

# SOUTHERN AFRICA TRADE HUB



## Technical Report:

# Regulatory Impact Assessment on Aspects of Namibia's Road Transport Legislation, Namibia

IR 1.3

Natasha Ward, Trade in Services Advisor  
Sarah Truen, Consultant  
Richard Wyatt, Consultant

TECH20120630\_Ward et al\_Namibia Road Transport Sector  
RIA

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PO Box 602090 • Plot 50668, Tholo Park, Fairgrounds • Gaborone, Botswana • Phone (267) 390 0884 • Fax (267) 390 1027 • [info@satradehub.org](mailto:info@satradehub.org)  
[www.satradehub.org](http://www.satradehub.org)



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## LIST OF ACRONYMS

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FTA	Free Trade Area
MWT	Ministry of Works and Transport
SADC	Southern Africa Development Community
SATH	Southern Africa Trade Hub
RIA	Regulatory Impact Assessment

## EXECUTIVE SUMMARY

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With the signing of the Protocol on Trade in 2000, the Southern Africa Development Community (SADC) Member States made the initial step towards deeper economic integration as a vehicle for enhancing growth and competitiveness throughout the region. One aspect of this deeper regional integration is the liberalization of trade in services.

A necessary adjunct to stimulating increased services trade is the existence of strong and effective regulatory frameworks which underpin the efficient operation of service industries. As such, the Southern Africa Trade Hub (SATH) is supporting the design and use of Regulatory Impact Assessments (RIAs) to better understand and evaluate the costs and benefits of changes to service sector regulatory frameworks.

SATH, in conjunction with the Ministry of Works and Transport (MWT) in Namibia, has embarked on a pilot RIA on aspects of Namibia's Road Transport legislation.

The project comprises two activities:

- Training on transport economics and the performance of RIAs; and
- An RIA on aspects of Namibia's transport legislation.

As a first step, a SATH Team (SATH's Trade in Services Advisor, a RIA Specialist and a Transport Economist) partnered with officials of the Department of Transport of MWT to undertake consultations in Windhoek with key stakeholders in April 2012. This mission contributed to the first stage of the RIA, which involved the identification of issues which would be suitable for the application of an RIA.

This report highlights the three main issues which satisfy the criteria of being suitable for an RIA; complement Namibia's strategic interest of enhancing its road transport regime to support further economic development; and are in tandem with SATH's focus on enhancing and increasing cross-border trade within the SADC region. These are the third country rule, cross-border permits and rules that affect the trans-shipment of non-containerized cargo.

It is recommended that MWT initially commission SATH to undertake a pilot RIA on one of these three issues. Given the potential impact of the third country rule on Namibia's thrust to become a transportation and logistical hub in the SADC region, SATH recommends that MWT favorably consider conducting the RIA on the third country rule.

Contemplated next steps include:

- Training of the Ministry officials who will be involved in undertaking the RIA in July 2012;
- Assignment of the SATH Team and their counterparts in MWT to tasks to complete the RIA;
- Convening of a stakeholder workshop to validate the results of the RIA.

## 1. INTRODUCTION

With the signing of the Protocol on Trade in 2000, SADC Member States made the initial step towards deeper economic integration as a vehicle for enhancing growth and competitiveness throughout the region. Moving forward, SADC seeks to deepen regional integration both within SADC – through the progressive establishment of a customs union, monetary union and common market – and by extra-regional integration through initiatives including the Tripartite free trade area (FTA). One aspect of this deeper regional integration is the liberalization of trade in services.

A necessary adjunct to stimulating increased services trade is the existence of strong and effective regulatory frameworks which underpin the efficient operation of service industries. As such, SATH is supporting the design and use of RIAs to better understand and evaluate the costs and benefits of changes to service sector regulatory frameworks.

RIA is a decision-making tool which ensures that policy makers have the best possible information on which to base policy formulation. An RIA ensures that the policy problem is well understood and defined before options for reform are generated and reforms are implemented. The cost of poorly conceived regulations tends to be high both in terms of the financial and technical resources expended to put new policies in place. In addition, poor policies may be difficult to correct where vested interests are able to benefit from such a regulatory regime.

The significant advantage of the RIA approach is that a wide range of policy alternatives are considered before a single regulatory alternative is chosen. Moreover, the selected regulatory option is based on a rigorous analysis of available evidence. In doing so, RIA ensures that best efforts have been made to achieve the regulatory outcome most likely to enhance economic efficiency and growth.

SATH, in conjunction with MWT, have embarked on a pilot RIA on aspects of Namibia's Road Transport legislation. Namibia is keen to develop as a transportation and logistical hub within the SADC region by 2025. This is considered as a key element in transforming the economy. Impediments to this goal include the inability to ensure the seamless movement of goods via the different modes of transport and the high cost of transportation which has the potential to detract from the competitiveness of NamPort as an alternative to other regional ports. It is on this basis that Namibia requested the pilot RIA at SATH's Workshop on Trade in Road Freight Transport Services which was held in Johannesburg, South Africa in 2011.

