

**Monitoring
Regional Integration
in Southern Africa
Yearbook**

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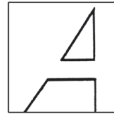
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Foreword

In the global context of the economy, Africa is the most marginal of the continents. With the exception of South Africa (and possibly Angola because of its oil), the member states of SADC do not play any significant role in the world economy.

Most economists agree that partial (or regional) economic integration could have advantages over world integration, since the globalisation process can create a power asymmetry, i.e. between the state and international private actors. In many countries, the roles of the state, civil society and the private sector need to be redefined. This is a political process which requires a huge amount of creativity, and the promotion of regional/subregional co-operation and integration can play an important role in this process. The problem is that new patterns of co-operation and integration have to be developed, since well-known models of integration such as the European Community cannot be translated directly into the context of other regions.

The Konrad Adenauer Foundation supports this process through encouraging scientists to monitor and to comment on the recent developments. It is the objective of this yearbook to provide facts, opinions and suggestions, and to promote regional co-operation and integration.

Finally, there is a word of gratitude to be added: To the scientists who have contributed to this yearbook and – last but not least - to the Namibian Economic Policy Research Institute (NEPRU), which has played a leading role in the preparation of this publication.

Dr Wolfgang Maier

Representative of the Konrad Adenauer Foundation, Windhoek, Namibia

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List of Abbreviations

Introduction: Monitoring the Process of Regional Integration in Southern Africa in 2001-2002

Dirk Hansohm

All concepts of economic development in Africa focus on regional integration as an important element. From the very first post-colonial meetings, African leaders emphasised regional integration as a key element of their strategies. This was based on the view that the economic constraints imposed by the small size and fragmentation of national markets was a main economic constraint that could be overcome by regionalism (Lyakurwa et al. 1997). At the inaugural meeting of the OAU in 1963, the principle of regionalism was enshrined in the OAU charter.

The Lagos Plan of Action (LPA) of 1980 envisaged the formation of an African common market by the year 2000, to be achieved in stages: the formation of free trade areas as a start, followed by a common market and an economic union. The same process was to be followed in the three subregions identified by the LPA: Eastern and Southern Africa, Central Africa, and West Africa. The most recent African plan for economic development is the New Partnership for Africa's Development (NEPAD). Regional and subregional approaches to development are again a key element. Starting from the observation of the small size of countries, low incomes, and consequently limited markets, the plan sees this as a limit to economies of scale, denying attractive returns to investors, and retarding diversification of production and exports. This is the key reason for pooling resources in order to enhance regional economic integration.

African perspectives on development are often contrasted with externally-originating concepts such as those of the World Bank and IMF. However, in terms of regional economic integration, these are also emphasised by the latter (e.g. World Bank 1989). Academics have also come out in favour of regional integration (e.g. Hardy 1992).

However, this emphasis and these high hopes for regional integration do not appear to be matched by progress in actual terms. As the European example also shows, regional integration is a long-term and complex process. Hope for increased socio-economic gains is countered by fear of the consequences of renouncing national sovereignty.

In sub-Saharan Africa (SSA) regional integration is even more difficult. Firstly, African states are not as politically integrated as states elsewhere that want to integrate. Secondly, because of low incomes and limited product ranges, they are more dependent on the world market, and cannot expect the same socio-economic improvements through integration.

Thus it is not surprising that most of the dozens of regional economic integration schemes established in Africa have either been abandoned or are dormant owing to lack of success. Of the currently operational regional economic integration schemes, only very few have achieved

much. Amongst them, the *Southern African Development Community* (SADC) is often held up as a positive example of regional integration in Africa.

However, a closer look at the empirical evidence provides quite a mixed picture. As the most comprehensive study (Oyejide et al. 1997-99) finds, trade expansion in Southern Africa has been slow, intra-regional trade has grown at a modest rate, and policy coordination has been negligible.

In view of these uncertainties about SADC's performance, and the considerable interest the integration process in SADC continues to enjoy with donor agencies and international developmental agencies, a plan was conceived in 1998:

- to determine the state of integration in SADC, and beyond that in Southern Africa; and
- to regularly assess the direction and pace of regional integration in Southern Africa.

This initiative, initiated and sponsored by the Konrad Adenauer Foundation (KAF), is based on the conviction that regional integration in Southern Africa is vital for development and growth. It is hoped that this process can be strengthened by monitoring its progress, and thus by confronting policy makers with a 'mirror'; their bold rhetoric and ambitious plans with the reality on the ground.

Based on a series of papers developed during 1999/2000, an initial assessment of the state of integration in SADC was published in March 2000 (Peters-Berries & Marx 2000). The implicit conclusion of the various assessment papers was:

- SADC shows an uneven and generally slow process of integration;
- SADC has adopted a trade-led strategy of regional integration, which had incrementally overtaken the concept of developmental integration;
- a growing discrepancy between the ability to deliver and the demands for providing services regarding the organisational structure slowed the speed of practical integration down; and
- the private sector became increasingly involved in driving the integration process in SADC as it realised the inherent regional economic potential to be freed by further integration.

The positive response to the first publication of the working group convinced the KAF to commission the production of a Regional Integration Monitoring Yearbook on SADC. By widening the membership of the working group and inviting further sectoral specialists to participate, the monitoring of SADC's integration process broadened, and the insights became more pronounced.

The yearbook on monitoring SADC's integration sets out to:

- describe the intended goals for integration in selected sectors (i.e. policy areas) with regard to the specific goals set and the institutional framework in place;

- analyse the implications of full integration in these sectors with special emphasis on the questions of whether sectoral integration was politically and economically feasible, and which possible drawbacks could be expected;
- analyse the *de facto* state of integration in each of the policy fields selected, stating the existing obstacles to further and deeper regional integration.

The first volume of the Yearbook (Hansohm et al. 2002) included an inter-regional comparison of SADC with the Eastern African Community (EAC) and the Economic Community of West African States (ECOWAS), analyses of macroeconomic trends, development and democracy, politics and governance, trade, and stock exchanges. The Yearbook confirmed the results of the previous analyses; i.e. the uneven progress of integration, emphasis on trade, problems in service delivery of regional institutions, and the importance of the private sector as a driving force of the integration process. The comparison with the EAC and ECOWAS (Mair 2002) showed that SADC lagged behind ECOWAS in terms of regional institution-building and conflict-regulation mechanisms, whilst being highly donor-dependent. Macroeconomic indicators did not show a consistent trend towards more economic convergence in the region, but continuing wide disparities. On the political level, the picture was more positive, with a trend towards greater civil liberties, political representation and opening up to non-state actors. Overall, a degree of progress towards regional integration in both the economic and political spheres was found. Restricting factors included the Zimbabwe crisis, a mixed record of maintenance of the rule of law, and limited implementation capacities of the civil services.

The 5th Workshop on Monitoring the Process of Regional Integration in SADC, contributions for which are published in this volume, was organised by the Namibia Economic Policy Research Unit (NEPRU) and the Konrad Adenauer Foundation (KAF) on 1-2 June 2002. The seminar was held at NEPRU and attended by 14 policy researchers from Botswana, France, Germany, Malawi, Namibia and South Africa. While the previous volume contains 6 contributions, this one has 11. Thus it gives a more comprehensive and multi-faceted picture of the process of regional integration. As in the first Yearbook, it has a balance of economic and political analyses.

The first contribution on *Macroeconomic Trends* by Dirk Hansohm and Maano Nepembe (Windhoek) compares the development of the key macroeconomic indicators of the region with other global regions as well as the SADC countries over the long and short term. While it is known that there are considerable differences between the size as well as level of development between SADC countries, the question of convergence is important both as an indicator for integration and as a precondition for certain kinds of integration. The contribution finds that –

- SADC's growth has been lower than that of the other regions, including sub-Saharan Africa as a whole, during the past two decades. Although growth picked up and overtook that of SSA in 1999-2000, it remains far below the world average.
- The growth decline in the latter half of the 1990s raises serious questions about the sustainability and quality of growth.
- Within the region, some of the poorer countries have started catching up through higher growth rates. However, there is no overall trend of convergence.
- The changes in economic structure indicate a degree of convergence, as the importance of services grows for nearly all countries. The increasing importance of services presents an opportunity for growth, while the de-industrialisation of Zimbabwe poses questions for regional linkages.
- Macroeconomic indicators such as exchange rates, inflation, budget deficits, external debt and aid dependence do not show a strong trend of convergence.

The paper *Prospects for Increasing Trade among SADC Countries* by Sophie Chauvin (Paris) examines the potential of the SADC Free Trade Area (FTA). The paper emphasises –

- There are principally potential benefits of the FTA for both the small and large participants (e.g. markets, competition, productivity, credibility).
- However, the potential of additional trade is quite limited and few new opportunities exist in the context of SADC.
- There are inherent dangers of polarisation and increasing specialisation in existing production lines rather than convergence.

The chapter *Trade and Competition in SADC: Issues for Competition Policy* by Trudi Hartzenberg (Cape Town) highlights the importance of the hitherto neglected nexus between trade, investment and competition. Key points include –

- While the countries in the region liberalised foreign trade, altering the structure of markets significantly, competition policy was not addressed.
- COMESA, ahead of SADC, is formulating a competition policy, while some of the member countries have a competition law or are developing one.
- Key policy issues in this area include international cartels, other cross-border activities, regional policy coordination, and capacity sharing and enhancing arrangements.
- While the importance of competition policy is increasingly recognised, capacity is sorely missing at research, policy and regulatory level.

The chapter by Johan Dahl (Windhoek) on *Regional Integration and Foreign Direct Investment (FDI): The Case of SADC* emphasises –

- While the state of information on intra-regional investment is shaky, preliminary data suggest that it is weak.
- However, the environment for FDI is improving (legal frameworks, 'one-stop shops' for investor support). In this sense countries are converging.
- Nevertheless, while FDI to Africa has increased in absolute terms, its relative proportion has contracted.
- Within SADC, increasing investment is flowing into non-SACU countries.

Tobias Knedlik (Bremen) addresses *Possibilities and Limitations of Intra-regional Exchange Rate Policy in Southern Africa*. Main points of this chapter are –

- Because of the shortcomings of both free-floating exchange rates and unilateral fixed exchange rates, an intra-regional monetary integration can be an important instrument of monetary and exchange rate policy.
- However, an analysis of convergence in terms of GDP, structure of the economies, human development levels, inflation and interest rates, fiscal policies, and the openness of Southern African economies shows that these are far from being sufficient to establish a currency union.

The following chapter by Molefe Phirinyane (Gaborone) focuses on *Politics and Good Governance in SADC Member States: Realities and Challenges*. Key points of the paper include –

- The concept of good governance is increasingly emphasised in the discussion of development, in Africa and beyond.
- Important elements include the role of civil society, the rule of law, corruption, public sector reform and decentralisation.
- The concept is underpinned by democracy and economic liberalisation.
- An analysis of Southern Africa's track record on governance in terms of rule of law and constitutionalism, corruption, and public sector reform shows a widely contrasting picture.
- Civil society is increasingly participating in SADC policy-making, in particular on the SADC level.

Nandini Patel (Zomba) discusses *Elements of Democratic Governance: Constitutions, Liberties, Elections, Women's Participation*. Key points of this chapter are –

- While most constitutions in the region meet high standards, their application is more questionable (frequent amendments, violation of principles of separation of powers).
- The levels of civil liberties and political rights are highly divergent - 4 countries are characterised as free, 6 as partly free, and 4 as not free.

- The practice of elections is often problematic with respect to their competitiveness and regularity.
- The level of participation of women in the political process tends to increase.
- Overall, the author comes to a positive assessment with regard to the future of democratic governance in Southern Africa.

The next contribution by Peter Meyns (Duisburg) is on *The Ongoing Search for a Security Structure in the SADC Region: The Re-establishment of the Organ on Politics, Defence and Security*. Starting from a recapitulation of the establishment, rationale and history of the organ, it discusses the recent resolution and its prospects. Key points include –

- The importance of a regional security structure.
- The co-existence with other regional security structures.
- The ability of SADC states to contribute to conflict resolution even in the absence of a functioning regional body.

Willie Breytenbach (Stellenbosch) focuses on *The NEPAD Initiative: Will it Promote Continental and Regional Cooperation and Integration in Africa?*, considering the evolution of the concept and its relationship to the African Union and the African Renaissance under the leading question: will it help or hinder African integration? Among the points raised are –

- The political and economic roots of the concept.
- The standards set up for participation.
- The many questions still open.
- The minimal benefits to be expected.

Christian Peters-Berries (Lilongwe) discusses *The Zimbabwe Crisis and SADC: How to Deal with a Deviant Member State?* Key points made include –

- The severe impact of the crisis on the region, while SADC has remained unable to take influence.
- Negative implications of the crisis and the inability of SADC to solve it.
- Possible explanations for this inability.

The contribution *Land Reform in Southern Africa: Case Study Malawi* is provided by Rafiq Hajat. He emphasises –

- The importance to balance the rule of law with social justice.
- The regional importance of land reform.
- The danger of dispossession through privatisation.
- Collective ownership as a solution.

The following 11 contributions extend the analysis of the first volume to new fields, both on the economic and political side. However, there are still important dimensions of regional integration in Southern Africa that we have not considered. These include, for example, the energy and

transport sectors, the integration in the field of labour, and the role of the donors. We hope that in future issues of the Yearbook we will be able to increase our understanding of the regional integration process in Southern Africa further through up-to-date information, quantitative and qualitative analysis, and a multi-dimensional view.

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Macroeconomic Trends in SADC

Dirk Hansohm
Maano Nepembe

Introduction

The intention of SADC is to integrate economically and politically. One key challenge to this ambition is the considerable differences between the countries, both in terms of the size of their economies – South Africa constituting more than 70% of

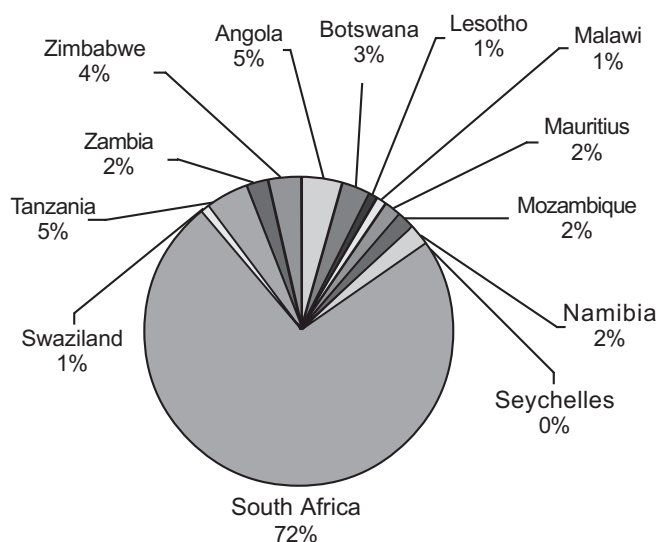


Figure 1: GNP (US\$ current) of SADC Countries (2000)
Source: World Bank (2002a)

the region's economic product (see Figure 1 below) – and in terms of income levels and economic performance.

Against this background, as in the previous yearbook (Hansohm & Naimhwaka 2002), this chapter examines the development of growth, economic structure and key macroeconomic indicators of SADC member countries (inflation rates, nominal exchange rates, budget deficits, external debt, aid dependence). In addition, the record in economic growth and the macroeconomic indicators of the SADC region as a whole are compared to other regions and the rest of the world. Developments are analysed from a longer-term perspective (the previous decade), but emphasis is placed on most recent developments, in order to compare with the situation in the previous year. The conclusion provides an outlook of likely scenarios for future development.

Economic Welfare and Welfare Growth

The basic measure of the general level of economic activity and of welfare is the gross national product or income (GNP or GNI, referring to the nationals of a country) or the gross domestic product (GDP, referring to the area of a country) per capita. The following table compares the SADC countries with other country groups and the world average, looking at the most recent (2000) figures on per capita incomes, the most recent growth rates (1999-2000), and the growth rate over longer time periods, the 1980s and 1990s. The latter are not on a per capita basis. For this reason the average annual population growth figures for the entire period 1980-2000 are provided in the right column in order to set the growth figures in perspective.

	GNI per capita (US\$, 2000)	GDP per capita % growth 1999-2000	GDP annual % growth		Average annual population growth 1980-2000
			1980-1990	1990-2000	
SADC	900	1.4	1.6	2.2	2.7
Sub-Saharan Africa	480	0.5	1.6	2.5	2.7
Middle East & North Africa	2040	-	2.0	3.0	2.6
South Asia	460	3.8	5.6	5.6	2.0
East Asia & Pacific	1060	6.5	7.9	7.2	1.4
Low income	420	3.1	4.5	3.2	2.1
Lower middle income	1140	5.5	4.1	3.6	1.3
Upper middle income	4620	3.9	2.7	3.6	1.6
World	5150	2.9	3.3	2.7	1.6

Table 1: Economic Growth of SADC in Global Comparison (1980-2000)
Sources: World Bank (2001, 2002)

The average income of SADC is almost double of that of sub-Saharan Africa (SSA) as a whole, but only 17.5% of the world's average. During the last year, the gap with SSA widened through higher growth in SADC, though over the longer term it narrowed because of SSA's higher growth in the 1990s. It is disquieting that in both the short and long term, the growth of SADC as well as SSA as a whole has been lower than that of the world. This means that neither region has been catching up, but rather they have fallen further behind. These trends are not simply reflecting the fate of low-income countries in general - most of SADC (8 out of 14) and SSA (38 out of 48) countries belong to this country group (see Table 2 below).

	Low income (US\$ 755 or less)	Lower middle income (US\$ 756-2995)	Upper middle income (US\$ 2996-9265)
Angola	X		
Botswana			X
DR Congo	X		
Lesotho	X		
Malawi	X		
Mauritius			X
Mozambique	X		
Namibia		X	
Seychelles			X
South Africa			X
Swaziland		X	
Tanzania	X		
Zambia	X		
Zimbabwe	X		
SADC	8	2	4
Sub-Saharan Africa	38	4	6
Middle East & North Africa	1	10	5

*Table 2: Classification of Economies
Source: World Bank (2001)*

Instead, low-income countries as a whole have been growing at a rate higher than the world, i.e. have 'caught up', thereby confirming the expectation of economic theory. In other words, the low growth of SSA is 'Africa-specific'. The same trend of higher growth can be observed for 'lower middle income' countries (only 2 of those are in SADC, 4 in all SSA). Only for the 'upper middle income countries' (4 of those in SADC, 6 in SSA) the trend is rather mixed: during the 1980s this country group fell behind, but during the 1990s it showed higher growth.

Not surprisingly, the average figures on SADC mask rather wide differences (see Table 3). Most of the richer countries (Botswana, Mauritius, Namibia) have continued to show higher growth. However, the dominant economy - South Africa - has over the last 2 decades shown slower growth, while in the last year (2000) its growth was average. Among the poor countries, Mozambique, Lesotho, Tanzania, and Malawi have been growth stars. On the other hand, Angola and Zimbabwe have shown a clear downward trend. All in all, as stated last year, we do not see a clear trend of convergence within SADC.

	GNI per capita (US\$, 2000)	GDP per capita % growth 1999- 2000	GDP annual % growth		Average annual population growth 1980-2000
			1980-1990	1990-2000	
Angola	240	-0.8	3.4	1.3	3.1
Botswana	3300	2.5	10.3	4.7	2.8
DR Congo	100	-	1.6	-5.1	3.2
Lesotho	540	-0.1	4.5	4.1	2.0
Malawi	170	6.0	2.5	3.8	2.6
Mauritius	3800	7.6	6.2	5.3	1.0
Mozambique	210	2.0	-0.1	6.4	1.9
Namibia	2050	1.6	1.3	4.1	2.9
Seychelles	7310	-0.3	-	-	
South Africa	3020	1.4	1.0	2.0	2.2
Swaziland	1290	0.6	6.5	3.3	3.1
Tanzania	280	2.7	-	2.9	3.0
Zambia	300	1.3	1.0	0.5	2.8
Zimbabwe	480	-6.7	3.6	2.5	2.9
SADC	900	1.4	1.6	2.2	2.7

Table 3: Economic Growth in SADC Countries (1980-2000)

Source: World Bank

Development of Economic Sectors

A common measure of development is the structural change of the economy. In the course of the development process, with rising incomes, while the importance of the agricultural sector declines, the manufacturing sector grows. In a later phase, the services sector overtakes both to become the most important.

SADC countries' economic sector composition displays a mixed panorama. Compared to last year, data availability has improved (from 11 to all 14 countries). To start with, high differences in economic structure reflect the starkly different levels of economic development that countries have reached (with the poorer countries having larger agricultural sectors). A second important factor is that of mineral economies in some countries (e.g. Angola, Botswana, Namibia, Zambia).

The agricultural sector's share of value added to GDP in the SADC region is declining as expected (Table 4). A look at the most recent data (2000) shows that in most countries the trend of declining importance of the agricultural sector continued. Exceptions are Malawi, Mauritius, Mozambique and Zambia, where the importance of the agricultural sector increased.

	Agriculture			Industry			Services		
	1990	1999	2000	1990	1999	2000	1990	1999	2000
Angola	18	7	6	41	70	70	41	23	24
Botswana	5	4	4	56	45	44	39	51	52
DRC	30	58	58	28	17	17	42	25	26
Lesotho	23	18	18	34	38	38	43	44	44
Malawi	45	38	40	29	18	19	26	45	41
Mauritius	-	5	6	-	32	32	-	62	62
Mozambique	37	32	33	18	24	25	44	44	41
Namibia	12	13	11	38	33	28	50	55	61
Seychelles		3	3	-	21	22	-	76	75
South Africa	5	4	3	40	32	31	55	64	66
Swaziland	-	17	17		44	44	-	39	39
Tanzania	48	48	45	16	14	15	36	38	40
Zambia	18	17	24	45	26	25	37	57	51
Zimbabwe	16	19	11	33	24	14	50	56	75

Table 4: Value Added as % of GDP in SADC Countries
(1990, 1999 and 2000)

Source: World Bank (2002a), World Bank (2002b)

Development is generally equated with industrialisation. As noted in the previous Yearbook, it is worrying that the majority of SADC countries did not meet this expectation - only Angola, Lesotho, and Mozambique showed an increasing importance of industry during the 1990s. The inability of countries - especially those which are highly dominated by the agricultural sector - to enhance industry will not augur well for convergence in the region, since the ability of the primary sectors to create new opportunities for productive employment is limited. The newest data (2000) do not alter this assessment. On the contrary, 5 of the 14 SADC countries show a declining share of industry - to a dramatic extent in some cases (Zimbabwe by 10 % points) - while only 4 countries show slightly increasing shares of industry.

As noted in the previous Yearbook, the services sector on the other hand has increased in importance. With the exception of Angola and the Democratic Republic of the Congo - countries at war - economies have increased their share of value added to GDP by the services sector (Table 4). The increasing importance of the tertiary sector has continued according to latest figures (2000). Exceptions to this trend are Malawi, Mozambique, Seychelles and Zambia.

All in all, the trend of substantial structural change has continued. However, these figures have to be read in the context of overall growth and the development of productivity. For example, with respect to the agricultural sector, its declining share is a reflection in part of chronic droughts over

the last few years, rather than the absolute growth of other sectors. Thus, figures on structural composition at this high level of aggregation cannot automatically be read as indicators of convergence.

Macroeconomic Indicators

As argued above, convergence in macroeconomic indicators and policies is important in order to strengthen deeper integration. In particular, they are indispensable to maintain an FTA and to introduce a common monetary policy. The contribution by Knedlik in this volume considers the state of convergence and exchange rate strategies in detail. Besides the size and growth rate of GDP and the production structure, important factors are the exchange rate, inflation, budget deficit, external debt and aid dependence.

Exchange Rates

SADC has as many currencies as member countries, with no mechanism compelling member countries to maintain the value of the currencies within a set band in the region. The exceptions are Namibia, Swaziland and Lesotho, whose currencies are at par with that of South Africa, the Rand, in the Common Monetary Area (CMA).

All currencies in the region have depreciated considerably against the US\$ over the past few years (see following tables). Only the Seychelles Rupee has slightly appreciated according to most recent figures. The South African Rand on the other hand, being one of the stronger currencies - and by far the most important - in the region, had depreciated substantially by the end of 2001. However, it has been strengthening since the beginning of 2002. Regionally, there is a considerable differ

	1995	1996	1997	1998	1999	2000	2001	2002	Currency
Angola	2750	128029	229040	392824	2790706	577.304	21.89	35.95	Kwanza
Botswana	2.77	3.324	3.651	4.23	4.624	4.62	5.89	6.47	Pula
DRC	0.012	0.07	0.838	1.15	2.5	4.5	213.01	303.48	C. Franc
Lesotho	3.627	4.299	4.608	5.528	6.109	6.12	8.76	10.66	Loti
Malawi	15.284	15.309	16.444	31.073	44.088	46.35	71.68	78.05	Kwacha
Mauritius	17.386	17.948	21.057	22.993	25.186	25.26	29.21	30.62	Rupee
Mozamb.	9024	11294	11544	11875	12775	13392	20778	23780	Metical
Namibia	3.627	4.299	4.607	5.528	6.109	6.12	8.74	10.55	Dollar
Seychelles	4.762	4.97	5.026	5.262	5.306		5.9	5.62	Rupee
S. Africa	3.627	4.299	4.607	5.528	6.109	6.12	8.74	10.62	Rand
Swaziland	3.627	4.271	4.603	5.481	6.109	6.124	8.74	10.66	Lilangeni
Tanzania	575	580	612	665	745	799	883	967	Shilling
Zambia	864	1208	1315	1862	2388	2662	3603	4200	Kwacha
Zimbabwe	8.658	9.921	11.891	21.413	38.314	38.168	55.28	57.3	Dollar

Table 5: Market Exchange Rates in SADC Countries (Currency Units per US\$1, 1995-2002)

Source: 1995-2000 CIA (2000), 2001 and 2002 (April), Standard Bank (2002)

ence in the value of different currencies, with the Congolese Franc, Mozambique Metical and the Zambian Kwacha deviating significantly from stronger currencies. This in turn indicates an insignificant movement in the direction of exchange rate convergence.

There is a debate on the issue of a single currency for SADC. However, as discussed by Knedlik, it is clear that it will be some considerable time before a single currency for the SADC region becomes a reality. Countries with comparatively stable currencies at present could be expected to be reluctant to go for a single currency at this juncture. There would have to be some level of convergence in economic policy before such countries would accept a single currency for the region.

Inflation

The degrees of inflation and their convergence or otherwise in countries of an economic block are other important indicators of economic integration. The table below presents the inflation rates of SADC countries from a long-term perspective, from 1980 to 2001. During the 1996-2001 period, some countries, including all SACU countries, maintained inflation rates well below 10%. Mauritius, Mozambique and Tanzania also kept their rates within that band. The rates of other countries, however, continue to diverge significantly.

SADC's average rate has decreased substantially in recent years. The years 2000 and 2001 show this clearly, with most countries achieving inflation figures below

	1980-89	1990-95	1996	1997	1998	2000	2001
Angola		870	905.3	111.2	91.1	248	169.06
Botswana	10.8	12.5	9.8	8.6	6.7	8.5	6.6
Lesotho	13.8	12.9	9.3	8.5	7.8	7.5	6
Malawi	16.8	30.8	37.6	9.1	29.7	45	27.4
Mauritius	11.2	8.2	6.6	6.8	4.7	4.2	5.3
Mozambique	45.1	47.5	45	5.5	-1.3	5.5	9.06
Namibia	13	11.8	8	8.8	6.2	8.5	9.3
South Africa	14.6	11.8	7.4	8.5	7	5.5	5.7
Swaziland	14.2	12.7	12.5	9.7	7.5	7	7.5
Tanzania	30.1	28.9	19.7	16.1	12.8	7.5	5.17
Zambia	38.4	117.7	46.3	24.8	31.6	21	21.7
Zimbabwe	12.8	25.9	21.4	18.7	31.8	60	74.47

Table 6: Inflation in SADC Countries (1980-2001)

Source: World Bank (2000a), CIA (2000), Standard Bank (2002)

10 per cent. This reflects the rise of a policy of economic soundness. However, the history of this policy is too recent to clearly establish whether this approach is primarily due to external pressure ('structural adjustment policy') or whether it is due to a genuine

policy commitment. Furthermore, even the inflation rates of countries that have established credibility based on consistent policies over a long period of time (e.g. Botswana) are higher than those generally regarded as necessary for a currency union (3% in the EU).

Budget Deficit

Reducing budget deficits is usually a challenge to developing countries. However, some governments in the SADC region have succeeded to maintain their budget deficits below 3% as a share of GDP (Botswana and Mauritius in 1999). Other countries (Lesotho, Namibia, South Africa, Swaziland and Tanzania) have also maintained a moderate deficit during the same period.

External Debt

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Angola	-126.8	-21.9	-56.9	-21.7	-20.1	-26.6	-15.8	-17.9	-15.1	-20.4
Botswana	9.1	8.1	8.5	7.1	2.2	1.5	6	3.7	4.1	-2.7
Lesotho	-13.5	-8.9	-3.6	-0.3	0.6	0.1	-0.8	-0.8	-2.8	-5.8
Malawi	-7	-6.3	-13.9	-9.7	-31.6	-16.1	-13.6	-13.3	-10.7	11.1
Mauritius	-2.1	-2.3	-2.4	-2.4	-3.3	-5.8	-7.6	-5.9	-3.2	-2.5
Mozambique	-15.9	-14.2	-16.5	-15.5	-19.2	-13.0	-9.9	-11.7	-10.6	12.9
Namibia	-3.7	-2.6	-3.9	-4.5	-1.6	-2.8	-6.2	-4.2	-3.9	-4.2
Seychelles	-1.7	-6.4	-7.1	-13	-17.2	-16.7	-11.3	-13.8	-25.5	-15.0
S. Africa	-3.3	-4.3	-7.8	-9	6.2	-5.2	-5.4	-4.5	-5.1	-4.7
Swaziland		4.7	-1.5	-4.7	-4.7	-3.3	-3.2	-3.4	-3.3	-3
Tanzania	-0.5	0.4	-0.8	-4.8	-1.7	-5.2	-3.9	-1.4	-2.6	-3.3
Zambia	-12.7	-16	-12.6	-13.6	-11.8	-9.5	-6.6	-5.3	-9.8	-10
Zimbabwe	-7.3	-6.3	-8.4	-8.1	-8.6	-11.9	-9	-8.5	-4	10.4
SADC							-5.69	-4.99	-5.34	-5.62

Table 7: Budget Deficit/Surplus % of GDP for SADC Countries, Excluding Grants (1990, 1995-1999)

Source: World Bank (2001b), World Bank (2001c)

There was a decrease in total debts for SADC countries in 1999 compared to 1998. Nevertheless the amounts are still huge compared to those of 1990. This is indicative of how significant foreign debt remains to these developing economies. Generally, high external debts may have severe negative effects on growth, as more resources are diverted to debt financing. However, if the resources borrowed are used productively, the incurring of foreign debt could be a useful strategy.

External debts as a share of GNP are still regarded as very high in some of the SADC countries. Angola's external debts as a share of GNP, for instance, have become disturbingly high, growing to 344% in 1999 from 279% the previous year. At the same time, it is interesting to note that half

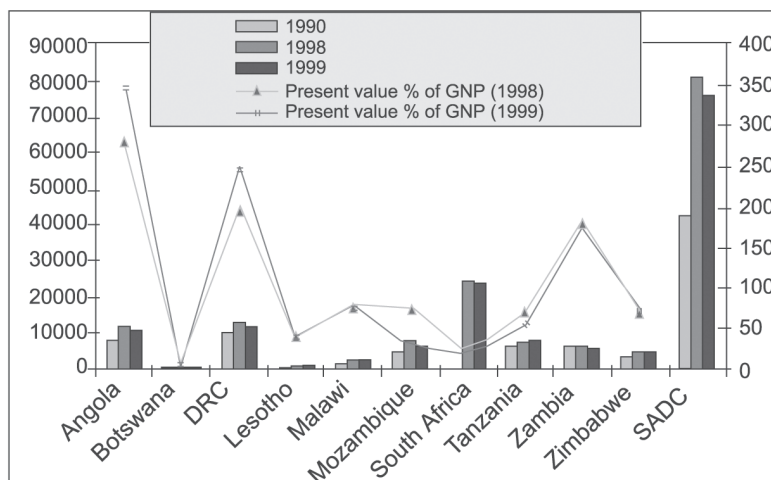


Figure 2: External Debt in Millions of US\$ (1990, 1998, 1999; left scale) and Present Value % of GNP (1998, 1999; right scale) for SADC Countries
Source: World Bank (2002a)

of the countries for which data is available - Botswana, Lesotho, Mozambique, South Africa and Tanzania - have external debts of less than 60% of their GNP, which is not too bad by international standards.

Aid Dependence

SADC's aid dependence (as a percentage aid of GNP) continues to decline and is slightly lower than that of total SSA (see Table 8 below). However, it is much higher than that of other regions.

	1990	1998	1999
SADC	6.3	4.7	3.8
Sub-Saharan Africa	10.6	4.4	4
Middle East & North Africa	2.3	0.9	0.9
South Asia	1.5	0.9	0.7
East Asia and Pacific	0.7	0.4	0.5
Low and middle income	1.3	0.6	0.8

Table 8: SADC Official Development Assistance as % of GNP, Compared to other Regions (1990, 1998, 1999)
Source: World Bank (2002a)

In 1990, the majority of SADC states had experienced a remarkably high flow of aid as a percentage of the GNP - in particular Mozambique, Tanzania and Malawi. A decade later, aid had fallen sharply, mostly for those who received the most.

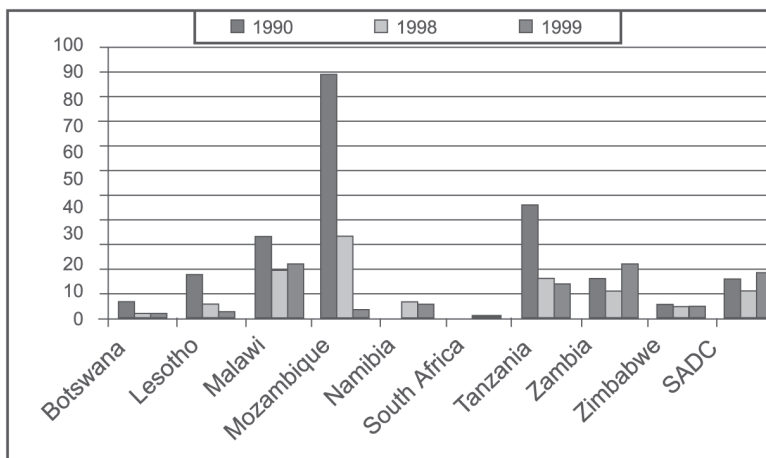


Figure 3: Official Development Assistance as % of GNP
(1990, 1998, 1999)
Source: World Bank (2002a)

Outlook: Future Scenarios

The way the future looks for SADC in terms of both growth and development and integration is difficult to predict, even in the short and medium term. The future of the region depends on developments at both global and regional levels. On the global level, technological innovations and their adaptations continue to result in a rapid pace of change, generally in the direction of higher economic integration. In this process, the countries which are the most integrated tend to benefit the most. Despite the bubble of exaggerated expectations on the impacts of information technology and the 'new economy', the world economy and the benefits for those best integrated will continue to grow. However, the time-scale of the resumption of growth in the industrial countries remains unclear.

In addition, the pace of integration is also subject to political commitment to the process. The events of 11 September 2001 had ambiguous impacts on SADC. On the negative side, they brought insecurity and thus contributed to lower growth. On the positive side, however, consciousness in Western countries has increased of the need to contribute to the alleviation of poverty in developing countries. This is resulting in a surge of aid, for instance in the form of support to initiatives such as NEPAD. Secondly, as insecurity in other regions rises, SADC is becoming more attractive in terms of tourism, for example.

SADC countries are highly dependent on the world market. Even with a rapid pace of regional economic integration, this will remain the case. Thus, higher continuing global growth will enable SADC to achieve both higher growth and higher integration.

At the regional level, whatever the global development, policy has a significant influence. Until now, low integration and political instability have limited participation and gains in global growth. The realisation of the FTA is not expected to increase the pace of integration markedly. Nevertheless, the near future may bring a higher pace of integration as well as of growth. This may come through the acknowledgement on the part of policy makers of the benefits of liberalisation, as well as from pressure for reform due to stagnation in growth. Declining levels of aid increase pressure. The ongoing restructuring of SADC institutions is set to strengthen SADC, although capacity constraints remain a serious concern (Isaksen and Tjønneland 2001).

On the downside, the crisis in Zimbabwe continues to delay processes of integration, whilst also discouraging foreign investment in the region as a whole, thus limiting growth.

Against this background, at least three potential scenarios can be identified:

1. Slow progress of convergence and integration because of countries in crisis, stagnant development, slow development of regional institutions and slow global growth.

