shipped at strengths of 80% or higher. Specific taxes based on volume rather than on alcohol content create opportunities for traders to pay the tax on the volume of high-strength spirits and subsequently dilute the tax-paid bulk spirit to bottle strength, thereby reducing their effective tax rate. Basing the tax on the alcohol content ensures that each unit of alcohol, irrespective of its bottle strength, is taxed at the same rate.

One of strongest points in favour of ad valorem taxes is that they adjust automatically for inflation, which can be of concern to tax officials in historically high-inflationary economies. However this issue can be easily dealt with by providing for periodic adjustment of specific tax rates to maintain real revenues. Some countries provide for annual or semi-annual automatic adjustments to the tax rate based on a reliable price index (consumer price index, retail price index, or producer price index). Others express the tax as the local currency equivalent of a fixed foreign currency amount, or they might peg the tax to a basket of foreign currencies, such as the IMF's Special Drawing Rights (SDRs).

The switch from an ad valorem to a specific tax will generally mean that there will be changes in the relative pricing of products. To maintain revenue neutrality through the transition, generally the taxes applied to high-volume, low-value products will increase while premium brands will become more affordable. While this shift in the competitive landscape can be a source of political resistance from producers of low-valued brands, it will also reduce the incentive to smuggle more expensive imported products and encourage investment in higher quality products.

### **3. Tax Rate Considerations**

Most countries apply different tax rates to beer, wine and spirits. Many countries also apply a reduced tax rate to support small, artisanal or non-commercial producers or a reduced rate for products with very low alcohol strength. Tax policy questions may arise when producers mix together alcohol beverages that are subject to different tax rates. Countries may also waive taxes for certain approved uses and for duty-free sales, as well as allowing refunds and rebates in certain circumstances.

As a general rule, simpler systems, with fewer tax rates and exceptions, are easier and more efficient to administer. As more rates and exceptions are allowed, the potential for mistakes and misunderstandings – deliberate or otherwise – grows.

### **4. Tax “Equivalence”**

Because the health impact of alcohol is a direct consequence of the amount of alcohol consumed rather than the choice of beverage, there is a strong case for “tax equivalence”, i.e., taxing all alcohol beverages, independent of the product category or type, at the same rate per degree of alcohol per LPA.

Ethanol (ethyl alcohol) is the only potable alcohol, and there is no difference in the ethanol found in beer, wine or spirits. Ethyl alcohol is ethyl alcohol. Further, typical servings of beer, wine and distilled spirits in most markets contain approximately the same amount of alcohol. A small glass of wine, a 300ml can of beer and a mixed drink with 30 ml of 40% ABV spirit contain the same amount of ethyl alcohol (12 ml or 10 g), with the same impact on the human body. There is no scientific evidence that in terms of health or safety effects that some alcohol beverages are inherently safer or more dangerous than others. Indeed, a police officer or breathalyzer will not distinguish whether a person has been drinking beer, wine or spirits. In most countries that have a legal purchasing age (LPA), the LPA is the same for all beverages. Most alcohol beverages are sold in the same venues, to the same consumers, and during the same occasions. Accordingly, there are no policy reasons that require that beer, wine and spirits be treated differently for tax purposes.

The distilled spirits industry believes that alcohol tax equivalence is the most efficient way to tax alcohol beverages based on considerations of fairness, efficiency, pragmatism, public health and human behaviour. The same rate of tax per degree of alcohol for all beverages ensures a fair and equitable treatment of all categories, does not distort the market to favour certain products over others and, as the amount of tax varies with the amount of alcohol consumed rather than the choice of beverage, it encourages responsible drinking decisions by consumers.

