SUMMARY

1. The five Southern African Customs Union (SACU) countries are at different levels of economic development and have different economic structures. Botswana, Namibia, and South Africa are upper middle-income countries, Eswatini is lower middle-income, and Lesotho is an LDC. South Africa is a relatively diversified economy, while the other four rely on a limited number of products. The mining and quarrying sector dominates merchandise production in Botswana, while manufacturing accounts for relatively large shares in Eswatini and Lesotho. All five economies remain dominated by the services sector (about 70% of SACU's GDP), and all have a large subsistence farming although agriculture accounts for about 3% of GDP on average.

2. SACU countries face common challenges including inequality, unemployment, governance issues, infrastructural (most notably energy and transport) constraints, and climate change. According to the World Bank, SACU is the most unequal region globally in terms of income distribution. South Africa is the most unequal country in the world, while Botswana, Eswatini, and Namibia are among the 15 most unequal, and Lesotho among the top 20% most unequal countries in the world. Unemployment rates are relatively high in these five countries, averaging 24% in 2022 (42% for youth unemployment).

3. SACU economies collectively grew by 1.2% annually on average from 2014 to 2022. The growth trend is biased towards South Africa's performance as it is the leading economy within SACU. Over the review period, economic growth has fluctuated, and all five countries registered negative growth in 2020. Botswana's growth bounced back more robustly in 2021 and 2022 from the COVID-19 pandemic than the other SACU countries.

4. Monetary policy within SACU remains largely led by South Africa. In fact, Eswatini, Lesotho, Namibia and South Africa form the Common Monetary Area where the South African rand is legal tender and circulates, and the currencies of the smaller economies are pegged to the rand. Botswana pegs its currency (pula) to a basket of currencies including the rand. Despite the implementation of a common external tariff and of harmonized excise duties, SACU countries have not formally harmonized their fiscal policies.

5. SACU's external trade in goods and services was about 68% of its GDP in 2022. A trade surplus was emerging as from 2020, reflecting mainly a robust recovery in exports because of increased demand and higher international prices for minerals. SACU countries sourced 13.3% of their total imports within the Union in 2021 (down from 14.5% in 2014) and supplied 11% of their total exports to each other in 2021 (down from 15.7% in 2014). Eswatini and Lesotho depend more on intra-SACU trade than the other members, particularly South Africa. This not only reflects greater diversification of South Africa's import sources and export markets, but also a relatively narrow export baskets of the other four SACU members. The largest extra-SACU trade partners include the European Union, China, and the United States.

6. Over the review period, new regional trade agreements (RTAs) entered into force between SACU states, Mozambique and the United Kingdom in 2021; SACU states, Mozambique and the European Union in 2016; and SACU states and the Southern Common Market (MERCOSUR) in 2016. All SACU states have ratified the AfCFTA agreement but they are yet to trade under it. A SADC Protocol on Trade in Services entered into force in 2022. Preference utilization by SACU countries varies from one member to another: it is relatively low for countries that lack product diversification and with exports that mostly consist of MFN duty-free goods.

7. The five SACU countries actively participate in the WTO. They continue to fulfil their notification obligations to the WTO with varying degrees of regularity. The authorities indicated being taking steps towards the ratification of the Agreement on Fisheries Subsidies. Of the five SACU countries, only South Africa has been active in WTO dispute settlement, requesting consultations with the European Union on measures on citrus fruit imports in 2022.

8. Under the SACU treaty, the members have harmonized almost all customs-related matters (including the external tariff), and excise duties. To ensure single entry and free circulation of merchandise within the Union, revenues from harmonized duties and taxes are pooled in a common fund and distributed to the five SACU member countries on the basis of a formula. They constitute a major source of revenue for the four smaller economies while accounting for less

than 3% of South Africa's tax revenue. Moreover, a series of reforms have been implemented over the review period, including modernization of customs legislation, risk management and its enforcement, the Authorized Economic Operator (AEO) Programme, IT connectivity, and transport and logistics programmes.

9. Under the SACU treaty, a Regional Tariff Board is to be established after the entry on duty of national boards in each member State. So far, apart from South Arica, Botswana established its national board, while Eswatini, Lesotho, and Namibia are in the process of establishing theirs. In consequence, pending the establishment of the Regional Tariff Board, South Africa's International Trade Administration Commission (ITAC) handles tariff and trade remedies applications.

10. SACU's 2023 tariff contains 8,420 lines at the HS eight-digit level, of which 318 (3.8%) carry non-*ad valorem* duties, i.e. specific (two types), mixed (two types), and formula (variable) duties. Over the review period, the tariff regime has been further complicated by the introduction of conditions under which one type of specific duties is affected by price changes, i.e. the differences between the moving average of international settlement prices and the established domestic prices.