This scenario is a continuation of the past trends on the regional level, but with lower global growth. Hesitancy regarding reform and for integration continue to predominate. The crisis in Zimbabwe limits rapid progress. Progress in the slowest-moving countries sets the pace.

2. Progress in some countries, while others lag behind, with little convergence.

Realising the unsatisfactory pace of integration and the advantages of more rapid progress, a smaller group of countries committed to reform moves ahead. The peace in Angola, movement in that direction in the DR Congo, and democratic progress in a number of SADC countries would support such a development.

3. Resolution of political obstacles to economic integration and resulting higher speed of integration and growth.

This is the most positive scenario, based on resuming global growth, the dynamics of restructuring of SADC, and leading strong performers, notably South Africa, the process of regional integration, in Southern Africa as well as Africa as a whole (NEPAD) and growth.

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Prospects for Increasing Trade among SADC Countries

Sophie Chauvin and Guillaume Gaulier

Introduction

In September 2000, SADC launched the SADC Free Trade Area. Under the accord, SADC countries would phase out tariffs on all 'non-sensitive' products by 2008, and fully liberalised trade is expected by 2012. The SADC FTA is intended to act as a catalyst for increased regional integration and to facilitate trade and investment flows within the region. Nevertheless, several questions can be raised concerning the Southern African economic integration. Indeed, what are the anticipated benefits from the SADC FTA, given the economic structure disparities among its participating members? Also, what is the position of South Africa, the largest and richest country of the region? Even though some progress has been recorded over the last decade in terms of intra-SADC trade, is it really feasible to expand it, and what would be the prerequisites?

The SADC FTA: Reasons and Expectations

In the face of the globalisation phenomenon, regionalism has received considerable attention, especially in Africa as a result of growing fears of African marginalisation. Regional trade integration is generally seen as a mean of fostering economic growth and development through increased intra-regional trade and cross-border investment. Nevertheless the debate on trade liberalisation and growth is still open. Indeed, neither theory nor empirical results provide a clear-cut answer to the question.¹

Several gains are expected from the SADC FTA. The traditional analysis on preferential trade arrangements (customs union or FTA) are related to the overall (static) gains resulting from the net effect of trade creation versus trade diversion.² If trade creation outweighs trade diversion, then it is welfare-enhancing. Theory suggests that this is likely to happen if countries are complementary, and then able to exploit their different comparative advantage. Trade diversion is also likely to be less if members' external tariffs are lower. The degree of benefits (or asymmetry of gains) may vary from country to country.

¹ See Rodriguez and Rodrik (1999).

² Trade diversion occurs when lower cost imports from non-members are replaced by higher cost imports from another union member. While trade creation occurs when domestic production in a union member is replaced by lower cost imports from another member nation. To the extent that a free trade arrangement does not force participating countries to commit to a common external tariff, trade diversion effects can be minimized. The country can unilaterally liberalize in order to obtain the least cost import.

The case of SADC is interesting insofar as it encompasses 14 different countries within which South Africa dominates. The potential benefits of the FTA which the smaller countries of SADC could reap are the following:

- Access to an enlarged market, which can foster economic growth because of economies of scale in domestic production;³
- Increased competition and hence opportunities for improving efficiencies. While exposure to South African competition will inevitably eliminate some production, more efficient firms will improve productivity and output. Moreover, exposure to South African competition will help prepare smaller countries for greater integration into the world economy, by enhancing both quality and productivity, and thereby competitiveness (Jenkins 2001);
- Increased investment and higher total factor productivity growth from better access to technology. Within SADC, a number of countries have very low tariffs on capital goods (notably South Africa). Whether or not a free trade area moves towards the lowest group-wide tariffs per sector, all SADC members would benefit from a lower price of capital goods, hence stimulating investment (Tsikata 1999). Moreover, more rational tariff regimes might encourage greater partnership and foreign investment. Finally, the smaller countries are likely to face improvement of their TFP as a benefit of South Africa's more advanced technological knowledge;
- Increased intra-regional trade along with inflows of foreign capital (mainly South African) can help boost industrial development and can stimulate diversification of the export base;
- Trade can promote convergence insofar as regional trade groups form convergence 'clubs' wherein poorer members catch up with richer ones through the process of trade. Jenkins (2000) tried to assess whether convergence could occur in SADC. According to her conclusions, within SADC as a whole, economies diverged between the 30 years from 1960 to 1990, though clear convergence has occurred between the members of SACU. There is no reason to expect that the SADC countries should have converged, as free trade in the community is a very recent ideal. However, within the customs union, the movement of goods has been free for most of the twentieth century and the smaller members have grown rapidly, particularly since the early 1970s. Access to the South African market has probably allowed smaller members to escape the limitations imposed by small domestic markets;
- A regional trade agreement may also serve a useful economic purpose by reducing uncertainty and improving credibility, which could be conducive to a better environment for the private sector in which to plan and invest.

³ It might nevertheless be argued that the enlarged market set up by the SADC countries might still be considered as small by wider international standards.

Besides the smaller members, South Africa also needs to be considered. The main benefits South Africa could reap from the FTA are twofold:

- Firstly, South Africa can have an increased market share and development of new markets, especially for manufactured goods in SADC. Indeed, South African products could be more competitive in the SADC region than in other world markets, such as in America and Asia;
- Secondly, slower inward cross-border migration resulting from growth effects expected in the SADC countries could reduce negative externalities for South Africa.

The establishment of the SADC FTA may nevertheless raise concerns in that it entails costs. Firstly, the prospect of convergence should not be overestimated. Indeed liberalisation can lead to an intensification of specialisation. A country weakly specialised in a growth-engine sector - i.e. a sector that has plenty of potential for technological progress - or in goods with good potential for learning, can with openness be excluded from this sector and therefore be subject to low growth (Bensidoun, Gaulier & Ünal-Kesenci 2001). Indeed, if a country is *ex ante* specialised in primary products, liberalisation is likely to intensify this specialisation at the expense of more dynamic sectors (manufacturing).

Secondly, the possibility of polarisation effects might be of concern. Indeed, the emergence of few poles of industrialisation and the polarisation of investment towards the larger and more diversified economies of the region is possible. This could raise the issue of the setting up of compensatory payments, as is currently operating within SACU.⁴

Thirdly, as shown in Table 9, customs revenue represents a significant source of government revenue for most of SADC members. According to Tsikata (1999), given the heavy reliance on import duties of most of SADC countries as a source of revenue, and given the extent and pattern of trade between themselves, a move to a pure FTA within SADC would involve significant short-term fiscal costs for most member countries (bar South Africa). This suggests that any trade reforms should be accompanied by appropriate fiscal revenue policies to compensate for this loss of revenue.⁵

⁴ Under the SACU agreement, a revenue sharing formula is used for compensating smaller countries for the trade diversion effects that might penalize them. But, as Jenkins (2000) mentions, the SACU is a full currency union wherein South Africa is the net exporter to a region protected by a common external tariff. Under a FTA arrangement, there is no question of either the unilateral setting of tariffs by South Africa or the price raising effect of a CET. The argument for compensation within SADC FTA is thus based on the dominance of South Africa in regional trade and the fact that it is likely to increase as well as on the probability that South Africa will attract FDI at the expense of its smaller neighbours.

⁵ Leape (2000) explores a range of fiscal adjustment measures that can be used to offset the losses in customs revenue as well as measures that can ensure that governments secure the full fiscal benefits of higher long-run growth. These includes both policy coordination measures, such as increases in tax rates or steps to broaden the tax base, and institution-building measures such as improved tax enforcement and enhanced control of expenditure.

	Customs Revenue	Direct Tax	Indirect Tax
Angola	N/A	N/A	N/A
Botswana	15.4	21.0	4.5
Lesotho	45.0	13.4	11.1
Malawi	22.0	45.0	26.1
Mauritius	33.5	26.5	25.6
Mozambique	22.2	14.1	50.9
Namibia	29.8	26.4	32.0
South Africa	1.8	56.1	38.6
Swaziland	49.4	27.2	26.2
Tanzania	27.6	21.9	26.2
Zambia	11.6	36.4	43.7
Zimbabwe	16.1	42.3	26.5

Table 9: Percentage of Total Government Revenue by Type of Tax in 1996
Source: Hess 2000

Moreover, the FTA could lead to changes in the sectoral and regional structure of individual economies that are likely to affect the overall level of tax revenues. Indeed the growth in cross-border trade and investment will lead to the contraction of some traditional, especially import-substituting industries that have historically been important sources of tax revenue.

As seen in Table 10 below and according to Leape (2000), the most affected countries in terms of expected losses in revenue are Malawi, Mauritius and Zimbabwe, with an estimated 5% loss of revenue (based on the share of customs revenue in total government revenue in 1996). Lesotho and Swaziland are the most dependent on customs revenue of all SADC members, and thus potentially the most vulnerable to the adverse fiscal effects of trade liberalisation. Nevertheless, the very low level of SACU imports from other SADC countries means that the impact of the SADC FTA is relatively small.

Fourthly, short-term costs can include output and employment losses, as the removal of tariffs under the FTA will have differential effects on sectors, sub-sectors and firms in each country. Overall, the employment effects of the FTA should be small, even though the largest losses in employment are likely to occur in the 'sensitive industries' (Maasdorp 2000).

Finally, the political tension existing in several SADC countries is also of concern, as it can slow down the pace of the integration process.

In the face of these various issues, regional trade liberalisation should not be considered in itself without looking at the broader policy framework, that might also contribute towards reaping all the benefits of trade liberalisation (insofar as inconsistencies between macro economic policies and trade regimes could undermine liberalisation). In this respect, there is a need for SADC governments to adopt national macro and micro policies that

	(a) % Change in Customs Revenue	(b) Customs Revenue as % of Total ⁷	(a)*(b)=(c) % Change in Total Revenue	Tax Revenue % of GDP	Total Revenue % of GDP
Angola	-1.8	4.3	-0.08	35.7	36.3
Botswana ⁶	-3.0	15.4	-0.46	15.0	37.4
Lesotho ⁶	-3.0	45.0	-1.35	47.1	69.3
Malawi	-23.9	22.0	-5.26	16.0	17.3
Mauritius	-17.0	33.5	-5.70	16.3	19.0
Mozambique	-5.8	22.2	-1.29	16.7	18.3
Namibia ⁶	-3.0	29.8	-0.89	31.5	36.1
South Africa ⁶	-3.0	1.8	-0.05	25.6	26.4
Swaziland ⁶	-3.0	49.4	-1.48	33.1	34.7
Tanzania	-5.8	27.6	-1.60	18.1	20.0
Zambia	-28.7	11.6	-3.33	31.5	34.2
Zimbabwe	-32.2	17.2	-5.55	26.4	29.6

Table 10: Estimated Impact of SADC FTA on Government Revenue
Source: Leape 2000

are consistent with promoting trade and investment. Jenkins, Thomas and Leape (2000) identify two critical indicators of policy compatibility in SADC: budget deficit and real exchange rate. Firstly, trade liberalisation is intended to diversify the export base so as to reduce the dependency of countries on primary commodities. Thus, diversification will require investment. If governments run huge budget deficits, this might put pressure on interest rates to maintain the macro economic balance, and thus increase both the direct costs and risk of investment. Moreover the financing of budget deficit may lead to either over-indebtedness or crowding out, which means that large budget deficits are not compatible with trade liberalisation. Jenkins, Thomas and Leape (2000) emphasise that at least half of SADC members need to pursue and sustain a tightening of the fiscal stance if they are to gain from the FTA. Secondly, appropriate exchange rate policy is important in supporting trade liberalisation. Thus a removal of trade restrictions must be accompanied by currency depreciation to provide some short-term protection for domestic producers. Moreover an overvalued exchange rate will not enhance investment in the production of processed exports.

⁶ Evans (1997) uses a partial equilibrium Regional Trade Model for Southern Africa in order to estimate the impact of the proposed FTA on imports and exports from SADC and the rest of the world, domestic production of imported goods and services; employment and customs revenue. He estimates the change in customs revenue for SACU and not for individual members of the customs union. This estimate has been applied to each of the five members of SACU. SACU countries have customs and excise figures combined.

⁷ 1996, except for Angola and Mozambique where data is for 1994 and 1995, respectively.

Trade liberalisation also needs to be accompanied by the establishment of appropriate micro economic policies in order to increase private sector investment and mitigate any adverse employment effects, insofar as the removal of tariffs under the FTA will have a differential effect on sectors and firms in each country. Finally, the SADC FTA should entail the convergence of external trade policy and a certain level of consensus on industrial restructuring within the region, particularly around sectors still considered as 'sensitive'.

South Africa represents 70% of SADC's GDP, placing the country in an asymmetric

position vis-à-vis the rest of the SADC region. South Africa is also running a substantial trade surplus with each of its regional trading partners. This imbalance has widened considerably since the 1990s, and is likely to continue regardless of whether a free trade area is established or not. Indeed, South Africa is a large exporter to SADC countries, while remaining a small importer. This unbalanced trade scheme has become a source of tension within the region. As noticed by Kalenga (1999):

Theoretically, such trade deficits do not really matter, and should not be bad for the region's economies. However, this only becomes problematic to the extent that there are critical obstacles to the region's exports, which can effectively compete in the South African market.

On this issue, Jenkins (2001) also highlights how South Africa's trade regime has exacerbated the difficulties faced by its neighbours in gaining access to its significantly larger markets. As outlined by Jenkins:

Although South African rates of effective protection are not particularly high for many goods, selectivity created a tariff structure characterised by large differences in tariff levels between and within sectors. Consequently, the moderate average level of protection in South Africa does not necessarily imply that the countries of the region have not faced a high tariff wall: effective rates of protection have in fact been highest for those products which are, or could be produced, in the region (like earthenware, clothing, footwear, textiles, foodstuffs and wood products). In some of these industries, protection made penetration of the South African market, without preferential access, impossible. Moreover, South Africa has not hesitated to erect tariff barriers against neighbouring countries when their exports are seen as threatening to South Africa's interests, even countries within SACU (car imports from Botswana in 1995) or in violation of a trade agreement (textile imports from Zimbabwe in 1992). These problems are now, in the main, being addressed, as South Africa has virtually eliminated quota restrictions and is reducing tariffs.

Moreover the increased penetration of South Africa into SADC markets might be seen as a source of threat for its neighbours as it suggests that intra-competition is likely to be more pronounced than when South Africa was facing international sanctions.

Box 1: The Position of South Africa in the Region

Existing Trade Agreements and their Impact for the Success of Regional Trade Integration

Several regional initiatives are pursued across Africa. In 1996, SADC countries signed a Trade Protocol with the purpose of establishing a Free Trade Area early in the next decade. In this regard, various steps have been taken relating to the determination of tariff reduction schedules, rules on the origin of goods and services, the elimination of non-tariff barriers, as well as the harmonisation of customs and trade documentation and dispute settlement mechanisms. The SADC Free Trade Area is a product of the SADC protocol. 11 of the 14 SADC members signed this regional Free Trade accord on 7 August 2000, which took effect on 1 September 2000. Under the accord, SADC countries would phase out tariffs on all 'non-sensitive' products by 2008⁸, and by 2012 the grouping anticipates fully liberalised trade. As part of the agreement, Mozambique, Tanzania, Malawi and Zimbabwe - the four poorest SADC members - would be given special trade preferences on clothing and textiles, for the first five years of the protocol. Angola, Congo and the Seychelles are not signatories to the trade deal.

SADC is not the only regional integration initiative in which Southern African countries are currently participating. Several countries are also members of the Community of Eastern and Southern Africa (COMESA); other are involved in the Cross-Border Initiative (CBI); while a small subset of members are participating in the long-standing Southern Africa Customs Union (SACU) and the Common Monetary Area (CMA). As underlined by Hartzenberg (2001), SACU and COMESA provide for the preferential tariff and non-tariff treatment of imports among their member countries. Nine COMESA countries launched a free trade area at the end of October 2000. The proposed next step for COMESA is to establish a common external tariff. The CBI, which was initiated by the African Development Bank, the European Union, the IMF and the World Bank, is an initiative aimed at fostering continued trade liberalisation, increased cross border trade, and facilitating investment and payments in Eastern and Southern Africa and the Indian Ocean. The original deadline for removing intra CBI NTBs and tariffs (1996) has already passed.

Several bilateral trading arrangements exist also between South Africa and other SADC countries (Zimbabwe for clothing and textiles, Malawi and Mozambique). Zimbabwe has bilateral trade agreements with South Africa, Botswana, Malawi and Namibia.

While negotiations on trade started between South Africa and the EU in 1995, the trade, development and cooperation agreement with the European Union was signed at the end of 1999. There has been concern about the effect of the agreement on those Southern African countries outside SACU. As 85% of the exports of those countries to SACU markets

⁸ It is expected that by 2008, up to 85% of all SADC trade will be traded at zero tariffs.

do not compete with the EU, they will not immediately be directly affected. Indeed, if they succeed in negotiating a SADC FTA, their direct exposure to South African firms will be of greater concern than EU competition (Jenkins 2001). Moreover, Lewis (2001) points out that while the agreement should yield real benefits to the South African economy, these will be slow to emerge: the phasing in of South African access to EU markets will occur over ten years, while the reduction of South African tariffs on EU products will come over twelve years.

Two other recent agreements should also be mentioned:

- The Africa Growth and Opportunity Act (**AGOA**) with the United States, which offers tariff reduction on over 5,000 products. Several countries, such as Lesotho, have benefited from this agreement, even though the US law provides a temporary advantage only. Thus textiles, the major driver of Lesotho's economic growth, got a big boost from the AGOA last year, with exports to the United States surging by more than 50%, creating new jobs and attracting more than 100 million US dollars in new foreign investment;
- The 'Everything But Arms' (**EBA**) Initiative with the European Union, which provides full access to the EU markets for the world's 49 Least Developed Countries (which include the SADC countries Lesotho, Malawi, Mozambique, Tanzania and Zambia). The EU has removed tariffs and quotas on most imports except arms, and there are three exceptions (sugar, bananas and rice) which have a longer phase-out period.

Several problems arise as a result of the proliferation of regional arrangements and resulting duplication of membership. Three major ones can be highlighted (IMF 2000). First, some countries that are currently members of a customs union (such as SACU) cannot offer different preferences to other groups of countries. This problem will be compounded if COMESA implements its common external tariff in 2004 as planned. There are also complications for the SADC countries that are members of COMESA, as it is not clear whether they would follow COMESA or SADC rules. Second, when countries are simultaneously members of several regional trade agreements, implementation of the agreements can be difficult, as incentives for inefficient diversion of trade through areas with lower external tariffs or less onerous internal procedures and customs officials are faced with the task of establishing the origin of goods coming from different countries. The rules of origin might become an important issue for countries that have already eliminated non-tariff barriers, and administering rules of origin could result in a step backwards, increasing the risk of trade deflection and diversion. Rules of origin will also complicate marketing and production decisions, as well as the rationalisation of production. Therefore there is a need to rationalise these initiatives in order to improve the chances for their success.

Evolution of Intra-SADC Trade

The trade structure of SADC countries is important to analyse, as it can have mixed implications for the regional trade agreement. Indeed, on the one hand, a more concentrated export structure (and even similar structure) of SADC countries might increase the possibility that the imports for the group of countries will have to be met by third countries. On the other hand, the diversity of the economies might suggest the existence of potential complementarity in trade. In this case, SADC countries may be able to develop according to their comparative advantage. In particular, the more industrialised countries of the region (South Africa, and to a lesser extent Zimbabwe and Mauritius) might be able to meet a large portion of SADC's imports needs. However, it could also raise concerns related to the problem of polarisation.

SADC countries have increased their trade with each other since the 1980s. On the export side (Table 11), while the share of exports from SADC countries sold within the bloc amounted to only 0.90% in 1980, it increased to 10% in 1999 (for instance, regional trade groups have had some success in increasing the share of intra-regional exports: most notably, Mercosur intra-exports rose from 14.1% in 1991 to 25.1% in 1996). Since the mid-nineties, SADC as a destination of exports has been important for Zimbabwe (28% in 1999), Mozambique (17.4% in 1998), Malawi (16.9%) and to a lesser extent South Africa (11.5%). Tanzania and Zambia have also seen their share of their exports to SADC increase, particularly since 1995.

Share of SADC in Countries' Exports	1980	1985	1990	1995	1999
Angola	0.03	0.00	0.01	0.03	0.7
Congo, Dem. Rep.	0.05	0.03	0.1	6.0	0.3
Malawi	12.4	15.4	1.6	17.2	16.9
Mauritius	1.4	0.1	1.2	1.4	1.4
Mozambique	1.1	0.3	0.2	32.1	17.4 ⁹
South Africa	0.7	2.8	2.5	10.7	11.5
Seychelles	10.5	0.8	0.4	1.4	1.2
Tanzania	5.2	0.1	0.5	1.4	7.4
Zambia	0.9	3.1	0.8	3.8	7.8
Zimbabwe	1.3	25.0	30.7	31.7	28.0
Intra-SADC trade	0.9	3.4	3.1	9.9	10.0

Table 11: Share of SADC in Each Country's Exports, in %
Source: Author's calculation; based on TIPS data

⁹ Data for 1998.

Since the 1980s South Africa has dominated trade. In 1999, it supplied around 77% of intra-SADC exports. Zimbabwe is the next most important exporter to the region, contributing to 15% of total intra-SADC exports in 1999. Malawi and Tanzania, who were also relatively important exporters to the SADC in the 80s, have seen their contribution to intra-SADC exports decrease, dropping from 11.1% and 9.6% respectively in 1980, to 2.3% and 1.3% in 1999. At the same time Zimbabwe and South Africa have increased their exports to the region.

		1980	1985	1990	1995	1999
Food & live animals	00	18.5	16.4	16.6	13.6	15.7
Beverages & tobacco	10	2.9	4.0	3.5	3.9	4.9
Crude materials excl. fuels	20	4.5	10.0	8.3	5.7	4.0
Minerals, fuels, etc.	30	3.4	16.6	5.4	9.9	7.8
Animal, vegetable oil, fat	40	0.6	1.0	0.6	0.9	0.9
Chemicals	50	9.7	15.1	13.3	11.6	14.0
Basic manufactures	60	35.0	21.5	30.4	25.5	21.1
Machines, transport equipment	70	15.7	8.2	14.2	21.4	23.7
Misc. manufactured goods	80	9.4	4.4	5.2	6.5	7.7
Goods not classified by kind	90	0.3	2.7	2.5	1.0	0.2

Table 12: Products Exported as % of SADC Total Intra-exports
Source: Author's calculation; based on TIPS data

As can be seen from Table 12, the range of products traded within SADC has not been subject to significant changes. Indeed since the 80s, intra-SADC trade has been mainly in food, basic manufacturing, machines and transport, and to a lesser extent, chemicals.

One should mention that actual trade in the region could be considerably higher than the figures indicate, on account of informal trade. Indeed, one African reality is that much trade takes place through the informal sector and is not captured by official records. As underlined by UNECA (2002), if such trade were accounted for, intra-African trade would likely be much greater than the current 10%.

The importance of South Africa in intra-SADC trade is confirmed by an analysis of its trade pattern. Over the period 1990/1999, the annual average growth rate of South African exports to SADC amounted to 18%, while at the same time South African imports from the SADC region grew by 7.5%. South Africa is a particularly strong exporter to the region in commodities requiring more capital-intensive techniques and greater levels of technological skill (machinery and transport equipment, chemicals). Thus machine and transport equipment, which in 1999 represented 28.3% of South African exports to SADC (compared to 17.3% in 1990) recorded an average annual growth rate of 22% over the period 1990/1999 (compared to 9.8% over the period 1980/1990). At the same time, between

1990 and 1999, products such as food and beverages grew by respectively 27.5% and 42.3%. On the import side, South Africa imports from SADC include basic manufactures (24.3% of import to SADC in 1999), followed by crude materials (15.5% in 1999) and food products (15.4% in 1999). Over the period 1990-1999, mineral and fuel products grew by 58%, which confirm the increased share of these products in South African imports to SADC (from 0.2% in 1990 to 10.3% in 1999).

On the import side, while in 1980 1.6% of total SADC imports were supplied by SADC members, by 1999 this share amounted to around 10.2%. For instance, intra-Mercosur imports that amounted to 17.8% of total Mercosur in 1991 increased to 20.43% in 1996. South Africa, Mauritius, Tanzania and Seychelles are the least dependent on SADC imports. For Mauritius and Tanzania, this might be explained by the closer and older historical relationship with members of the Eastern Africa Community. On the other hand Malawi, Mozambique (since 1995), Zambia and Zimbabwe rely heavily on SADC imports, with more than 50% of their imports originating from SADC.

Within SADC, Zimbabwe and to a lesser extent Mozambique, Zambia and South Africa formed a major destination of imports in the mid-nineties.

Several factors may explain the increase in intra-SADC trade during the nineties. First, the end of the apartheid system enabled South Africa to participate more actively in regional trade. Second, a number of SADC countries undertook trade liberalisation reforms that significantly removed the barriers to trade that were in place (Box 2).

Southern African economies have led interventionist and protectionist trade regimes for quite a long time. On the import side, extensive use of restrictive licensing systems, high tariffs with escalated and cascading structures, varying

degrees of import prohibitions and tight foreign exchange controls were implemented. On the export side, there were substantial implicit and explicit export taxes and prohibition of certain items for exports (Kalanga 1999). The reasons behind these measures were twofold: promoting industrialisation through import substitution, and raising government revenue. Changes have occurred since the mid 1980s due to the undertaking of reforms (as part of IMF/World Bank structural adjustment programmes). This was followed by countries' commitment to reducing tariffs under the Uruguay Round outcome. Within the region, participation in regional arrangements led to the liberalisation of intra-regional trade among some SADC countries. This has resulted in lower tariff rates and less dispersion in tariff regimes in individual countries. Most SADC countries have considerably reduced trade policy related to non-tariff barriers (NTBs) such as quantitative restrictions on imports. However significant NTBs still exist, and remain the most critical obstacles to trade. These include quantitative restrictions on certain imports such as agricultural imports (maize, wheat, dairy products), and the automatic import licensing system. Other NTBs relate to surcharges on imports, customs documentation and related procedures, border-related controls and transportation of goods and persons, and foreign exchange bottlenecks which tend to discourage trade transactions, delays in

payments, clearance and settlement systems. In almost all countries, the highest rates are being applied to consumer goods, middle rates to intermediate goods and lower rates to capital goods and raw materials.

The structure of protection has declined in all SADC countries, with the exception of Angola and the DR of Congo. According to Kalanga (1999), with respect to SACU, South Africa initiated the reduction of its complex tariff structure from about 12,500 tariff lines in 1990 to 8,250 in 1996. The target was to reduce the number of tariff rates from approximately 210 in 1990, to 6 in 1996. This was, however, not achieved fully by 1996, though significant progress has been made. Nevertheless, special provisions for the 'sensitive industries' (such as textiles, clothing, footwear, sugar and motor vehicles) were made. These sectors remain a source of discontent in South Africa's trade relations with the non-SACU SADC countries that desire more market access into its market. While SACU has low trade-weighted and simple mean tariffs, it still has a large number of rate bands and high levels of dispersion. SACU, Mauritius and Zimbabwe have the highest tariff peaks. Zambia has the most liberal trade regime in SADC, characterised by a moderate cascading tariff structure ranging from 0% to 5% for most capital goods and raw materials, 15% for intermediate goods and 25% for finished goods.

Box 2: Overview of Trade Policy Framework in Southern Africa

One of the main issues for the SADC trade integration process lies in the trade surplus South Africa records vis-à-vis other SADC countries. According to TIPS (2000) several factors could explain this trend. Firstly, many SADC countries have been liberalising their economies in the last two decades, engendering increased imports to GDP ratios in most countries. Secondly, while many SADC countries may have high overall trade deficits with South Africa, their overall trade balances may not have changed significantly. Thirdly, the trends may indicate that, rather than contributing to unsustainable balance of payments problems, South Africa has gained an increased market share in the SADC countries (substitution effects). This can partly be attributed to the post-sanctions effect where many of the country's exports, specifically in manufactures, faced sanctions in these markets.

The fact that South Africa is a large exporter to SADC but a minor importer, suggests that productive complementarities are low between South Africa and the rest of the SADC region. As was already mentioned, this unbalanced trade may also result from trade barriers (formal or informal) specific to the South African market, at least for particular industries. In this case, South Africa's trade surplus vis-à-vis SADC might be a source of concern if it resulted from trade diversion owing to tariff advantages for South Africa on the SADC market, or from the increasing difficulty (for SADC countries) in penetrating a protected market. In such a case, whether or not the FTA will result in overall gain will depend not only on the reduction of external tariffs by members, but also on an improvement in the access of the non-SACU members of SADC to the South African market.

Kalanga (1999) states that there are countries in SADC which are competitive exporters of certain products to the rest of the world, and that South Africa imports these products from the rest of the world as well (products such as food, beverages and tobacco, refined copper, cotton yarn, travel goods, footwear and toys). These products historically attracted a significant level of tariff protection under the SACU trade regime, even though South Africa started importing some of these products from SADC countries. Moreover foodstuffs, beverages and tobacco as well as textiles, fibres and clothing (articles of apparel and clothing accessories) constitute a significant share of South African imports from the SADC market. Improved access to these goods could lead to an increase in intra-regional trade. Therefore, some potential complementarity might exist which could be exploited by a rapid decline in trade barriers in sectors or products revealing a regional comparative advantage. The problem is that some of these products are still considered 'sensitive' goods, and are likely to be subject to a slower liberalisation process. On this issue, it is important to note that there is ongoing progress. Indeed, following the meeting of SADC Ministers for industry and trade in July 2001 in Mozambique, the Ministers agreed to implement, with respect to textiles and clothing, the special market access arrangement between SACU and Malawi, Mozambique, Tanzania and Zambia. This arrangement provides for duty free quotas for MMTZ exports to SACU on the basis of the single-stage transformation rule of origin to be applied from 1 August 2001 for a period of five years. Mauritius and Zimbabwe would be granted accelerated tariff reduction for their exports to SACU.¹⁰

All in all, concerning the potential for increasing intra-SADC trade, the report from UNCTAD (1998) summarises that:

Given the overlap in the product composition of exports by non-SACU members of SADC to the rest of the world with SACU's imports from the rest of the world, there is an untapped potential for trade between the two groups. Apart from petroleum, where the overlap is greatest, this potential mainly concerns primary products (including meat, tropical beverages, cotton, diamonds, and non-ferrous metals) and a few resource-intensive basic manufactures (such as cotton yarn, cement and some types of woven fabrics); for other manufactures the potential is limited.

Prospects for Increasing Intra-SADC Trade

The potential gains and losses SADC countries could encounter from the SADC FTA depend on the existing and anticipated trade pattern among members, as well as on their own trade structure. Although some progress has been recorded on intra-SADC trade, this is not sufficient to assess whether expanding intra-SADC trade would be feasible and/or beneficial.

¹⁰ While it has been accepted that the SACU countries will build down their duty barriers faster than the MMTZ, the problem is that within SACU the smaller partners, i.e. Botswana, Lesotho, Namibia and Swaziland are much less industrially developed than South Africa. Some progress has been made in allowing the SACU countries greater access to MMTZ markets than South Africa, but there are still issues outstanding and the problem is particularly felt in the textile and clothing sector (Isaksen & Tjonneland 2001).

It is usually emphasised that countries with more diversified export bases are suitable candidates for a successful RTA. The reasons are twofold. First, countries with more diversified exports are more likely to produce a range of products that can be traded with regional partners. As underlined by Yeats (1998), if only a limited number of such goods exists, members of an RTA may have to rely heavily on third countries for a high share of their key imports (and as destination for their major exports), and this in turn could reduce their commitment to the arrangement. Second, countries might become less vulnerable to export instability, which could lessen their commitment to regional arrangements. Yeats (1998) notes that sub-Saharan African countries' exports tend to be highly concentrated in a few products, many of which are not important in terms of other African countries' imports. This limits the potential import of any RTA among them.

Moreover, the interest in diversification is based on the empirical observation that rapid economic growth seems to be accompanied by a higher degree of diversification.

According to Chauvin and Gaulier (2002), SADC members fall into two groups: countries that have recorded the highest export diversification indices, and countries that have recorded a moderate or downward trend of their export diversification. While South Africa was one of the least diversified countries in 1980, its index of export diversification has followed a significant upward trend before stabilising during the 1990s. Tanzania also experienced an increase in its export diversification, especially since the third period. Mozambique, the most diversified country in 1980, has recorded a downward trend, while Zimbabwe - one of the most diversified countries in 1980 - did not improve significantly over time. Seychelles and Malawi, which had higher diversification indices than South Africa in 1980, have recorded a downward trend. Mauritius and Angola have experienced a moderate diversification process. Finally, Zambia has recorded the lowest diversification indices over all periods, and has not recorded any increase.

Beside these results, export diversification indices for manufactured products show an upward trend for Zimbabwe and South Africa. At the same time, Tanzania and Seychelles have recorded a decrease of their indices. The index for Malawi has evolved erratically even though Tanzania remains among the top of the sample of countries. Mozambique also has experienced an upward trend of its diversification index. Zambia, Angola, Mauritius and DR Congo have recorded either a decline or moderate evolution of their indices.

From Table 13, we can compare SADC countries with other emerging countries. Over the period 1992-1996, South Africa, Tanzania and Zimbabwe were the most diversified countries of the region. The progress recorded by South Africa over the period 1996-1999 is quite impressive. This might be due to their deeper integration in world markets. Nevertheless even these relatively more sophisticated and dynamic countries in

	1980-1983	1984-1987	1988-1991	1992-1995	1996-1999
Angola	2.3	7.4	3.1	2.4	1.6
Congo, Dem. Rep.	3.1	2.9	2.5	3.2	2.1
Malawi	3.4	2.8	2.0	2.0	2.2
Mauritius	2.2	3.0	2.8	2.8	2.6
Mozambique	8.4	7.5	5.8	5.5	6.0
South Africa	2.8	10.6	11.0	8.7	21.4
Seychelles	4.1	5.3	2.1	1.5	1.7
Tanzania	4.0	3.0	5.7	7.5	8.1
Zambia	1.2	1.2	1.2	1.3	2.0
Zimbabwe	6.3	9.2	7.8	8.0	7.7
South Korea	21.8	23.1	20.3	20.6	18.9
Indonesia	6.2	7.2	11.7	17.8	24.1
Malaysia	5.3	7.4	11.0	13.4	10.5
Philippines	14.2	14.2	18.7	14.8	6.3
Thailand	10.5	15.2	23.1	24.6	21.2
Argentina	8.4	10.0	14.9	16.3	16.9
Brazil	17.2	19.2	20.1	23.5	24.6
Chile	4.8	5.6	5.7	8.1	8.2

Table 13: Evolution of Diversification Indices (oil excluded) for Various Countries (period average)
Source: Author's calculation¹¹

SADC are still very concentrated compared to other middle-income countries. While in the early 1980s, countries such as Seychelles, Tanzania and Zimbabwe recorded diversification indices' values of around the same level as Indonesia, Malaysia, Argentina and Chile, by the mid-90s the gap had increased between these countries, leaving the most diversified countries in SADC at the level of the least diversified country among other emerging countries, Chile (the results obtained for Chile are quite low, suggesting that the country exports very specific products).

Despite this export concentration, the presence of relatively industrialised South Africa and Zimbabwe (and to a lesser extent Mauritius) might offer some opportunities for complementarity. Table 14 provides another view of the export structure by showing for each country the percentage of commodity it exports. It suggests that export structures among SADC countries are relatively heterogeneous. In 1999, the leading export commodity was basic manufactures for South Africa, beverages and tobacco for Zimbabwe, food and live animals for Mozambique and Tanzania, and miscellaneous manufactured goods for Mauritius.

¹¹ For SADC countries, based on World Trade Analyser Data (which provides data SITC 2 digit). For the other countries, based on CEPII CHELEM database, which encompasses 71 products. An increase of the index means an increase of diversification.

		Angola	DR Congo	Malawi	Mauritius	Mozaambique	Seychelles	South Africa	Tanzania	Zambia	Zimbabwe
Food & live animals	00	0.8	3.8	16.8	23.7	51.3	90.3	8.2	60.0	3.1	15.90
Beverages & tobacco	10	0.0	0.0	66.6	0.0	1.7	0.2	1.6	9.0	1.4	35.2
Crude materials excl. fuels	20	0.1	6.6	1.9	0.9	19.2	0.3	10.4	14.9	11.9	15.60
Minerals, fuels, etc	30	80.5	9.1	0.2	0.0	4.4	0.1	9.8	0.3	0.0	1.80
Animal, vegetable oil	40	0.0	0.1	0.0	0.0	0.2	0.1	0.2	0.3	0.0	0.20
Chemicals	50	0.0	0.2	0.2	0.7	0.1	0.1	8.0	0.8	1.8	2.5
Basic manufactures	60	11.5	73.3	4.6	8.4	5.1	1.9	39.0	5.3	42.7	20.2
Machines, transport equipment	70	0.2	0.2	0.7	0.9	4.9	1.9	17.3	5.8	1.4	2.2
Misc. Manufactured goods	80	0.1	0.1	8.9	64.7	4.2	4.6	4.7	3.1	0.2	6.4
Goods not classified by kind	90	6.8	6.5	0.1	0.6	9.0	0.4	0.7	0.6	37.4	0.1

Table 14: Share of Commodity Groups in each Country's Exports in 1999
Source: Author's calculation; based on TIPS data

Another way of evaluating present intra-SADC trade flows and the potential complementarity of its member countries is to look at indices of revealed comparative advantages. In the context of regional arrangements, the presumption is that country groupings that have a narrower range of RCA indices (and in similar products) are less likely to find grounds for sustained exporting as a result of a regional trade arrangement.