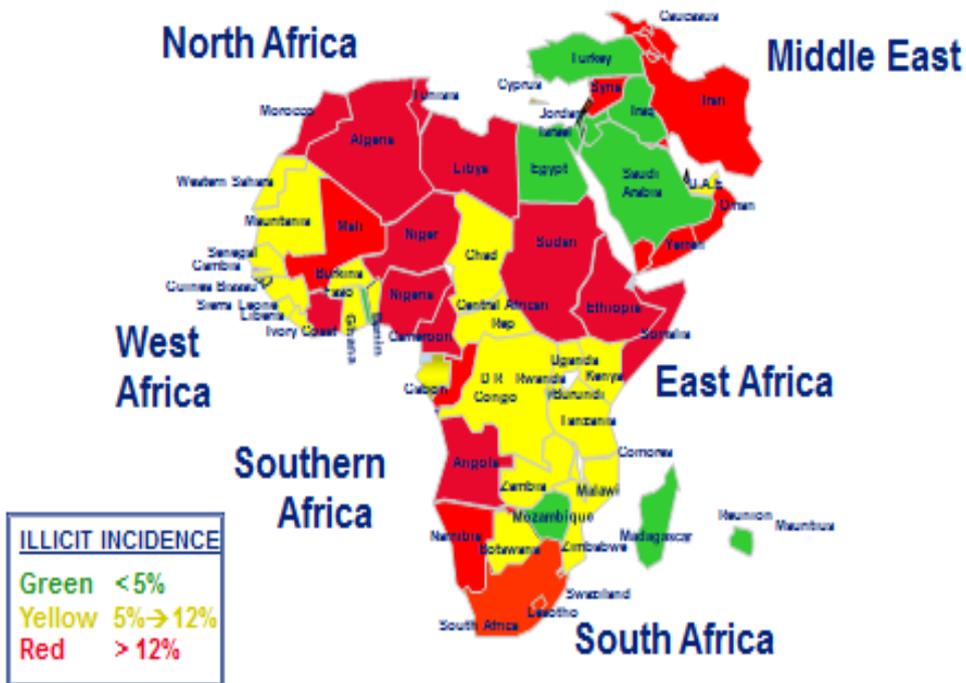
A 2010 Treasury review in Australia<sup>7</sup> recommended replacing the current Australian excise tax on alcohol with a system based on litres of alcohol in the product at a harmonised rate regardless of whether the product is spirits, wine or beer.

Although tax equivalence may be the simplest way of setting a specific tax on alcohol, and there may be strong conceptual and policy arguments to support it, at present, mainly for historical reasons, most countries apply different tax rates to beer, wine and spirits.