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This report highlights the main issues which satisfy the criteria of being suitable for a RIA; complement Namibia's strategic interest of enhancing its road transport regime as to support further economic development; and are in tandem with SATH's focus on enhancing and increasing cross-border trade within the SADC region.

## **2. ISSUES IDENTIFIED FOR RIA**

Discussions with stakeholders raised a number of interesting issues. (A few of those issues are not amenable to the use of RIA.) Generally, some of the issues raised include:

- The desire for improved transparency both in terms of existing rules and regulations as well as those which are being developed;
- Weaknesses in the licensing regime for operators in both the road passenger and freight sector;
- The regulatory regime governing cross-border operations; and
- The poor integration of transport modes, namely, rail, maritime, air and road.

Of these issues, three were identified as having potential for RIA. These are briefly outlined below.

### **2.1. Third Country Rule**

The third country rule is widely applied within the SADC region. The rule, which precludes foreign trucks from loading cargo in Namibia and delivering it to a country other than that truck's country of registration, is frequently embedded in the bilateral transport agreements which regulate much of the trade in this service in the region. Essentially, the rule reserves the business opportunities between two countries for their operators to the exclusion of operators from a third country. In effect, the transport options of the freight forwarders and other logistics suppliers are constrained.

Rules such as these, which limit the supply of transport services, contribute to high transport prices and inefficiency. In order for a transport operator to offer a client the most competitive price, he must have the ability to transport loads on both the outbound as well as the homebound legs of the journey. In this way, the cost of the journey is spread over two income generating trips. In effect, if there is not a return load to the foreign operator's country of registration, then the third country rule precludes him from hauling available loads destined for other destinations and he must return empty to his point of origin. Clearly then, from the perspective of exporters in other SADC countries, the price of transportation to the Namibian port may not be as competitive as it ought to be. A similar conclusion could be drawn for exporters outside of the SADC region using the Namibia port for goods destined to other SADC countries.

### **2.2. Cross-Border Permits**

Transport operators who engage in cross-border operations are required to obtain a permit for this purpose. These permits are valid for a period of three months. However, for transporters who are primarily engaged in cross-border operations, this increases the cost of doing business. By contrast, vehicle licenses are valid for a period of one year. It has been recognized by the regulatory authority and the industry association that the synchronization of the period of validity of these permits may facilitate the ease of doing business for Namibian operators.

### **2.3. Rules affecting Trans-shipment of Non-Containerized Cargo**

Namibia has developed a market niche for the importation of vehicles from extra-SADC countries. Key destinations for these vehicles include Angola and the Democratic Republic of Congo. Other destination markets include Botswana, Zambia and Zimbabwe.

Two issues have arisen in this context. In the first instance, a special license with a validity of three days is issued by the Roads Authority for the importer to clear the vehicles from the Port and transport them out of Namibia. However, this time period has proven to be insufficient to complete these activities.

In the second instance, transport operators currently use a special permit to deliver bonded vehicles that transit through Namibia to neighboring countries. Special permits were originally intended for domestic purposes only; for example for vehicles pending roadworthy tests. This permit prohibits the carriage of any other goods under the same permit. Specifically, Regulation 66 (4) of the Namibian Road Traffic and Transport Regulations of 2001 does not permit a vehicle using a special permit to be loaded with any other cargo for transit purposes.

The alternative solution to the problem is for the client to have each vehicle transported individually. This significantly inflates the cost of trans-shipping vehicles via the Namibian port.

### **3. RECOMMENDATIONS**

It is recommended that MWT commission SATH to undertake a pilot RIA on one of these three issues. This would enable the Ministry and SATH to ensure that they are satisfied with the outcome of the RIA process. Once this stage is completed, and time and resources remain available, the Ministry and SATH may then jointly determine whether they wish to utilize the RIA tool to assess the other two issues.

Given the potential impact of the third country rule on Namibia's thrust to become a transportation and logistical hub in the SADC region, SATH recommends that MWT favorably consider conducting the RIA on the third country rule. The RIA offers the possibility to:

- analyze the potential economic costs and benefits of this policy;
- identify the winners and losers from a change in this rule; and
- determine whether the reform should be undertaken unilaterally, bilaterally or in the regional context.

Moreover, the third country rule is an issue of systemic interest to the Namibian transportation sector as well as operators in the wider SADC region.

### **4. NEXT STEPS**

Once MWT has agreed on the issue to be subject to an RIA, the next steps will be to undertake the necessary training of the four or five officials of the Ministry who will be involved in undertaking the RIA. The training covers principles of transport economics as well as RIA methodology and application. It is intended to equip the MWT officials with the necessary knowledge to undertake a RIA. This is a critical element of ensuring that skills

are effectively transferred. The training exercise is expected to be undertaken in July 2012.

Once the training has been completed, the SATH team and their counterparts in the MWT will be assigned tasks with a view to completing the RIA. This stage will entail desk-top research, in-country consultations, a cost-benefit analysis of the alternative reform options and the preparation of a technical report which incorporates the research, findings and recommendations on the specified reforms to be undertaken.

Upon completion of the RIA, SATH will convene a stakeholder workshop to validate the results of the RIA.