The range of comparative advantages reveals the differences among countries in their degree of specialisation. According to Table 15, the range of comparative advantages is less concentrated for South Africa compared to other SADC countries. South Africa's main comparative advantages spread from minerals (coal, coke) and crude minerals, chemicals (inorganic chemicals) and basic manufactures (non-ferrous metals, iron and steel) to fresh food (fruit and vegetables). As with the majority of SADC countries, the main disadvantages lie in general industrial machinery and equipment, telecommunication and electrical machinery, and to a lesser extent to road vehicles.

Partly as a consequence of its small size, Mauritius is among countries which have fewer diversified comparative advantages (such as Angola

South Africa		Zimbabwe		Mauritius	
Petroleum, petroleum products	-10,9	Road vehicles (incl. air cushion vehicles)	-37,7	Textile yarn, fabrics, related products	-70,2
Telecommunications & sound recording apparatus	-10,5	Machinery specialised for particular industries	-27,0	Road vehicles (incl. air cushion vehicles)	31,7
Office machines & automatic data processing	-8,1	General industrial machinery & equipment	-20,1	Other transport equipment	-26,5
Electrical machinery, apparatus & appliances	-6,9	Electrical machinery, apparatus & appliances	-16,9	Petroleum, petroleum products	-24,2
General industrial machinery & equipment	-6,8	Special transactions & commodities, not classified	-12,5	Machinery specialised for particular industries	-21,5
Miscellaneous manufactured articles, not elsewhere specified	-4,5	Chemical materials and products, not elsewhere specified	-12,1	Electrical machinery, apparatus & appliances	-14,2
Power-generating machinery and equipment	-4,3	Telecommunications & sound recording apparatus	-11,8	Telecommunications & sound recording apparatus	-13,4
Medicinal and pharmaceutical products	-4,3	Artificial resins, plastic materials	-11,4	General industrial machinery & equipment	-12,5
Pulp and waste paper	2,5	Crude animal and vegetable materials, not elsewhere specified	7,8	Metalliferous ores and metal scrap	0,6
Inorganic chemicals	3,2	Coffee, tea, cocoa, spices, manufactures thereof	8,5	Fertilisers manufactured	0,6
Vegetables and fruits	6,7	Non-ferrous metals	12,3	Crude animal and vegetable materials, not elsewhere specified	1,0
Metalliferous ores and metal scrap	7,8	Iron and steel	13,3	Animals, live, not elsewhere specified, incl. zoo animals	2,4
Non-metallic mineral manufactures, not elsewhere specified	8,9	Crude fertilisers and crude materials	13,4	Photographic apparatus, optical goods, watches	2,6
Coal, coke and and briquettes	9,8	Sugar, sugar preparations and honey	18,5	Fish, crustaceans, molluscs, preparations thereof	5,2
Iron and steel	15,2	Textiles fibres (except wool tops)	20,2	Sugar, sugar preparations and honey	90,4
Non-ferrous metals	23,5	Tobacco and tobacco manufactures	117,6	Articles of apparel & clothing accessories	264,5

Table 15: Revealed Comparative Advantages for Selected SADC Countries in 1999¹²
Source: Author's calculation

¹² Results for remaining SADC countries are available on request.

and DR Congo). Globally, Mauritius has two main comparative advantages in sugar and sugar preparations, and articles of apparel and clothing accessories. Mauritius and Malawi are the two countries among SADC countries with a comparative advantage in clothing. The main disadvantages are textile yarn and road vehicles. One can underline that while these countries have comparative advantages in clothing, they have disadvantages in textile yarn or fibres. At the same time, countries like Zimbabwe or Mozambique have comparative advantages in textile fibres. This suggests that some complementarity might be developed in this field.

The main comparative advantages of Zimbabwe rely on basic manufactures (iron and steel, cork and wood manufactures), tobacco, textile fibres and clothing. The main disadvantages of Zimbabwe are similar to those of South Africa.

On a more global level, SADC countries have comparative advantages in products with which they are well endowed and which are quite similar. Moreover they have the same disadvantages in machines and road vehicles. This tends to suggest that complementarity, as a means of stimulating trade, might be difficult among SADC countries. These results are in line with those of Yeats (1998) who found that RCAs for Africa tend to be concentrated in relatively few products, and that considerable similarity exists in the products in which the countries have high RCAs (reflecting their similar endowments). Indeed, indices of RCAs show that the range of processed products African countries export competitively is extremely narrow and may have a common comparative advantage in the same items (such as sugar preparations, or refined petroleum products). Moreover, he stresses that most of the countries do not have a comparative advantage in the products (such as machinery and transport equipment) that are of primary importance in regional imports¹³ to facilitating industrialisation and growth. These considerations tend therefore to weaken the prospects for any RTA.¹⁴

Along with comparative advantage indices, indices of complementarity may also help show the extent to which SADC countries' exports corre

¹³ Nevertheless he found different results for SACU. According to him, among the products in which SACU has a RCA, there are non-electric power machinery, metal-working machinery, electric power machinery, agricultural machinery, electrical distributing equipment and rubber manufactures. This suggests that SACU has developed an export capacity in a wide and diverse range of manufactures and processed products and thus that potential for two-way trade between South Africa and other SADC members might exist.

¹⁴ According to certain analysts a high level of intra-industry trade might also have a positive role on regional arrangements. But a small base of intra-industry trade exists within Africa. Perhaps one of the major reasons for the failure of this type of trade to develop is that many sub-Saharan African countries' exports are highly concentrated in very similar primary products and their common characteristics preclude gains from their exchange. Geography and logistical problems may also play a role. The few African countries that appear to have established a fledgling industrial base that might support some intra-industry trade (like Kenya and Zimbabwe) are relatively distant from each other and may face important transport, communications, financial and other constraints that work against this trade. In short, production sharing and intra-industry trade can be an important factor promoting integration, but there is no evidence that it is occurring within Africa.

spond to other SADC imports, and thus how well the structure of exports corresponds to import needs. If the SADC countries' exports match the products other import, this should facilitate regional trade arrangements.

Between 1985 and 1998, the average complementarity between SADC countries remained stable. Except for Malawi and Mauritius, all SADC countries recorded an increase of complementarity on average.

- In 1996, Malawi and Tanzania¹⁵ had the least complementarity with SADC (on average) compared to Zimbabwe and Tanzania in 1998; at the same time South Africa and Mauritius had the highest in 1996 and 1998;
- In 1996, Malawi and Zimbabwe recorded the lowest level of bilateral complementarity, followed by Mozambique and Seychelles; Tanzania and Malawi; and Tanzania and Zambia. In 1998, the lowest level of bilateral complementarity was between Tanzania and Mozambique, followed by Zimbabwe and Malawi and Zimbabwe and Zambia.
- In 1996, Zimbabwe and Seychelles had the highest level of bilateral complementarity, followed by South Africa and Angola, then Zimbabwe and Angola. In 1998, South Africa recorded the highest level of bilateral complementarity with Mauritius and Malawi.

A few points can be emphasised:

- Even though some complementarity appears to exist between SADC countries, this does not provide the necessary depth of information for a guarantee of potential trade. Indeed, as seen previously, comparative advantages of SADC countries remain concentrated and in similar products. Moreover, SADC countries tend to have the same comparative disadvantages, especially in manufactured products. What our indicator regards as complementarity is in fact to a large extent dissimilarity in the sets of export goods. Natural trade partners for primary goods' producers are industrialised countries, and the scope for trade within SADC is limited. Only South Africa and to a lesser extent Zimbabwe can provide adequate manufactured products. Even in this field, the range of products remains limited. No competitive supply can be found within the region for numerous branches (motor vehicles, for instance).
- Moreover, large exports from South Africa suggest that existing opportunities may already have been exploited. Even though South Africa could increase its imports of certain products such as textiles and clothing, tobacco and food-stuffs, the potential trade remains low for now, given the present economic structures of SADC countries.
- Another point to be made is that South Africa is currently not in a position to play the role of driver vis-à-vis SADC, as the European Union does for Maghreb countries. Indeed, comparative advantages of South Africa in manufacturing correspond to those of a country at an early

¹⁵ For indication, the economic of Malawi, Tanzania and Mozambique is driven by the agricultural sector. The pillar of the economies of Zambia and DR Congo is the mining sector. Seychelles relies more on tourism. Analysis on Angola is more difficult as the country was facing war and political problems for quite a long time.

stage of industrialisation, which suggests that the country cannot be at the downstream of the labour division at a regional level. Moreover, South Africa and the other SADC countries tend to have comparative advantages in similar products. This means that it is difficult for the SADC countries to see South Africa as an important outlet for their exports (for example, mining products or food can hardly be competitively exported to South Africa by SADC partners). However, one could imagine that intra-trade could expand, especially in vertically-differentiated goods: for instance, South Africa could specialise in high-quality food products, while importing from regional partners for middle and lower range products.

Several technical methods allow an assessment of trade potential by comparing observed and predicted flows. In the case of SADC and according to Chauvin and Gaulier (2002), SADC trade potentials (within SADC and, to a lesser extent vis-à-vis the rest of the world) are negative.¹⁶ The negative potential for intra-SADC trade might seem relevant for South Africa's exports, which are quite high and lead to a very significant surplus vis-à-vis the rest of the SADC area, as already seen previously. However the prediction of a decrease of these flows is not credible. An increase of South African (intra-SADC) imports might be considered. Also, results suggest that deeper regional integration might reduce the trade flows existing due to the former colonial relationship. This shift could be to the benefit of intra-SADC trade. In one sense, these conclusions are not dissimilar from some previous studies. Thus, Coe & Hoffmaister (1998) find that the average African country tends to "overtrade", compared with developing countries in other regions. In the same vein, one of the main conclusions of Subramanian and Tamirisa (2001) is that Anglophone Africa traded more with itself than an average country, while its trade with the South and with the non-Lomé industrial country partners was typical.

Recommendation to Improve SADC Regional Trade Integration

Several conclusions may be drawn from the analysis on SADC trade integration: While some complementarity might exist between SADC countries, this does not prove the existence of trade potential. Indeed, the comparative advantages of SADC countries remain concentrated and in similar products. Moreover, they tend to have the same comparative disadvantages, especially in manufactured products. The complementarity indicator used in our study reflects, to a large extent, dissimilarity in the sets of export goods. Natural trade partners for primary goods' producers are industrialised countries, and the scope for trade within SADC seems limited. Only South Africa and to a lesser extent Zimbabwe can provide adequate manufactured products. And even in this field, the range of products re

¹⁶ Predicted trade flows are available from the authors on request.

mains limited. No competitive supply can be found within the region for numerous branches (motor vehicles, for instance).

Moreover, large exports from South Africa and the South African trade surplus vis-à-vis the SADC region suggest that existing opportunities may already have been exploited. Even though South Africa might increase its imports of certain products such as textile and clothing, tobacco and foodstuffs, the potential for trade remains low for now, given the present economic structures of SADC countries and the fact that some of these products are considered 'sensitive' and are likely to be subject to a slower liberalisation process.

Another point to be highlighted is that given the basis of comparative advantages of South Africa (mostly in primary goods), it is not currently in a position to play the role of a driving force for the region. Moreover as the comparative advantages of the SADC countries are similar to those of South Africa, it is difficult for the SADC countries to see South Africa as a large export market. Nevertheless, the potential of intra-regional trade may be larger than found by conventional analysis because of new opportunities arising and the changing composition of trade. Thus one could imagine that intra-trade could expand especially in vertically-differentiated goods: for instance South Africa could specialise in high-quality food products, while importing from regional partners for middle and lower range quality.

All in all, an increase of trade among SADC countries will imply either an openness of South African markets, a changing of specialisation of SADC countries or a reduction of protection of sensitive goods.

Even though regional integration might be seen as a tool to increase negotiating power vis-à-vis other trading blocs, it is important that SADC countries develop their national industrial development strategy, which can be complementary to the regional initiative. Indeed, regional trade integration by itself is not a sufficient tool to contribute to economic development. In this respect and as an example, improvement of infrastructure may be a prerequisite for successful trade integration and growth.

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Trade and Competition in SADC: Issues for Competition Policy

Trudi Hartzenberg

Introduction

At the 1996 Singapore Ministerial Conference of the World Trade Organisation (WTO) competition policy became one of the 'new' issues on the WTO agenda, and at Doha WTO members made a commitment to begin negotiations towards a multi-lateral agreement on competition policy in 2005.

Although the primary concern of competition policy is the promotion and maintenance of competition, the accommodation, and even active pursuit of development needs and priorities in competition policy is gaining ground among developing countries, including countries in the Southern African Development Community (SADC). For example, Zambia aims to encourage innovation and ensure fair distribution of income, and to reduce unemployment with their competition policy. South Africa's competition policy considers job losses related to mergers and acquisitions, as well as the promotion of small and medium-sized firms, and the empowerment of previously disadvantaged individuals.

This chapter reviews briefly the relationship between trade, competition and investment in the SADC context. Their interconnectedness, and perhaps specifically the role of South Africa in the region have important implications for competition policy in SADC.

A status review of competition policy in SADC is then provided. Although only four countries currently have competition policy and institutions, there is certainly much policy development in process. For Southern African Customs Union (SACU) countries this is motivated by the fact that the latest SACU Agreement requires that each member country have a competition policy.

A selection of competition policy challenges for the SADC region and specific member countries are then considered, with recommendations on how to address them through different modes of regional collaboration.

Trade, Competition and Investment: Challenges and Tensions in SADC

The relationship between trade and competition policy¹ is a complex one. Trade liberalisation increases the contestability² of markets, by facilitat

¹ A distinction is made between competition policy and competition law. Competition law refers to the legislation to give effect to and to implement competition policy. Competition policy is therefore the broader policy that may also include industry promotion initiatives, which would impact on competition.

² Contestability is used here to indicate both the entry of firms to establish commercial presence, and as they establish market presence through their products or services.

ing the entry of new products and services. As firms establish market presence through import penetration, the nature and intensity of competition may change considerably. Herein lies the competition policy connector to trade liberalisation.

From the relationship between trade and competition a logical link to investment emerges. To examine the linkages among these three policies, an assessment of industrial configurations in SADC countries is important. It is not unusual to find industries in SADC countries that consist of a concentrated core - an oligopoly or perhaps monopolistic competition - and a competitive fringe populated by small businesses. In many cases the large firms are subsidiaries of multinationals, and the small businesses are locally owned.

The link between trade and competition policies is most obvious in the area of import competition. Quotas, tariffs, anti-dumping duties as well as non-tariff barriers such as burdensome bureaucratic procedures offer shelter to domestic producers, protecting them from potential import competition. Trade theory concludes that with trade protection, producer surplus increases and consumer surplus decreases with higher prices and lower output levels. Trade protection can therefore limit domestic competition, and can also impede structural market developments. This is especially true for developing countries where markets and market processes are fragile and generally not well developed.

With trade liberalisation, potential import competition is likely to materialise, and import competition can be expected to improve resource allocation and application, and limit the abuse of market power by domestic firms.

Following this argument, it has been suggested that trade liberalisation reduces the need for competition policy, as anti-competitive practices are less feasible in an open economy, even when markets are relatively concentrated. Import competition as firms establish market or virtual presence may therefore serve as a form of countervailing power in domestic markets.

Recent empirical studies seem to suggest that the competition effects of trade liberalisation may be less significant than previously thought. Strong support is emerging for the position that liberalised trade policy cannot substitute for competition law, but that the two complement each other in the promotion of trade, market access, global economic efficiency and consumer welfare.

Intra-regional trade liberalisation, as envisaged in the SADC Trade and Investment Protocol, plays an important role in shaping markets and developing market processes. SADC countries began the process of intra-regional trade liberalisation in September 2000, to create a free trade area (FTA). This involves both tariff reduction and the elimination of non-tariff barriers, and has already led to significant changes to market access conditions within the region.

Briefly, the structure of a market may be characterised by a number of features, including –

- Seller concentration - the extent to which economic activity is dominated by a few large firms; and
- Entry conditions - specifically barriers which may prohibit the entry of new firms (or their products) into a market.

Intra-regional trade liberalisation, by increasing market access, enhances the contestability of markets within the SADC region. Investment liberalisation and the mobility of capital flows further enhance the contestability of markets, by facilitating the establishment of commercial presence. The theory of contestable markets³ supports the conclusions of trade theory presented above, and suggests that the reduction of entry barriers will enhance efficiency and encourage competitive pricing - both of which are objectives of competition policy.

As intra-regional trade is stimulated by trade liberalisation, imports from other SADC countries may compete intensively with local businesses. Such increased competition could provide incentives to improve efficiency, increase product variety and quality and lower prices.

It is also possible that increased competition may lead to the demise of local businesses, especially perhaps small businesses. Such demise could be seen as the outcome of the competitive process, but could also raise competition concerns. Competition policy is focusing increasingly on efficiency-plus concerns; the public interest or other concerns in the case for example of South Africa include the development of small business. The ability of small businesses to compete is therefore a competition concern.

In this regard, the clothing and textile sector in a number of SADC countries provides an interesting case study. With liberalisation of this sector and the subsequent dramatic increase in import competition, domestic firms were after extended periods of protection faced with the challenge to restructure their organisations, adopt new technology and upgrade skills of workers. Many, especially small businesses, did not survive this process of industrial and organisational restructuring. In some countries this led to employment losses, which could ill be carried by the society or the economy.

A number of questions arise in this connection. First, what can competition policy do to pro-actively support, for example, small business development? Second, to what extent and how should trade liberalisation be accompanied by complementary policies to ensure that its benefits are not captured by a small number of powerful firms?

Proponents of the free market would argue that what emerges in the wake of trade liberalisation should be regarded as the efficient solution.

³ Trade liberalisation presents an interesting application of the theory of contestable markets.

However, on the counterside, just as the market process itself does not necessarily produce an efficient - never mind an equitable - outcome, trade liberalisation may not independently guarantee outcomes that are efficient or in the public interest. The checks and balances can come from competition policy and also from industrial policy. Lessons from the European Union competition policy with regard to exemptions related to size, are instructive. Industrial policy is perhaps one of the most challenging policy areas, especially for developing countries. Many instruments of industrial policy, such as direct subsidies, are not WTO compatible. Policy makers are faced with the challenge of creatively devising support programmes and initiatives that can improve their competitiveness in domestic markets that are permeable to new competition, and in global markets where competition is even more intense.

Figure 4 below shows the well-documented trade surplus that South Africa (SACU) has with the SADC region and with specific SADC countries. In the SADC context, there are competition reasons for cautious consideration of the trade surplus. While a trade surplus in itself may not necessarily raise competition concerns, the specific links between trade and investment in SADC, especially as regards South Africa, had led to a number of trade disputes and competition complaints in countries such as Zambia.⁴ It is not so much the trade surplus itself but the competition implications associated with the trade surplus that raise competition concerns.

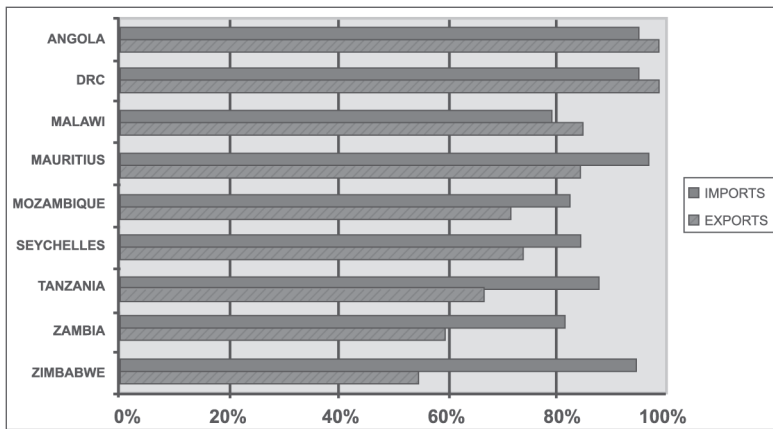


Figure 4: Trade with SACU as Percentage of Trade with SADC
Source: Robertson 2002

⁴ See for example, the *Zambia Competition Commission Annual Report 2001*.

An important policy linkage exists between investment and competition. Given the significant savings constraint faced by all SADC countries, and hence the limited capacity to generate domestic investment, the attraction of foreign direct investment (FDI) is a key policy focus, and there is evidence of incentive competition among SADC countries to attract FDI. FDI can, however, have significant competition implications. The crisis in Zimbabwe has shown the impact of neighbourhood effects, and suggests that potential investors already regard SADC as an integrated economic space. This highlights the interdependence of national and regional developments.

The impact of the entry of new firms on market structure and on competition may differ, depending on the modality of establishing commercial presence. For example, if entry takes the form of a merger, then seller concentration will increase, and competition may be harmed or enhanced, depending on initial market concentration level. Alternatively if entry is in the form of a greenfield investment, then concentration may not increase, and competition may be promoted. FDI can also bring new technologies, knowledge and experience, which are positive for competition.

Most countries do have some restrictions related to FDI, often not motivated by economic considerations. These may relate to ownership restrictions, or repatriation of profits, the legal framework (competition law too), intellectual property and other property protection. It is important that the factors that are taken into account by potential investors are considered, as they assess the risk-return profiles of potential investment destinations.

The increasing mobility of even FDI presents opportunities but also challenges to SADC countries. Within SADC the introduction of the African Growth and Opportunity Act occasioned the relocation of clothing firms from, for example, South Africa and Mauritius to less developed SADC countries such as Lesotho and Tanzania. From a competition perspective such relocations can have significant implications.⁵ Given intra-regional trade liberalisation, firms that have relocated from South Africa may still be able to retain their regional competitive market presence (or even enhanced competitive presence) despite the fact that their commercial presence has shifted within the region.

Table 16 shows that in 2000, almost US\$4 billion in FDI flowed to SADC, out of the US\$11 billion FDI that flowed into Africa, representing about 36% of the African total. Angola accounted for over 45% of total SADC FDI inflows, and South Africa for just over 22% of the SADC total.

Approximately 42% of total FDI inflows into SADC were in the form of mergers and acquisitions. This figure is significantly lower than that for South Africa alone, where mergers and acquisitions accounted for over 60% of total FDI inflows.

⁵ The relocations also have significant implications for robust and sustainable regional development.

	1987-1992 Annual Average	1993	1994	1995	1996	1997	1998	1999	2000
Angola	178	302	170	472	181	412	1114	2471	1800
Botswana	-29	-287	-14	70	71	100	96	37	30
DRC	-11	7	-2	1	2	1	1	1	1
Lesotho	11	15	19	275	286	269	262	136	223
Malawi	12	11	9	25	44	22	70	60	51
Mauritius	25	15	20	19	37	55	12	49	277
Mozambique	12	32	35	45	73	64	213	382	139
Namibia	44	55	98	153	129	84	77	111	124
Seychelles	19	4	15	40	30	54	55	60	56
South Africa	-24	-17	334	1241	818	3817	561	1502	877
Swaziland	62	72	63	33	-62	-48	165	90	-37
Tanzania	3	20	50	150	149	158	172	183	193
Zambia	102	2	40	97	117	207	198	163	200
Zimbabwe	-8	38	41	118	81	135	444	59	30
TOTAL	396	269	878	2739	1956	5330	3320	5304	3964

Table 16: FDI Inflows into Individual SADC Economies, 1987-2000,
US\$ million

Source: World Investment Report

South Africa has become the largest source of FDI in SADC, accounting for approximately 85% of total FDI in all SADC countries in 2000 (Muradzikwa, 2002). South African companies, long denied the opportunity to invest substantially offshore due to exchange controls, have increasingly sought opportunities for expansion outside South Africa. The sectors of choice for South African investment in SADC include financial services, mining and quarrying, clothing and textiles, retail and food and beverages, and tourism.

Recent experience has shown that cross-border investment in SADC (into the retail sector, for example) reflects strong intra-regional trade flows, as products are sourced from their home country. Competition is thus impacted through two distinct channels; the entry of the retail firms, but also by import competition as goods are sourced from South Africa, for example.

The investment by South African retailers in Zambia provides a good example. Since 1996 South African retail firms have gained significant presence in the Zambian retail sector. Shoprite/Checkers, Dunns Clothing and Pep Stores, and a number of fast food chains such as Nandos, first opened branches in Lusaka, and followed with others in the Copperbelt region, Kabwe, Kitwe, Livingstone and Ndola. The collapse of the state-run retail enterprises⁶ opened significant opportunities in this sector, which

were enhanced by 'market-friendly' policies, especially extensive privatisation and trade liberalisation. Concerns arose about the sourcing practices of the South African companies - some fast food chains even source tomatoes and potatoes from South Africa - and the impact on local businesses in this sector.

Competition Policy: What Exists in SADC?

Most SADC countries implemented structural adjustment programmes (SAP) under the auspices of the International Monetary Fund and the World Bank. It is notable that the SAPs of the 1980s and early 1990s did not contain any reference to competition policy or regulation.

Trade and market liberalisation were key features of the SAPs. Markets were opened to new competition and market forces were freed to determine outcomes in sectors that were previously fettered by price and other controls. The expansion of markets in SADC countries reflects international developments; the countries of the former Soviet bloc are of course a good example in this regard, and more recently the liberalisation of economic life in China.

The wave of privatisation, with the state retreating from productive economic activity, with state-owned monopolies being taken over by private interests or protected monopolies being exposed to the market, generated renewed policy interest in regulatory overseeing of infrastructure and other previously state-controlled sectors. The retreat of the state opened opportunities that could be seized by private concentrations of economic power and which could produce outcomes no more efficient or equitable than those associated with the previously state-owned enterprises.

The response to these developments has been a focus on competition policy and regulation. The rationale for regulating markets lies in the very incentives that the market process creates. On the one hand the market provides incentives to produce cheaper, better quality products. On the other hand it provides incentives for its own destruction. A firm with market power can restrict output, raise price, and exclude potential competitors. Competition policy is framed to guard against the possibility that the competitive process may lead to behaviour that endangers that very process.

Competition policy is enforced through the legal system. Competition law specifically addresses two areas: market structure and firm behaviour.

Three SADC countries currently have competition policy and institutions: South Africa, Zambia and Zimbabwe. Tanzania has a Fair Trade Practices Act to regulate competition-related matters.

⁶ The retail sector had been nationalised during the Mulungushi Reforms of 1968, which prompted multinational companies to relocate.

South Africa

After South Africa's democratic transition in 1994 an extensive review of economic policy followed. The Maintenance and Promotion of Competition Act, No. 96 of 1979, was found to be inadequate to deal with the competition challenges facing South Africa.

Competition challenges arose from South Africa's apartheid history, its economic isolation, financial sanctions and high levels of market and ownership concentration. The decisions of the competition implementation agency, the Competition Board, were subject to review and approval by the Minister of Trade and Industry. The Competition Board thus lacked independence, and was criticised for making decisions subject to political influence.

New legislation was promulgated in 1998 to address the shortcomings of the previous competition legislation, and to focus on the challenges that South Africa faces in the WTO era. The Competition Act, No. 89 of 1998, covers all economic activity in South Africa, and extends to cover extra-territorial transactions such as international mergers to the extent that they impact on South African markets. The Competition Act also makes provision for the establishment of three institutions to implement and enforce the legislation.

The Competition Commission is an investigatory body to which competition complaints may be addressed. It also conducts preliminary investigations in merger impact assessments, and makes recommendations to the Competition Tribunal. The Competition Tribunal is an adjudicatory body (or court of first instance) to which complaints may be referred by the Commission, and to which larger merger transactions are referred. The third institution is the Competition Appeal Court, which hears appeals emanating from decisions by the Tribunal.

The purpose of the Competition Act is to maintain and promote competition, in order –

- to promote the efficiency, adaptability and development of the economy;
- to provide consumers with competitive prices and product choices;
- to promote employment and advance the social and economic welfare of South Africans;
- to expand opportunities for South African participation in world markets and recognise the role of foreign competition in the Republic;
- to ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; and
- to promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.

The South African competition law explicitly includes public interest considerations, both in the articulation of its purpose, and also in its merger control provisions. It therefore attempts to balance efficiency concerns and broader development priorities in the competition framework.

The following are prohibited practices:

- Restrictive horizontal practices
 - Practices which refer to any agreement between or concerted practice by firms or a decision by an association of firms, that substantially lessens or prevents competition, unless any technological, efficiency or other pro-competitive gain outweighs that effect;
 - Directly or indirectly fixing a purchase or selling price or any other trading condition;
 - Dividing markets or allocating customers, suppliers, territories or specific types of goods or services;
 - Collusive tendering.
- Restrictive vertical practices
 - An agreement between parties in a vertical relationship (at subsequent stages of the supply chain), if it substantially prevents or lessens competition in a market, unless a party can show that technological, efficiency or other pro-competitive gain resulting from the agreement outweighs the effect;
 - Resale price maintenance.
- Abuse of a dominant position,⁷ in the following sense:
 - Charging an excessive price to the detriment of consumers;
 - Refusing to give a competitor access to an essential facility when it is economically feasible to do so;
 - Engaging in an exclusionary act, if the act outweighs any technological, efficiency or other pro-competitive gain;
 - Engaging in any exclusionary acts, by i) requiring or inducing a supplier or customer to not deal with a competitor, ii) refusing to supply scarce goods when it is economically feasible to do so, iii) tying the sale of goods or services, iv) selling below marginal cost and v) buying up a scarce supply of intermediate goods or resources required by a competitor.
- Price discrimination by a dominant firm is prohibited.

The merger control provisions provide for a pro-active stance on market concentration. Mergers are classified, according to turnover or assets, into three categories: small, intermediate and large. Intermediate and large mergers require notification and approval before implementation. Consideration of mergers involves assessment of whether the merger is 'likely to substantially prevent or lessen competition'.

If the merger is likely to substantially reduce or prevent competition then technological, efficiency or other pro-competitive gain will be considered

⁷ A firm is dominant in a market, if it has i) at least 45% of the market, or ii) at least 35% but less than 45%, unless it can show that it does not have market power, or iii) it has less than 35% of the market, but has market power.

to determine if they are likely to outweigh any reduction of competition; and whether the merger can be justified on public interest grounds. Public interest considerations include i) the impact on a particular industry or region, ii) employment, iii) the ability of small businesses, or firms controlled by historically disadvantaged persons to become competitive, and iv) the ability of national industries to compete in international markets.

Recognising the importance of the interface between sector regulation and competition law, the Competition Act specifies that the Competition Authorities and Sector Regulators have joint jurisdiction in relevant sectors. A Regulator's Forum is being established to implement this provision of the Act and makes the Competition Commission responsible to 'negotiate agreements with regulatory authorities to co-ordinate and harmonise the exercise of jurisdiction over competition matters' within a specific sector or industry.

Thus far only the Independent Communication Authority of South Africa (ICASA) and the Competition Commission have developed a memorandum of understanding which delineates their respective jurisdictions.

Since promulgation of the Competition Act and establishment of the competition authorities, important strides have been made to affirm the independence of the authorities, to develop credibility, and to amplify the letter of the law through a body of case precedents. Corporate compliance has improved; however, it is still the case that until faced either with a proposed merger transaction or a complaint there are very few companies that are willingly introducing compliance programmes. A particular challenge emerges from the lack of consumer organisation in South Africa. Consumers are generally not aware of their rights and the potential to pursue complaints through the competition authorities, and South Africa does not have specific consumer protection legislation. Reference to consumers and the importance of providing them 'with competitive prices and product choices' is stressed in the purpose of the Act.

Zambia

Zambian Competition Law came into force largely as a consequence of the conditionalities of the International Monetary Fund and the World Bank.

The Zambia Competition Commission (ZCC) was established in May 1997, under the Competition and Fair Trading Act, Section 4 of Chapter 417 of the Laws of Zambia, which had been promulgated in February 1995. The objectives of the Act are to (*Zambia Competition Commission Annual Report 1999*) –

- encourage competition in the economy;
- protect consumer welfare;
- strengthen the efficiency of production and distribution of goods and services;
- secure the best possible conditions for the freedom of trade; and

- expand the base of entrepreneurship.

The law covers the following areas:

- Anti-competitive trade practices

These are practices that have the aim of preventing, restricting or distorting competition to an appreciable extent in Zambia or any substantial part of the country.

- Vertical restraints

These arrangements are dealt with under a 'rule of reason' or case-by-case approach. Abuse of a dominant market position or market power is prohibited.

- Merger control

All mergers (and acquisitions) that involve the acquisition of a significant interest in the whole or part of the business of a competitor, supplier, customer or other person is covered. Trans-national mergers are covered in that if either of the enterprises was prior to the merger operating in Zambia, it has to be notified to ZCC, and gain authorisation.

- Trade agreements

These pertain to price fixing, collusive tendering, market or customer allocation, sales/production quotas, refusal to supply, as well as collective denials of access to an arrangement or association which is crucial to competition.

- Anti-competitive trade practices by Associations

These include unjustified exclusion from a trade association or recommendation to trade association members on prices to be charged or terms of sale.

- Control of Monopolies and Concentrations of Economic Power⁸

The provision permits scrutiny of collective or joint dominance.

- Unfair trading/Consumer Welfare and Protection⁹

This covers misleading or deceptive conduct, false or misleading representations, misleading the public as to the nature or characteristics of goods or services.¹⁰

ZCC is an autonomous corporate body under the Ministry of Commerce, Trade and Industry. Although the Minister may overrule decisions by ZCC, there has been no record of overrule to date.

⁸ A monopoly is defined as a dominant undertaking or an undertaking which together with not more than two independent undertakings, produces, supplies, distributes or otherwise controls not less than one-half of the total goods of any description that are produced, supplied or distributed throughout Zambia or any substantial part of the country (*Competition Rules in Zambia*).

⁹ Section 12 contains consumer protection provisions.

¹⁰ Liability for defective goods is excluded.

Zimbabwe

The Zimbabwean Competition Act, No. 7 of 1996, was a response to the recognition that anti-competitive activities were pervasive in the Zimbabwean economy characterised by monopolies and oligopolies.

The objectives of competition policy in Zimbabwe are maintenance and promotion of the competitive process through –

- prohibition of price fixing agreements and abuse of dominant market position;
- lessening the adverse effects of government intervention in markets;
- improving access and opening markets by reducing barriers to entry;
- prevention of abuse of economic power and thus protecting consumers and producers; and
- achieving economic efficiency so as to encourage allocative and dynamic efficiency through lowered production costs and technological change and innovation.

The Competition Act provides for the establishment of the Industry and Trade Competition Commission, and its work with other sector regulators. An Administrative Court exists to hear appeals by parties aggrieved by a decision of the Commission. The role of the Commission is to protect the process of competition rather than individual competitors. The focus of the Commission is therefore on the business behaviour of enterprises rather than on the size of enterprises. There are also provisions for public interest considerations such as employment creation and the generation of foreign currency.

The Act distinguishes two types of prohibitions; *per se* and *rule of reason* prohibitions. Unfair trade practices, which require only proof that the act was engaged in, are *per se* prohibited. These include collusive agreements between competitors, predatory pricing, bid rigging and undue refusal to distribute goods or services. Restrictive practices fall under *rule of reason* prohibitions. They require an evaluation to determine whether the practices are pro- or anti-competitive. Examples include agreements or arrangements, whether enforceable or not, to restrict competition directly or indirectly.

Companies are required to apply for authorisation of mergers and acquisitions and restrictive business practices prohibited by the Competition Act.

The Commission also performs an advocacy function by running publicity campaigns to promote compliance.

An amendment to the Competition Act was introduced in 2001 to amalgamate the Tariff Commission and the Competition Commission. In terms of the amendment, the Competition and Tariff Commission has additional powers to monitor prices.

Tanzania

In Tanzania, competition legislation takes the form of the Fair Trade Practices Act of 1974 that does not prevent or prohibit monopolies or enterprises seeking to be monopolies '*per se*'. The Act provides for the imposition of restrictions where monopolies are not in the public interest.