## ANNEXE 9: MAP SHOWING REGIONAL INCIDENCE OF THE ILLICIT CIGARETTE TRADE<sup>19</sup>



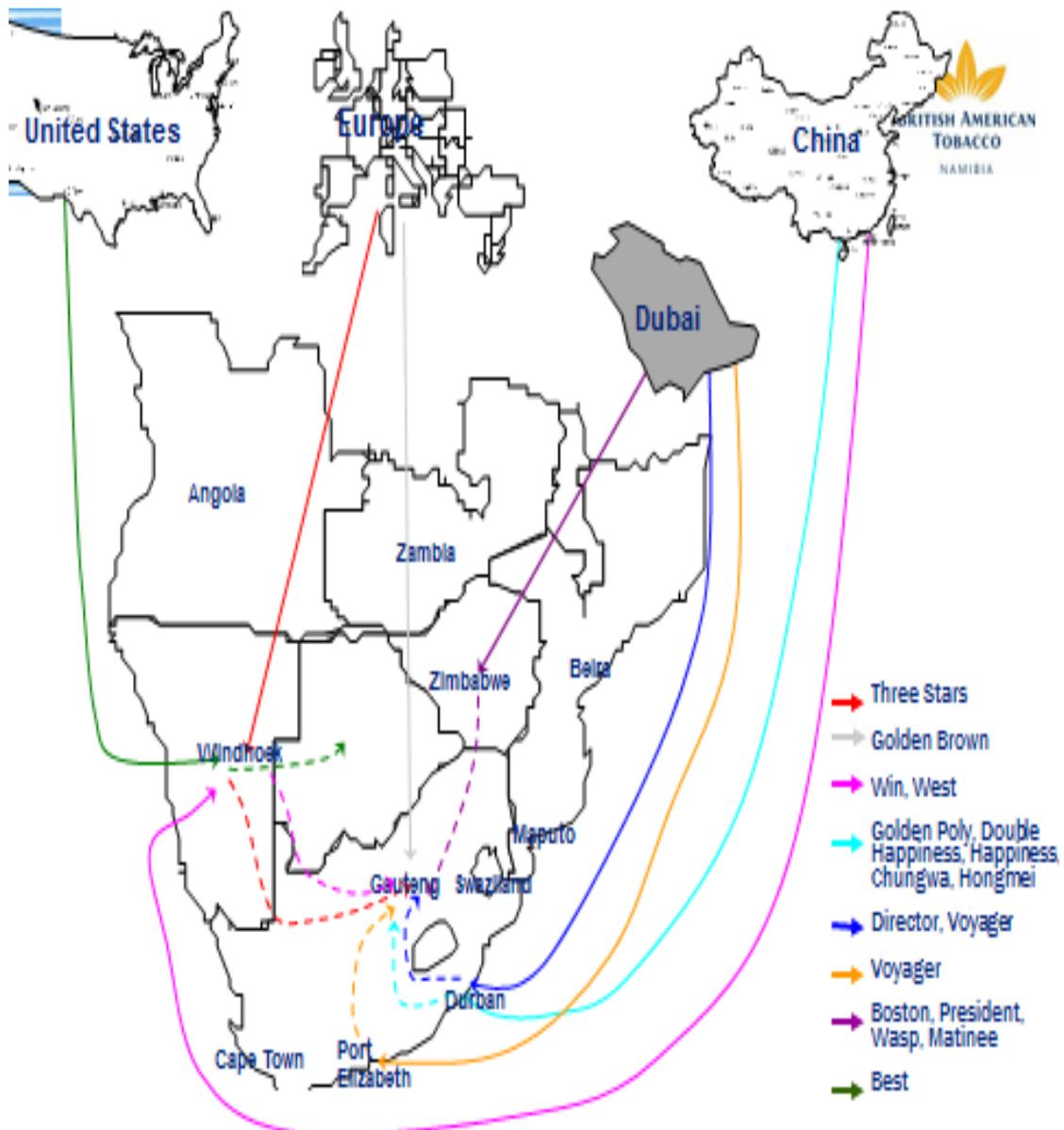
### Africa & Middle East Region



<sup>19</sup>

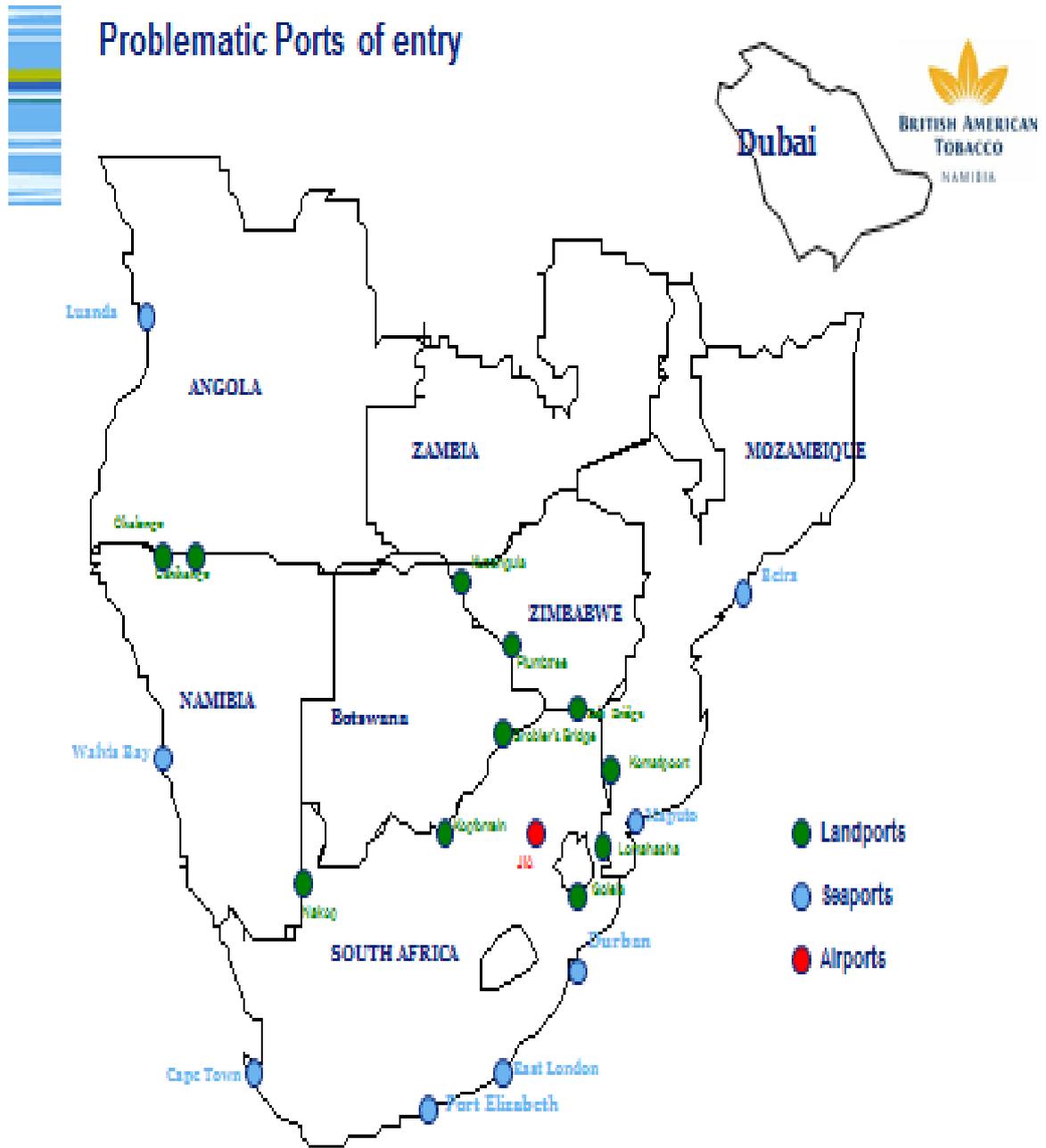
Reproduced with the permission of British American Tobacco.

