

*Simply Services*  
*A Trade in Services Speaker Series*

**The African Continental Free Trade Area  
and Services Integration in Africa  
- State of Play and Prospects -**

Speakers: Mr. Malcolm Mc KINNON, SADC/GFA Consulting  
Ms. Martine JULSAINT KIDANE, UNCTAD  
Ms. Vahini NAIDU, Permanent Mission of the Republic of South Africa  
Moderator: Mr. Markus JELITTO, WTO

**Thursday, 3 May 2018, 11h00-13h00**

**Room E - WTO**



# AU Recognised RECs



# Three groups of RECs

RECs	Level of integration	Approach to Trade in Services	
EAC	Common market	GATS approach	Schedules/lists of commitments Sectoral protocols/initiatives
COMESA, SADC	Free trade area		

# Three groups of RECs

RECs	Level of integration	Approach to Trade in Services	
EAC	Common market	GATS approach	Schedules/lists of commitments Sectoral protocols/initiatives
COMESA, SADC	Free trade area		
ECOWAS, ECCAS	Economic community	EU approach	Directives and regulations

# Three groups of RECs

RECs	Level of integration	Approach to Trade in Services	
EAC	Common market	GATS approach	Schedules/lists of commitments Sectoral protocols/initiatives
COMESA, SADC	Free trade area		
ECOWAS, ECCAS	Economic community	EU approach	Directives and regulations
CEN-SAD	Economic and social union	No TIS initiatives	
IGAD	Regional cooperation		
UMA	Free trade area and customs union		

# EAC – State of Play

---

- Common Market Protocol
- GATS type approach
  - Schedules of commitments based on four modes of supply – Annex V
  - W/120 classification followed
- First phase of negotiations 2008-2010
  - Business, communication, distribution, educational, financial, tourism and transport services
- Second round from 2012
  - Construction and related engineering, environmental, health and related social services, recreational, sporting and cultural services, and other services
- Mode 4 commitments linked to Free Movement of Workers – Annex II
- Mutual recognition agreements for professional services
  - Accountancy, architectural, engineering, veterinary services

# COMESA – State of Play

- COMESA Regulations on Trade in Services 2009
- Guidelines for Services Negotiations within the Common Market:
  - Seven priority sectors:
    - Four commenced in 2010 and concluded in 2013: communication, financial, tourism and transport services
    - Three on going: business, construction and energy-related services
- Some sharing of knowledge with SADC, which is negotiating construction and energy-related services in parallel