In terms of the Act, restrictive trade practices are defined as

- agreements that reduce or eradicate the opportunity to take part in the production or distribution of goods or services, reduce or eliminate the opportunities of paying a fair market price to acquire or purchase the goods or services by arrangement or agreement between manufacturers, wholesalers, retailers or contractors;
- discriminatory agreements or arrangements between sellers or between sellers and buyer to grant rebates to buyers of goods calculated with reference to the quantity or value of the total purchases by those buyers from those sellers not to sell/buy goods in any particular form or kind to buyers/sellers;
- arrangements or agreements between persons whether as producers, wholesalers or retailers or buyers to limit or restrict the output or supply of any goods, or withhold or destroy supplies of goods, or allocate territories or markets for the disposal of goods.

In addition to other unfair practices, the Fair Practices Act prohibits misrepresentations, misleading advertising and conduct, bait-supply and harassment and coercion.

Prior approval of the proposed merger transaction by the relevant Minister is required before implementation. The Commission is required to carry out an investigation of the situation under review, and following this process it makes a recommendation to the Minister. The Act provides for a set of criteria for evaluation and recommendation. The Minister would normally be expected to accept the recommendation, but is not obliged to do so. The Act provides the right to appeal against the Minister's decision at the Competition Tribunal.

The institutional framework for the Fair Practices Act consists of two levels of implementation, the Fair Trade Practices Commission and the Appeals Tribunal. The Commission for Trade Practices is responsible to monitor, investigate, evaluate, prosecute, issue orders, impose penalties or otherwise resolve alleged contraventions. The Commission is not independent of the hierarchical structure of the parent ministry.

The Fair Trade Practices Tribunal has been established as an Appellate body for decisions of the Minister and the Commission. The Tribunal has the jurisdiction to hear and determine any complaint relating to trade practices, to inquire into any matter referred to it and to issue orders. Appeals from decisions of the Tribunal are limited to judicial review.

Emerging Competition Policy Issues in SADC

The lack of capacity in the area of competition policy compounds the competition challenges in SADC. There is, however, currently a great deal of interest and activity in the area of competition policy in SADC. A number of countries, including Swaziland and Botswana, are drafting legislation, some with the assistance of UNCTAD, resources from the region and COMESA. The recently concluded SACU Agreement requires that each member country have a competition policy, providing impetus for policy development. The multilateral negotiations due to begin in 2005 have also focused policy minds on competition policy.

The implementation of the SADC Trade and Investment Protocol has highlighted the challenges of regional integration in SADC. Implicit in the process of integration is a complex tension between national and regional priorities. In the case of competition policy, this exists in that policy is bounded within national jurisdictions, reflecting national priorities. Regional integration in the form of cross-border investment and trade activities is enhanced by intra-regional trade liberalisation, and competition therefore has a national, but increasingly a regional character.

The tension between national and regional priorities is also evident in other areas such as labour market policy, where the hierarchy of priorities is definitely national first and regional second. Taking a longer-term view of regional development prospects, the regional character of competition concerns as well as, for example, labour market issues and sector-specific regulation, have to secure policy attention.

Privatisation is an important investment and competition-related issue for SADC countries. Many SADC countries have vigorously privatised previously state-owned enterprises or public utilities. The objectives of privatisation may be articulated to include a rationalisation of the role of government in the productive sphere of the economy and the attraction of foreign direct investment. In this context the competition implications of privatisation are important. If a private monopoly (through FDI) is replacing a public monopoly, how can the abuse of market dominance be precluded, and what will be the relationship between competition policy and sector-specific regulation that may apply in the case of telecommunications or a transport sector? These are the kinds of issues that need to be addressed in the development of a workable and coherent interface between competition policy and sector specific regulation. Much work in the region is needed in this area, taking into account for example the lag between privatisation and the introduction of competition policy or regulation in most countries.

The challenges implicit in the process of regional integration, for the conduct and implementation of competition policy, are considerable. As regards merger control; in the consideration of a merger in retail or the production of consumer goods in South Africa, for example, the cross-border impact of such a South African merger on other SADC countries could be significant. In order to assess the merger impact appropriately,

a number of options are possible. First, the geographic market may be defined to include the relevant SADC markets (either as a single geographic market or as separate relevant geographic markets), and the merger could be assessed under the South African jurisdiction.

Second, the relevant competition authorities (if they exist or a proxy, if a country does not have competition law) could collaborate in the merger impact assessment, having agreed on the criteria for assessment. This may involve some rationalisation of relevant competition laws (or for the specific purpose of assessing regional merger impacts) - a positive step to developing a regional position on merger control, and perhaps a regional competition policy. Similar collaboration in the case of restrictive practices (perhaps more complicated than in the case of merger control) could also be devised.

For the assessment of international (extra-regional) mergers, similar collaboration within SADC may be considered. For example, recent international mergers in the cement and pharmaceutical industries impact on most SADC countries. In such cases taking a regional perspective, complemented by focus on specific national concerns, could be workable and effective.

Turning to restrictive or anti-competitive practices, it is useful to delineate two sets of practices that can inhibit both competition and trade:

- Transnational practices that inhibit the effects of trade liberalisation - these include import cartels, vertical restraints between manufacturers and retailers, domestic abuses of dominant positions, international cartels that prevent the market allocation of flows of imports and exports through customer allocation or market sharing or entry limiting behaviour.
- Transnational practices that prohibit trading countries from reaping the benefits of trade - export cartels (some may be sanctioned by their home governments), transnational abuse of dominant positions, or price fixing by international cartels (e.g. vitamins, lysine).

The task of competition authorities, given their national jurisdiction, is complicated in the assessment of restrictive practices by the regionalisation and globalisation of markets. Restrictive practices usually involve action by firms with commercial presence in one country on the market of another country where they have market presence. The national character of competition law precludes the competence to investigate or sanction firms located in another country. This implies effectively a loss of operational competition sovereignty in the national market.

Conclusion

Much exploratory work is being done in the area of competition policy in developed and developing countries. For developing countries the globalisation of markets and the mobility of international capital, and the increased mobility of even FDI, which used to be perceived as a long-term commitment, are drivers to consider competition issues and com

petition policy seriously. The paucity of resources in the area of competition policy in SADC makes this a challenging task; however, there are several initiatives to develop policy, and institutional capacity in SADC. There is also in support of these endeavours, much interest in competition policy research across the region, and a growing collaboration between researchers, and policy makers and competition authorities, to develop capacity and enrich the knowledge base of competition policy in SADC in order to understand the challenges to robust and sustainable regional, as well as national development.

The interconnectedness of competition, trade and investment translates into a policy nexus that provides significant challenges to policy makers. As the SADC region becomes more integrated in terms not only of trade but also other cross-border economic activities, the importance of competition policy, at national, regional and multilateral levels increases. The development of markets requires effective intervention to ensure that efficient and equitable outcomes are possible, and that they materialise. Competition policy provides the necessary counterweight to the powerful incentive to rig the market process and skew the distribution of the benefits of trade liberalisation, perhaps especially intra-regional trade liberalisation.

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Regional Integration and Foreign Direct Investment: The Case of SADC

Johan Dahl

Introduction

We are currently experiencing a momentum towards a higher degree of interdependence and a new regional integration among nations (Hettne 1999). The regional integration of states has been particularly pronounced over the past two decades. The integration of countries through the creation and development of regional economic groupings - for example EU, NAFTA, MERCOSUR and ASEAN, to mention but a few - are indicative of this.

In Africa the degree of regional integration has not been deepening as much as in other regional groupings. Several regional organisations have been established in the post-colonial era, though they tend to operate under less integrated conditions than their counterparts on other continents. SADC, EAC, ECOWAS and COMESA are examples of four attempts at regional integration in the context of Africa. Perhaps surprisingly, SADC appears to be lagging behind both the EAC and ECOWAS in several areas of integration, despite the relatively favourable basic economic position on the continent. However, this favourable position is argued to be mainly due to the boost given by South Africa's membership in SADC (Mair 2002).

The economic integration of nations is often based on the assumption that this will promote investment, which in turn will enhance industrial and economic development, thereby creating employment and welfare among a greater proportion of the population than is the case in the absence of integration. The merit of regional integration thus needs to be closely monitored in order to evaluate the importance of regional integration for economic development, progress and welfare creation.

In this chapter we will pay particular attention to the relationship between regional integration and investment in SADC. The following topics will be elaborated upon: (i) investment barriers and the legal and administrative framework for investments; (ii) FDI trends with reference to country, region and sectors; (iii) constraints to FDI; and finally (iv) conclusions and possible scenarios of investment patterns in SADC.

Regional Integration and Investment

In the third objective of the 'SADC Protocol on Trade' (SADC 1996), it is explicitly spelled out that the implementation of the protocol should "... contribute towards the improvement of the climate for domestic, cross-border and foreign investment." It is in other words believed (or hoped) that a higher degree of integration between the Southern African states, i.e. a reduction of regional trade barriers, will lead to an increase in investment in the region.

It is, however, far too early to evaluate the result of the SADC Free Trade Agreement (FTA) on intra-SADC investment, or even on other FDI coming in to the community, since the FTA of SADC is only in its initial phase of implementation. However, the general reduction of regional trade barriers in the form of import tariffs during the 1990s can give us a hint as to whether this correlates with an investment increase in the region during the same period.

In order to attract investment, and especially FDI, it is regarded as of key importance that a good legal and administrative framework for investors is in place in order to minimise the risk for investors. In this section, the development of such a framework in SADC will be the topic.

Bilateral Barriers

Before the 1990s a general barrier for investors into the SADC region was associated with the absence of a decree or law that specifically dealt with FDI. However, at the end of the decade only one country (South Africa) of the 14 was still without a special law or act that regulated foreign investments; see Table 17. The time of the creation and implementation of the investment acts correlates well with the market-oriented economic policy based on export promotion that was to be introduced successively during the late 1980s and 1990s, and today prevails in Southern Africa as well as in the global economy. Few states (only Seychelles and Lesotho) had an act concerning FDI before the late 1980s, and most acts or laws regulating FDI were implemented during the 1990s. Eight of the 14 SADC countries introduced an FDI act during the 1990s. Currently it is only South Africa that has not introduced a special law for FDI.

More bilateral investment treaties (BIT) have also been signed by SADC states in order to safeguard the rights of the investors. From Table 18 it can be observed that most BIT have been signed with industrialised economies. There have also

SEY	LES	DRC	BOT	ZIM	MAL	NAM	MAU	MOZ	ZAM	ANG	SWA	TAN	RSA
1967	1969	1986	1988	1989	1992	1992	1993	1993	1993	1994	1997	1997	No

Table 17: SADC States with Special FDI Regimes in 1998 (year adopted)

Source: UNCTAD 1999b:36f

been twice as many bilateral agreements signed with non-African developing countries than with African countries. South Africa has been exceptional in relation to the other SADC countries in this matter. Until 1999, none of the other SADC countries had signed more than four agreements. Compared with the North African countries, few BITs were signed by countries in Southern Africa until 1999. As an example, Egypt had signed 58 treaties by 1999, which by then was more than by any other country in the world.

	FRA	GER	UK	USA	JAP	Developed countries	Developing countries	Africa	World
South Africa	1	1	1	-	-	10	7	3	17
Congo D.R.	1	1	-	1	-	7	2	-	9
Malawi	-	-	-	-	-	4	5	2	9
Mauritius	1	1	1	-	-	4	5	2	9
Zimbabwe	-	1	1	-	-	6	3	-	9
Tanzania	-	1	1	-	-	4	-	-	4
Mozambique	-	-	-	-	-	1	2	2	3
Namibia	-	1	-	-	-	2	1	-	3
Swaziland	-	1	1	-	-	2	1	-	3
Zambia	-	1	-	-	-	2	1	-	3
Angola	-	-	-	-	-	1	1	1	2
Botswana	-	-	-	-	-	1	1	-	2
Lesotho	-	1	1	-	-	2	-	-	2
Total	3	9	6	1	-	46	29	10	

Table 18: Bilateral Investment Treaties Signed by SADC States, January 1999
Source: UNCTAD 1999a:48f

Another regional investment barrier is the double taxation of investments. To preempt this, many countries have endorsed double taxation treaties on a bilateral basis, as shown in Table 19.

	FRA	GER	UK	USA	JAP	Developed countries	Developing countries	Africa	World
South Africa	1	2	2	2	1	24	19	13	43
Mauritius	1	1	1	-	-	8	20	9	28
Zambia	1	1	1	-	1	13	5	4	18
Zimbabwe	1	1	1	-	-	8	3	2	11
Tanzania	-	-	-	-	-	6	3	2	9
Malawi	1	-	1	-	-	1	1	1	8
Namibia	-	1	1	-	-	4	3	2	7
Lesotho	-	-	2	-	-	2	3	3	5
Botswana	-	-	1	-	-	2	2	2	4
Seychelles	-	-	-	-	1	3	1	1	4
Swaziland	-	-	1	-	-	2	2	2	4
Mozambique	-	-	-	-	-	1	1	1	2
Total	5	6	11	2	-	81	64	42	

Table 19: Double Taxation Treaties Signed by SADC States, January 1999
Source: UNCTAD 1999a:50f

As is the case with BIT, South Africa stands in a class of its own with 43 agreements. Mauritius, Zambia and Zimbabwe have signed 28, 18 and 11 respectively, while the remaining countries are all below 10 treaties each. It should be noted that a majority (2/3) of the treaties with developing countries has been signed with other African states. Otherwise most

of the treaties have been signed with countries in the developed world. South Africa and Mauritius had up until 1999 signed more double taxation agreements than any other country on the continent.

Many investment agreements between countries include limitations on the scope of commercial presence covered. These could be investments associated with limits to equity capital, exchange, size of investments, limits on sectors of investment and repatriation of profits and dividends, as identified by UNCTAD (1999b:23ff). Undoubtedly much was happening in these areas during the 1990s. Without exaggeration it could be said that virtually all the SADC countries during the last decade have been easing regulations in these areas. Still, there are some countries that keep limitations of size of investment, though they usually stipulate a minimum rather than a maximum sum for FDI. It should also be noted that even if most of the horizontal barriers have been liberalised, there are special conditions that apply (restrict) under various circumstances. Nevertheless, the SADC countries have been moving in the same direction, and a convergence can be observed in their more liberalised policy towards FDI when it comes to 'softening' the horizontal barriers.

Multilateral investment barriers

Most of the SADC countries are today members of international institutions and have ratified international agreements that regulate FDI. As can

	MIGA	ICSID	CREFAA	WIPO
Zambia	1988	1970	-	1977
Malawi	1988	1966	-	1970
Lesotho	1988	1969	1989	1986
Congo D.R.	1989	1970	-	1975
Angola	1989	-	-	1985
Swaziland	1990	1971	-	1988
Namibia	1990	-	-	1991
Mauritius	1990	1969	1996	1976
Botswana	1990	1970	1971	1998
Zimbabwe	1992	1994	1994	1981
Tanzania	1992	1992	1964	-
Seychelles	1992	1978	-	-
South Africa	1994	-	1976	1975
Mozambique	1994	1995	1998	1996

MIGA - Multilateral Investment Guarantee Agency

ICSID - International Centre for the Settlement of Investment Disputes

CREFAA - Convention on the Recognition and Enforcement of Foreign Arbitral Awards

WIPO - World Intellectual Property Organisation

Table 20: SADC States' Adherence to International Investment Agreements, January 1999, (year of membership)

Source: UNCTAD 1999a:8f, World Bank

be seen in Table 20, all 14 SADC countries became members of the Multilateral Investment Guarantee Agency (MIGA), a World Bank institution, between 1988 and 1994, starting with Zambia and ending with Mozambique. Also, the World Intellectual Property Organisation (WIPO) had organised all but two of the SADC countries by 1999. The International Centre for the Settlement of Investment Disputes (ICSID) had been signed and ratified by 11 of the 14 SADC countries by 1999. Finally, we have the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (CREFAA), which by 1999 had been ratified by seven of the 14 countries.

During the late 1980s and 1990s most of the SADC members ratified international agreements concerning FDI. The ratification of multilateral agreements might therefore be understood in the context of the implementation of an economic policy geared to the convergence of economic integration, not only within Southern Africa, but more notably, into the world economy.

Administrative Aspects

Administrative barriers of the type usually referred to as 'red tape' appear to have moved in the direction of less cumbersome operation throughout the previous decade. However, many are of the opinion that the sluggish treatment of interest by foreign investors and the time it takes for the approval for starting up a business is still too lengthy in Africa compared with other regions and economies outside the continent. Emery et al (2000) state that –

... establishing a new firm in Africa can take a long time, require persistence, and often means additional expenses whose nature and size are difficult to predict. In Ghana and Uganda it can take one or two years to establish a business and become operational; in Tanzania and Mozambique, 18 months to three years, and in Namibia, six months to a year. By contrast, doing so in Malaysia might take six months.¹

What, then, are the main reasons for the delay of permission in many African countries? Emery et al. once again try to answer this question by citing a number of factors that could have serious impact on the investment pattern. These include (i) customer service, e.g. unhelpful attitude, inability to provide forms or to administer in an expected way; (ii) delays beyond the time necessary for approval or signatures; (iii) complexities caused by the need to administer poorly-designed incentive schemes; (iv) lack of computerisation or lack of capacity in registration or regulatory bodies; (v) multiple, sequential steps required from agencies; to process applications; (vi) duplication of effort among agencies, which require the same information; (vi) outmoded, time-consuming information requirements; and finally (vii) high costs caused by the requirements for company formation and up-front capital taxes.

Other problems encountered by investing businesses are also listed as (i) poor policy formulation - the laws cannot achieve their ostensible goals;

¹ Excluding the time needed for building of facilities.

(ii) unreasonable policies - problems persisting with institutions and procedures that have not been reformed; (iii) complex procedures - customs procedures and expatriate work permits. In the draft of the SADC protocol on investment (SADC 2001a) it is, for instance, mentioned that investors shall be allowed to source necessary human resources both from within and outside the region if the skills do not exist in the member states or the region and contribute to capacity building through skills transfer. Finally (iv) the lack of capacity to implement regulations (trademark, sectoral licensing in natural resource exploitation) is highlighted as an obstacle for investors.

It appears, however, that many SADC countries are currently in the process of further easing the administrative bureaucracy around FDI. In the SADC review of trade and investment (2001b) it is frequently mentioned that the ambition among the SADC member states is to open up a so-called 'one-stop shop' where investors can sort out all the paper work necessary at the same time and at the same place (Emery et al 2000).

Multi-country Investment Plans

SADC is currently in the process of drawing up a protocol on finance and investment (SADC 2001a). The investment element of the protocol objective is to streamline investment regulation within the region in order ultimately to achieve economic growth and development through regional integration with Investment Promotion Agencies (IPA) as the means to attract more FDI.

The draft text on investment is for the moment in embryonic form, and will most likely be given much more 'flesh on its bones' in order to outline a policy document. However, even at this preliminary stage it is quite possible to see the direction of the SADC protocol on investment when signed and later ratified by the member states.

The section on regional co-operation, for instance, identifies IPA as responsible for ensuring equitable development in the region as well as harmonising regulations and incentives. Even if regulations on an individual basis are slowly converging, this protocol would without doubt be the most important and comprehensive document for regional regulation and harmonisation of FDI in the SADC region. However, as the draft is still in somewhat sketchy form, it should be anticipated that the signing and ratification are quite far off - probably a year or two at best.

The legal framework and administrative aspects described above have in general been improved in order to help and secure FDI in the SADC states. This has also fostered an environment of convergence in the SADC countries, even if dealt with as individual countries rather than as a region. Therefore it would not be an exaggeration to claim that the general change in economic policy and the drive towards export-oriented economies in the SADC countries have set the agenda for bilateral and multilateral agreement, as well as for a smoother administrative process for investors, and thereby on an individual country level, have led to a convergence of aspects relating to FDI.

Investment Trends in SADC

Intra-SADC Investment

An assessment of investment convergence between the SADC member states is difficult to measure owing to a lack of comprehensive intra-SADC time series data of investment of either FDI, portfolio investment or other foreign investment (currency, deposits, commercial loans and trade credits).

Even if the limited data available concerning intra SADC investment must be treated with caution, we can still draw a few conclusions from the data at hand. As can be seen from the index shown in Figure 5, measuring the level of integration of investment among the SADC countries, it is obvious that the SACU states (excluding South Africa) are more integrated with each other investment-wise than any of the other SADC states. The historical position of the small SACU states in relation to South Africa, with Lesotho as an enclave nation and Swaziland as a semi-enclave, have intertwined these countries through investment for decades, if not centuries. Namibia before independence was an integrated region of South Africa for almost three-quarters of a century, and has also been linked strongly in investment terms to the South African economy.

In SACU, Botswana is least integrated with South Africa, despite the huge investment in the diamond mining industry that took place after inde

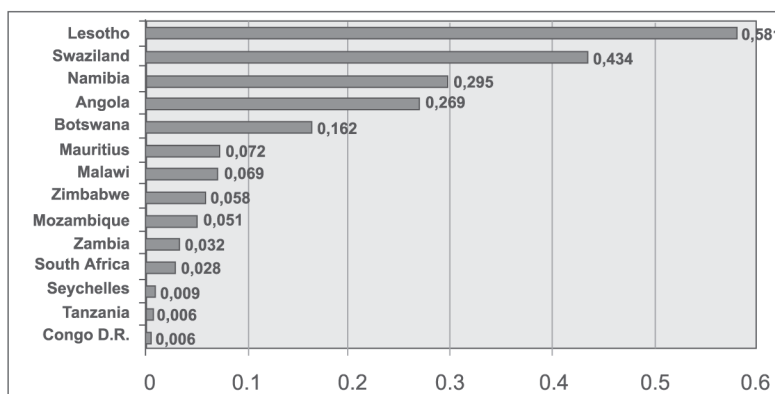


Figure 5: Intra-SADC Investment Index², 1998

Source: UNDP/SADC/SAPES: SADC Regional Human Development Report 2000:92

² The index ranges from 0 to 1, where theoretically 0 is no integration and 1 is a sign of full integration. Data used to calculate the investment integration index is the foreign liabilities of a country to other SADC countries plus foreign assets of a country in other SADC countries as a % of GDP. These figures are, however, only available for South Africa. For all the other SADC countries South Africa's assets in these countries are assumed to be the minimum liabilities in the other SADC countries. Also, South Africa's liabilities in the other SADC countries are assumed to be the minimum foreign assets of the SADC member states in the region (UNDP et al 2000:212).

pendence in 1966. On the index Botswana has almost half of the index value compared to Namibia, but is relatively more integrated than most other nations. However, in general the integration of SADC countries measured in investment must be regarded as rather weak. Even South Africa, standing for about 25% of FDI in SADC, has a low score in the index, due to the size of the economy³ relative to the other SADC countries.

As can be seen from Table 21 South Africa in 1998 had a surplus of investment with most (9) of the SADC states. However, for four countries South Africa displays an investment deficit (Lesotho, Malawi, Mozambique and Angola). South Africa has a surplus with all the other SADC countries except for Lesotho, which is probably due to significant investments in the Highland Water Project in Lesotho, with construction of dams, pipes and tunnels, in order to supply South Africa with water. South Africa's liabilities to Botswana, Namibia and Swaziland are also quite substantial; i.e. these three countries have, in relative terms, high investment in South Africa, given their small economies. DRC, Tanzania and Zambia all have high investment deficits with South Africa to the tune of

	Assets		Liabilities		Assets/liabilities
	US\$ million	%	US\$ million	%	%
Botswana	329	19.6	172	14.6	191
Namibia	322	19.2	193	16.4	167
Swaziland	295	17.6	222	18.8	133
Mauritius	227	13.5	51	4.3	445
Zimbabwe	196	11.7	79	6.7	248
Lesotho	87	5.2	349	29.7	25
Zambia	73	4.4	10	0.9	730
Malawi	49	2.9	54	4.6	91
Tanzania	37	2.2	5	0.4	740
Congo D.R	36	2.2	4	0.3	900
Mozambique	20	1.2	26	2.2	77
Angola	5	0.3	9	0.8	56
Seychelles	2	0.1	1	0.1	200
	1678	100	1175	100	143

Table 21: Distribution of South Africa Assets and Liabilities in the SADC Sub-region, 1998⁴

Source: UNDP/SADC/SAPES: SADC Regional Human Development Report 2000:92

³ South Africa's GDP in 2000 was US\$126 billion, compared to US\$54 billion of other SADC countries together. In other words, South Africa alone stands for 70% of SADC's GDP.

⁴ These investments deal with three forms of investment: (i) foreign direct investment (FDI) (equity capital, reinvestments earnings and other capital associated with various inter-company transactions between affiliated enterprises), (ii) portfolio investment, and (iii) other foreign investment (currency, deposits, commercial loans and trade credits).

900, 740 and 730%, respectively. Still, none of those countries have an investment from South Africa exceeding US\$73 million. Other countries such as Angola and Seychelles had insignificant investments from South Africa compared with the other SADC countries.

The analysis of intra-SADC investment statistics, albeit limited and built around some estimation of assets and liabilities of SADC countries other than South Africa, has informed us of two important things: (i) that regional integration as based on intra-SADC investment is somewhat low, even if underestimated due to estimation and extrapolation of figures for all countries except for South Africa; (ii) for various reasons (geography, history and customs' union membership) the SACU countries are more integrated investment-wise than all the other SADC nations except for Angola. The assessment of level of regional integration as a result of intra-investment in the SADC region can therefore lead to the conclusion that intra-SADC investment is still rather weak.

Investment by Region

In 1999, all except one of the largest 100 Transnational Enterprises (TNEs) were located within the developed world, e.g. in Europe, North America or Japan. The exception was 'Petroleos de Venuzuela', by then the largest TNE in the developing world. The assets of the '100 fortune' stood at about \$2 trillion, and accounted for about an eighth of the total assets of all foreign affiliates worldwide in 1999. These corporations could claim to be among the most important stakeholders and drivers of our contemporary international production (UNCTAD 2000).

In absolute terms the inflow of FDI, internationally, has substantially increased between 1995 and 2000. For both developed and developing countries, the increase has been around 400%. However, if the inflow of FDI in absolute terms has been significant even for developing countries, the relationship has over these five years changed from 3 to 1 to 5 to 1 in favour of the developed countries. In other words the developed countries increased their share of inflows of FDI from 66% to 81% between 1995 and 2000, at the same time as the inflow to the developing countries declined from 34% to 19%, as illustrated in Table 22.

Africa has over the last three decades managed to attract more FDI than ever before in absolute terms (*ibid.*), from around 8 dollars to almost 15 dollars per \$1 000 of GDP between 1970-1997 (UNCTAD 1999). However, as a percentage of the total inflow of FDI to the developing world, Africa has steadily been losing ground. While making up more than 25% of the inflow to the developing world in 1970, the figure for 1995 was 5.2%, and in 2000 was less than 3.8%. For SADC countries the trend is even worse with a downturn from 0.9% to 0.3% between 1995 and 2000 as compared with the rest of the world, and with Africa a decline from 48% to 44%. If FDI is an important substitute for lack of domestic investment, this downward trend is alarming and should accordingly be thoroughly scrutinised and analysed (Dahl 2002).

	1995		2000		% Trend
	US\$	%	US\$	%	
World	331	100	1271	100	
Developed countries	218	66	1031	81	▲
Developing countries	113	34	240	19	▼
Africa	5.9	1.7	9.1	0.7	▼
SADC	2.8	0.9	4.0	0.3	▼
Africa/Developing countries	5.9/113	5.2	9.1/240	3.8	▼
SADC/Africa	2.8/5.9	48	4.0/9.1	44	▼

Table 22: Inflows of FDI to Groupings of Countries, 1995 and 2000
Source: UNCTAD (2001)

One important finding from the worldwide distribution of FDI over the years studied is undoubtedly that a polarisation of FDI has taken place, first and foremost to the disadvantage of the developing countries, secondly of Africa, and finally to a certain degree of SADC. The relatively small amounts of FDI to Southern Africa in relation to Africa is shrinking, but even worse is that this relative decrease is taking place from a very tiny FDI base (Muradzikwa 2002). The trend also appears to support the conclusion that FDI tends to flow to areas where there is already a lot of FDI and to neighbouring countries, as is the case of the developed (industrialised) countries (Kolstad and Tøndel 2002).

Keeping in mind this trend of slacking investments in SADC, we will continue the odyssey of FDI with inflow and stock trends in the SADC countries. This exercise is divided into three parts: first, an overview of the picture of investment in the SADC region; secondly exposed as divided between SACU and non-SACU countries, and finally a country-specific focus, in order to pinpoint different trends for each of the SADC countries.

As shown in Table 23, FDI inflow to SADC has increased in current US\$ almost five times, while at the same time both the stock per capita and as a percentage of GDP have increased by 71% and 34%, respectively. This has taken place despite the overall negative trend of FDI inflow to Africa in general, and SADC in particular.

	SADC		
	1990	2000	Trend
FDI stock (US\$bn)	16263	74981	+58718
FDI stock/capita (US\$)	107	374	+267
FDI stock/GDP (%)	10	44	+34

Table 23: Inward FDI Stock in SADC 1990 and 2000
Source: World Investment Report 2001

The trend of FDI inflow to SADC displays a similar pattern. FDI inflow more than doubled during the second half of the 1990s, at the same time as inflow per capita leapt by 28% and inflow as a percentage of GDP increased by a mere 1.4%. This is a positive trend indeed, though the increased inflow is far from evenly distributed, as a breakdown of the region in a SACU and non-SACU region will indicate.

	SADC		
	1995	2000	Trend
FDI inflow (US\$bn)	2750	5304	+2554
FDI inflow/capita (US\$)	18	26	+8
FDI inflow/GDP (%)	1.7	3.1	+1.4

Table 24: FDI Inflows to SADC 1995 and 2000
Source: World Investment Report 2001

When divided into a SACU and a non-SACU region, the pattern of investments during the second half of the 1990s is quite interesting. The SACU economies have an FDI inward stock that is substantially bigger than the non-SACU countries. In absolute terms, 78% of the SADC FDI inward stock has been absorbed by SACU with the bulk in South Africa, as is revealed below. However, a small trend shift has taken place during the last five years of the 1990s. The non-SACU countries have increased their share by 2% from 20% to 22%, which corresponds well with the findings presented below, where a substantial increase of FDI inflows for some of the non-SACU countries in SADC during the late 1990s is displayed.

When it comes to FDI inflows, the trend indicated above is much clearer. A strong trend shift occurred during the second half of the 1990s. The non-SACU countries

	SACU			SADC (excluding SACU)		
	1995	2000	Trend	1995	2000	Trend
FDI inward stock of SADC (US\$bn)	13068	58457	+45389	3195	16524	+13329
FDI inward stock of SADCs (%)	80	78	- 2	20	22	+2
FDI inward stock/capita US\$	322	1164	+842	29	110	+81
FDI inward stock/GDP (%)	11	43	+32	7	48	+41

Table 25: Inward FDI Stocks of SACU and SADC (excluding SACU) in 1995 and 2000

Source: World Investment Report 2001

have not only strengthened their position as FDI receivers, but have also surpassed the SACU countries as FDI receivers in absolute terms. In 1995 the SACU countries had an FDI inflow of 1 783

million, which made up 65% of the total inflow to the SADC region, while the non-SACU countries inflow was 967 million and made up 35%. In the year 2000 these figures were turned around, where the non-SACU countries had 65% of the FDI inflow amounting to approximately 3,428 million, and SACU countries attracted 1,876 million, representing 35% of the SADC FDI inflow.

FDI by Country

	SACU			SADC (excluding SACU)		
	1995	2000	Trend	1995	2000	Trend
FDI inflows of SADCs (US\$bn)	1783	1876	+93	967	3428	+2461
FDI inflows of SADCs (%)	65	35	-30	35	65	+30
FDI inflows/capita US\$	44	37	-7	9	23	+14
FDI inflows/GDP (%)	1.5	1.4	-0.1	2.2	9.9	+7.7

Table 26: FDI Inflows to SACU and SADC (excluding SACU) in 1995 and 2000
Source: World Investment Report 2001

Inward FDI Stocks to SADC Member States

Inflows of FDI to SADC in absolute terms have undoubtedly been to South Africa over a long period of time. South Africa in 2000 had an FDI inward stock of nearly US\$53 billion - almost six times as much as Angola, with the single highest FDI inward stock in Southern Africa of about US\$9 billion. All the other SADC member states had a FDI stock of less than US\$3 billion each (see Figure 6).

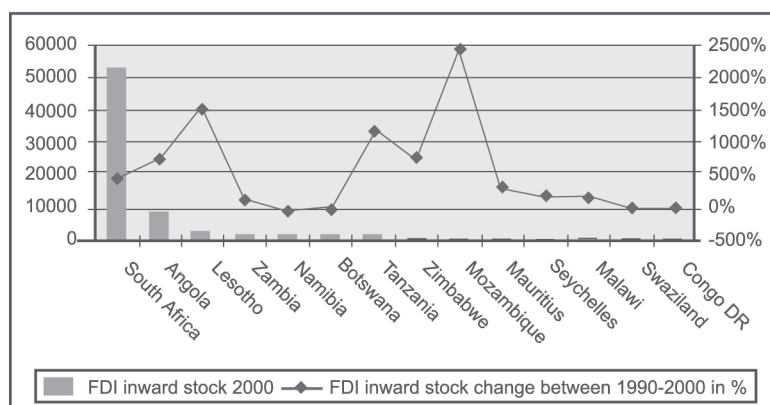


Figure 6: FDI Inward Stock 2000 in US\$ million and as a Change between 1990 and 2000 in %

Source: UNCTAD (2001)

Those countries that managed to increase their FDI stock most substantially during the 1990s were without doubt Mozambique (2 452%), Lesotho (1 525%), Tanzania (1 169%), Zimbabwe (780%) and Angola (769%). The poorest performances in this regard were Botswana and Namibia, with a negative development of their FDI stock over the past 10 years, -6% and -23% respectively.

When dealing with the inward FDI stock as a percentage of GDP, the outstanding country in SADC is Lesotho with an inward stock as a percentage of GDP of more than 260%. Angola also has a high score, with around 120% of GDP, and Seychelles and Zambia not far behind with 100% and 58%, respectively. All the other economies in SADC show figures of below 50%.

When calculated over a decade, a similar pattern appears in the percentage change of FDI as a percentage of GDP. Both Lesotho and Angola display huge increases with around 250% and 100%, respectively. All other countries show a slight in-

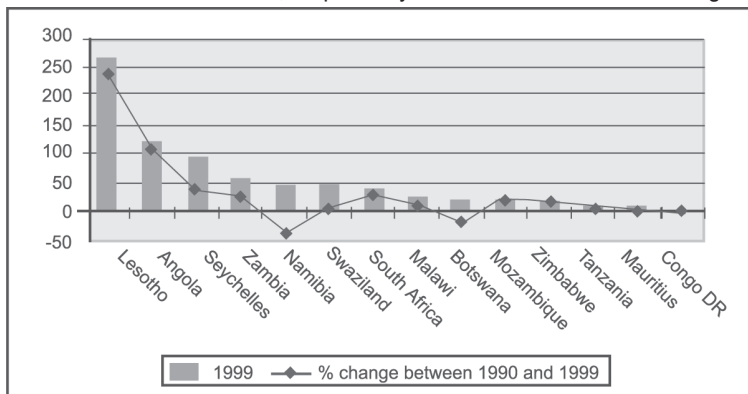


Figure 7: Inward FDI Stocks as % of GDP and Change between 1990 and 1999 (%)
Source: UNCTAD (2001)

crease over the decade except for Botswana and Namibia, which both, once again, demonstrated a decrease of inward FDI stocks as a part of GDP in the 1990s.

The trend seems to suggest that we had some new destinations for FDI in SADC during the 1990s. Countries such as Angola and Mozambique together with Lesotho have undoubtedly increased their inward FDI stock, which is a result of, among other things, the new economic policy of export orientation and economic liberalisation and privatisation. This also confirms the trend found in SACU and non-SACU FDI inflow above.

Since the SADC countries are so uneven in both size and population, an interesting calculation would be to ascertain whether there is any correlation between the FDI stock and the number of inhabitants in each country. Populations of the 14 countries range between 52.1 million (DRC) and

0.08 million (Seychelles), while the FDI stock spans between US\$52 billion (South Africa) and US\$ 0.4 billion (DRC).

	FDI stock (US\$m)	Rank (1-14)	Population 1999 (m)	Rank (1-14)	FDI stock/ capita (US\$)	Rank (1-14)
Seychelles	577	11	0.08	14	7213	1
South Africa	52654	1	43.68	2	1205	2
Lesotho	2519	3	2.15	9	1172	3
Namibia	1644	5	1.8	10	913	4
Botswana	1226	6	1.64	11	748	5
Angola	8898	2	13.1	6	679	6
Mauritius	681	10	1.19	12	572	7
Swaziland	414	13	0.96	13	431	8
Zambia	2141	4	10.8	7	198	9
Zimbabwe	1091	8	13.48	5	81	10
Mozambique	1072	9	17.2	4	62	11
Malawi	496	12	10.2	8	49	12
Tanzania	1180	7	31.9	3	37	13

Table 27: FDI Inward Stocks and per capita among SADC Countries in 2000
Source: UNCTAD (2001)

If analysed per capita a very different pattern emerges. Seychelles turns out to be the country that attracts most FDI/capita with an inward stock of US\$7 213/capita in the year 2000. This is compatible with countries such as Sweden for instance, which during the same year had an inward stock per capita of US\$8 679. Other industrialised countries around the world with high inward stock/capita are for example USA US\$4 455, Denmark (US\$9 751), Germany (US\$5 554), Taiwan (US\$1 252) and South Korea (US\$884). Two more countries in SADC pass the threshold of US\$1 000, namely South Africa (US\$1 205) and Lesotho (US\$1 172). In a middle category we find Namibia, Botswana and Angola with US\$913, US\$748 and US\$679, respectively. All the others are below US\$600, with the lowest, the DR Congo, with just US\$7 per capita (UNCTAD 2001).