## ANNEXE 10: MAP OF ROUTES USED FOR CONTRABAND CIGARETTES<sup>20</sup>



## ANNEXE 11: MAP SHOWING MAIN PROBLEMATIC PORTS OF ENTRY FOR CONTRABAND CIGARETTES<sup>21</sup>

<sup>20</sup> Reproduced with the permission of British American Tobacco.



**ANNEXE 12 TABLE 1 SADC COUNTRIES EXCISE TAX RATES FOR ALCOHOL PRODUCTS – 2010\***

Country	SPIRITS		WINE		BEER		TRADITIONAL BEER		OTHER INDIRECT TAXES	
	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	VAT	LEVY
Angola										
**Botswana	Per LAA	12.28	Per Litre	0.31	Per LAA	7.29	Per Litre	0.01	12%	30%
DRC	By Value	40%	By value	25%	By Value	18, 23%			15%	
Lesotho	Per LAA	12.28	Per Litre	0.31	PLAA	7.29	Per Litre	0.01	16%	
Malawi	By Value	85%	By value	85%	By Value	80%	By Value	30%	16.5%	
Mauritius	Per LAA	6.80	Per Litre	0.24	Per Litre	0.65	Per Litre	0.65	15%	
Mozambique	By Value or Per Litre	65%, 75% 3.84 3.20	By Value or Per Litre	55% 1.76	By Value	40%			17%	
Namibia	Per LAA	Per Litre	Per Litre	0.31	Per LAA	7.29	Per Litre	0.01	15%	
Seychelles	Per Litre	8.97	Per Litre	40%	Per Litre	2.12				
South Africa	Per LAA	12.28	Per Litre	0.31	Per LAA	7.29	Per Litre	0.01	14%	
Swaziland	Per LAA	12.28	Per Litre	0.31	Per LAA	7.29	Per Litre	0.01	25%	
Tanzania	Per Litre	1.11	Per Litre	0.75	Per Litre	0.24	n/a	n/a	18%	
Zambia	By Value	125%	By Value	125%	By Value	40%	Per Litre	0.03	16%	
Zimbabwe	Per Litre	2.00	Per Litre	2.00	By Value	40%	By Value	40%	15%	

\* Excise tax rate as provided by Member States. Tax rates for SACU Countries are as at 1 April 2010

\*\* Botswana - The Levy applied to Alcohol Products by Botswana was increased to 40% in 2011