11. Overall, the simple average applied MFN tariff rate is 8.5% in 2023, slightly up from 8.3% in 2015, reflecting a nomenclature change. More than half (53.8%) of total tariff lines is duty free. Tariffs higher than 50% apply mainly to some poultry meat, cheddar and gouda, pineapples, and worn clothing. The highest *ad valorem* rate (95%) applies to some dairy products, and the highest *ad valorem* equivalent (AVE) (532.3%) applies to some worn textile articles.

12. Under the WTO definition, agriculture remains the most tariff-protected sector (10.1%); tariff rates average 8.2% on non-agricultural products. Under ISIC, manufacturing is the most tariff-protected sector (8.9%), followed by agriculture (3.7%) and mining and quarrying (0.1%). In aggregate, tariff rates display positive escalation throughout the stages of production: from raw materials (with an average tariff rate of 4.9%), to semi-finished products (5.6%), and then to fully processed products (10.7%).

13. At the WTO, SACU members individually bound their tariffs at *ad valorem* rates. Lesotho bound 100% while the other four SACU members bound around 95% of their tariff lines. The imposition of non-*ad valorem* duties by SACU members while all their bindings are *ad valorem* does not ensure compliance with their binding commitments. Falls in import prices may result in higher applied rates (their AVEs) than the corresponding bound levels. In fact, around 15 tariff lines are likely to have their applied MFN rates higher than their binding levels. Lesotho bound its other duties and charges on all tariff lines at zero. Moreover, South Africa has 53 WTO tariff quota commitments, all on agricultural products. Preferential tariff quotas apply to agricultural products under various RTAs.

14. Harmonized under the SACU Agreement, excise duties may be specific or *ad valorem*; they apply at the same rates to imported and domestically produced goods. Some excise duty rates are based on a formula where recommended retail prices are taken into consideration. Under the SACU Agreement, rebates, refunds and drawbacks of customs duties and excise duties on imported goods are also harmonized. The VAT regimes (including the taxation base and the rates) have not yet been harmonized. Botswana's standard VAT rate is 14% while the other four apply a standard rate of 15%.

15. SACU members apply contingency trade remedies (anti-dumping, countervailing, and safeguard measures) imposed by South Africa upon recommendation by ITAC and approval by the South African Minister of Trade and Industry, pending the establishment of the Regional Tariff Board. Between 2014 and 2022, 25 anti-dumping investigations were initiated, 40 anti-dumping measures in the form of duties were in force on 19 categories of products, while no countervailing duty was imposed. A number of safeguard investigations were initiated; provisional and final measures were adopted or extended; and investigations were terminated during this review period. A bilateral safeguard measure on frozen chicken cuts from the EU expired in 2022. Botswana, Eswatini, Namibia and South Africa reserve the right to take recourse to the special agricultural safeguard, although no action was taken by them over the review period.

16. Apart from Lesotho, all SACU countries have their national competition policies. The competition legislations of Eswatini and Namibia have remained unchanged since the previous Review, while Botswana's new Competition Act 2018 replaced the previous one and introduced a number of changes, including institutional. South Africa's Competition Act 1998 was most recently amended in 2019 with a view to enhancing national security.

17. SACU countries are neither signatories nor observers to the WTO plurilateral Agreement on Government Procurement. Their national government procurement legislations provide for reservation or price preference schemes for local businesses. Over the review period, Botswana and Lesotho have promulgated new legislation on government procurement. Namibia has established a new legal and institutional framework on government procurement.

18. On intellectual property rights, all five countries ratified the Protocol Amending the TRIPS Agreement during the review period. Botswana has released its Intellectual Property Policy and acceded to the WIPO Marrakesh and Beijing treaties. Eswatini's new legislation on patents, copyrights and its intellectual property rights tribunal entered into force in 2018. Namibia has also established an industrial property tribunal. South Africa has released its Intellectual Property Consultative Framework to formulate national IP policy. It also enacted the Protection, Promotion, Development and Management of Indigenous Knowledge Act, and created a geographical indications register.

19. Apart from customs-related issues, SACU countries have not harmonized their sectoral trade policies. Nonetheless, the CET and the related measures (including duty and tax rebates) remain a main sectoral trade policy instrument, mainly for the smaller countries. The larger economies, mainly South Africa and to a lesser extent Botswana, have developed sectoral policies that also rely on incentives.