FDI Inflows to SADC Member States

By analysing the current inward stock of FDI and the change over a decade, we now have a relatively clear picture of the medium-term trend of investments in SADC. However, we also need to scrutinise the short-term trend, and for that we will take a look at the present state of affairs of FDI in SADC. The latest figures of inflows of FDI in SADC by UNCTAD (2001) are from the year 2000, and reveal that the highest amount of FDI inflow in absolute term was in Angola (US\$1 800). Second we find South Africa

(US\$877) with less than half of the inflow to Angola. All other states exhibit inflows of FDI of less than US\$300 for the year 2000.

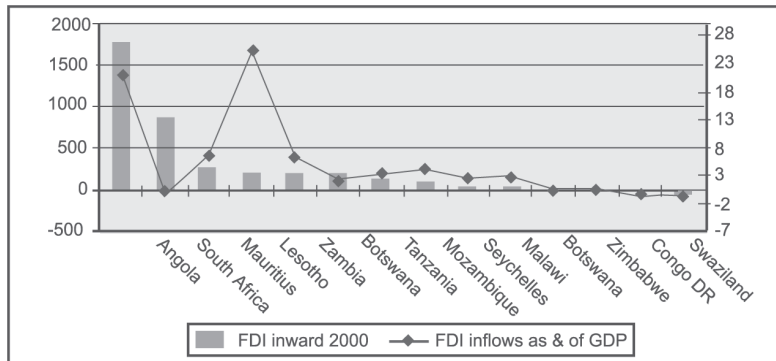


Figure 8: FDI Inflows 2000 (millions of US\$) and as % of GDP in 1999, by Host Economy
Source: UNCTAD (2001)

A more accurate way to measure the current inflows of FDI might be to compare it as a percentage of GDP. With this system of measurement, Lesotho is the best-performing country in SADC with an inflow of FDI during a single year to the tune of more than 25% of GDP, followed by Angola with an inflow of more than 20%. Mauritius and Zambia also display figures of more than 5% of GDP, while all other countries are in the bracket between 0 and 4% with only one exception: Swaziland once again, with a negative inflow of FDI (-0.5) as a percentage of GDP during the year 2000. It should also be noted that South Africa, with a large stock and substantial inflow of FDI, only managed to increase FDI inflow as a percentage of GDP by a meagre 0.5%. South Africa only exceeds four SADC member states on this score, namely Botswana, Zimbabwe, DRC and Swaziland.

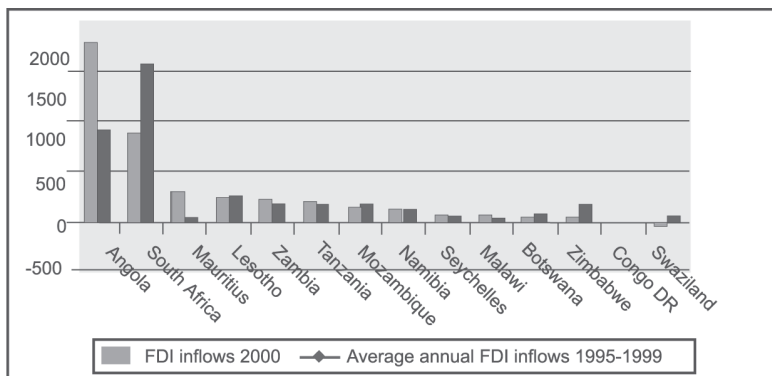


Figure 9: FDI Inflows in 2000 and the Average Annual FDI Inflows between 1995-1999 (US\$ million)
Source: UNCTAD (2001)

The current inflow of investment among the SADC countries appears to be largely in Angola and South Africa, where in fact South Africa has been surpassed by Angola in absolute numbers (Figure 9). For countries such as South Africa, Botswana, Zimbabwe and Swaziland the inflows 2000 were substantially smaller than the annual average for the preceding 5 years (1995-1999).

Net FDI to SADC Countries

The trend during the 1990s has undoubtedly been a positive inflow of FDI to Southern Africa, even if four years of the ten indicated a net outflow. The negative outflow of FDI mainly took place during the first half of the 1990s, while the second half of the decade indicates mostly net inflows for all member states.

South Africa is the country that besides Angola has the strongest impact on the SADC trend. South Africa is the only country, with one exception (Mauritius 1998), that displayed net outflows of FDI during the second half of the 1990s. This corre-

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Angola	-336	665	288	302	327	303	588	492	1115	2520
Botswana	89	-17	-12	-296	-24	30	89	100	100	100
Congo DR	13	0	0	0	0	0	0	0	20	100
Lesotho	17	7	3	185	249	295	278	290	193	180
Malawi	0	0	0	0	0	0	30	24	34	39
Mauritius	35	14	-16	-18	10	26	18	26	-2	25
Mozambique	9	23	25	32	35	45	73	64	213	382
Namibia	28	114	120	47	104	157	150	90	99	95
Seychelles	9	8	-3	6	17	27	17	45	28	20
South Africa	-5	40	-1933	-288	-856	-1256	-226	1466	-1171	262
Swaziland	23	58	50	44	-1	10	23	34	10	30
Tanzania	0	10	15	62	63	104	134	150	172	183
Zambia	0	0	0	3	40	97	117	207	198	163
Zimbabwe	-12	3	15	32	30	98	35	107	436	50
Total	-130	925	-1448	111	-6	-64	1326	3095	1445	4149

Table 28: Net Foreign Direct Investment 1990-1999

(millions of US\$ current prices)

Source: World Bank (2001a)

lates well with a period during the late 1990s with the political economy changes in many countries in Southern Africa in the direction of economic liberalisation, privatisation and deregulation of investment barriers (see above).

FDI Performance Ranking

To summarise the discussion concerning the present state of affairs of FDI in Southern Africa, we will apply a ranking of six of the variables used in order to understand the pattern of investments during the past decade.

By ranking each country from 1 to 14 according to level of performance in the six variables of FDI, where 1 is the best and 14 is the poorest, adding and dividing with the number of variables used, we will come up with an arithmetic mean for FDI performance, as indicated in Table 29. From the results of the ranking it can be concluded that Lesotho and Angola are leaders in terms of attracting FDI over the period under study with a high average ranking of 2.0 and 2.3 respectively. A middle group is spread between 5 and 7 points, comprising South Africa, Zambia, Mozambique and Seychelles. Once again it is confirmed that Botswana has not managed to enhance the inflow and stock of FDI during the past decade and from the data for the last years there is no indication of a change in this trend.

The data for FDI investment for the SADC member countries gives food for thought. Even if South Africa is the unchallenged giant in the regional setting, there are

	Inward FDI stock 2000 (US\$)	Inward FDI stock change between 1990-2000 in %	Inward FDI stock as % of GDP in 1999	Inward Stock as % of GDP change between 1990-1990 in %	Inflows of FDI in 2000 (US\$)	Inflows of FDI in 2000 as a % of GDP	Sum/6	Rank
Lesotho	3	2	1	1	4	1	2.0	1
Angola	2	5	2	2	1	2	2.3	2
South Africa	1	6	7	4	2	10	5.0	3
Zambia	4	10	4	5	5	4	5.3	4
Mozambique	9	1	10	6	7	6	6.5	5
Seychelles	11	8	3	3	9	8	7.0	6
Tanzania	7	3	12	9	6	9	7.7	7
Mauritius	10	7	13	11	3	3	7.8	8
Namibia	5	14	5	14	8	5	8.5	9
Zimbabwe	8	4	11	7	11	11	8.7	10
Malawi	12	9	8	8	10	7	9.0	11
Botswana	6	13	9	13	11	12	10.7	12
Swaziland	13	11	6	10	14	14	11.3	13
Congo DR	14	12	14	12	13	13	13.0	14

Table 29: Ranking of FDI Performance by SADC Countries 1990 to 2000
Source: UNCTAD (2001)

some strong contenders when it comes to attracting FDI during the 1990s, namely Angola, Lesotho, Zambia and Mozambique, to mention the strongest four.

Investment by Sector

As has been outlined earlier, it is clear that the bulk of the absolute stock of FDI (US\$75 bn) in SADC - about 70% - is to be found in South Africa.

South Africa together with Zimbabwe is also by far the most diversified and industrialised country in the region. It is a truism that South Africa (and before Zimbabwe) is the country within the region that attract investments in the industrial and value-added sectors more than any other, while at the same time South Africa stands for roughly a quarter of the FDI in the SADC region, followed by USA and the United Kingdom (DPRU 2000).

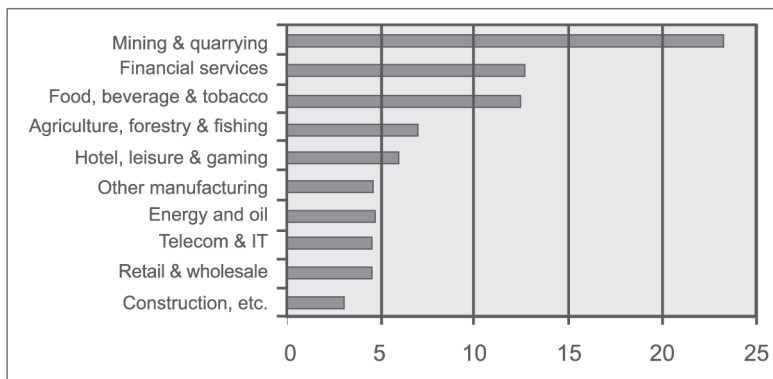


Figure 10: Sectors Attracting the Highest Shares of FDI in SADC (%)

Source: Business Map On-line Database on FDI Activity in SADC, in DPRU policy brief No. 00/P2 (2000)

SADC as a region is attracting FDI investments mostly in the mining and quarrying sector; the financial services sector; and the food, beverage and tobacco sector. In Figure 10 the top ten FDI sectors in SADC are highlighted.

Constraints to Investments in SADC

A good competitiveness rating is widely believed to be of importance in attracting FDI. As can be seen from Table 30, the SACU countries generally have high competitiveness ratings compared with most non-SACU countries. However, when compared to general performance during the 1990s it was found (see Table 29 above) that it was countries other than the most competitive ones which had received a relatively high increase of FDI during the 1990s. Although the bulk of FDI in the less competitive SADC countries has been in primary production, it still gives the impression that 'sound economic performance' is far from the only explanation of an increase of FDI inflow (Dahl 2002). It should also be remembered that some of the SADC countries have only recently opened up their markets for investment, and are therefore likely to display a high increase of FDI in the initial phase. Whether this FDI inflow will be sustained is yet to be seen.

Country	Competitiveness ranking among 23 African countries	Internal ranking among the 11 SADC member states	Composite ICRG risk rating 2000	
Mauritius	2	1	na	na
Botswana	3	2	79.3	1
Namibia	4	3	75.8	2
South Africa	7	4	68.0	3
Swaziland	10	5	na	na
Zambia	12	6	57.3	5
Lesotho	13	7	na	na
Tanzania	14	8	59.5	4
Mozambique	18	9	55.3	6
Malawi	19	10	56.8	7
Zimbabwe	23	11	40.3	8

Table 30: Competitiveness and Risk Rating Ranking among SADC Member States⁵

Source: World Economic Forum 2000, World Bank 2001a

Another aspect of constraints to FDI is the overall risk rating of a country (Collier & Pattillio 2000). Although this may be true as a general aspect, the recent trend of FDI inflow to SADC countries does not seem to follow this pattern. Countries with low risk ratings have attracted more FDI than those with high ratings. On the other hand it could be argued that, as discussed above, the general legal framework for investors in the region has been improved, which can now be seen as a boost to FDI, in countries that do not score well in risk rating.

The lack of substantial regional trade agreements could very well explain why some foreign investors abstain from investing in a country, since the possibility of servicing the entire region is constrained due to trade barriers between the countries of an envisaged region (Hodge & Nordås 1999). It might be that the overlapping regional groupings increase this problem. The mix of countries in the four regional groupings is a true obstacle to the effective reduction of barriers to investments in Southern Africa, since investors appear to identify the size of the domestic market as an important incentive for investments, and not only for export of products (UNCTAD 2000). The fact that all SACU countries are members of SADC and that all SADC countries except for Botswana, Mozambique, Tanzania and South Africa belong to COMESA is a complicated issue. This duplication of interests is a quagmire that requires a radical solution in order to find a common way for the SADC member countries to create a good investment environment within a regional common market.

⁵ Note: ICRG = Composite International Country Risk Guide, is an overall index, ranging from 0 to 100, based on 22 components of risk.

However, the trade tariffs among the SADC countries appear to be in decline. In the 1990s many SADC countries (Table 31) experienced a decrease of their simple mean tariff on primary and manufactured products. Still, for Tanzania the simple mean tariff on both primary and manufactured products leaped, and for Mozambique on manufactured products. On the other hand all the other countries saw a decrease in their simple mean tariff. The lowest tariffs are to be found in SACU.

	Simple mean tariffs								
	All products			Primary products			Manufactured products		
	Old	New	Trend	Old	New	Trend	Old	New	Trend
SACU	12.7	8.5	-4.2	6.3	8	+1.7	12.9	5.1	-7.8
Zambia	25.2	14.6	-10.6	29.5	16.9	-12.6	24.5	12.9	-11.6
Malawi	31.3	15.7	-15.6	27.7	15.9	-12.1	31.7	11.8	-19.9
Mozambique	5	16.9	+11.9	5	1.1	-3.9	5	15.9	+10.6
Mauritius	22.3	19	-3.3	16.1	14.9	-1.2	23.1	16.9	-6.2
Tanzania	14.4	21	+6.6	22.2	27.9	+5.7	13.7	19.6	+5.9
Zimbabwe	40.8	22.2	-18.6	34.2	27	-7.2	41.4	16.7	-24.7
Tariff span	28.1	13.7		27.9	19		28.5	11.6	

Table 31: Trends in the Applied Tariff Barriers among SADC Countries (various years) (%)⁶

Source: World Bank 2001a:336-338

By measuring the tariff span between two different periods we can say something about the congruence of tariffs applied by SADC countries. In this regard it is clear that the SADC countries are moving in the direction of similar tariffs on both primary and manufactured products. This process of change will be even more obvious as the SADC-FTA gains momentum during the first half of the current decade. Ultimately this will create a more homogenous investment region. Whether this also attracts investors is another issue, however. The market of SADC is, from an international perspective, still relatively small, with a GDP of less than US\$200 billion.

Conclusions

A general assessment of the current state of affairs regarding investment and regional integration in SADC suggests that the intra-SADC investment pattern is at this point rather difficult to evaluate, since the necessary comprehensive statistics of assets and liabilities between the SADC

⁶ Note: The years for comparing the shift in applied simple mean tariffs differ: SACU 1988/1999, Zambia 1993/1997, Malawi 1994/1998, Mozambique 1994/1997, Mauritius 1995/1998, Tanzania 1993/1998 and Zimbabwe 1996/1998. The figures are therefore not fully compatible with each other, and must subsequently be read cautiously.

countries are not available. A possible convergence in intra-investment in SADC can therefore just be at best a 'guesstimate'. Still, preliminary calculations suggest that intra-SADC investment is weak, even if underestimated.

The legal frameworks that regulate FDI in SADC countries have undoubtedly expanded tremendously over the last ten years. All countries except South Africa up to 1998 had a special act for FDI, whereas before the 1990s this was a rare phenomenon. The numbers of bilateral and multilateral agreements have been expanding fast. It appears also that most SADC member countries are working on the administrative aspect of FDI in order to smooth the process from indicated interest to start-up of FDI enterprises and make it less lengthy. Many countries are currently preparing 'one-stop shop' support for investors to make the investment process smoother. A conclusion is, therefore, that some convergence between SADC countries has taken place when it comes to the legal framework and administration related to FDI, even if handled at purely national level so far. Although this is the case, it is also obvious that we have some forerunners that move faster than other countries. The convergence can therefore be seen as being related more to policy than to numbers of agreements and treaties signed and ratified, with which there are considerable differences.

Even if the FDI in absolute terms has improved in Africa over the past quarter of a century, the relative proportion of global FDI to Africa (including SADC) has contracted. Within SADC a trend shift can also be identified where more FDI is pouring into the non-SACU countries than previously, which is a new pattern of the late 1990s, correlating well with the new economic policies adopted, more or less, by all countries in the SADC region. An obvious shift of FDI inflow can therefore be observed in the region, while in inward FDI stocks the movement towards convergence is somewhat sluggish. However, financial liberalisation and privatisation, as well as huge new investment in oil extraction activities in Angola, could generally explain recent investment in non-SACU countries.

Since South Africa has a regional comparative advantage in the industrial sector, this should continue to favour the country in relation to other SADC countries, which would imply a further polarisation due to economies of scale and by far the largest market in SADC. With the highest and most diversified inward FDI stock as well as domination of the intra-SADC investment, South Africa will undoubtedly play a strong regional hegemonic role in SADC in the future, which will be difficult for the other countries to contravene. With these uneven economies at hand, a true convergence of investment is hard to foresee. Still, the traditional pattern of investment in the region is therefore anticipated to continue over a mid-term period of five to ten years.

Possible Scenarios of FDI in SADC

With the conclusions above as a point of departure we will lastly sketch some possible scenarios of FDI and regional integration in SADC:

- (i) FDI inflow might increase as a result of an enhanced market, but modestly as a result of the relatively small economic size of the region.
- (ii) Low-tariff countries may in the long run attract more investment than high-tariff countries - in the present case the Southern African Custom Union (SACU) member states. However, initially some of the countries opening up will attract relatively more investment as a consequence of liberalisation and privatisation of previously protected economies and business sectors.
- (iii) A vertical integration of multinational enterprises' production could increase within the region based on comparative advantages and economies of scale, but to a limited degree due to the weak intra-SADC market.
- (iv) Export-driven FDI enterprises looking for markets where SADC countries receive preferential treatment might be more important than market-driven investments as a consequence of the relatively small intra-SADC market. However, infrastructure, political stability, privatisation, deregulation and non-tariff barriers, as well as bilateral and multilateral agreements safeguarding FDI, will of course have an influence on the general expected patterns of investment in a more regionally integrated SADC.
- (v) Intra-SADC investment will in the medium term be fairly limited for South Africa, and higher for small countries adjacent to South Africa. The new trade linkage opening up between EU and SACU through the new FTA could distort the possibility of SADC deepening its integration investment-wise. The integration by investment might rather take place between South Africa and other regions outside Africa, than between the SADC countries. What implication would this pattern of change have on the other non-SACU countries in SADC?

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Possibilities and Limitations of Intra-regional Exchange Rate Policy in Southern Africa

Tobias Knedlik

Introduction

The aim of this paper is to investigate the possibility of intra-regional exchange rate policy. Thus the first section focuses on the general importance of regional integration in the field of exchange rate policy. It will be shown that neither unilateral fixed exchange rates nor free-floating exchange rates are ideal strategies. From this starting point it will be argued that intra-regional exchange rate arrangements could be an alternative. Common exchange rate policy requires a certain degree of convergence. Therefore the second part highlights the state of convergence among Southern African countries and current exchange rate policy as practised by local central banks. The outcome of this investigation indicates that most of the countries do not meet the basic economic convergence criteria. Thus common exchange rate policy in Southern Africa could be a longer-term aim, but currently other measures are required. The final part describes a theoretical model of unilateral exchange rate policy which provides an alternative to unilateral fixed or free floating exchange rates. This exchange rate policy could support more stable exchange rates in the region and increase economic convergence. This convergence is needed to provide a basis for intra-regional exchange rate policy.

The Importance of Intra-regional Monetary Integration

Increasing international trade and capital movements offer new perspectives for Southern African economies. The governments of Southern African countries have widely recognised this, and have abolished foreign exchange controls - still an ongoing process. However, the process of opening up economies is connected with the increasing importance of exchange rate developments. Volatile foreign exchange markets diminish the gains of open markets. Southern African economies have repeatedly encountered the problems of volatile foreign exchange markets, often caused not only by fundamental domestic problems, but by contagion effects from other emerging market crises that have occurred on a regular basis over the last few years, such as the emerging market crises in South-East Asia and Russia in 1997/8. Both dominant exchange rate concepts in economic theory, namely unilateral fixed exchange rate pegs and pure floating exchange rates, hold little prospect of protecting the economies from currency crises. These problems have resulted in a general process of rethinking on exchange rate policies all over the world.

The shortcomings of free-floating exchange rates lie in the nature of currency markets. The time horizon of market participations is too short to anticipate fundamental economic developments. Most currency trades are intra-day trades. This means that interest rates or changes in price

levels have a small impact on an intra-day basis. It is much more important for the trader to predict the behaviour of the other market participants within the next few hours. Of course, every currency trader has to predict the behaviour of the others as well, and to orientate their buying and selling decisions based on these predictions (just as in Keynes' beauty contest example, where the judges do not select the most beautiful girl, but the one they think the other judges to consider the most beautiful girl). This may give rise to an infinite regress where one has to determine what others think others will think, and so on. Therefore, multiple equilibriums on currency markets that are more or less independent from the so-called fundamentals may not be uncommon. An interest rate of 10 percent on a yearly base yields profits of around 0.0003 percent per day (or 0.002 percent per week). Compared with normal daily changes in exchange rates of around one percent, the interest rate is negligible for participants on currency markets. Just like interest rates, any other small change in what is normally considered to be fundamentals, such as the price levels or economic growth rate, has little influence on exchange rates.¹ On the contrary, exchange rate developments may influence fundamental economic variables such as inflation or growth rates. In open economies, changes in exchange rates have an effect similar to changes in interest rates, wages or other factor costs. To target monetary stability, exogenous changes in exchange rates would require an immediate change in interest rates as compensation. If monetary policy ignores exchange rate developments, it automatically loses control of monetary conditions. However, even in the case of willingness to react on exchange rate changes, it may be impossible to react sufficiently quickly, and permanent changes in domestic interest rates may endanger the stability of the domestic financial system.

On the other hand, unilateral fixed exchange rates can lead to currency crises, as was the case with the South-East Asian countries in 1997/98. The disharmony of domestic interest rate policy in combination with fixed nominal exchange rates resulted in huge flows of foreign capital that eventually abolished the fixed exchange rates and induced financial and banking crises. To understand the limitations of unilateral exchange rate targeting, the role of central banks on currency markets has to be discussed. The aim of central banks in a unilateral fixed exchange rate system is to stabilise exchange rates in order to reach price stability on the domestic market. The interventions of central banks on currency markets take place in one of two forms. The central bank can either intervene to avoid appreciation of the exchange rate, or it can intervene to avoid depreciation of the exchange rate.

¹ The described view on expectation formation of a higher order is distinguished from the classical view whereby expectations are built on fundamentals. The difference is that expectations of higher order may not lead to an equilibrium, while the expectations of the first order (on fundamentals) lead to an equilibrium.

The ability of the central bank to avoid appreciation of the currency is virtually unlimited. Since the central bank is the monopolistic supplier of central bank money, it can sell domestic currency against foreign currencies in potentially limitless quantities. The problem that central banks face with these interventions is their influence on domestic monetary conditions. As the money supply increases, such interventions may weaken domestic monetary conditions. Therefore, central banks usually sterilise their currency market interventions by reducing the refinancing of the domestic bank system. If the reduction of refinancing is only possible within limits in the short term, other measures such as deposit facilities with the central bank can be offered to reduce the supply of money in circulation. If these measures are not available, then a “neutral” intervention to depreciate the domestic currency, while maintaining monetary stability, is restricted because of the limited potential to sterilise the actions of the central bank on the exchange rate. The cost of intervention could be another limit of central bank interventions. In the case of higher foreign than domestic interest rates, an intervention would cause costs for the central bank. In the opposite case of higher domestic than foreign interest rates, interventions would cause profits for the central bank, constant exchange rates assumed.

The more spectacular type of intervention is where the central bank tries to stabilise the exchange rate when it depreciates. Here the limits are clear. The central bank can intervene only until the foreign currency or gold reserves are depleted. The often-used comparison of the huge volume of sales on currency markets (e.g. US\$ 7.4 billion per day on South African foreign exchange markets in March 2001 (Mboweni 2001)) and the much lower volume of national foreign currency reserves suggests that interventions of this kind are seldom successful.

However, the two quantities are difficult to compare. Currency markets are organised on the so-called market maker principle. That means participants on currency markets quote on demand bid and offer rates at which they buy and sell currencies. The market makers not only announce these rates, but also have to buy and sell at these rates. This may lead to situations in which market participants have to buy or sell currency without an order from a customer for the opposite transaction. If, for example, Bank A gets the order from a customer to sell a certain amount of South African Rand, it may call Bank B for their bid rate of Rand. If Bank A approves of the rate, it will sell the currency to Bank B. However, Bank B may not have non-bank customers who want to buy Rand. So Bank B is going to sell this amount to Bank C and so on. Somewhere in the line of buying and selling there may be a Bank X that is interested in South African Rand and buys the amount for a customer. On the way to selling the amount of Rand from the customer of Bank A to the customer of Bank X, which could have been one transaction, the amount could have been bought and sold twenty times.

Every time this amount was sold, it was added to the sales volume of the currency markets. Of course the situation is the same with the currency reserves which a central bank would sell. Therefore, the comparison of the amount of currency reserves with the sales volume on currency markets may lead to an underestimation of the influence that central banks have on currency markets. Nevertheless, ultimately currency reserves are still limited, and thus unilateral exchange rate policy is limited. Furthermore, central bank interventions could similarly incur costs if there is an interest rate differential between domestic and foreign interest rates. If domestic interest rates are higher than foreign interest rates, the interventions will generate profits. In the opposite case the interventions lead to central bank losses.

The shortcomings of pure floating exchange rates and the limits of unilateral exchange rate targeting have resulted in the consideration of international and regional cooperation in the field of monetary and exchange rate policy. While international arrangements are difficult to implement, especially because of bad experiences in the final stages of the Bretton Woods System, regional arrangements with exchange rate policy and monetary policy have gained attention in political and economic discussions. The predominant example of regional integration is the European Monetary System (EMS) and its completion in the European Monetary Union (EMU). The advantage of regional cooperation such as the EMS is that the exchange rates among the member countries can be targeted more credibly than unilateral exchange rate policy could, because all member countries are responsible for currency market interventions to defend the exchange rate targets. The advantage of monetary unions and ultimately fixed exchange rates is the high degree of safety in foreign trade and investment decisions and, therefore, the improved allocation of resources. Moreover, in contrast to unilateral pegged exchange rates, the common monetary policy is oriented on the economic situation in all member countries and not only on the economic situation in the anchor country. The danger of inappropriate monetary policy decisions for single countries can be minimised by economic integration and convergence concerning fundamental economic variables such as inflation rates and economic growth rates, but also in political and economic governance including fiscal policy.

The State of Convergence and Exchange Rate Strategies in Southern African Countries

The State of Convergence

Economic convergence is a precondition of common monetary policy and multilateral currency policy. This chapter analyses the state of convergence among Southern African countries to evaluate the potential for further integration in the field of monetary and exchange rate policy. Standard indicators of convergence are exchange rate stability, consumer price inflation, interest rates, general government debt and budget deficits.

These are also the so-called “Maastricht convergence criteria” that have been a precondition for entering the EMU - and still are for potential entrants. Besides these specific indicators, some more general requirements are needed to succeed in the challenge of a multilateral policy. Thus the general stance of the political system should be sound, signalling a reasonable level of political stability and a favourable investment climate. In what follows, some general and specific indicators of convergence among SADC member countries are compared.²

GDP and Human Development

The absolute level of GDP gives a first broad impression of the size of the economies dealt with. Obviously, the South African economy is the largest by far (see Figure 11). South Africa produces a higher GDP than all the other African economies put together. This emphasises the dominant role that South Africa plays in all economic activity in Africa, and also shows that monetary integration in Southern African should include South Africa. However, the figures also indicate that some of the other economies are relatively equal in the size of output, which makes them more comparable.

Figure 12 indicates that the per capita income is distributed quite differently among Southern African countries. The per capita income varies from around US\$6000 in the Seychelles, to US\$173 in Malawi. In particular, the least developed countries (LDC) such as Angola, Malawi, Mozambique, Tanzania and Zambia are not compa-

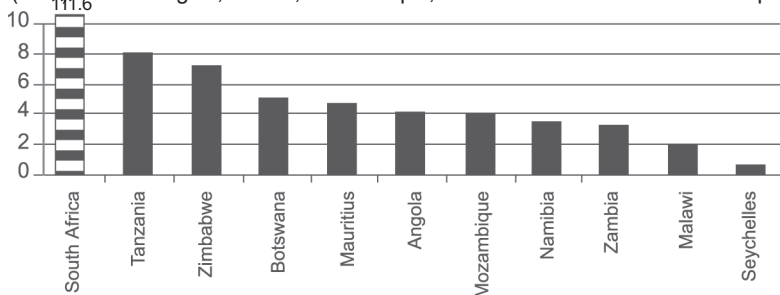


Figure 11: GDP in Southern African Countries in 2001 in US\$ billion³

Source: Standard Bank (2002)

parable with emerging economies such as the Seychelles or Mauritius. The differences in economic

² The analysis excludes the SADC countries DR Congo (because of limited access to statistical data), Lesotho and Swaziland (because of the absence of domestic monetary and exchange rate policy). The quality and, therefore, the comparability of statistical data used in this section could generally not be evaluated.

³ With the exception of South Africa, Angola and Malawi, figures are for 2000.

development naturally have a bearing on the transmission mechanisms of monetary policy. So the transmission mechanism depends on the workability of the financial sector and the penetration of the economy with domestic currency.

The Human Development Index (HDI), which is presented in Figure 13, includes

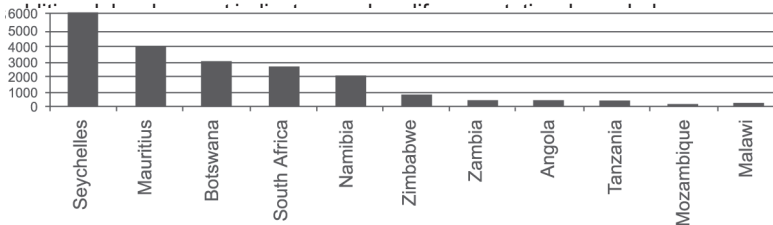
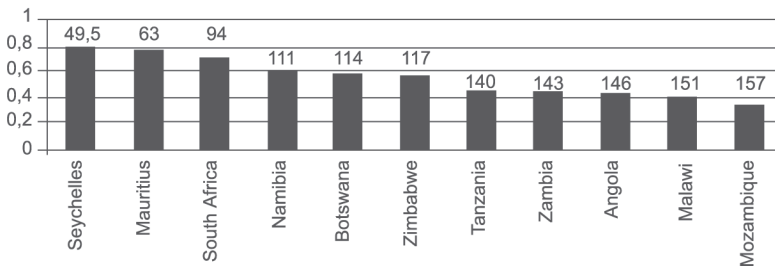


Figure 12: GDP per capita in Southern African Countries in 2001 in US\$⁴
Source: Standard Bank (2002)

and purchasing power on local markets. The general impression is similar to that of the GDP per capita criteria, but the differences among countries seem to be smaller.

Figure 13: Human Development Index (HDI) in 1999, Value (scale) and Rank in a List including 162 Countries (numbers)
Source: UNDP (2001)⁵



The picture of real GDP growth (Figure 14) does not support the impression of highly divergent economic development. The real GDP growth, which is an important convergence criterion with regard to intra-regional macroeconomic policy, implies a higher degree of convergence. With the exception of Zimbabwe all countries show positive growth rates in a range of between 1 percent (Seychelles) and 9.1 percent (Botswana). Here it is interesting to note that some of the “low GDP countries” such as Tanzania and Zambia outperform some “high GDP countries” such as South Africa or the Seychelles. Thus a further convergence in GDP levels can be expected.

⁴ With the exception of South Africa, Angola and Malawi, figures are for 2000.

⁵ The Seychelles are not included in main indicator tables because of insufficient data. If data were sufficient the Seychelles would have been ranked between 49 and 50.

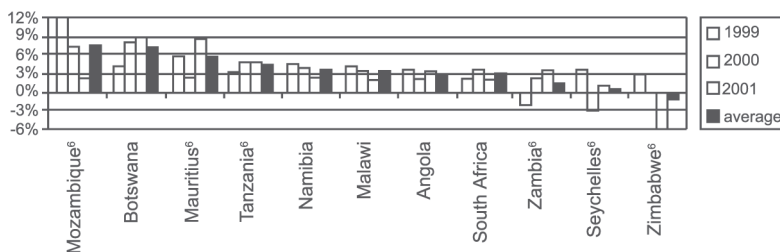


Figure 14: Real GDP Growth in Southern African Countries Between 1999 and 2001

Source: Standard Bank (2002)

Inflation and Interest Rates - the Stance of Monetary Policy

Besides real GDP growth, inflation and interest rates are main indicators of convergence in the field of monetary policy. Inflation rates as given in Figure 15 are below 10 percent in seven of the eleven examined countries. Inflation rates in that group of seven ranges between 5.2 (in Tanzania) and 9.4 percent (in Namibia). The range of inflation rates is comparable to inflation rates shown by some later EMU member countries in 1995 (e.g. Italy 5.4 percent and Greece 9.0 percent). This demonstrates that common monetary policy could be possible among these seven countries since a similar monetary policy is required from the viewpoint of inflation targets. On the other hand, the high inflation rates in Malawi (22 percent) and in Zambia (18.7 percent) are only beaten by crisis-ridden countries Zimbabwe and Angola. These high inflation rates require a different monetary policy and do not meet this important convergence criterion.

Besides the inflation rates, the interest rates offer an additional criterion of nominal convergence (Figure 16). However, nominal interest rates contain information not

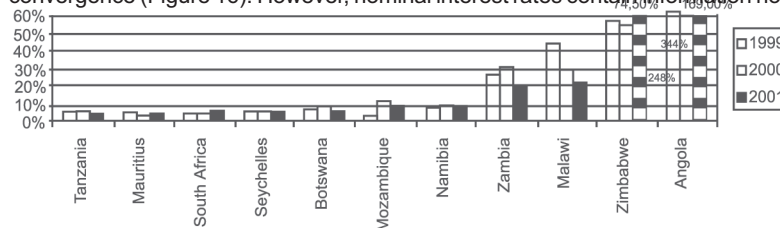


Figure 15: Consumer Price Inflation Rates in Southern African Countries⁷

Source: Standard Bank (2002)

only about expected price developments, but also about risk premia and the degree of restriction of monetary policy.

⁶ Real GDP growth of the years 1998 to 2000 respectively

⁷ The 2001 figure for Mozambique is an estimation.

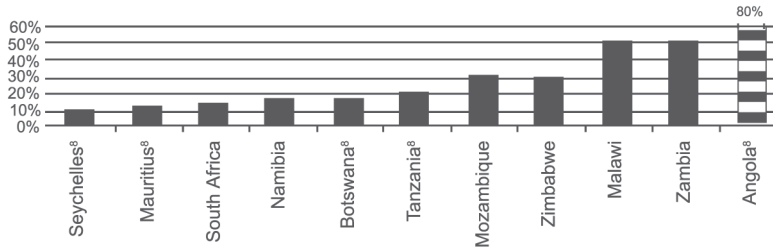


Figure 16: Prime Lending Rates in Southern African Countries in 2001

Source: Standard Bank (2002)

If the inflation rate is subtracted from nominal interest rates - as done in Figure 17 - the real components of interest rates are yielded, consisting of real risk-free interest rates and the risk premium. If risk-free real interest rates are assumed to be relatively similar among the investigated countries then the picture of Figure 17 can give an impression of country risk. Ignoring the “high inflation countries” Angola and Zimbabwe, Figure 17 shows that country risk seems to be negatively correlated with the GDP per capita levels (compare Figure 12). Just as with the GDP per capita levels, the real components of interest rates in Southern African countries are divergent. The differences in real components of interest rates nearly reach the factor eight between Zambia and the Seychelles. It would be very difficult for a common monetary policy to address these huge differences in interest rates. “Low risk countries” would be negatively affected by a common monetary policy in the sense of increasing risk premia. From this point of view further convergence is needed before a common monetary policy is thinkable.