LAA = Litre Absolute Alcohol; n/a = not applicable

## ANNEXE 12 TABLE 2 SADC COUNTRIES EXCISE TAX RATES ON TOBACCO PRODUCTS – 2010\*

Country	CIGARETTES		CIGARS		CIGARETTE TOBACCO		PIPE TOBACCO		OTHER INDIRECT TAXES	
	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	Taxable Unit	Tax Rate US \$	VAT	LEVY
Angola										
Botswana	Per 10	0.65	Per Kg	300.90	Per Kg	28.25	Per Kg	15.69	12%	
DRC	Per 20 + Per value	0.11/0.30 + 20%	By Value	40%	By Value	40%	By Value	40%	15%	
Lesotho	Per 10	0.65	Per Kg	300.90	Per Kg	28.25	Per Kg	15.69	16%	
Malawi	Per 1000	30%	By Value	90%	By Value	90%	By Value	90%	16.5%	
Mauritius	Per 1000	74.82	Per Kg	258.48	By Value	230%	By Value	230%	15%	
Mozambique	By Value or Per 1000	75% 150	By Value	75%	By Value	75%	By Value	75%	17%	
Namibia	Per 10	0.65	Per Kg	300.90	Per Kg	28.25	Per Kg	15.69	15%	
Seychelles	Per 200	37.38								
South Africa	Per 10	0.65	Per Kg	300.90	Per Kg	28.25	Per Kg	15.69	14%	
Swaziland	Per 10	0.65		300.90	Per Kg	28.25	Per Kg	15.69	25%	
Tanzania	Per 1000	9.30	By Value	30%			Per Kg	9.53	18%	
Zambia	By Value or Per 1000	145% 18.90	By Value	145%	By Value	145%	By Value	145%	16%	
**Zimbabwe	By Value	85%	By Value	85%	By Value	85%	By Value	85%	15%	

\* Excise tax rate as provided by Member States. Tax rates for SACU Countries are as at 1 April 2010

\*\* From 1 Jan 2011 Zimbabwe switched to specific taxes for tobacco products of US\$ 7.00 per 1000 cigarettes or Kg of other products

## ANNEXE 12 TABLE 3 EXCISE PER PACK OF 20 CIGARETTES IN SADC COUNTRIES – 2010

Country	Currency	Taxable Unit	Excise		Equiv. Rate per pack 20 US \$	VAT
			Local Tax Rate	US \$ Equivalent		
Angola	Kwanza					
Botswana	Pula	per 10	4.47	0.65	1.30	12%
DRC	Congo Franc	By Value plus per 20	20% + US\$ 0.11/ 0.30			15%
Lesotho	Maloti	per 10	4.47	0.65	1.30	16%
Malawi	Malawi Kwacha	By Value	45%			16.5%
Mauritius	Mauritian Rupee	per 1000	Rs 2,200	74.82	1.50	15%
Mozambique	Metical	By Value or per 1000	75% or Mt 150	4.81	0.10	17%
Namibia	Namibia \$	per 10	4.47	0.65	1.30	15%
Seychelles	Seychelles Rupee	per 200	SR 500.00	37.39	3.74	
South Africa	Rand	per 10	4.47	0.65	1.30	14%
Swaziland	Emlengeni	per 10	4.47	0.65	1.30	25%
Tanzania	Tanzanian Shilling	per 1000	Av. 14,096	9.30	0.19	18%
Zambia	Zambian Kwacha	By Value or per 1000	145% or K 90,000	18.90	0.38	16%
Zimbabwe	US Dollar	By Value	85%			15%