# SADC – State of Play – Timeline

---



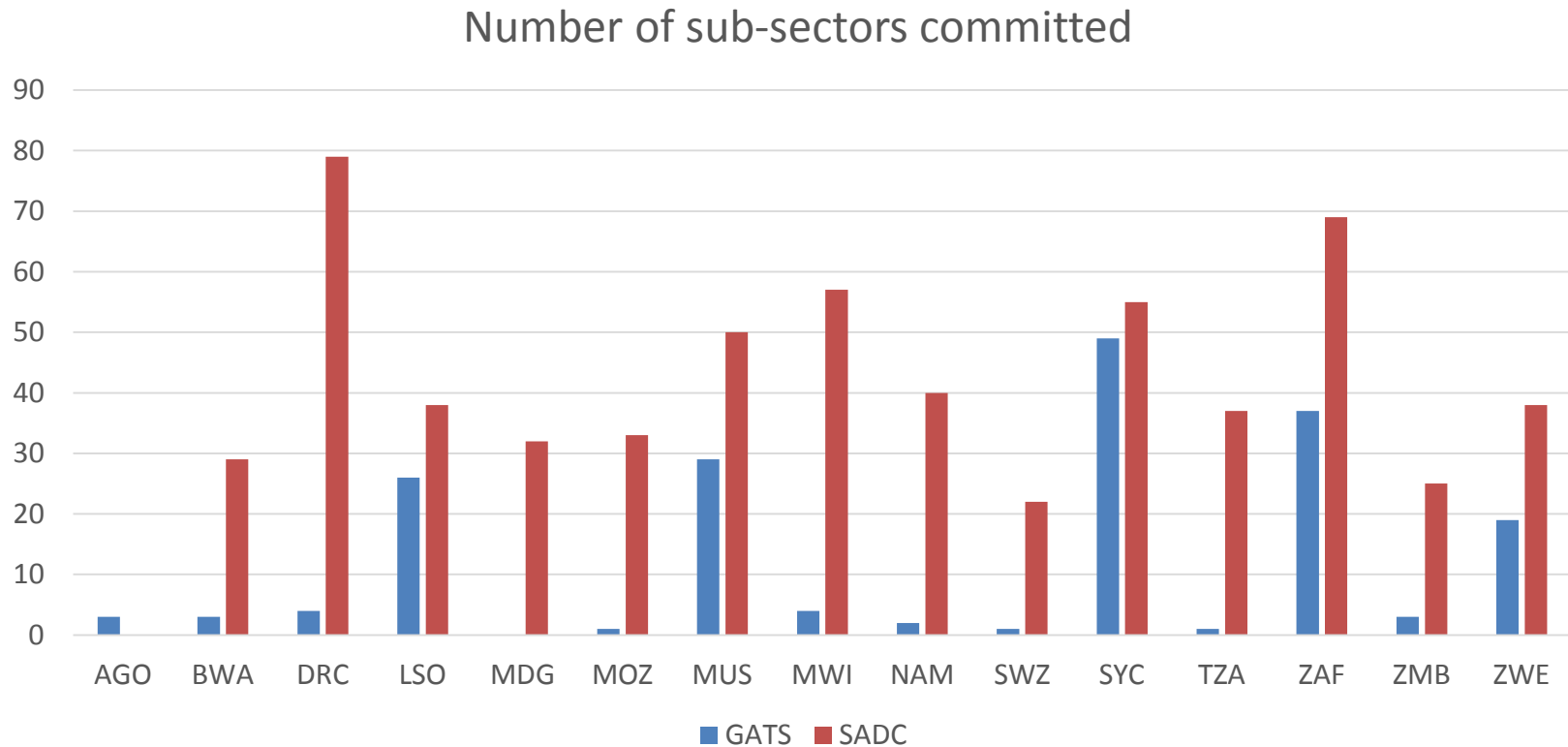
- 2000:** Services Annex to Trade Protocol – liberalization of 6 priority sectors
- 2006:** Standalone Protocol instead of Annex
- 2009:** Adoption of Protocol by CMT
- 2011:** Adoption of Negotiating Guidelines by CMT and approval to start negotiations
- 2012:** Start of negotiations in April 2012  
Protocol open for signature – 11 Member States sign at 2012 SADC Summit
- 2013:** Zimbabwe signs at SADC Summit
- 2015:** Negotiations due to end March 2015; CMT approves extension until December 2015  
South Africa signs at SADC Summit  
CMT approves further extension until September 2016
- 2016:** Namibia signs at SADC Summit
- 2017:** Madagascar signs at Extraordinary Summit  
CMT approves 14 offers in 4 priority sectors in August 2017 (only Angola without an offer); and three annexes
- 2018:** Three further annexes approved for submission to CMT in June 2018



# SADC – State of Play

Priority sectors	Sub-sectors	Status - offers	Status - Annexes
Communication services	Postal, courier, telecommunications, audio-visual	Finalised	Annex on Telecommunication Services finalised
			Annex on Postal and Courier Services on-going
Financial services	Insurance, banking and other FS	Finalised	Annex on Financial Services finalised
Tourism services	Hotel and restaurant services, travel agency and tour operator services, tourist guides	Finalised	Annex on Tourism Services finalised
Transport services	Maritime, inland waterway, air, space, rail, road, pipeline and auxiliary services	Finalised	Annex on Transport and Logistics Services on-going
Construction services	Including architectural and engineering services	On-going – 12 offers	
Energy-related services	Wide range of support services	On-going – less than 10 offers	