Fiscal Policy

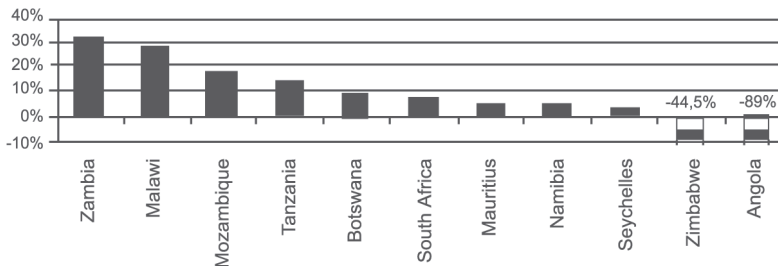


Figure 17: Nominal Interest Rates Minus Inflation Rates

Source: Standard Bank (2002), own calculations

In most of the Southern African economies the current fiscal policy is moderate. Seven out of eleven countries show budget deficits of less than 5 percent, and Botswana even reached a budget surplus (see Figure 18). The high degree of convergence in budget deficits of Botswana,

⁸ Estimation

Angola, South Africa, Tanzania, Mauritius, Namibia and Zambia advocates a higher degree of integration in the field of monetary policy.

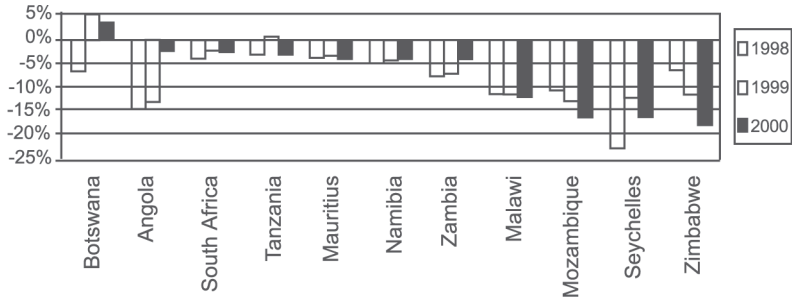


Figure 18: Government Budget Surplus/Deficit in Percent of GDP
Source: Standard Bank (2002)

The Structure of the Economies

The regionalisation of monetary or exchange rate policy requires a high degree of convergence in the economic structure. This is because monetary policy is one instrument with which to react to external shocks. If the economies of the region were hit by different shocks at different times it would be impossible for the central bank to react adequately. Figure 19 shows that the economic structure of the Southern African economies is different. While some countries such as Angola or Tanzania mainly depend on the shock-susceptible agriculture and mining sectors, other countries have much more diversified economies.

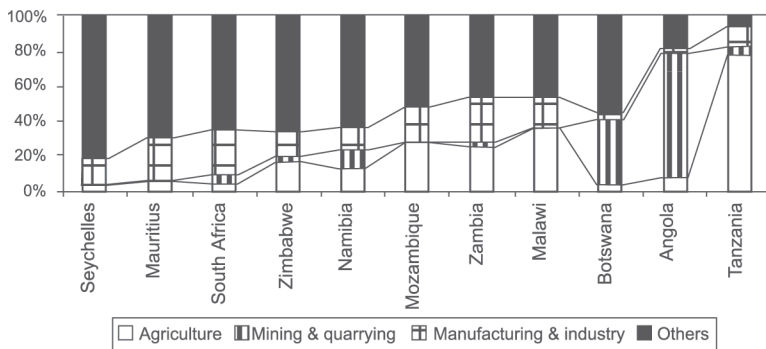


Figure 19: Structure of Southern African Economies
Source: Standard Bank (2002)

The criterion of reasonably diversified economies can be met by the Seychelles, Mauritius, South Africa, Zimbabwe and Namibia. There the manufacturing/industry sector and other sectors (mainly consisting of the tertiary sector) provide more than 75 percent of domestic output, and the agriculture and mining sectors are of lower importance.

Vulnerability for Currency Crises

The importance of intra-regional co-operation in the field of exchange rate policy increases with the vulnerability of economies to currency crises. Open economies - which depend on foreign trade - have a particular interest in the stabilisation of exchange rates, which is the main objective of the intra-regional integration of exchange rate policy. The openness of economies is, therefore, a measure of the need for intra-regional cooperation in exchange rate policy. Figure 20 represents such a measure, the foreign trade ratio, which is calculated as half of the sum of imports and exports as a percentage of GDP.

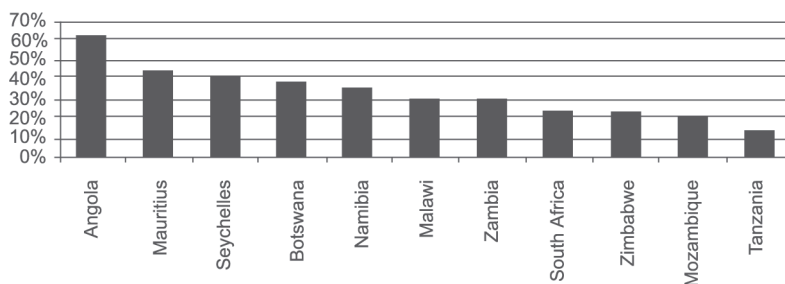


Figure 20: The Openness of Southern African Economies in 2000
Source: Standard Bank (2002), own calculations

characterised as relatively open. In particular the high GDP per capita countries (Seychelles, Mauritius) and the economies dominated by the highly export-dependant mining sector (Angola, Namibia, Botswana) are relatively open for foreign trade. The interest of these countries is the stabilisation of exchange rates against their main trading partners, which are not necessarily neighbouring countries (Table 32).

	Exports		Imports	
	Angola	USA (54%)	South Korea (14%)	Euro-area (25%)
Botswana	EU (77%)	SACU (18%)	SACU (76%)	EU (10%)
Malawi	Euro-area (25%)	South Africa (16%)	South Africa (43%)	Zimbabwe (14%)
Mauritius	EU (63%)	USA (15%)	EU (22%)	South Africa (11%)
Mozambique	EU (27%)	South Africa (26%)	South Africa (44%)	EU (16%)
Namibia	EU (68%)	South Africa (26%)	South Africa (81%)	USA (4%)
Seychelles	EU	China	EU	South Africa
South Africa	EU	Japan	EU	USA
Tanzania	EU (40%)	India (20%)	South Africa (8%)	Japan (8%)
Zambia	Japan	Saudi Arabia	South Africa (48%)	Saudi Arabia
Zimbabwe	South Africa (10%)	UK (9%)	South Africa (46%)	EU (12%)

Table 32: Main Trading Partners of Southern African Countries
Source: CIA (2001), own calculations

To simplify the picture of Table 32, there are two main groups of countries. On the one hand are countries whose foreign trade takes place mainly within the region. These countries are Botswana, Malawi, Mozambique, Namibia, Zambia and Zimbabwe. This group of countries would benefit directly from stable intra-regional exchange rates. The other group of countries consists of Angola, Mauritius, Seychelles, South Africa and Tanzania. These countries trade mainly on an extra-regional basis and would benefit from intra-regional exchange rate policy cooperation more indirectly by the increasing overall stability of a larger currency block.

Besides the openness the external debt is an indicator of vulnerability of the economy to currency crises. The rollover of external debt could be stopped in particular if the short-term capital share were significant. Thus countries with high foreign debt levels are more vulnerable to sudden capital withdrawals, which in turn may cause currency crises. These countries have a high interest in stabilising exchange rates on a multilateral basis. Figure 21 shows impressively the different degrees to which countries are burdened by external debt.

Figure 21 supports the World Bank classification of Heavily Indebted Poor Countries (HIPC). According to this classification Angola, Malawi, Mozambique, Tanzania and Zambia are HIPC countries. In addition to these countries, Mauritius shows

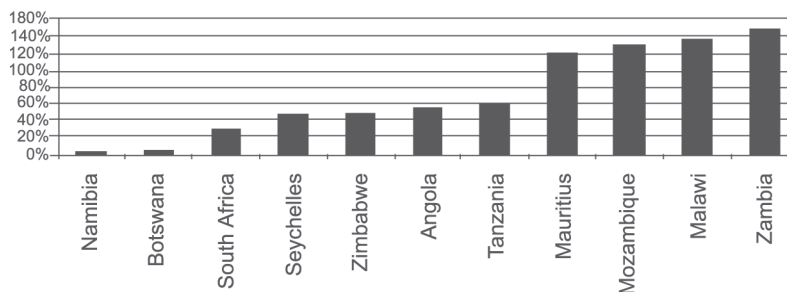


Figure 21: External Debt in Percent of GDP in 2000
Source: Standard Bank (2002)

a foreign debt position of more than 100 percent of GDP. It is obvious that these countries depend heavily on the stability of exchange rates. Massive devaluations would lead to large increases in the domestic currency value of foreign debt. The capacity of central banks to defend the value of the domestic currency if large amounts of foreign capital are withdrawn can be measured by the ratio of external debt to foreign exchange reserves. This measure is illustrated in Figure 22.

Only Botswana and Namibia cover their external debt completely through foreign exchange reserves, while the HIPC countries cover only between 20 percent (Angola) and 5 percent (Zambia) of their external debt. Thus the ability of these central banks to defend exchange rates in the case of

devaluation pressure is very limited. A multilateral exchange rate arrangement that stabilises exchange rates could provide substantial benefits for these countries.

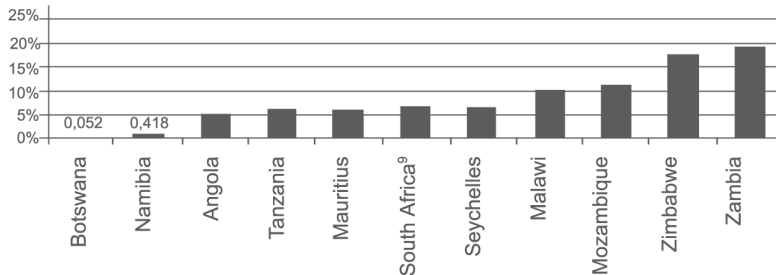


Figure 22: External Debt per Foreign Exchange Reserves in 2000⁹

Source: Standard Bank (2002), own calculations

Summary on Convergence by Countries

Besides the need for intra-regional integration in the field of exchange rate and monetary policy shown in the discussion of vulnerability for currency crises, the countries participating in a possible common exchange rate arrangement have to meet a certain degree of convergence. Therefore, this subsection summarises the above findings for each country and evaluates the possibilities of installing a common exchange rate mechanism or further integration on the field of monetary policy.

Angola's participation in a common exchange rate policy is supported by a convergent economic growth rate and the moderate budget deficit. However, the exorbitant inflation and nominal interest rates, the low regional economic integration, and the mono-sectoral structure of the economy disqualify Angola's participation in a common exchange rate policy as yet.

Botswana is leading in economic growth in Southern Africa. It shows acceptable inflation rates and a low risk premium on interest rates. Botswana was the only Southern African country with a budget surplus in 2000 and is well integrated in the regional economy. However, one point does not support Botswana's participation in a common exchange rate policy: the economic structure, which is to a large extent dependant on the mining and quarrying sector.

Malawi shows positive economic growth rates and is relatively strongly integrated into the regional economy. On the other hand, the economy of Malawi is characterised by high inflation, a high risk premium in interest rates, a high budget deficit, and an economic structure dependent mainly on the agriculture sector. These findings would make the participation of Malawi in a common exchange rate arrangement problematic.

⁹ The figure for South Africa does not include gold.

Mauritius meets all criteria except that of the integration in the regional economy. Thus, the benefits of participation in a common exchange rate arrangement would be of less interest for Mauritius.

In *Mozambique* the economy grows at a positive rate, the inflation rate is below 10 percent and the economy is well integrated into the region. However, the risk premium in interest rates and the budget deficit are high. Additionally, the relative importance of the agricultural sector does not support the participation of Mozambique in a common exchange rate arrangement as yet.

In *Namibia* all criteria are met. It is the strong integration of Namibia in the South African economy which ensures that monetary policy decisions of the South African Reserve Bank (SARB) often meet the Namibian requirements.

The *Seychelles* are not integrated in the regional economy. This fact and the high budget deficit do not support the participation of the Seychelles in an intra-regional exchange rate arrangement. All other economic criteria are met; in particular the risk premium in interest rates is the lowest in Southern Africa.

Tanzania shows positive growth rates, the lowest inflation rate in Southern Africa and a moderate budget deficit. On the other hand, Tanzania is not well integrated into regional markets and has to shoulder a relatively high risk premium on interest rates. The most critical point is, however, the structure of the economy. Tanzania's economy mainly consists of the agricultural sector, which makes Tanzania very vulnerable to shocks.

The *Zambian* economy grows relatively fast. The budget deficit is moderate and Zambia is well integrated in regional markets. However, the inflation rate is high and the risk premium too. This does not support the participation of Zambia in an intra-regional exchange rate arrangement yet.

Zimbabwe is a relatively diversified economy, which is well integrated in regional markets. However, none of the other criteria support the participation of Zimbabwe in common policy arrangements. The slowdown of economic indicators mainly relates to the political crisis that Zimbabwe is currently facing.

South Africa would be an indispensable participant of a common exchange rate arrangement. Since South Africa is the regional main trading partner for all Southern African economies a common exchange rate policy excluding South Africa would make no sense. Additionally, South Africa meets all the convergence criteria except that of its own integration in the regional markets. The dependence of other Southern African economies on South Africa is unilateral, since South Africa's main trading partners are overseas countries. The dominance of South Africa and the low degree of integration in regional markets indicate the relatively low interest of South Africa to participate in an exchange rate system among South

ern African countries. For South Africa it would be of much higher interest to stabilise the exchange rates against the Euro and/or the US\$. This may be the most important obstacle for intra-regional exchange rate policy in Southern Africa.

On balance, we can see that there are limits for all of the countries - except Namibia - to pursue policies for a common exchange rate arrangement. Structural changes, further economic convergence and integration are the prime considerations.

Before optimal unilateral exchange rate policy can be discussed, it is necessary to provide an overview of the current exchange rate strategies of Southern African countries.

Exchange Rate Policy in Southern African Countries - an Overview¹⁰

According to Fischer (2001), three kinds of exchange rate systems can be found in Southern Africa. The first group of countries targets exchange rates with conventional fixed pegs. These are Botswana, Namibia, Zimbabwe and the Seychelles. Botswana targets exchange rates against a currency basket where the South African Rand has the greatest weight. Therefore the devaluation of the *Botswana Pula* was in line with the depreciation of the South African Rand (Figure 23). However, the depreciation against the US\$ has been slower than that of the South African Rand (Figure 24). This constellation supported exports through gaining in terms of trade against the overseas export countries, and increases in import prices could be compensated by the appreciation of the Pula against the Rand (compare Table 32).

Besides the Botswana Pula, the *Seychelles Rupee* is also targeted against a currency basket. The basket is dominated by the Euro and contains no regional currency such as the South African Rand. Since the last adjustment of the currency basket took place in 2001, the Rupee developed in line with that basket. Exchange rate fluctuations have been moderate.

The *Zimbabwe Dollar* is officially pegged to the US\$ at a rate of 55 Zimbabwe Dollar per US\$. However, the parallel exchange rate is beyond the control of the central bank, and ranges around Z\$350 per US\$ (Standard Bank 2002).

The *Namibia Dollar* is traded on a par with the South African Rand because of Namibia's membership in the Common Monetary Area (CMA) together with Lesotho, Swaziland and South Africa. Therefore exchange rate developments equal those of the South African Rand.

¹⁰ Here and in what follows, exchange rates are expressed in price notation (units of local currency per US\$); source: IMF (2002:11), own calculations.

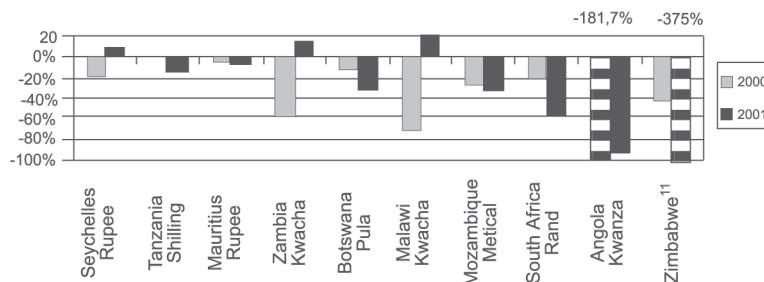


Figure 23: Exchange Rate Movements against the US\$ in Southern African Countries in 2000 and 2001¹¹
 Source: Standard Bank (2002)

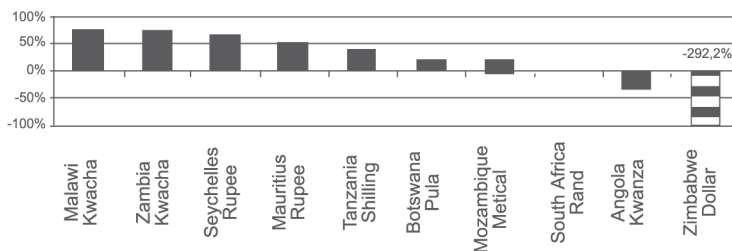


Figure 24: Exchange Rate Movements against the South African Rand in 2001¹²
 Source: Standard Bank (2002), own calculations

The second group of countries as categorised by Fisher as managed floaters (managed exchange rate with no pre-announced exchange rate paths) are Malawi and South Africa. From 1997 the *Malawi Kwacha* depreciated heavily against the US\$ but recovered in 2001. The high volatility in exchange rates as well as the fairly stable foreign exchange reserves indicate a very restrained intervention policy by the reserve bank.

The *South African Rand* depreciated significantly against the US\$ during the 1990s and continued to depreciate in 2001. From 1996 to 2000 the South African Reserve Bank (SARB) increased foreign exchange reserves (excluding gold) by more than 600 percent. In this way, the South African Reserve Bank supported the undervaluation of the Rand. The depreciation was accepted by the SARB in order to create stronger foreign exchange reserves, which could help to stabilise the exchange rate in the long run. The strong intervention activity and the non-announcement of exchange rate targets supports the categorisation as managed floater,

¹¹ Zimbabwe's figure for 2001: movement of parallel market exchange rate (the official rate is fixed to the US\$); source: IMF (2002:11), own calculations

¹² Zimbabwe's figure represents the parallel market exchange rate; source: IMF (2002:11), own calculations.

even if the direction of interventions of the SARB was not in line with theoretical requirements (see next section).

The third category of exchange rate policy is that of independent floating exchange rates. This group consists of Mauritius, Mozambique, Tanzania, Zambia and Angola. However, current experience indicates that also in this group of countries exchange rate developments have been influenced by the exchange rate policy of the central banks. In Angola, capital inflows due to an increase in FDI resulted in a depreciation of the *Angola Kwanza* that was less than the inflation differential. Additionally, the central bank was able to increase foreign exchange reserves.

The Bank of Zambia's policy to aim for market-determined exchange rates is currently being interrupted by the aim to build up foreign exchange reserves. The increase in foreign exchange reserves avoided a higher appreciation of the *Zambia Kwacha* against the US\$ while facing increasing capital inflows in 2001.

The *Tanzanian Shilling* depreciated slightly against the US\$ in 2001. The stability of the Shilling is supported by low inflation rates and high foreign currency reserves, which remained virtually unchanged. This indicates a low level of activity of the central bank in foreign exchange markets.

In Mauritius the central bank intervened in foreign exchange markets in order to depreciate the *Mauritius Rupee*. Significant changes in foreign exchange reserves indicate that the Mauritius Rupee does not float independently.

The same situation counts for the *Mozambique Metical*. The variance of foreign exchange reserves indicates an active central bank. However, the influence of the domestic currency in circulation and transactions is quite low in Mozambique, as the economy is to a large extent US\$-based.

Summarising, the huge depreciation of the South African Rand affected pegged currencies such as the Namibia Dollar, and also the Botswana Pula. In most of the other countries the exchange rate policies can be characterised by discrete interventions on the part of the central banks. These interventions are largely unannounced, and do not always follow an official exchange rate target. This strategy of managed floating exchange rates often creates a picture of non-transparency and capriciousness. In our paper we go a step further to show that managed floating exchange rates can lead to optimal exchange rates. The conditions are derived in the following section. The managed floating exchange rate approach provides important implications for policy alignment in the region.

Optimal Unilateral Exchange Rate Strategies

This chapter focuses on optimal exchange rate policy for open economies. The aim is to broadly describe a model which provides a rule for the use of the operating targets of a central bank - namely interest rates and

exchange rates - to target financial stability.¹³ The importance of exchange rate strategies for domestic monetary policy becomes clear if one looks at the two elements necessary to fulfil financial stability. Financial stability can only be reached if monetary conditions are sound, and if volatile and destructive capital flows are avoided. Thus, financial stability has two dimensions, an internal dimension (sound monetary conditions) and an external dimension (avoiding volatile, destructive capital flows).

The internal dimension of sound monetary conditions can be reached if monetary authorities or central banks use their operating targets, namely interest rates and exchanged rates, in such a way that they meet the current requirements of the economy. These requirements can be derived from a macroeconomic model that includes the current output gap, inflation rates, interest rates, exchange rates and external shocks. Using such a model, one yields the optimal degree of restriction of monetary policy. Taking this optimal degree of restriction as a target, the central bank can use both operating targets - interest rates and exchange rates - to reach the target. However, taking only the internal monetary conditions into account, the central bank is still free to choose any combination of interest and exchange rate policy that leads to the optimal degree of restriction. So, if a tightening of monetary conditions is required, the central bank could increase interest rates or appreciate the exchange rate or use a combination of these policy measures.

If the central bank aims to avoid volatile and destructive capital flows, the external dimension has to be taken into account. The economic theory to be used here is the theory of interest rate parity. The theory states that differences between domestic and foreign interest rates cause capital movements if changes in exchange rates do not compensate for these differences. Since domestic interest rates and exchange rates are monetary policy operating targets, the central bank has to choose a combination of exchange rates and interest rates (to reach the internal monetary conditions target) that ensures interest rate parity. In this way the central bank can target sound monetary conditions and avoid huge capital flows, simultaneously. The formal derivation of this model (see Bofinger and Wollmershäuser 2000) provides a simple monetary policy role for central banks. The included exchange rate strategy is one of managed floating exchange rates. In contrast to exchange rate strategies in most of the Southern African countries, the described monetary policy rule would not only increase the effectiveness of monetary policy but would also create transparency.

However, the strategy of managed floating is associated with one obvious shortcoming: that of limited foreign exchange reserves and therefore limited potential to intervene on currency markets. In this case where an

¹³ The model derived here strongly relates to the model developed by Bofinger and Wollmershäuser (2000).

appreciation of the currency is required the foreign currency reserves of the central bank are affected. The central bank may be forced to increase domestic interest rates to avoid capital outflows if foreign currency reserves are not sufficiently available. Thus, too high interest rates would violate the optimal monetary conditions and the policy mix would become too restrictive (Bofinger and Wollmershäuser 2000:41-42). In all other cases the strategy could be successfully used as a unilateral one. The strategy of managed floating is therefore not a crisis intervention strategy but a monetary policy rule, to avoid crises by concentrating on an external equilibrium in times of speculative capital inflows. If speculative capital inflows are avoided it is less likely that huge capital outflows would be faced, which are difficult to master.

A well-understood managed floating exchange rate approach might therefore be an alternative to a standard exchange rate system that might not lead to optimal exchange rates. Particularly if the safety net of an intra-regional or international exchange rate mechanism is not available, managed floating exchange rates could minimise the disturbing effects of volatile capital markets and ensure adequate monetary conditions. For Southern African countries, managed floating exchange rates could be a step in the direction of intra-regional exchange rate arrangements.

Conclusion

Traditional exchange rate strategies such as unilateral fixed exchange rates and pure floating exchange rates cannot protect economies from currency crises in times of increasing volatility of capital flows. Intra-regional integration in the field of exchange rate policy offers the possibility of handling the problem of high volatile capital flows. Common exchange rate arrangements could stabilise intra-regional exchange rates. More-over, a larger currency area could also help to stabilise external exchange rates. The strategy of regional integration in exchange rate policy is not only one option in economic theory: it is already a practised policy concept, as for example in the case of the European Union.

However, common monetary and/or exchange rate policy requires a certain degree of convergence and economic integration of the participating countries. This is owing particularly to problems arising from the inability of common monetary policy to react to nationally limited shocks. As the discussion of the state of convergence shows, the Southern African economies are not currently convergent enough for intra-regional exchange rate arrangements. Further convergence is needed in the structure of the economies, as well as in local monetary policy. The overview of the exchange rate policy highlights the exchange rate strategies of Southern African countries and shows that most of them are targeting exchange rates discretionary and unannounced. Thus it often remains unclear which specific indicators or criteria are used to target exchange rates.

Therefore, this final section broadly describes a model that describes the conditions for optimal exchange rate targets. The outcome of the model is a monetary policy rule that enables central banks to create adequate monetary conditions and avoid speculative capital flows at the same time. This in turn stabilises intra-regional exchange rates, which is a condition for further economic integration. The process of further economic integration may lead to conditions that make intra-regional exchange rate arrangements possible.

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Politics and Good Governance in SADC Member States: Realities and Challenges

Molefe B. Phirinyane

Introduction

Good governance is a major challenge for Africa. Good governance is about the effective operationalisation of public institutions and meaningful partnerships with civil society and the private sector in order to meet developmental objectives. It has become a universally accepted norm, required initially by the donor community, to counter the lack of success of economic reform in Africa. It also applies to other countries (rich or poor) where democratic deficiencies may be present. It 'is a challenge that exists and needs to be met in all countries, whatever their socio-economic circumstances and wherever they may be located on the globe' (Thynne 2000:228). Africa's political and economic management is perceived internationally as unattractive to foreign capital flows. The '... negative perceptions of the continent's economic and political activities, its poor infrastructure, and an inadequate legal framework, particularly for the enforcement of contracts' have served to cause Africa to miss out on the benefits of global private capital flows (Ajayi 2001:7). The lost opportunities are 'expanded markets, job creation and the transfer of technology, management, and organisational skills' that come with rapid and sustained economic growth, which could alleviate poverty, one of Africa's main problems (2001:7).

This paper will focus on politics and good governance in SADC member states. Hence the emphasis on regional integration and the performance of states within this bloc.

Regional integration has political, economic, institutional and social implications that require a regional response. Investors from abroad see Africa as one entity. This adds another dimension to governance, which is the fact that in a globalising world, individual African states can no longer act in isolation and expect to achieve deeper long-lasting results. 'Supra-national arrangements have gained increased prominence and significance, raising fundamental questions about the future nature of state sovereignty' (Thynne 2000:227). The impetus for regional integration, more than ever before, has come to be globalisation. The Global Coalition for Africa (GCA) (2001) identifies both economic and non-economic reasons for regional integration. These are:

- It allows Africa's small economies to link up and take advantage of economies of scale.
- It gives African countries the opportunity to speak with one voice in international trade negotiations and other multilateral forums.
- It allows for the proper coordination and harmonisation of reforms with neighbouring countries.

- It enhances the potential for sub-regional specialisation and cooperation in a variety of economic and social spheres.
- It allows the nurturing of new and fragile democracies, promotion of stability, management of conflict, and development of security arrangements against external threats, which are possible and useful undertakings at sub-regional level within the context of regional integration institutions.

Ajayi (2001) observes that Africa's isolationist policies, together with its closed economies, have contributed to its marginalisation. 'The first avenue of economic integration for most countries is international trade. Trade remains the main vehicle for Africa's participation in, and full integration into, the global economy' (2001:7). This reality has been acknowledged by the African leaders, and their response has been translated into a common vision, such as the Southern African Development Community (SADC), as well as the New Partnership for Africa's Development (NEPAD), which aims to extricate Africa from underdevelopment and marginalisation from the globalising world (SADC 2001). African leaders have recognised that 'development is impossible in the absence of true democracy, respect for human rights, peace and good governance.' The NEPAD participating countries have come up with the Democracy and Governance Initiative, which seeks to strengthen 'the political and administrative framework of participating countries, in line with the principles of democracy, transparency, accountability, integrity, respect for human rights and promotion of the rule of law' (SADC 2001). Three of the Implementation Committee members are SADC states, Botswana, Mozambique and South Africa. Good governance should foster social and economic development, which has eluded Africa for many years. These can only be achieved in an environment that fosters good and effective governance. The process towards good governance also requires governance standards against which the progress of each member state, towards the convergence of good governance, could be monitored.

The following section discusses the characteristics of good governance. It is followed by a section on the impetus for good governance. The fourth section explores Southern Africa's experience with the various principles of governance and discusses prospects for regional integration among SADC member states. Section 5 highlights progress made on the signatures, accessions and ratification of SADC Protocols. Section 6 concludes.

Characteristics of Good Governance

There are various definitions of good governance. Sadie (2002) sees the criteria of good governance as not only varied, but vague as well. According to the Organisation for Economic Cooperation and Development (OECD), good governance consists of a set of principles that address the effective functioning of government, the relationship of citizens and parlia

ment, as well as the relationship of governments (2002). These principles include

—
respect for the rule of law; openness, transparency and accountability to democratic institutions; fairness and equity in dealings with citizens, including mechanisms for consultation and participation; efficient, effective services; clear, transparent and applicable laws and regulations; consistency and coherence in policy formation; and high standards of ethical behaviour.

The World Bank, cited in Sharma (2002:4), defines good governance as predictable, open, and enlightened policy making; a bureaucracy imbued with professional ethos; an executive arm that is accountable for its actions; and a strong civil society participating in public affairs.

The rule of law, democracy, decentralisation, public participation, public accountability, exercise of legitimate power, bureaucratic transparency, independent justice system, fundamental human rights and enhanced opportunities for the development of pluralistic forces, including civil society, have been advocated as major characteristics of good governance (Sharma 2002:2).

This would also include the prudent management of economic resources, an enabling environment for investment, sound infrastructure, an equitable distribution of resources and an effective civil society participating in the development process. According to the New Partnership for Africa's Development (NEPAD), good governance is about transparency, accountability, integrity, respect for human rights and the rule of law, participatory decision-making, efficient and effective administrative and civil services, and parliamentary oversight (NEPAD 2001:17-18). Moreover, NEPAD sees democracy and good governance as inseparable twins necessary for sustainable development.

Sadie (2002) distils the definition of good governance into two versions. First is the definition that 'implies a minimal state which is efficient and competent in carrying out economic reforms'. The second definition ascribes democracy to the meaning as well as incorporating administrative efficiency and effectiveness into the definition. The OECD and NEPAD definitions fall into the latter meaning. The World Bank definition is consistent with the former.

This chapter adopts the definition of good governance as propounded by NEPAD, mainly because it was developed in the context of Africa by Africans themselves and is widely accepted by most (if not all) African leaders. Also, the NEPAD definition is broader than that proposed by the World Bank, as illustrated above. The various definitions presented above are not necessarily contradictory, but rather, are complementary. In addition to the other characteristics mentioned in the preceding paragraph, good governance is widely accepted as a precondition for successful economic development (NEPAD 2001; OECD 2002; World Bank 1997). However, each country is unique. The history, culture, level of economic development and administrative infrastructure influence the nature and suc

cess of institutions and measures that each country puts in place. That is, there might be divergent approaches pursued by each country in the realisation of good governance, owing to its historical experiences and other characteristics mentioned above, but the ultimate goal is to create a conducive environment for socio-economic development. However, the emerging consensus is that there is a need for the establishment of the institutions of governance both within and outside the state. An important feature of these institutions of governance is efficiency and effectiveness in the performance of their mandates.

Mohan Kaul, cited in Sharma (2002:5), identifies the government structures which constitute the basis of good governance. These are (a) the constitution, which determines relations between the government and civil society, guarantees citizens their fundamental human rights, and establishes supremacy over and regulates the exercise of legislative, executive and judicial powers; (b) appropriate governance structures, including parliamentary, political, electoral and popular participation institutions, functioning in accordance with the rule of law; (c) accountable public administration, which must be responsive, transparent, honest, just and impartial, conducted in the interest of the public at large and in accordance with acceptable norms of efficiency and financial good practice; (d) independent oversight of government structures, which monitor and scrutinise the work of other governmental and administrative agencies to ensure their political and public accountability, and the protection of the rights and interests of the citizenry. These include institutions such as the Auditor-General, the Ombudsman, the Anti-Corruption Agency, the Judiciary, the Electoral Commission, the Human Rights Commission, the Consumers' Council or Citizens' Charter Bureaux and forms of Parliamentary Supervision and Control.

The Impetus for Good Governance

The overarching motive for regional integration in Southern Africa and elsewhere in Africa is economic development, underpinned by economic liberalisation and democracy. Economic liberalism and democracy are, 'according to the good governance agenda, ... historically linked and constitute the two sides of the same coin' (Abrahamsen 2001:64). Economic liberalisation has become a prerequisite for global economic integration. Globalisation prescribes the liberalisation of national and global markets in the belief that free flows of trade, finance and information will produce the best outcome for both economic growth and human welfare (Ajayi 2001:6). Both political and economic liberalisation are expected to open up new opportunities by empowering civil society or the private sector and attracting foreign capital as well. The modernisation theory and the good governance school perceive the private sector and/or the bourgeoisie as a democratising agent (Abrahamsen 2001:62-65). Politics and good governance are supportive mechanisms that are supposed to create an enabling environment for economic prosperity and integra

tion to take place. Politics plays a dual role, both as a primary ingredient for regional integration, as well as a supportive mechanism without which achievements towards integration would be limited. However, the nature of African politics portrays a complex trajectory towards good governance and regional integration. On the one hand there are African leaders who are committed to democratic reforms, while on the other there are those who are balking at the implementation of comprehensive reforms. There is a lack of political will in Africa to support regional integration, and this serves to retard its deepening (GCA 2001). On the other hand, NEPAD is borne out of some African leaders' political will to rid Africa of the poverty burden and underdevelopment.

The collapse of the command/planned economies and the emergent globalisation revolution sweeping across the globe have created the need for smaller economies to adopt the principles of neo-liberal economics in order to survive. Economic liberalism and democracy have come to be synonymous with economic prosperity. Good governance is therefore exported to developing countries on the basis of the West's experience. Abrahamsen (2001:62) observed that 'in the conventional manner of modernisation theory, good governance discourse can be seen to draw on the historical experience of the West in its construction of development'. African leaders may have noticed the economic successes availed by good governance in the West, as well as in some African states such as Botswana and Mauritius, and therefore identified good governance as a necessary ingredient of economic development.

The ascendancy of international financial institutions during the 1990s established a link between their requirements for good governance and the amount of aid they disbursed in the forms of either grants or loans to the poorer nations. Paradoxically, it was the poorer nations who were to be confronted first with good governance, rather than the richer ones. This led to the adoption of various kinds of structural adjustment policies. Initially, very few, if any of the powerful donor institutions insisted on the regionalisation of recipient states. There were two exceptions, however. The then European Community dealt collectively with former colonies in Africa, the Caribbean and the Pacific (ACP) (through Lomé Conventions), whereas in South Africa, the forerunner of SADC, the Southern African Development Coordinating Committee (SADCC) was to a large extent donor-driven.

In Africa itself, the integration vision was set out by the Lagos Plan of Action (1980) and the Abuja Treaty (1991). Then came the impetus of the Sirte Declaration (1999), NEPAD and the new African Union that call for existing integration schemes to be expedited. For the first time, good governance and integration are being called for simultaneously.

Good governance is not entirely a Western construct of development, as Abrahamsen perceives it. The concept has always been there around the globe, including Africa as cited above. Nevertheless, good governance

has come to fore of socio-economic development and has literally been transformed into a global movement. Western donors and creditors regard good governance as a prerequisite for the disbursement of aid and loans, even though the requirement is applied inconsistently (see Yolanda Sadie 2002). Investors also regard good governance as one of the fundamental criteria for deciding on where to invest their monies. A region with good governance, a well-managed economy and a bigger market, supposedly, could attract more foreign direct investment (FDI). Abrahamsen (2000) interprets the good governance agenda in the context of the perceived failure of the prevailing development paradigm. Both the World Bank and the development community have blamed the major cause of Africa's failure to achieve sustainable economic growth and development on poor governance (ibid). NEPAD (2001) also identifies poor governance as a major source of Africa's economic woes. However, Abrahamsen believes she has unmasked the good governance agenda. It is, according to her, a 'reincarnation' of the same old discredited structural adjustment programmes (SAPs), but with a new look. The overall nature of adjustment programmes remains largely unchanged and the central contention of the World Bank is still that adjustment is the necessary step on the road to sustainable, poverty-reducing growth (Abrahamsen 2000:42). Abrahamsen (2000:42) further argues that 'the governance agenda is best understood as a means of managing the adjustment effort'. And '... in the context of structural adjustment programmes, democracy or good governance is not valued in its own right, but is seen first and foremost as a means to the end of economic growth.' It is apparent that the forces for globalisation are overwhelming, and that Africa should endeavour to seize the new economic opportunity to avoid marginalisation from the global economy. The increasing economic interaction around the world is steadily moving towards integration and reducing the world to a global village. Globalisation has brought with it a new dispensation of the 'universalisation' of good governance. Good governance is a platform through which economic integration could be realised.