## ANNEXE 12 TABLE 4 INDIRECT TAX BURDEN ON ALCOHOL AND CIGARETTES 2010

COUNTRY	75cl BOTTLE OF SPIRITS			330ml CAN OF BEER			PACK OF 20 CIGARETTES		
	Av. Retail Selling Price (RSP) US\$	Indirect Taxes Burden in RSP US\$	% of RSP	Av. Retail Selling Price (RSP) US\$	Indirect Taxes Burden in RSP US\$	% of RSP	Av. Retail Selling Price (RSP) US\$	Indirect Taxes Burden in RSP US\$	% of RSP
Angola									
Botswana									
DRC									
Lesotho	12.78	6.63	<b>51.9%</b>	1.0	0.35	35.0%	3.56	2.01	<b>56.4%</b>
Malawi									
Mauritius	3.33	1.40	<b>42.0%</b>	1.00	0.21	21.0%	2.66	1.80	<b>67.6%</b>
Mozambique	2.56	1.27	<b>49.7%</b>	0.96	0.32	33.3%	0.64	0.17	<b>26.5%</b>
Namibia	10.88	5.38	<b>49.4%</b>	0.74	0.22	29.7%	3.48	1.75	<b>50.3%</b>
Seychelles									
South Africa	13.18	5.58	<b>42,3%</b>	0.56	0.19	33.9%	3.27	1.70	<b>52.0%</b>
Swaziland	12.48	6.45	<b>51.7%</b>	0.88	0.29	32.9%	3.56	2.01	<b>56.4%</b>
Tanzania	5.32	1.78	<b>33.4%</b>	1.06	0.25	23.7%	1.42	0.36	<b>25.7%</b>
Zambia	9.45	3.86	<b>40.8%</b>	1.05	0.35	33.3%	1.55	0.81	<b>52.3%</b>
Zimbabwe	5.00	2.15	<b>43.0%</b>	0.75	0.27	36.0%	0.65	0.28	<b>43.1%</b>

Average retail selling prices are for popular local market leader products in the mid to low price range, e.g. Gin or other white spirits  
Indirect Tax Burden includes excise duty and VAT/ GST where applicable at 2010 rates (see Annexe 12 Tables 1 and 2)

## ANNEXE 12 TABLE 5 AFFORDABILITY OF ALCOHOL AND CIGARETTES IN SADC COUNTRIES 2010

COUNTRY	75cl BOTTLE OF SPIRITS			330ml CAN OF BEER			PACK OF 20 CIGARETTES		
	Av. Retail Selling Price US\$	Av. Daily Per Capita Income US\$	% Required to buy 1 unit	Av. Retail Selling Price US\$	Av. Daily Per Capita Income US\$	% Required to buy 1 unit	Av. Retail Selling Price US\$	Av. Daily Per Capita Income US\$	% Required to buy 1 unit
Angola		11,18							
Botswana		16,61							
DRC		0.43							
Lesotho	12.78	4.66	<b>274.2%</b>	1.00	4.66	<b>21.5%</b>	3.56	4.66	<b>76.4%</b>
Malawi		0.89							
Mauritius	3.33	18.45	<b>18.0%</b>	1.00	18.45	<b>5.4%</b>	2.66	18.45	<b>14.4%</b>
Mozambique	2.56	1.17	<b>218,8%</b>	0.96	1.17	<b>82.1%</b>	0.64	1.17	<b>54.7%</b>
Namibia	10.88	11.69	<b>93.1%</b>	0.74	11.69	<b>6.3%</b>	3.48	11.69	<b>29.8%</b>
Seychelles		23.80							
South Africa	13.18	15.85	<b>83.2%</b>	0.56	15.85	<b>3.5%</b>	3.27	15.85	<b>20.6%</b>
Swaziland	12.48	6.94	<b>179.8%</b>	0.88	6.94	<b>12.7%</b>	3.56	6.94	<b>51.3%</b>
Tanzania	5.32	1.48	<b>359.5%</b>	1.06	1.48	<b>71.6%</b>	1.42	1.48	<b>95.9%</b>
Zambia	9.45	2.70	<b>350.0%</b>	1.05	2.70	<b>38.9%</b>	1.55	2.70	<b>57.4%</b>
Zimbabwe	5.00	1.26	<b>396.8%</b>	0.75	1.26	<b>59.5%</b>	0.65	1.26	<b>51.6%</b>

Average Daily Per Capita Income taken from The World Bank Country Table of Per Capita GDP (Current US \$) for 2009. This is the most recent data available.