# GATS commitments vs SADC offers – Sectoral coverage in four priority sectors

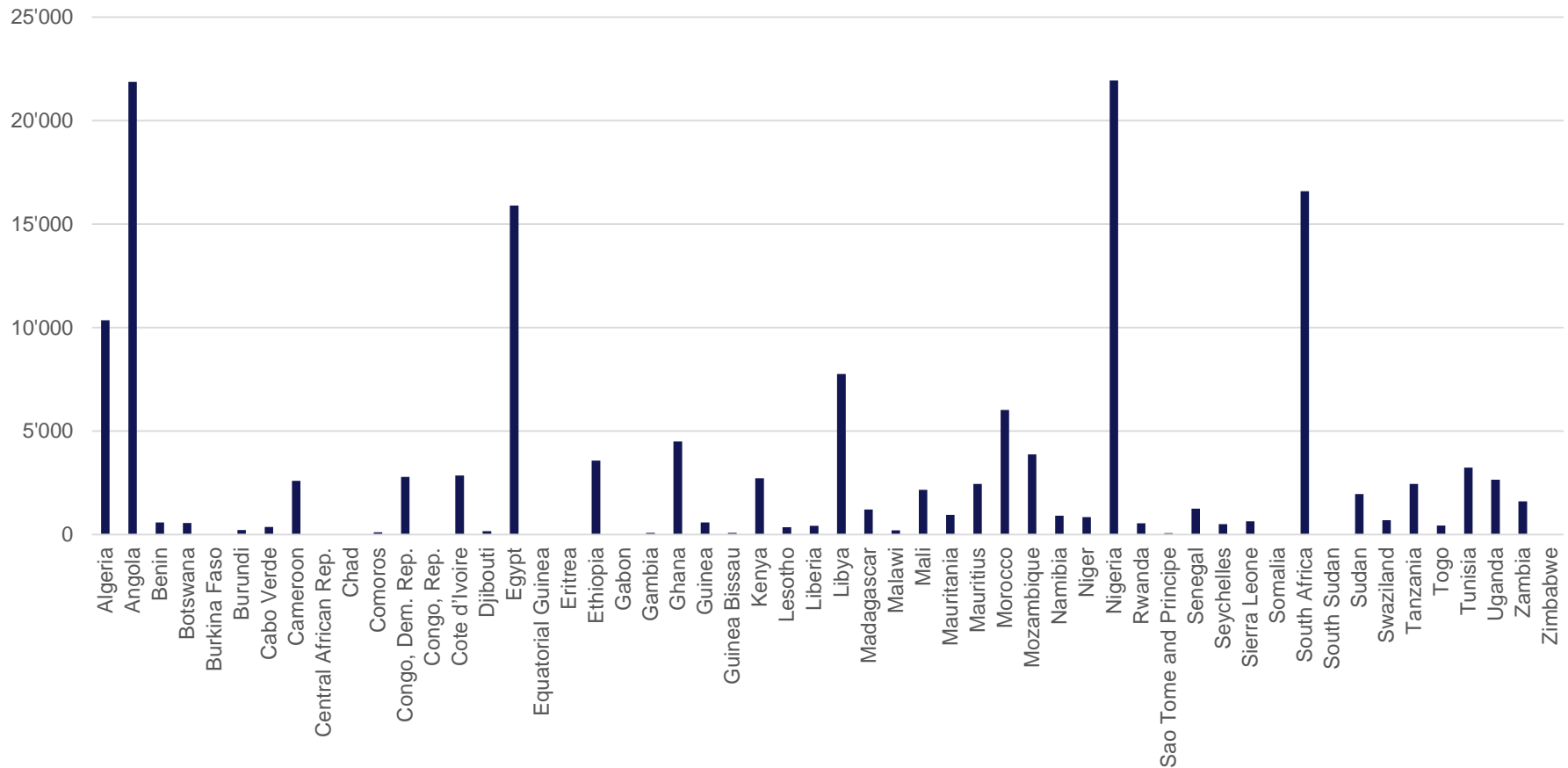


# ECOWAS – State of Play

- EU type agreements do not form part of the categories of purely positive lists, nor of the GATS (hybrid list) type or NAFTA (negative list), and have objective of deeper economic and political integration
- ECOWAS, WAEMU and ECCAS are agreements with a similar architecture to the Treaty creating the EC
- Liberalisation achieved through regulatory frameworks in the form of **regulations** and **directives**, e.g.:
  - Regulation No. 10/2006/CM/UEMOA of 25 July 2006 on the free movement of lawyers
  - Directive No. 01/2003/CM/UEMOA liberalizing access to the market for ground handling

# Cross-REC Services Imports

AU Member States Services Imports \$ million 2014



# Differences of approach on substance

Issue	COMESA, EAC, SADC	ECOWAS, ECCAS
MFN treatment	Provided for as per GATS	No MFN provision in ECOWAS ECCAS Treaty includes MFN
Market access	GATS approach with limitations in lists of commitments	No GATS-style market access provisions – sectoral regulatory frameworks
National treatment	GATS approach with limitations in lists of commitments	General national treatment obligation
Investment	Commercial presence = pre-establishment	Pre- and post-establishment
Movement of people	Common categories established based on those found in GATS	No common definitions
Mutual recognition	All RECs have different approaches	
REC service supplier rule of origin	COMESA: Real and continuous link SADC: Substantial business operations	Effective and continuous link
Regulatory frameworks	Regulatory cooperation protocols SADC: Trade-related reg. principles	Regulatory convergence and harmonisation

# Outcome of the Extraordinary Summit of the Africa Union, in Kigali, 21 March 2018

AU Member States had the option of signing the following 3 documents:

- AfCFTA Consolidated Text (44 signatures)
- Kigali Declaration (47 signatures)
- Free Movement Protocol (30 signatures)