What sets the new dispensation apart from the past is the fact that in the 1980s, SAPs were implemented within poor governance conditions characterised by *inter alia*, dictatorships, one-party rule, infringement of human rights, a suppressed civil society and media, and limited rule of law. Good governance, with its foundation based on neo-liberal values, would work well in a neo-liberal environment already supported by major international institutions such as the OECD, IMF, World Bank, and currently the African leaders themselves under the auspices of NEPAD. The commitment by some African leaders to democracy and governance would enhance the feasibility of good governance in the new dispensation.

Southern Africa's Track Record on Governance

Rule of Law and Constitutionalism

The legal framework of the state is provided for by the constitution. Constitutions are supposed to express the aspirations of the people; that is, how they wish to be governed (citizen-state relations) and also how they wish to relate to one another. The constitution should spell out the 'basic and broad principles as regards powers and functions of various organs of government, the rights and duties of citizens and their relationship with those organs' (Kaniki 2001:7). The government in a state has to exercise its powers as stipulated in the constitution (*ibid*). Southern African states are using inherited legal systems and political institutions that were left behind by the colonial governments (Joireman 2001:576; SAPEM 2001). For a national constitution to be meaningful it has to be respected by all, the government of the day and the citizens alike. The parameters of government action must be prescribed by the constitution in order to ensure that the principle of constitutionalism prevails (Kaniki 2001). Popular participation in the design of the constitution is equally significant for constitutionalism (SAPEM 2001). African constitutions are weakened by the fact that they invest too much power in the presidencies (*ibid*). Also, the ease with which constitutions can be changed for expediency, in some cases without necessarily requiring a national referendum but rather a parliamentary two-thirds majority, weakens constitutionalism (Sachikonye 2001).

'According to the liberal democratic tradition, the primary function of a constitution is to limit governmental authority and regulate political processes in the state' (SAPEM 2001:3). The experience of the SADC countries is varied, ranging from those with good traditions of upholding the law to those at the other extreme. For instance, there is a high regard for the rule of law by the political leadership in countries such as South Africa and Botswana. In Botswana for example, constitutional amendments are carried out according to the legal provisions, and are followed to the letter. Then there are countries that could be categorised as in the middle such as Namibia, Zambia and others, in which constitutional amendments can be effected by a two-thirds majority of parliamentarians. The last category consists of countries with for example civil war problems, as well as those led by politicians who flout established laws to prolong their stay in power, such as Angola, the Democratic Republic of Congo (DRC) and Zimbabwe.

Disregard for constitutionalism has already begun to rear its ugly head in several SADC member states solely to gratify the political leaders' hold on power. For instance in 1999, the ruling SWAPO party in Namibia amended a constitutional clause that limited the presidency to two terms and allowed President Sam Nujoma to run for a third term of office. Frederick Chiluba, the former Zambian president, also attempted - in vain - to change the constitution so that he too could run for another term of office. Malawi's President Bakili Muluzi, whose second and last term

comes to an end in 2004, had at one time considered doing the same (see SAPEM 2001:3; Sachikoye 2001).

In Zimbabwe, the rule of law has almost become obsolete. Assaults against the rule of law are committed and permitted by the government (International Bar Association – IBA 2001:77). This was particularly true during the run-up to elections. Violence has become an entrenched characteristic of the Zimbabwean elections, and has been consistently and overtly orchestrated against the opponents of the ruling ZANU (PF) party for over a long period (see Darnolf 1997; IBA 2001). The March 2002 Presidential Elections were marred by violence and malpractice. The SADC Parliamentary Forum Election Observation Mission (2002) noted in its statement that the elections were marked by political intolerance, violence and intimidation. Violence was mainly perpetrated by the ruling party and government against their opponents. The statement further indicates that the police were not impartial in their role and have actually been used against voters in some Harare constituencies which are known to be pro-opposition (addition mine). It is also significant to note that the Norms and Standards of Elections in SADC were not adhered to. The intention of this study is not to victimise Zimbabwe, but to show the contrasting nature of governance in the SADC states. The case of Zimbabwe is special due to the impunity with which the governing elite has used state institutions and resources to encourage lawlessness. It is also important because of the international attention this has drawn. The IBA (2001) raised the following two aspects as causes for great concern: (1) non-enforcement by the executive of court orders and allowing admittedly illegal activities to continue; (2) a dangerous approach to the rule of law, which includes threats and intimidation of the judiciary, pressure on judges to resign, threats to the legal profession and selective prosecution. All these violate the Zimbabwean constitution, as well as United Nations instruments (IBA 2001:85-94). The flagrant violation of the national constitution and international instruments epitomise governance in Zimbabwe.

The political environment in the SADC sub-region is complex. The nascent neo-liberal economic and democratic reforms point towards democratisation in the region. On the other hand, autocracy and actual tinkering with the constitution, such as in Zimbabwe, Zambia and Namibia, respectively, go against liberal democratic practice. On the contrary there are good examples of democratic tradition in the sub-region, such as Botswana with the longest experience of over 35 years, and South Africa, now in its eighth year.

The other dimension of the rule of law pertains to the legal system. There are two contrasting legal systems in the SADC sub-region, and this raises the issue of common practice. The two legal systems are the Common Law and the Civil Law, developed in Great Britain and continental Europe, respectively (Joireman 2001). After independence, former colonies inherited the respective legal systems of the metropolises. These legal sys

tems differ in their manner of application, with an adversarial system of justice and civil law with an inquisitorial system of practice (Joireman 2001). These legal systems differ not only in their approach, but also in the origins of their objectives. 'English common law was developed to protect the property of individuals and limit the power of the state to expropriate resources. Civil law in Roman tradition, on the other hand, ... was a tool used by the state to regulate its citizens, rather than to protect them from the encroachment of the state' (Joireman 2001:574). The divergent approaches to the application of these legal systems necessitates harmonisation or the adoption of one of the two legal systems. This would do away with potentially confusing legal systems, as integration in SADC deepens. Of the 14 SADC member states only three, Angola, the Democratic Republic of Congo (DR Congo) and Mozambique, use the civil law legal system. Based on Joireman's (2001) findings that common law is superior in most aspects, it would be preferable and logical for those three countries to join the majority and adopt one legal system.

Corruption

Corruption is a global phenomenon. It occurs in all the countries of the world, albeit in varying degrees. In the case of Africa it is endemic. It can be motivated by greed and/or need. It may be petty or massive; it can be localised, or can transcend national boundaries. 'Corruption in Africa is a development issue. [It] impedes development and minimises the ability of governments to reduce poverty' (GCA 1997:2). The GCA (1997) perceives of corruption as prevalent in countries where the public institutions are weak, where the rule of law is lacking, where political patronage is rife, and where civil society is too weak to have any meaningful influence. Corruption is essentially a governance issue (ibid).

Corruption is more prevalent in less democratic regimes.

'In periods of transition, however, when one set of rules and norms has broken down, but another has not yet been institutionalised, opportunities for corruption can flourish, ... Increased governmental accountability and transparency, enhanced public participation in decision making, strengthened public sector and civil society institutions, and greater adherence to the rule of law will not only improve governance, but will help counter corruption' (GCA 1997:3).

In the absence of the above tenets, corruption abounds. For instance, in the first and second Zambian republics, corruption was linked to patronage due to limited and/or non-existent political party competition (Szeftel 2000). In the third republic, constitutional change seemed to have made very limited impact on corruption, and liberalisation may have weakened the regulatory capacity of the state and, therefore, spurred corruption (ibid).

Even in multi-party democracies where there are one-party dominant systems, such as in Botswana (which according to Transparency International is the least corrupt African country), the lack of transparency, accountability and the weakness of civil society have enabled the elite to be corrupt (Good 2002:19-22). The one-party dominant system in Zambia's third republic has allowed patronage and clientelism to continue, this time

in the Movement for Multiparty Democracy (MMD). The creation of the anti-corruption agency has done away with corruption at the lower levels, but the top politicians are still able to use the state as a resource for private accumulation (Szeftel 2000:221).

Good governance can significantly limit corruption. Widespread public disapproval of corruption can help keep it to very limited and covert operations. However, experience in Botswana in the early and mid-1990s indicates that democracy does enable the public to hold political leaders accountable for their deeds. The private media publicised numerous scandals in which top politicians were involved. The establishment of the Directorate on Corruption and Economic Crime (DCEC) has lowered the level of corruption. Botswana is not only committed to fighting corruption within its borders, but is one of only two SADC member states to have ratified the Protocol on Corruption.

Wei (2001) notes that corruption and globalisation are intimately linked. FDI, unlike other forms of capital inflows such as foreign bank borrowing, portfolio investment, official debt to other governments or inter-governmental institutions, involves greater sunk costs and may not be easy to liquidate in the event an investor being compelled to pay a bribe (*ibid*:290). Direct investors are therefore in a weaker position than other investors and tend to be more cautious, *ex ante*, due to the *ex post* disadvantage they are faced with, rendering capital inflows less stable (*ibid*:290-291). Wei (2001) further argues that direct investors would be less willing to do business with corrupt countries, on the basis that their investment may be exposed to high risks due to the high cost of insurance required. Under the current international financial architecture, international direct investors are less likely to be bailed out as is the case with international creditors in times of crisis. This scenario further distorts the composition of capital flows (*ibid*:291).

In Sub-Saharan Africa, gross domestic investment, at about 17 per cent of GDP, falls far short of investment in other parts of the world. In addition, Sub-Saharan Africa accounts for a very small share of the large amounts of foreign direct investment in the world economy – the kind of investment that could bring Africa not only the capital, but also the technology and know-how it needs (Nsouli and Le Gall 2001:35).

Nsouli and Le Gall (2001) note that poor governance, especially corruption, dampens investment and growth. Table 33 below indicates the perceived levels of corruption in some of the SADC countries.

The level of corruption in the SADC sub-region is increasing. Of the ten countries surveyed, none had achieved a reduction in the level of corruption (Table 33). Three others, Botswana, Namibia and Zimbabwe, managed to maintain the previous year's ranking. Six other countries, namely Mauritius, Malawi, Mozambique, South Africa, Tanzania and Zambia, real

¹ With a score of 9.9 Finland was ranked the least corrupt country in the world in 2001 from among those countries that participated in the survey.

Country	Rank	1999 CPI Score	Rank	2000 CPI Score	Rank	2001 CPI	Trend
Finland ¹	2	9.8	2	9.8	1	9.9	-
Denmark	1	10.0	1	10.0	2	9.5	-
Botswana	24	6.1	26	6.0	26	6.0	Stable
Namibia	29	5.3	30	5.4	30	5.4	Stable
South Africa	34	5.0	43	5.0	38	4.8	Up
Mauritius	36	4.9	37	4.7	40	4.5	Up
Malawi	45	4.1	43	4.1	61	3.2	Up
Zimbabwe	45	4.1	65	3.0	65	2.9	Stable
Mozambique	56	3.5	81	2.2	na	na	Up
Zambia	56	3.5	57	3.4	75	2.6	Up
Tanzania	93	1.9	76	2.5	82	2.2	Up
Angola	na	na	85	1.7	na	na	-
Cameroon	99	1.5	84	2.0	84	2.0	
Nigeria ²	98	1.6	90	1.2	90	1.0	

Table 33: Corruption Perception Index in SADC Countries³

Source: Global Corruption Report 2001; Hansohm and Peters-Berries (2001)

ised an increase in the level of corruption. There is a lack of adequate data to analyse the corruption trend in Angola. With the exception of Botswana and Mauritius, the rest of the SADC member states are yet to ratify the SADC Protocol Against Corruption. Corruption is one of the key impediments to globalisation. The sluggishness portrayed by SADC member states in ratifying the Corruption Protocol does not augur well for the intentions on good governance that now seem to abound since the African Union adopted NEPAD, with its manifest commitment to good governance.

Corruption flourishes where there is lack of transparency, accountability, and where there is lack of integrity in the conduct of both private and public business. Inefficient and ineffective public administration services have also been identified as factors that create a climate conducive to corruption. Most countries acknowledge this and have initiated public sector reforms intended to address this problem.

Public Sector Reform

The thrust of public sector reform is to improve both the efficiency and effectiveness of the public sector. The continual failure by governments to

² Nigeria was ranked the last country in 2000 and perceived as the most corrupt country in the world. In 2001, Nigeria was ranked the last but one (beating Bangladesh), which represents a negligible improvement.

³ The CPI score ranges between 10 (highly clean) and 0 (highly corrupt).

satisfy the needs and demands of their populations has spurred the quest for reform. However, the motive for reform and the nature and extent of the reforms varies from country to country; and within the same country, the impetus for reform varies over time (Cheung 1997; Armstrong 1997). The 'urge for change and the form of change have emerged from more pluralistic contexts and considerations which are shaped by national political and bureaucratic factors and other needs of governance' (Cheung 1997:438). There are four important factors that have been identified as significant in the envisioned public sector reform; these are fiscal stability, managerial efficiency, capacity building and public accountability (Bangura 2000).

Public sector reforms are usually prompted and influenced by each country's characteristics, development priorities, objectives and other agendas.

The content and depth of the reforms vary considerably ... even between countries within the same region or with similar levels of development. Organisational cultures, political institutions, the nature of social segments, power relations and international donor pressures are important factors to consider in understanding why state authorities choose some reforms instead of others, and why some reforms have been more difficult to implement than others (Bangura 2000:2).

Bangura (200) identifies four factors that account for global pressures for public sector reform; namely, financial globalisation, fiscal deficits, structural adjustment and democracy. African countries have been plagued by fiscal deficits that necessitated strategies to escape inflation and recession. Downsizing, marketisation and privatisation were pursued as alternatives to controlling fiscal deficits and restructuring the public sector. The structural adjustment programmes as propagated by the Bretton Woods institutions (IMF and World Bank) focused on the minimalist state. Abrahamsen (2000:41-42) notes that although there has been a shift towards the governance agenda, the 'ideal good governance state is still a minimal state; it just is more efficient and competent in carrying out economic reforms'.

Public sector reforms in Southern Africa, although not applied at the same level as in OECD countries (Bangura 2000), are nevertheless common even among countries which are not implementing any SAP. What varies are the priorities of the respective governments in the region. Table 34 below presents the four categories of goals, as well as the corresponding reforms.

African countries, including many in SADC, continue to implement public sector reforms. The debate is raging on whether these reforms are New Public Management (NPM) reforms or NPM-like. The prevailing argument is that reforms in developing countries are NPM-like (Manning 2001; Polidano 1999). Nevertheless, Polidano (1999:3) states that several SADC countries are 'experimenting with other items of the new public management menu'. These include the creation of free-standing agencies or

enterprises (corporatisation), executive agencies, privatisation, retrenchment, and performance improvement strategies (ibid). All SADC member states are pursuing some kind of public sector reform, but corporatisation is 'perhaps the most common' among developing countries (ibid:3-4). And each country has its own agenda. Polidano (1999) identifies two predominant motives for reform: one is cost, efficiency and performance. The other is simply convenience, and according to Polidano, it is the most common reason for reform in developing countries.

As mentioned earlier, Africa is seen from the outside world as one entity. It is important for Southern Africa to harmonise its state administration in order to avoid

Goals	Reforms
Fiscal Stability	<ul style="list-style-type: none"> • Expenditure reduction • Privatisation • Tax reform
Managerial Efficiency	<ul style="list-style-type: none"> • Decentralised management • Executive agencies • Quasi-markets • Corporate board of directors • Performance contracts • Contracting out
Capacity Building	<ul style="list-style-type: none"> • Human resource development • Policy analysis and monitoring • Management of recurrent costs • Management of public investment • Pay reform
Public Accountability	<ul style="list-style-type: none"> • Citizens' charter • Ombudsmen • Service delivery surveys • Plural parliaments • Press freedom

Table 34: Policy Goals and Reforms in Public Sector Restructuring
Source: Bangura (2000)

performance gaps between states. Even though countries should pursue specific reforms targeted at their perceived needs, it is surely important for them to adopt a regional perspective to ensure that there is a convergence towards good governance and smooth integration. An important avenue through which convergence could be realised is through public sector reform, especially through the NPM system. It is important to note that 'the NPM is institutionalising a new culture and machinery of administration which looks remarkably alike from state to state' (Evans and Shields 2000:332). The NPM paradigm has developed into an international administrative orthodoxy and a leading public management paradigm. In fact, NPM is influenced by neo-liberal ideas promoted by the OECD, IMF and World Bank, and is thus a vehicle for the transfer of neo-liberal values and practices within the state and society (Evans and Shields 2001:331). It is the driving force behind public sector

reform in the OECD countries, with Britain, Australia and New Zealand leading the pack.

NPM is characterised by –

- devolving authority, providing flexibility;
- ensuring performance, control, accountability;
- developing competition and choice, market type mechanisms;
- providing responsive services, client orientation;
- improving the management of human resources;
- optimising information technology;
- improving the quality of regulation;
- strengthening the steering functions at the centre; and
- private sector style management (Kasemet 2000:2).

Developing countries are already implementing NPM-like reforms (Manning 2001). It should therefore be relatively easy for the SADC member countries to adopt NPM. The NPM is also enthusiastically promoted by donors; and NPM reforms are often a prerequisite for disbursement of aid and debt relief (CDR 1998; Evans and Shields 2001). Therefore, it can be expected that there will be a convergence between donor demands and the interests of developing countries (SADC countries in this case).

There is a great need for the convergence of good governance among the SADC member states. So far the major instruments that bond the SADC member states together and through which a convergence towards good governance could be realised are the SADC Treaty and Protocols. These are discussed in the subsection below.

Civil Society Participation in SADC

Participation at National Levels

Civil society has played an important role in the liberation of most Southern African countries. However, once governments had consolidated bureaucratic power, the role of civil society tended to decline. The former members of civil society became employees of governments and parastatals, and in South Africa, increasingly of the private sector. Although the role of civil society declined immediately after the liberation of their countries, the emergence of democratic rule has created an avenue for civil society participation, which was for many years limited and/or suppressed in most countries.

In several SADC member states, civil society has played a direct and/or indirect role in the liberation of some countries. For instance, the MMD in Zambia and the MDC in Zimbabwe were borne out of trade union movements. The Confederation of South African Trade Unions (COSATU) had a long and intimate association with the ANC during the struggle against the apartheid regime. Some of the leading African National Congress (ANC) personalities, such as Cyril Ramaphosa and Jay Naidoo to name

but two, are former members of COSATU. The church has also played a significant role in the liberation struggle in the sub-region, such as the South African Council of Churches (SACC) and the Anglican Church led by Archbishop Desmond Tutu in South Africa, and the Roman Catholic Church in Malawi in the 1990s.

Hansohm and Peters-Berries (2001) noted some regular consultations on economic issues between government and the private sector in Malawi, Mauritius, Mozambique, Namibia, South Africa, Tanzania, Zambia and Zimbabwe. The Government of Botswana also has a notable regular and formalised consultative process with the private sector in the form of the High Level Consultative Council (HLCC). The HLCC, an advisory body chaired by the President, is a forum that allows private sector representation and participation in the decision-making process. There is also a nascent civil society interest in matters of regional integration at national level as evidenced by transfrontier parks, transport corridors and negotiations on the Trade Protocol (ibid). The need to enhance the involvement of the private sector in decision-making processes has been identified by the SADC member states' political leadership. The Summit of Heads of State or Government of SADC in Blantyre, Malawi, 1997, endorsed recommendations calling for 'fundamental reforms and meaningful involvement of the private sector in economic policy making and implementation' (SADC 2000:77). However, popular participation at the grassroots level remains limited largely due to inadequate access to information.

The SADC Declaration on Information and Communication seeks to encourage public education on the Community among the populations of member states by encouraging the production of radio and television programmes and press features about the SADC. However, restrictive laws and practices against the media stifle progress towards press freedom, and severely restrict the flow of information, particularly to the ordinary people. Of all Media Institute of Southern Africa's (MISA) eleven focus countries, Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, Swaziland, Tanzania, Zambia and Zimbabwe, with the exception of South Africa, there is widespread harassment of the media and restrictions on freedom of expression. Zimbabwe is in the vanguard with its flagrant violation of constitutionally-sanctioned media and other freedoms. The harassment of journalists by both the police and ZANU-PF supporters is common. On one occasion, the *Daily News* newspaper printing house was bombed. The Zambian government, although to a lesser extent than in Zimbabwe, 'employed judicial or extrajudicial ways to curtail, limit or shut down media freedom' and journalists 'were harassed or beaten up by ruling party supporters' (MISA 2001:10). Similarly, beatings, death threats and arrests of journalists critical of the Angolan government and one murder of a journalist were reported in 2001 (ibid). MISA further reported the infringement of media freedoms in Malawi, Tanzania, Swaziland and Mozambique. The Botswana and Namibian governments slapped the privately owned *Botswana Guardian* and *Mid-week Sun* newspapers

and the *Namibian*, respectively, with advertising bans. The *Guardian* and *Mid-week Sun* newspapers later won a court case against the Government of Botswana on the advertising ban.

Standing in the way of media freedom and public education in general and also about the Community is the overwhelming evidence of violations of media freedom in the majority of SADC member states. South Africa represents a beacon of hope for media freedom. However, the major limitation in the South African media is the media's confessed limited professionalism and inadequate capacity to carry out its mandate (MISA 2000).

Participation at SADC Level

The SADC Treaty and Protocols provide the legal framework for SADC member states' cooperation. The treaty and the protocols represent a deliberate decision by SADC member states to undertake collaborative management of regional cooperation. Strategic areas or sectors of cooperation had been identified under SADCC (SADC's forerunner) and allocated to each respective country for coordination on behalf of the other member states. As a result of the Windhoek Summit in 2001 these sectors have been consolidated into four Directorates at SADC Headquarters in Gaborone. This development has been viewed as a significant move away from cooperation to regional integration (Meyns 2001:78). Although Meyns (2001:79) envisages an increased budget for the restructured and now enlarged Secretariat, eventually costs should plateau, and an enlarged Secretariat could actually be cheaper to run due to economies of scale than running several Commissions and Sectors in various countries. However, civil society participation could potentially be put under strain in that the 'contact offices/points' have now shifted, physically, to Gaborone. The hitherto gradually increasing level of non-governmental organisations' (NGOs) participation in SADC decision-making processes at supra-national level noted by Hansohm and Peters-Berries (2001) could be reversed. NGOs will need to invest in Information Technology (IT) to be able to remain up-to-date with developments in SADC and participate effectively as well. However, many NGOs in Africa are plagued by a lack of adequate resources, especially funds and well-qualified personnel.

As mentioned in the preceding sub-section, the business community is the leading entity in SADC member states that has been able to influence some decisions of the regional body. It therefore means that participation in the SADC decision-making processes is dominated by the political and business elites. That renders participation at regional level purely elitist. The common people are rarely consulted by their political leaders on matters pertaining to regional integration. However, SADC member states have established the National Working Groups, which are composed of government representatives and civil society. The success of the National Working Groups (NWGs) is yet to be seen. As countries

move beyond the transition stage, so would the level of participation by other stakeholders in the SADC decision-making processes deepen. Furthermore, the NWGs' success will depend on whether there is the political will among the SADC member states to afford these groups any meaningful role in the decision-making processes.

Signatures, Accessions and Ratification of SADC Protocols

The SADC Treaty is geared towards macroeconomic harmonisation, as well as effective coordination of sectoral policies, strategies, programmes and projects in the areas of cooperation. The allocation of sectoral responsibilities has through the years enhanced the commitment of member states to the Community. The SADC Protocols are a key element in regional integration. The protocols define the nature and scope of cooperation and integration. Protocols come into force only after ratification by two thirds of the member states. As of February 2002, SADC member states had ratified 10 protocols and another nine were yet to be ratified.

The transformation of the Southern African Development Coordinating Conference into SADC brought with it significant changes, the fundamental one being the 'partial transfer of sovereign rights to the regional level' (Meyns 1999:71). However, the 'consensual decision-making' that 'gives each member country veto power and thereby allows members to defend their own sovereign interests within the regional community as they see fit' (ibid:72), although desirable politically, gives national interests precedence over regional interests and priorities. Without any stringent qualifications for membership, the SADC Treaty allows members to move slowly towards the transfer of national sovereignty rights to the regional level.

Conclusion

There are no common standards agreed by SADC member states as a requirement for qualification for membership. The good governance agenda is a good approach to ensuring that there are yardsticks that could be used to measure progress towards regional integration. The SADC sub-region has attracted international attention with its move towards neo-liberalism. However, there are some countries that have much to do in order to harmonise their state structures and governance processes. The lack of entry requirements for SADC membership renders the membership not as something to be coveted. The DRC was hastily accepted into SADC membership without adequate state structures in place. Several SADC countries were eventually involved in the DRC civil war, namely Angola, Namibia and Zimbabwe.

The lack of constitutionalism in some SADC member states renders good governance in the sub-region a mirage. Constitutionalism is the essence of the rule of law. Without the rule of law it would be practically impossible to rectify other ills, such as corruption. Essentially, there is

no legal framework on which state actions are based, and neither are human rights and individual liberties guaranteed. If governments cannot honour their promises to their constituencies and their own constitutions, it becomes difficult for them to honour the regional or international agreements on which regional integration is based. SADC is characterised by one-party dominant systems and elitism. Popular participation is limited, and in some states deliberately denied the citizens through unconstitutional means. Electoral violence and other electoral malpractices are common. In some member countries, the disenfranchisement of citizens is practised overtly as long as the governing elite can retain their hold on power.

However, some member states are making concerted efforts at creating an enabling environment for good governance to take place. The major limitation is the limited economic resources at the governments' disposal, as well as the transition stages they are going through from one-party rule to multi-party democracy. Before the liberalised institutions could mature, clientelism and corruption take root.

There are no mechanisms to coordinate and harmonise public sector reforms being carried out by member states. The lack of a unit within the SADC Secretariat which could be charged with the maintenance of an inventory on good governance and public sector reforms contributes to lack of coordinated reform efforts at national level. Such a unit could also be responsible for identifying key areas that could be prioritised at regional level and targeted for implementation by the member states. Regional integration is a project and should be managed in the fashion projects are managed, with objectives and implementation plans, a logical framework, and monitoring and evaluation mechanisms. It is nevertheless apparent that in spite of the difficulties, there are positive moves towards regional integration, albeit at a relatively slow pace.

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Elements of Democratic Governance: Constitutions, Liberties, Elections, Women Participation

Nandini Patel

Introduction

The paper focuses on the state of democracy in SADC as a key component of good governance. The state of democracy is examined through the level of entrenchment of political institutions in SADC countries. The institutions under focus are –

- Adherence to the constitutions;
- Observance and respect for civil liberties and political rights;
- Elections with reference to their competitiveness and regularity; and
- Level of participation of women in decision-making.

The process towards democratisation in the region is neither even nor consistent. The first half of the decade of the 1990s set in motion the process of multi-party democracy through institution building. The latter half of the same decade, however, witnessed major reversals and setbacks to some of the significant steps towards democratisation. At this point in history it is not possible to predict with a high degree of certainty the sustainability and survival of democracy in the region, and neither is it possible to predict with any certainty a complete collapse of the democratic process.

The trend since the year 2000 has been observed with particular reference to the recently-held elections in Lesotho, Zimbabwe and Zambia in the context of the quality of those elections. Observance and respect for civil liberties and political rights over the past year is measured based on the Annual Surveys of Freedom House on the levels of civil and political liberties.

Institutional Issues

A decade after embracing democracy, states in Southern Africa are still in the process of establishing political institutions for democratic governance. In other words, they are at the stage of first transition, in terms of Guillermo O'Donnell's two transitions, where one is the transition from authoritarian rule to the installation of a democratic government, and the second, longer shift towards a democratic regime (Mainwaring et al. 1997). Where democratisation is a process involving the steady progression of several institutions and processes, what is essential at this stage is the emergence of political institutions that can peacefully compete to form governments and influence public policy. These institutions ought to be able to channel social and economic conflicts through regular procedures, and enjoy sufficient linkages to civil society to represent their constituencies and commit them to collective courses of action (Schmitter et al. 1998:200).

The 1998 SADC *Human Development Report* observed that, though SADC countries had made great strides in holding elections, observance of human rights, strengthening of local government, active participation of civil society actors and increased participation of women in the political process, much still needs to be done to institutionalise democracy and translate the constitutional provisions of fundamental freedoms and rights into the political culture and practice of societies in the region. It further observed that SADC governments were far behind in terms of progress towards accountability and participatory democracy. A large section of the population consisting of women, the young and the poor have not fully participated in the democratic process.

In emerging democracies, institutions are central to political stability. Scholars such as Diamond, Linz, Lipset and others have emphasised the significance of institutions in the democratisation process. Elections have received the particular attention of many, with reference to the 'freeness' and 'fairness' of elections. According to Michael Bratton, it is not the quantity but the quality and meaning of elections – this is essentially about free and fair elections (Bratton and Mattes 2001). Quality of elections involves the interplay of several forces and active operation of several institutions, which guarantee the exercising of civil and political rights. While the early years of the 1990s witnessed the evolution of reasonably sound political institutions in a number of states in Southern Africa, the later years of the decade witnessed some serious regression. The retrogression seems to threaten the survival of democracy in these states. Owing to these observations the paper focuses on political institutions, and of a wide range of these diverse institutions whose effectiveness and efficacy are interdependent, the following have been considered for examination, namely –

- Adherence to the constitution;
- Level of enjoyment of civil liberties and political rights;
- Competitiveness and regularity of elections; and
- Level of participation of women in the political process.

Adherence to the Constitution

Most of the existing 'democratic' national constitutions and/or constitution-making processes in Southern Africa should be considered as on "the Road to Democracy" and not yet quite there.

Adherence to the constitutions here has been viewed from two standpoints:

- Securing the spirit and principles of the constitution by upholding the constitution as sacrosanct by making frequent and unnecessary amendments difficult, and
- Securing the basic structure of the government by enforcing the principles of separation of powers and the principle of checks and balances.

Most constitutions drawn up in the 1990s in Africa are extremely well written, incorporating all those sections and provisions that would qualify the constitution to fall under the liberal democratic paradigm. However, they are generally inadequate in addressing prevalent socio-economic realities, cultural and ethnic diversity and in addressing other unique aspects of respective societies. Therefore, there are many constitutions without constitutionalism. What is required is to reconstruct the existing constitutions with the basic values and principles of democracy blending finely within the material and historical context. Instead, what we have is as observed by Judge Chaskalson: extracting and copying sections from various foreign constitutions has paved the way for a constitution that is merely symbolic with scant practical relevance. Concern over constitutionalism brings up two vital issues: of ownership of the constitution, and protecting the basic structure of the constitution. The question of ownership of the constitution is critical to further the culture of democracy. A constitution adopted through a national referendum could be the most transparent way of guaranteeing popular ownership.

Frequent Amendments to the Constitutions

Effecting constitutional amendments, especially those having direct bearing on the basic structure of the government and rights of the people, should require much more than a mere two-thirds majority of the members of Parliament. The Namibian constitution represented a shining example of a guarantee of the basic rights of its people by holding the bill of rights provision of the constitution outside the scope of amendment. However, the amendment to remove the two-term limitation on the presidency in order to facilitate the serving of a third term by the incumbent president has grossly undermined the sanctity of the Namibian constitution.

Since the second elections in 1999 in Malawi, the passing of constitutional amendments that could have serious ramifications on the future of constitutionalism and democracy have emerged as a major area of concern. For instance, in 2001 the amendment to section 65(1) passed by the National Assembly, dealing with the process by which a seat could be declared vacant by the Assembly, caused a great public furore (Section 65[1] Amendment No. 2 Act 2001). Clarity on section 65 was absolutely necessary. However, the cause for concern was the proposal that, where a member who at the time of his/her election was a member of a political party represented in the National Assembly joins any other party, association or organisation whose objectives or activities are political in nature, his/her seat should be declared vacant. Thus, the act seriously curtailed the freedom of assembly and freedom of participation, and was thus widely condemned by opposition parties and civil society. Notwithstanding the concerns expressed and numerous presentations on the issue, the National Assembly managed to amass the requisite two-thirds majority, and the bill became an act.

Attempted amendment to section 83(1), dealing with the term of the office of the president, in the July 2002 session of the parliament similarly generated great tension. The bill attempted to amend the section of the constitution which limits the term of the president to two terms, and substitute it with an 'open term' for the president. The bill failed to secure the required two-thirds majority of 128.

Violation of Principles of Separation of Powers

Frequent and controversial constitutional amendments have been further compounded by gross violations of the principles of separation of powers and checks and balances between the three organs of government, such that the executive has acquired vast governmental powers at the expense of the other two organs of government. In November 2001, the most severe challenge to judicial independence in Malawi, causing considerable alarm and anxiety to the nation was the petition for the removal of three judges by the parliament to the president. Over 113 of the 193 members of the house signed the petition in the November 2001 sitting of the assembly. The removal of the judges was sought on grounds of misconduct and incompetence. The action of the assembly generated wide condemnation from within and outside the country.

Constitutional Reviews and Reforms in Process

There are two states in the region which are in the process of constitutional review and reforms - Swaziland and Zimbabwe. In Swaziland, the Constitutional Reform Commission, established in 1996, completed its first report in 2000. A principal task of the Swazi Constitutional Review Commission was to sensitise and inform Swazi society about changes in the legal system, and to facilitate full national debate regarding the constitutional framework. Despite a positive start, reform in Swaziland, according to observers, is still a long way off. With excessive state interference in the enjoyment of freedom of expression and other civil and political rights, Swaziland ranks as one of the 'non-free states'. It is believed that constitutional lawyers will be told to draw ideas from Uganda's 'Movement System', which allows political parties to exist, but bans them from contesting elections or organising rallies. However, pressure is mounting. Swaziland's monarchy has made its first ever U-turn on a major policy issue. The monarchy is unwilling to surrender any part of its power. Behind it are the police, the army, thousands of traditional warriors and the rural masses.

In the case of Zimbabwe, the Governmental Constitutional Commission's proposals for constitutional change went through a national referendum in February 2000, where the people rejected the constitution proposed by President Mugabe. While the government was working on the constitutional change, the National Constitutional Assembly (NCA), a coalition of opposition parties, NGOs and trade unions, had already been working on a new constitution since 1997. The real motive of the constitutional reform process was to act as a bulwark against the opposition and to protect the

system of patronage, but it took a different form – it became a move against Mugabe from within his own party (Slaughter and Nolan 2000). Following the defeat of the government-sponsored draft constitution in February, public participation in the process of constitutional reform was halted. The progress of constitutional reform has been hampered by the deteriorating law and order and human rights situation in Zimbabwe, followed by the largely flawed parliamentary and grossly flawed presidential elections.

Despite more than a year of national consultation, the promise of a home-made constitution has therefore not been delivered. Zimbabwe's problems could certainly diminish if a new constitution were to address the importance of democratic development by involving civil society groups.

The lawlessness and state-sponsored terror is in direct contradiction to the range of international instruments to which Zimbabwe is a party. Zimbabwe is a party to the International Covenant on Civil and Political Rights, along with the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and the African Charter on Human and People's Rights, among other treaties. In addition, the Zimbabwe constitution provides similar guarantees, such as every person is entitled to the protection of the law, to a fair hearing, and so on.

Level of Enjoyment of Civil Liberties and Political Rights

Constitutionally-guaranteed rights, such as the right to peaceful demonstration and assembly, actually do not exist in some of our countries. It is the norm for many demonstrations to be disrupted or stopped by excessively heavy-handed police action. It appears that police forces have not yet learnt to distinguish between a crowd-controlling role and a crowd-dispersing role. There is a growing tendency to silence voices of dissent by the use of ominous threats and intimidation. The press is often used as a tool to carry fraudulent and intimidating articles against those who are perceived as being against the official party line. Freedom of expression, and academic freedom in particular, have come under threat in recent times, along with attempts to suppress the independence of the judiciary.

The 'Freedom in the World' annual survey report of 2002 depicts the following image of freedom in the world:

	Total No. of States	Free	Partly Free	Not Free
World	192	86	58	48
Africa	53	9	25	19
SADC	14	4	6	4

Table 35: SADC's Level of Freedom in Comparison (2002)

The following is an account of the level of democratic rights in SADC countries measured on a scale of 1 to 7, where 1 stands for the most free country, and 7 for the least free.