## ANNEXE 12 TABLE 6 LICENSED MANUFACTURERS OF ALCOHOL AND CIGARETTES, BONDED STORAGE WAREHOUSES AND TRANSPORTERS OF EXCISE GOODS UNDER BOND

COUNTRY	No. of Licensed Domestic Manufacturers / Producers		No. of Licensed Storage Warehouses for Excise goods under Bond	No. of Transporters of Excise goods under Bond
	Alcohol	Cigarettes		
Angola				
Botswana	2	1	12	1
DRC	3	2		
Lesotho	2	1	3	
Malawi	7	2		
Mauritius	18	0	18	Not Applicable
Mozambique		1		
Namibia	5	0	227	139
Seychelles				
South Africa	942	13	2,544	203
Swaziland	3	0	8	3
Tanzania	18	2	104	
Zambia	42	0	95	
Zimbabwe	16	8	24	Not Required

## ANNEXE 12 TABLE 7 ILLICIT ALCOHOL AND CIGARETTES: SEIZURES AND INVESTIGATIONS 2010

2010							
Country	Alcohol		Cigarettes		Investigations		
	No. of Seizures	Quantity Seized (Litres)	No. of Seizures	Quantity Seized (Sticks)	No. of Cases	No. of Settlements	No. of Criminal Prosecutions
Angola							
Botswana							
DRC							
Lesotho			3	94,600			
Malawi							
Mauritius	2	5,306	11	12,800	11	10	1
Mozambique	54	8,1016	7	46,640,000	5		
Namibia			2	18,370,000			
Seychelles	0		0		0		
South Africa	81	1346	1,488	193,303,808	14		14
Swaziland	0		22	16,900,000	20		4
Tanzania							
Zambia							
Zimbabwe	123	9,061	9	4,286,400	11		3

Settlements refer to cases settled out of court by means of an administrative penalty under the relevant Customs / Excise Law

## ANNEXE 13 TABLE 1: SUPPLY CHAIN CONTROLS – USE OF TAX STAMPS AND INVOLVEMENT IN THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL (FCTC)

Country	TAX STAMP/ *FISCAL MARKER		FCTC	
	Alcohol	Tobacco	Signatory	Revenue Authority Involvement
Angola				
Botswana	NO	*YES	YES	None
DRC	NO	YES		Participation in Convention discussions
Lesotho	NO	*YES	YES	Internal discussions with Ministry of Health
Malawi	NO	YES	YES	None
Mauritius	YES	YES	YES	Some involvement in discussion with Ministry of Health
Mozambique	NO	NO	YES	Ministry of Health participation not Revenue Service
Namibia	NO	*YES	YES	Ministry of Health participation – subsequent discussion with Revenue Service
Seychelles	NO	NO	YES	Ministry of Health only
South Africa	NO	*YES	YES	Directly involved with Ministry of Health and National Treasury
Swaziland	NO	*YES	YES	Ministry of Health participation
Tanzania	YES (Wine and Spirits)	YES	YES	YES
Zambia	NO	YES	YES	None
Zimbabwe	NO	NO	In Application	None but Revenue Authority are considering Track and Trace / Marking.

\* All packs of cigarettes destined for the SACU domestic market are required to bear the “SA Diamond Stamp” fiscal mark

## ANNEXE 13 TABLE 2: SUPPLY CHAIN CONTROLS – LICENSING OF WHOLESALE / RETAIL TRADE

Country	ALCOHOL	TOBACCO	RESPONSIBLE AUTHORITY / WHO POLICES
Angola			
Botswana	YES	YES	Ministry of Trade
DRC	YES	NO	Local Authority
Lesotho	YES	NO	Ministry of Tourism
Malawi	YES	YES	Ministry of Trade
Mauritius	YES	YES	Revenue Authority/Local Authority/Police
Mozambique	YES*	YES*	Ministry of Trade
Namibia	YES	NO	Ministry of Trade, Tourism and Local Authority
Seychelles	YES	YES	Licensing Authority (Min Finance) and Ministry of Health
South Africa	YES	NO	National Liquor Authority (Dept. of Trade) and Local Authority
Swaziland	YES	NO	Ministry of Trade
Tanzania	YES	NO	Local Administration
Zambia	YES	YES (Distributors only)	Alcohol – Local Authority; Tobacco Distributors - Customs
Zimbabwe	YES	NO	Ministry of Local Government; Health and Police.

\* This refers to a general business licence