Agreement was reached on a Transitional Work Programme (which includes the start of the Phase 2 negotiations and the establishment of AfCFTA Committees)

At the Business Forum organized on 20 March, the Afrochampions Initiative became an official platform of exchanges between the private sector and the African Union

# Structure of the AfCFTA Legal Documents

- Agreement Establishing the African Continental Free Trade Area (i.e. the umbrella agreement)
  - Protocol on Trade in Goods
    - Annexes on Schedules of Tariff Concessions; Rules of Origin; Customs Co-operation and Mutual Administrative Assistance; Trade Facilitation; Non-tariff Barriers; Technical Barriers to Trade; Sanitary and Phytosanitary Measures; Transit; and Trade Remedies
  - Protocol on Trade in Services
    - Annexes on Schedules of Specific Commitments; MFN Exemptions; Air Transport Services; List of Priority Sectors; and Framework document on Regulatory Cooperation
  - Protocol on Rules and Procedures on the Settlement of Disputes
    - Annexes

# Priority Sectors for Services Liberalization

A list of suggested priority sectors was recommended to the Negotiating Forum (NF) which includes the following:

- Transport services
- Communication services
- Financial services
- Business services
- Tourism and travel-related services
- Distribution services
- Health and social services
- Energy and related services

Other services have been suggested for inclusion in the list

An official decision has yet to be taken by the NF



# Next Steps - Activities Planned in 2018

- The Dedicated Session of the AfCFTA Negotiating Forum (NF) (30 April - 12 May 2018) includes an agenda item on the priority sectors and the regulatory frameworks
- Member States are expected to carry out consultations with stakeholders
- The African Union will provide support to Member States on the establishment of schedules of specific commitments and to the private sectors and other stakeholders to ensure their engagement in the negotiations
- Phase 2 negotiations (on competition, investment and IPRs) are scheduled to begin towards the end of 2018