20. Botswana's economy, although dominated by services (more than half of gross value added), is highly dependent on the diamond industry (the bulk of merchandise exports and nearly one-third of government revenue). Diamond cutting and polishing are the main manufacturing activities. Through its various new trade and economic plans and strategies, Botswana is seeking to diversify its economy, and make it more competitive, export-oriented and focused on value-chain development. In this regard, initial steps have been taken to identify gaps in Botswana's quality infrastructure and technical regulations framework; consider how its intellectual property assets can be leveraged; and rationalize, unbundle or privatize non-performing SOEs particularly in the areas of financial services, transport, agriculture, and energy. Nevertheless, protection has somehow been enhanced for domestic farmers, small-scale manufacturing, and services businesses through, *inter alia*, FDI restrictions and non-automatic licensing requirements. On telecommunications, a new ICT licensing framework and termination rate methodology have been introduced, as has a universal service access fund. Financial services developments have included the enactment of several new or amended laws covering banking, insurance, credit information, and virtual assets, as well as the creation of a Financial Stability Council and a deposit insurance scheme.

21. During the period under review, Eswatini's reforms were mostly in the energy and services sectors where new legislations were introduced on, *inter alia*, electricity, financial services, air transport and telecommunications. After services (over 50% of GDP), manufacturing (about 30%) remains the second largest sector, followed by agriculture (about 9%). Sugar (5% of GDP) remains the main industry; Eswatini is Africa's fourth largest sugar producer. Its economy remains highly integrated with South Africa, which is the destination for about 67% of its exports and the source of around 73% of its imports. Eswatini relies on South Africa for electricity, remittances, commercial banking, and FDI which is mainly directed towards agribusiness (i.e. sugarcane, beef, and forestry value chains) and manufacturing (i.e. textile and apparel). Other African countries, in particular, Kenya, Nigeria, Mozambique, and Zimbabwe are also important markets for Eswatini's exports.

22. Lesotho's economy is dominated by the services sector (about 60% of GDP), followed by manufacturing (nearly 20% of GDP). The country is diamond rich, but value addition activities remain weak. The economy is confronted with pressing environmental issues; hence the Government's major policy aims at addressing environmental deterioration and climate change. On agriculture, the Government's policy (including domestic support) aims to promote climate-smart solutions for farmers, build environment-sensitive physical infrastructure and facilitate

access to climate finance. The authorities are also aiming to improve economic livelihood in the diamond mining through, *inter alia*, the implementation of a tax incentive regime and the promotion of sustainable practices. On the energy sector, the Government has adopted a comprehensive energy policy which seeks to promote environmentally friendly energy supply. The challenges to the manufacturing sector (notably the textiles industry) include preference erosion and domestic constraints such as low-skilled labour and poor infrastructure. The Lesotho Standards Institutions Act entered into force in 2020, and the Lesotho Standards Institution was established in the same year as the body in charge of developing national standards.

23. In Namibia, agriculture accounts for about 7% of GDP, against around 11% for mining, 15% for tourism services, and 12% for manufacturing. A few mineral commodities (diamonds, uranium, and gold) account for close to 60% of exports; there is a significant re-export trade in Namibia. The country is a net-importer of agricultural products. In 2016, Namibia introduced export levies on forestry products, fish, minerals, natural gas and crude oil, and hides and skins. Its export processing zone regime and the entire tax-based incentives regime have been suspended since 2021, while there are plans to move to a special economic zone regime. In addition to the SACU CET, Namibia applies various trade policy instruments on imports of agricultural products such as quantitative restrictions and seasonal bans combined with local purchase requirements. The fisheries management regime was amended to allow for auctioning of some fishing quotas. Legislation to modernize the non-bank financial services regime was passed but is not yet in force.

24. The South African economy is dominated by the services sector (about 70% of GDP), with financial services playing a critical role. Over the review period, a Prudential Authority and a Financial Sector Conduct Authority were established, and various legislative reforms were introduced. South Africa has the largest travel and tourism economy in Africa but challenges such as poor security and load-shedding in the electricity sector pose serious threats to this and other sectors. South Africa remains a net exporter of agricultural products and is among the world's biggest exporters of citrus fruit, sugar, and wine. Land reform efforts continue. Poultry remains a "sensitive industry" for South Africa with specific trade concerns raised by the European Union; the country applies anti-dumping duties on frozen chicken portions (especially from Brazil). All TBT-related specific trade concerns relate to labelling requirements. In 2014, South Africa issued a Mining Charter which aims to ensure broad-based and meaningful transformation of the industry, including shareholding requirements for historically disadvantaged persons/companies. Changes to foreign investment legislation, *inter alia*, provide that investor-state disputes are first handled through domestic courts, and amendments to the Competition Act have introduced a prior review mechanism for mergers involving a foreign acquiring firm. South Africa has a myriad of incentive schemes, many of which have localization requirements and must be compliant with the country's Broad-Based Black Economic Empowerment legislation. It has also introduced various sectoral master plans to help boost economic growth and create employment. Among the key challenges that hinder economic growth in South Africa are severe shortages and outages of electricity, undermaintained transport infrastructure, high telecommunications costs, and high debt levels of underperforming SOEs. The absence of a cadastral system for mining licences is seen to impede investment in this important economic sector.