States	Party System	Civil Liberties		Political Rights		2000-2002 Trends
		2000	2002	2000	2002	
Angola	Civil war					
Botswana	Multi-party	2	2	2	2	Free
Congo-DR	Single-party	7	6	6	6	Not Free
Lesotho	Multi-party	4	4	4	4	Partly Free
Malawi	Multi-party	3	3	3	4	Partly Free
Mauritius	Multi-party	2	2	1	1	Free
Mozambique	Multi-party	4	4	3	3	Partly Free
Namibia	Multi-party	3	3	2	2	Free
Seychelles	Multi-party	3	3	3	3	Partly Free
South Africa	Multi-party	2	2	1	1	Free
Swaziland	Autocracy	5	5	6	6	Not Free
Tanzania	Multi-party	4	4	4	4	Partly Free
Zambia	Multi-party	4	4	5	5	Partly Free
Zimbabwe	Multi-party	5	6	6	6	Not Free

Table 36: Civil Liberties and Political Rights in SADC Countries (2000 and 2002)

Source: Freedom House (2002a)

Freedom of Expression

We take here 'Freedom of Expression' and 'Freedom of Assembly' as two key freedoms under the range of civil liberties which are frequently infringed and impaired by countries in the 'partly free' category. In Africa, 28 states fall in the 'not free' category of press freedom, while 17 are 'partly free' and only 8 are free (Freedom House 2002b). Of the fourteen Southern African states, three rate as free, six as partly free, and five states rate as not free.

Across Africa, it is not unusual to hear of journalists being arrested, imprisoned, ill-treated, exiled, threatened with death and even killed as a result of their legitimate work in promoting freedom of expression. In some countries, press freedom remains at the mercy of a legal system that has repeatedly shown its hostility to independent journalism and other human rights.

While some of the most egregious violators of press freedom include Angola, Burundi, Democratic Republic of Congo, Eritrea, Ethiopia, Liberia and Zimbabwe, journalists have also come under attack in Ivory Coast, Cameroon, Malawi, Rwanda, Zambia, Tanzania, Namibia, the Central African Republic and Kenya.

Free	Partly free	Not free
Botswana	Lesotho	Angola
Mauritius	Malawi	DR Congo
South Africa	Mozambique	Swaziland
	Namibia	Zambia
	Seychelles	Zimbabwe
	Tanzania	

Table 37: Level of Press Freedom in SADC Countries (2002)
Source: Freedom House (2002b)

The position of Namibia and Zambia in the two rating indices is worth noting. While Namibia ranks as 'free' under the broad civil liberties category, it only ranks as partly free in the press freedom ranking. Zambia rates as partly free under the overall civil liberties chart, but ranks as not free under the press freedom rating. Though Botswana ranks as free, the level of political pressure, controls and violence that influence the content of the press is higher than in Lesotho and Mozambique, which rank as partly free.

The general trend reflected in ten or so of the fourteen Southern African states is the state ownership of the broadcast media with varying degrees of control, with little or no access for the opposition. Mainstream daily newspapers who are often in opposition to the government, find themselves barred from access to revenue from all government advertisements. Journalists often work under a cloud of intimidation and harassment.

Zimbabwe falls within a peculiar category where it is not like Angola or the DR Congo, in a war situation, but has had two elections in the span of June 2000 to March 2002, and is under a constitutional reform process. These measures on one hand could be indicative of some measures towards democratic governance, but the level of repression, violence against civilians, harassment and intimidation of media personnel is far above all other countries in the region. It scores even higher than Angola, and the same as the DR Congo in the political pressure, control and violence that influence the content of the press.

While the instances of violence, harassment and intimidation are high in Zimbabwe, these still amount to isolated incidents and pale into insignificance when compared to the disregard of human rights for an entire segment of the population, namely agricultural workers who constitute 25% of the formal sector labour force. Farm workers have remained outside the normal governance structures because they have traditionally been viewed as 'aliens', even though many of them are Zimbabweans – a good number of them are second, third or fourth-generation Malawians, Mozambicans and Zambians who have no other home (APIC/ECA Electronic Roundtable 2002).

Freedom of Assembly

In Zambia, during the 2001 assembly elections, the Police administered the Public Order Amendment Act in a discriminatory manner. Opposition parties were not allowed to assemble, even when the seven days' notification was given, whilst ruling party members could assemble without police permit or interference. Several cases of arrest of opposition party officials and cadres were witnessed during the pre-election period. Police did much to frustrate the opposition parties campaigning for the elections. Other cases involved violence and intimidation.

In Malawi, there are many instances where the police resorted to force and violence to quell peaceful demonstrations. The use of teargas canisters and the firing of live bullets are common to disperse peaceful protest marches, whether on university campuses or on civil society-organised protest marches. When sensitive bills are introduced in parliament, there is a call to ban demonstrations, as was evinced during the debate on the presidential open term issue (*The Nation* 2002).

In the Tanzanian situation, the right to demonstration has come under siege in the context of relations between religious groups – Christians and Muslims – which have often led to violent demonstrations, and at times, even causing deaths of protestors. Police have been known to resort to using teargas and clubs to disperse peaceful demonstrations. There are also instances of police arrests of popular leaders on charges of inciting followers against other religions, producing seditious material and so on.

Competitiveness and Regularity of Elections

Several countries in Sub-Saharan Africa held second multi-party elections in the latter half of the 1990s. Electoral processes and results in these countries generally reveal a trend of decline in participation and competitiveness compared to the first elections, indicating that not all institutions and practices that enhance the quality of successive elections had taken root in the first five or four years of multi-party democracy. In Zambia, for example, leaders amended constitutional provisions governing the qualifications of candidates for the presidency in order to eliminate their main opponents. In some other countries, election administration was inadequately implemented. Administrative and logistical inadequacies, compounded by a lopsided playing field for political competition, followed by disagreements between the incumbent and opponents over election results emerge as common features in varying degrees across the region. For these reasons, many elections in Africa have been disputed and have led to conflicts and civil wars instead of advancing democracy.

For instance, the 1998 Lesotho elections led to a breakdown of law and order and the 1996 Zambian elections caused tension and almost precipitated an attempted coup. Even in South Africa, which is far ahead in

terms of having developed some sound basic structures, a range of issues confronted the second elections. One year before the 1999 elections, the Electoral Commission had several daunting tasks to tackle and the parliament had not yet passed a definitive Electoral Act. The recently-held elections in Zambia, Zimbabwe and Lesotho are examined in detail in later sections.

Few African political systems have made any serious efforts to decentralise power. Even among those systems that profess commitment to it, there is a wide gap between rhetoric and reality (Chikulo 1985). The focus of elections is primarily on parliamentary and presidential elections. Local government elections have not drawn much attention in many countries of the region. One major factor in this is the inadequate devolution of powers to local institutions. People tend to look towards the national government for all decisions pertaining to their lives. Local authorities need to be endowed with democratically constituted decision-making bodies with a greater degree of autonomy and resources at their disposal to discharge those responsibilities. This does not mean that there is no room for locally elected bodies in African political systems. A survey of 43 Sub-Saharan African states that held elections in the 1990s revealed that only nine states had elected regional councils, including Botswana, Namibia and Zimbabwe from the SADC region. However, 29 of them had some form of locally elected bodies (Hartmann 2002).

In a number of states such as Zambia and Malawi, democratisation started with the adoption of a new constitution, and national legislative/presidential elections. Local-level elections were considered less important, and thus the legislation and regulations necessary for local elections were only put in place with much dilly-dallying. In Tanzania, however, the introduction of multi-party politics was tried and tested at local level in 1994 before adopting it at national level in 1995.

The three elections that took place during 2001-2002 in Zambia, Zimbabwe and Lesotho, respectively, reveal new trends and present new hopes as well as challenges.

The Zambian elections of 2001 indicate two significant trends:

- More political participants on the scene, thereby enhancing competition; and
- The phenomenal role of civil society in setting the stage for elections on the basis of constitutionalism by facilitating a resounding defeat for the third term bid by President Chiluba.

The composition of the Zambian assembly and the sharing (or splitting) of votes between numerous presidential candidates gave a positive indication of expansion of political space. The 2001 Zambian presidential and national assembly elections demonstrate some divergent trends from the earlier elections. In both the 1991 and 1996 elections, President Chiluba won with a lead of over 70% of votes. The current incumbent president, on the other hand, has won with a very narrow lead of 30%. What is particularly

Year	Angola	Bo-tswana	Lesotho	Malawi	Moza- mbique	Namibia	Zambia	Zim- babwe	South Africa
1989						Ca 3-4 Dec.			
1990							Pr, Pa 28-30 Mar.		
1991							Pr, Pa 31 Oct.	L xx/xx	
1992	Pr, Pa 29-30 Sept.			Pa, 26 Jul.		L/R 30 Nov. - 2 Dec.	L 30 Nov.		
1993			Pa 27 Mar					R xx/xx	
1994		Pa 15 Oct. L/R 15 Oct.		Pr, Pa 17 May	Pr, Pa 27-29 Oct.	Pa, Pr 7-8 Dec.			Pa 26- 29 Apr.
1995			L 10-11 Aug.					Pa 8-9 Apr. L 28-29 Oct.	L 1- 2 Nov.
1996							Pr, Pa 18 Nov.	Pr 16-17 Mar.	L 6 May, 29 May
1997									
1998			Pa 23 May		L 30 Jun.	L 16 Feb. R 30 Nov.- 1 Dec.	L 30 Dec.	R 26-28 Sep.	
1999		Pa 22 Oct. L/R 22 Oct.		Pr, Pa 15 Jun.		Pa, Pr 30 Nov.- 1 Dec.			Pa 2 Jun.
2000				L 21 Nov.					L 2 Dec.
2001							Pr, Pa, L 29 Dec.	Pa 17 Apr.	

Pr – Presidential Elections, Pa – Parliamentary Elections, Ca – Constituent Assembly Elections, R – Regional Council Elections, L – Local Elections

Table 38: Local to National Elections in the Decade 1992–2002, in 9 SADC Countries

Source: Hartmann (2002)

Candidate	1991	1996	Candidate	2001
			Levy Mwanawasa	30%
Fredrick Chiluba - MMD	75.8%	72.6%	Anderson Mazoka	27%
Kenneth Kaunda - UNIP	24.2%		Others	43%
Dean Mung'omba - ZDC		12.7%		
Humphrey Mulemba - NP		6.7%		
A.M. Lewanika - AZ		4.7%		
C.Chakomboka - MDP		3.3%		

Table 39: Zambian Presidential Elections (1991, 1996, 2001)

Party	1991	1996	Party	2001
UNIP	25	-	UNIP	13
MMD	125	131	MMD	69
NP	-	5	UPND	48
AZ	-	2	FDD	12
ZDC	-	2	HP	5
Independents	-	10	Others	3

Table 40: Zambian National Assembly Elections (1991, 1996, 2001)

striking is the way the votes were split between more than eight candidates. This is also indicative of the growing factionalism between the parties, and thus could be dangerous for stability and peace in the country.

The figures indicate that the Zambian assembly is now more diverse and representative than in the past. The MMD stranglehold that held 83% to 87% of seats in the past has now been reduced to 46%.

The Zambian elections also uncover serious concerns over the conduct of the 2001 elections – their freeness and fairness raise numerous doubts. Electoral missions described the 2001 Zambian elections as chaotic, and the tabulation of results as not fully transparent. The governing party candidates' narrow victory coupled with irregularities in conduct, led the opposition to lodge claims of vote rigging. The Carter Centre expressed serious concerns about reports of irregularities, but had no clear evidence of vote rigging. The flawed Zambian elections demonstrated important progress whilst serious challenges remain (Carroll 2001).

The Lesotho elections of May 2002 were a novel attempt to combine two types of electoral systems to facilitate representation of other parties. The LCD swept 78 of the 80 seats in 1998 by using the "First Past the Post" (FPTP) system, and, in the process, generating mass frustration that led to political turmoil. Ensuing measures resulted in a new formula that

1998 – 80 seats	2002 – 120 seats
BCP – 0	BAC – 3
BNP – 1	BCP – 3
MFP – 0	BNP – 21
LCD – 78	LCD – 77
	LPC – 5
	NIP – 5
	NPP – 1
	LWP – 1
	MFP – 1
	PFD – 1

Table 41: Lesotho Assembly Elections (1998-2002)

combined proportional representation (PR) with FPTP so that there is no repeat of 1993 and 1998 election results, which saw the winner take all. The electoral model was an 80/40 mixed ratio of FPTP to PR allocation of constituency seats. Eighty seats in the 120-seat parliament are comprised of the candidates elected in each district, and 40 from the elected parties. The inclusion of 40 seats exclusively to facilitate the inclusion and participation of other political parties in the parliament is an effort to move the kingdom beyond the legacy of political unrest and instability.

Although the LCD won with a big lead, other parties have also made a notable entry into the parliament. The fragility of Lesotho's political stability may not be completely overcome, but the 2002 elections are surely a major watershed towards accommodation and peace.

The parliamentary elections in Zimbabwe were fraught with numerous obstacles and challenges:

- The Electoral Supervisory Commission (ESC) vs. the Registrar General and the Government, where the ESC launched legal battles against these two institutions.
- Dissatisfaction and concern over the constituency delineation exercise carried out by the Delimitation Commission.
- Political violence and intimidation marred the election campaign. The absence of a code of conduct for political parties and animosity, intimidation and mistrust were rampant.
- News media dominated by the state-owned Zimbabwe Broadcasting Corporation (ZBC). The Media Monitoring Project Zimbabwe (MMPZ) concluded that free and fair elections were impossible, owing to limited coverage of opposition political parties provided by the publicly owned media.

Despite all attempts to suppress political opposition, free media and all the intimidation that the ruling party resorted to, it won only a marginal victory.

Seats required by each party to obtain position in parliament are, for the opposition

Political Party	Seats	%
Zanu PF	62	51.7%
MDC	57	47.5%
Zanu - Ndonga	01	0.8%
Nominated	30	
Total	150	

Table 42: Zimbabwe Parliamentary Elections (2000)

Source: EISA 2000

51 seats: power to block constitutional amendments;

61 seats: a majority of the electorates;

76 seats: a majority in parliament; and

100 seats: power to amend the constitution.

For the ruling Zimbabwe African National Union-Patriotic Front, the critical numbers are –

46 seats: a majority in parliament; and
70 seats: power to amend the constitution.

The presidential elections in Zimbabwe in March 2002 were conducted in an environment of rigid polarisation, political violence, and an electoral administration marred by shortcomings and defects. The electoral process featured scores of incidences of harassment and assault of opposition officials and their supporters. The Public Order and Security Act was used to obstruct and bar regular political activities by the opposition. The capacity of polling stations in Harare was totally inadequate because of the continued highhandedness and arrogant behaviour of the Registrar-General.

Province	Registered Voters	Turnout %	Voters			
			ZANU-PF	MDC	ZANU-PF	MDC
Harare	882176	49.8	101395	309832	25	75
Bulawayo	363028	46.7	29828	131894	18	82
Mashonaland (W)	572677	59.9	230321	87498	72	28
Mashonaland (C)	480092	69.0	240735	45100	84	16
Manicaland	658694	54.7	172540	172225	50	50
Midlands	724659	46.9	257708	151355	63	37
Masvingo	655122	61.1	261786	107936	71	29
Matabeleland(s)	343993	48.8	73371	84322	47	53
Total	5607812	55.8	1695549	1283911	57	43

Table 43: Zimbabwe Presidential Elections (2002)

Source: NORDCOM 2002

The immediate aftermath of the polling witnessed numerous disturbing events. Ruling party supporters around the country had embarked on systematic reprisals against opposition members/supporters. Numerous cases of assault, beating, torture, looting and arson, and the killing of one party supporter of the MDC were reported to observers (NORDCOM).

Taking a general look at electoral systems in SADC, we find that a number of countries in the region continue with the First-Past-The-Post system of elections as a continuation of the past, and have not given any serious attention to the electoral system whilst drawing up their new constitutions. If elections are to ensure maximum representation of all sectors of the population in the parliament then it is necessary to adopt a system which facilitates such a process. SADC countries are now recognising the design of the electoral system as a key lever in a democratic electoral process. Countries in SADC should consider the suitability of the propo

tional representation (PR) system of elections, particularly in the context of ethnic and cultural diversity, to enhance the growth and consolidation of democracy through greater participation.

There is a growing debate on electoral systems in order to ensure a more representative parliament. As democratic institutions structure the rules of the game of political competition, the choice of electoral system is extremely important. There is no general 'recipe' that can be provided to any country in terms of an electoral system. The institution of elections helps to determine what the various parties look like, who is represented in parliament, and ultimately who governs. Thus, many have considered electoral system design as one of the chief levers of constitutional engineering to be used in mitigating conflict within divided societies. An electoral system would be the most suitable and effective instrument for changing the nature of a particular democracy (Reynolds 1999).

Level of Participation of Women in the Political Process

The average percentage of women in parliament for the SADC region is 17.9% (excluding the DRC). Mozambique, South Africa, Namibia and Seychelles have the highest percentages with 30.0%, 29.8%, 28.4%, 25.0% and 23.5%, respectively. The average percentage of women holding cabinet positions in the region is 12% lower than the average for women in parliament. At 17.9%, the proportion of women in parliament in SADC is considered higher than the African average of 11%, and the global average of 13.4% (Malokomme 2000). Recent elections in SADC countries have shown that women and other under-represented groups enjoy better representation under the PR system. The table below demonstrates the positive effect on women's representation under the PR system.

Country	Election	Seats	Women	% Women	Electoral system
Mozambique	Dec 1999	250	75	30.0	List PR
South Africa	June 1999	400	119	29.8	List PR
Namibia	Nov 1999	72	18	25.0	List PR
Seychelles	Mar 1998	34	8	23.5	Para FPTP
Botswana	Oct 1999	47	8	17.0	FPTP
Tanzania	Oct 1995	275	45	16.4	FPTP
Zimbabwe	Apr 1995	150	21	14.0	FPTP
Zambia	Nov 1996	158	16	10.1	FPTP
Malawi	Jun 1999	193	16	8.3	FPTP
Mauritius	Nov 1995	61	5	8.2	Block
Lesotho	May 1998	79	3	3.8	FPTP
Swaziland	Oct 1998	65	2	3.0	FPTP

Table 44: Importance of Women in Parliaments in SADC Countries

Source: Table compiled by Julie Ballington using a variety of sources; *Southern African Elections Forum*, p. 64

The following table reflects the representation of women in national assemblies in recently held elections in Zambia, Lesotho and Zimbabwe.

Country	Year	No. of women	Total seats	Year	No. of women	Total seats
Zambia	1996	13	150	2001	15	150
Lesotho	1998	3	80	2002	8	120
Zimbabwe	1995	21	150	2000	14	150

Table 45: Performance of Women in the Elections held in 2001/2002

In Lesotho, 105 women contested the 78 constituency seats. Of a total of 1 117 candidates, 9.4% were women of which 0.72% were elected. All eight elected women are from the ruling party. Although the number of women in parliament has doubled, it is way below the 30% benchmark. The women's civil society groups expressed concern at the low number of women on both constituency and PR lists.

The Zimbabwe 2000 elections represented the highest number of women candidates competing for seats in the parliament. 55 women candidates from five political parties contested the 120 elective seats in parliament. Of 55 candidates, 14 were elected, constituting 25% of seats. Though this figure is not discouraging when compared to other countries in the region, women's groups in Zimbabwe were disappointed as they had made a considerable effort in sensitising women voters to vote for women candidates.

Conclusions

The above-discussed institutions are not exclusive and do not operate in isolation, but are interdependent and influenced by other institutions such as political parties, the media, pressure groups and other informal institutions. The most fundamental of all is the will to uphold democratic values by the people. Going by this basic requirement, there are strong reasons to be optimistic about the future of democratic governance in Southern Africa. While any assessment of democratic institutions in Southern Africa would present an uneven graph, the survey findings of public perceptions on democratic performance gives an overall positive indication. The Afrobarometer series survey findings of six Southern African states and other such national surveys demonstrate widespread support for democracy in the region (Mattes et al. 2000). These findings indicate strong resistance towards the resumption of authoritarianism in any form. The successful 'Silent Revolution' in Zambia against the presidential third term bid and milder replica of it in Malawi are indicative of public resentment and strong reaction against any attempt to return to authoritarianism. Much as democracy is defined in terms of civil rights, personal freedoms, popularly elected governments and respect for these elements,

there is scepticism regarding state and governmental institutions. State institutions generally do not command public trust, and do not display responsiveness to public demands and expectations.

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The Ongoing Search for a Security Structure in the SADC Region: The Re-establishment of the SADC Organ on Politics, Defence and Security

Peter Meyns

When the 2001 SADC Summit in Blantyre adopted the Protocol on Politics, Defence and Security Co-operation, and appointed the President of Mozambique, Joaquim Chissano, to be the Chairperson of the SADC Organ on Politics, Defence and Security, a long period of stagnation in the institutionalisation of security cooperation in the SADC region came to an end.

The SADC Organ was initially established in 1996, but within a year a major dispute erupted between the Chairperson of the Organ, Zimbabwe's President Robert Mugabe, and the Chairperson of SADC, South Africa's President Nelson Mandela, as to how the Organ was to conduct its affairs in relation to the overall structures of SADC. The result was that the Organ remained dormant for several years, until an Extraordinary SADC Summit in March 2001 decided on a far-reaching restructuring of the organisation's areas of cooperation, in the context of which the Organ was given a special position, albeit one integrated into overall SADC structures under the ultimate authority of the SADC Summit, rather than separate from the remaining SADC structures (see Meyns 2001).

The lack of a functioning security structure during the late 1990s was all the more unfortunate as Southern Africa had to confront a number of security problems during this time which threatened the region's stability and development. In the early 1990s, after the end of the East-West conflict and as apartheid rule in South Africa was being dismantled, it seemed that Southern Africa was set to enter a phase of peaceful development after years of regional conflict and civil wars. The time seemed ripe to set up a security regime in which, as Buzan (1991:218) put it, "a group of states cooperate to manage their disputes and avoid war by seeking to mute the security dilemma both by their actions and by their assumptions about the behaviour of others". However, peace proved elusive in Angola, and new conflicts emerged in the Congo and Zimbabwe which led to rifts between SADC member states as well as tension between SADC and the international (donor) community. As a result of these violent conflicts, security issues in the late 1990s again moved to centre stage in the SADC region. Increasingly, the future development of regional integration in Southern African seemed in danger because of the broader implications of the conflict in the Congo, and the crisis in Zimbabwe in particular. The importance of the security dimension for the future of SADC was underlined by the incoming Chairperson, Malawi's President Bakili Muluzi, at the Blantyre Summit last year when he said "that SADC's economic goals will be irrelevant unless the region achieves peace and security"

and stressed that “peace and stability were a prerequisite for economic growth and development” (SADC 2001a).

This contribution attempts to assess the ongoing search for a new security structure in the SADC region.¹ My point of departure is the recently adopted Protocol on Politics, Defence and Security Co-operation, but it will also be necessary to look at recent conflict resolution efforts within the region to see how these issues are dealt with in practice. As long as the regional security architecture is still *in statu nascendi*, conflict resolution cannot follow established channels, but is likely to be tackled in different ways in each specific case.

The Continental and International Dimensions of Security Cooperation

Conflict resolution does not take place in regional isolation, as peace missions in various parts of the world including Southern Africa (Angola, Congo, Mozambique) amply demonstrate. Ultimate responsibility for peace and security in the world, indeed, resides with the United Nations and its Security Council. Therefore, before looking at the efforts within the SADC region to set up a security structure, we need to refer to the broader context of the United Nations, as well as the African Union/Organisation of African Unity, which provide the international and continental background to, and in specific cases support for, peace efforts in Southern Africa. The Protocol on Politics, Defence and Security Co-operation as the basic document of the SADC Organ makes explicit reference to these two organisations in its preamble, “reaffirming the primary responsibility of the United Nations Security Council in the maintenance of international peace and security, as well as the role of the Central Organ of the Organisation of African Unity Mechanism for Conflict Prevention, Management and Resolution” (SADC 2001:Preamble).

In 1993 the OAU adopted the “Cairo Declaration” establishing the OAU “Mechanism on Conflict Prevention, Management and Resolution” and creating a continental structure for conflict prevention and, when conflicts have erupted, peacemaking and peacebuilding functions. The OAU Mechanism – due to be re-established as the “Peace and Security Council” by the newly-formed African Union – defined itself as a regional arrangement in accordance with Chapter VIII of the UN Charter, thereby acknowledging the ultimate responsibility of the United Nations for international peace and security. In addition, it was aware that in cases where costly peace missions were required for conflict resolution, the OAU would need to rely on the greater experience and resources of the United Nations.

¹ For an earlier assessment of security cooperation in the SADC region, see Breytenbach (2000).

On the other hand, the OAU mechanism was also founded in order to assume responsibility – “ownership” – for conflicts on the African continent and to shoulder part of the burden for the maintenance of peace and security in the world. While the OAU mechanism set about building its own institutional structures under the guidance of the OAU Secretary-General, it envisaged enhancing its conflict management capability by cooperating closely with regional – or, in UN parlance, sub-regional – security arrangements, such as SADC. The involvement of ECOWAS in the peace missions in Liberia and Sierra Leone in the 1990s is the best-known example of such “regionalisation” of conflict resolution efforts in the African context.

Each of the five regions in Africa identified in OAU documents has an organisation which operates as the OAU mechanism’s partner in security matters. While all of them were set up principally to enhance economic cooperation and integration in their respective regions, they have come to realise that the lack of peace and security represents a serious impediment to development and that the two are, therefore, closely inter-related. The five organisations are (Nhara 1998:39) –

- West Africa: Economic Community of West African States (ECOWAS)
- North Africa: Arab Maghreb Union (AMU)
- East Africa: Inter-Governmental Authority on Development (IGAD)
- Central Africa: Economic Community of Central African States (ECCAS)
- Southern Africa: Southern African Development Community (SADC).

Nhara (1998:39) has compared the relationship between these three levels to a pyramidal structure:

In graphic terms, and for the purposes of conflict management, the partnership between the UN and the OAU, together with its corresponding subregional organisation, should be akin to a pyramid. At the top of that pyramid should be the UN as a world body, and as the supreme organ for ensuring peace and security worldwide. At the bottom of that pyramid should be the subregional organisations. And, between the apex and the base, the OAU should provide the critical linkage.

The SADC Protocol on Politics, Defence and Security Co-operation

Problems Surrounding the SADC Organ

The SADC Treaty in its Article 4 lists among the principles to which the organisation subscribes “peace and security” and the “peaceful settlement of disputes”, but does not explicitly call for a separate security structure. Article 9, however, which details the institutions to be established by SADC, does say that, apart from those institutions specified, “[o]ther institutions may be established as necessary”. The authority to do this rests with the Summit of Heads of State or Government (Article 10 (6)). Another

opportunity to establish a security structure within the framework of the SADC Treaty as adopted in 1992 was the formation of a "sectoral area of cooperation" for peace and security by the Council of Ministers (Article 11 (2) f)).

When the Treaty establishing SADC was adopted in 1992, security matters were dealt with by the Frontline States, a separate group of African heads of state originally set up in the mid-1970s to support the liberation struggles in Southern Africa. With the end of apartheid rule in South Africa, the Frontline States had accomplished their historical task, and after South Africa had joined SADC, discussions began regarding the formation of a new security regime embracing the whole of the region. Various options were put forward. One was to form an "Association of Southern African States" (ASAS) as a separate body with a security agenda. Another was to form a "sectoral area of cooperation" for peace and security within SADC structures in line with the numerous other areas of cooperation coordinated by member countries. Neither of these proposals was adopted. ASAS was regarded as unnecessarily detached from existing SADC structures and a duplication of efforts, and the notion of a "sectoral area of cooperation" was seen as inappropriate, because the highly sensitive issues of peace and security could not adequately be dealt with at a technical level, and were not suitable for coordination by a single member country. The solution eventually arrived at was to establish a new institution within SADC, distinct from the existing sectoral areas of cooperation, to be called the "SADC Organ on Politics, Defence and Security".

The Organ was launched at a SADC Summit meeting in Gaborone on 28 June 1996. The principles and objectives of the Organ listed in the communique of the founding summit (SADC 1996) covered a wide range of issues defined by the notion of human security which emerged to replace the narrower concept of military security prevalent during the Cold War. For instance, the Organ was also committed "to promote the political, economic, social, and environmental dimensions of security". Though basically focused on a collective security framework in the sense of working towards the maintenance of peace and security among SADC member countries, the Organ's objectives also included the protection of the people and countries in the region against "external threats" (Cawthra 1997:24-25). For this purpose, the elaboration of a "Mutual Defence Pact" was envisaged.

The problems the Organ faced soon after its inception were caused by the lack of clarity regarding the institutional structure, and were compounded by personality clashes. The institutional setup was defined in the founding communique (SADC 1996) as follows:

The SADC Organ on Politics, Defence and Security shall operate at the Summit level, and shall function independently of other SADC structures. The Organ shall also operate at Ministerial and technical levels. The Chairmanship of the Organ shall rotate on an annual and on a Troika basis.

The two crucial points were that the Organ was to operate at Summit level, implying that there would be SADC Summit meetings and SADC Organ Summit meetings, and that it would function independently of other SADC structures, including (possibly) also the SADC Summit. Although the fact that the Chairperson of the SADC Organ was to be elected by the SADC Summit suggested that the role of the SADC Summit as "the supreme policy-making Institution of SADC" (Article 10 (1) of the SADC Treaty) was to be maintained, room for diverse interpretations of the special position of the SADC Organ remained.

As expected, the SADC Summit which launched the Organ elected Robert Mugabe, Zimbabwe's president, to be its first chairperson. Mugabe had been the last chairman of the Frontline States and his selection played an important role in ensuring continuity from the "ad hoc summitry" of the FLS group to the SADC Organ, rather than enhancing the transition from the concept of military security to a broader understanding of human security. His description of the SADC Organ as a "fire brigade" underscored this point (van Aardt 1997:151, 153). What was more significant in our context was that Mugabe, who had been a prominent leader in Southern Africa until the demise of apartheid now found that South Africa's new President, Nelson Mandela, was stealing the limelight. Mandela had accepted his appointment as chairperson of SADC in the same year Mugabe took over the SADC Organ. Indeed, Botswana's President Masire, SADC Chairperson at the time, had convened a special SADC Summit to launch the SADC Organ only two months before the regular SADC Summit to avoid having to elect Mandela and Mugabe as chairpersons of the SADC Summit and the SADC Organ Summit, respectively, at the same summit meeting.² Nevertheless, there was a clash of personalities as Mugabe was reluctant to play second fiddle to Mandela in the SADC structures.

The substantive issue that sparked the dispute regarding the SADC Organ was the status of the Organ within SADC. A draft "Protocol on Politics, Defence and Security in the Southern African Development Community (SADC) Region" had been elaborated under Zimbabwe's chairmanship and adopted at ministerial level prior to the 1997 SADC Summit.³ The draft protocol referred to "the Meeting of the Heads of State and Government of the SADC Organ" as the "Summit", thereby formally establishing it as a second summit next to the SADC Summit, as established and defined by Articles 9 and 10 of the SADC Treaty. The accompanying draft "Rules of Procedure of the SADC Organ on Politics, Defence and Security" stated that the chairmanship of the Organ would rotate on an annual basis, but said nothing about where the election of the chairperson was

² Interviews conducted in the SADC Secretariat in Gaborone, 1997.

³ The draft protocol is reproduced *verbatim* in Baregu (1999:173-185). It was adopted, together with accompanying procedural documents, at a ministerial meeting in Harare on 15 August 1997; see Tapfumaneyi (1999).

to take place, thereby implying that it would be the SADC Organ Summit rather than the SADC Summit. The draft documents did, therefore, seem to “attempt to create distance between the Organ and SADC” (Cilliers 1999:27).

The issue of “two summits” was carried forward to the 1997 SADC Summit, held in Blantyre. SADC Chairperson Mandela had made his strong opposition to such an arrangement known before the Summit, intimating that “South Africa would resign as SADC chair if the Summit agreed to a separate SADC Organ Summit” (Cilliers 1999:29). His position was that the Organ should be integrated into SADC structures. The main dispute between Mandela and Mugabe at the summit meeting was conducted behind closed doors, but did not lead to an agreement. The summit did not deal with the draft protocol and accompanying documents. The wording in the communique (SADC 1997) reaffirming “the importance of the Organ as a vehicle for strengthening democracy in the region and co-operation in defence and security matters” and confirming Mugabe as chairperson was a diplomatically worded reflection of the impasse which had been reached.

The fact that Mugabe was confirmed as the Chairperson of the Organ, even though according to the decisions taken by SADC in 1996 he should have handed over the position to his successor after a year,⁴ underscores the impasse, since choosing a new chairperson would have suggested the Organ was a functioning body. To solve the dispute regarding the Organ the Summit commissioned a “committee of four” member states led by Mozambique’s President Chissano, the SADC Vice-Chairperson, and including Malawi, Namibia and Tanzania to develop suitable proposals (Breytenbach 2000:97, 99, 102).

In the meantime, security co-operation in the SADC region did have a platform, albeit essentially at defence level. When the 1996 Summit in Gaborone had set up the Organ it had also decided that the existing “Inter-State Defence and Security Committee” (ISDSC) should be one of its institutions. The ISDSC was originally formed by the Frontline States as a forum of Defence and Security Ministers, also operating in a largely informal although more regular manner. As apartheid rule came to an end, the ISDSC, contrary to the FLS group, extended its membership to all SADC members and continued to coordinate matters of common interest in the areas of defence and security. Based on its inherited autonomy and an annually rotating chairmanship it has continued to do this even during the SADC Organ’s troubled years, functioning also as the Southern African regional counterpart for an OAU initiative to enhance African peacekeeping capacity (Cilliers 1999:46-53).

⁴ The Zimbabwean diplomat Gift Punungwe has asserted that Mugabe did want to relinquish the chair in Blantyre; see Baregu (1999:155).

The efforts to solve the SADC Organ impasse were not immediately successful. The attempt by a ministerial meeting of the SADC Organ convened by Mozambique in May 1998 to find a compromise solution somewhere between the Zimbabwean and the South African positions produced recommendations which, according to two commentators from the Pretoria-based Institute for Security Studies, would have created more confusion than clarity (Malan 1998a:4-6; Cilliers 1999:30-31). Not surprisingly, therefore, they were not pursued. The urgency, however, of making headway in respect of security co-operation in Southern Africa was brought home strongly in the course of the year when three violent conflicts escalated within the SADC region - first the challenge to Laurent Kabila's rule in the Congo, then the military unrest in Lesotho, and finally the renewed outbreak of civil war in Angola after the collapse of the Lusaka Protocol peace process.

The 1998 SADC Summit, held in September in Grand Baie (Mauritius), while commenting on the conflict issues in the region did not mention the Organ at all. It was not until the following year at the Maputo Summit, when Mozambique's President Chissano took over the chairmanship and SADC switched to an annual rotation of its chairperson, that an inconspicuously placed paragraph at the end of a lengthy communique (SADC 1999) marked the beginning of a far-reaching process of institutional change with regard not only to the Organ but the organisation of SADC as a whole.

The Summit decided that the Council of Ministers should review the operations of all SADC institutions, including the Organ on Defence, Politics and Security, and report to the Summit within six months. The Summit further agreed that the Organ on Defence, Politics and Security should continue to operate and be chaired by President Mugabe of Zimbabwe.⁵

Incorporating the Organ into a review of all SADC institutions seemed to suggest movement in a certain direction. That Mugabe's confirmation as the Organ chairperson had been accompanied by an agreement that he would consult closely with the new SADC Troika (the current chair, his predecessor and successor) pointed in the same direction (Cilliers 1999:32). The fact that Mandela had retired as President of South Africa after the April 1999 elections and that South Africa had passed on the SADC chairmanship to Mozambique no doubt helped to defuse the tensions between South Africa and Zimbabwe, and enhanced Mugabe's preparedness to compromise. Mandela's successor, President Thabo Mbeki, and members of his cabinet had also been at pains to improve the two countries' bilateral relations.⁶

Following the Maputo Summit a crucial ISDSC ministerial meeting was held in Swaziland in October 1999, significantly convened by the current

⁵ The broader changes in SADC's institutional structures were discussed in my contribution to Volume 1 of the *Yearbook* (Meyns 2001).

⁶ Tapfumaneyi, who saw Mandela as representing a relentless "anti-Organ stance", also acknowledged this fact, while remaining wary of South Africa's intentions; see Tapfumaneyi (1999:3).

ISDSC chair Swaziland as well as the SADC chair Mozambique and the SADC Organ chair Zimbabwe. The basic thrust of the Swaziland meeting was "that the SADC Organ shall be a structure of SADC and shall report to the SADC Summit" (De Coning 1999).

It was more than a year after the Maputo Summit before the "Report on the Review of the Operations of SADC Institutions including the Organ on Politics, Defence and Security" was submitted to, and adopted by, an extraordinary SADC Council of Ministers meeting in November 2000. The final decision in support of the report was taken by an extraordinary SADC Summit in Windhoek on 9 March 2001. In respect of the Organ it was unanimously decided that "[t]he Organ will now be integrated into the SADC structures and will be coordinated at Summit level on a Troika basis reporting to the Chairperson of Summit" (SADC 2001b).

Objectives and Mode of Operation of the Organ

The Windhoek Summit in March 2001 solved in a consensual manner the issue which had been under dispute since 1996. The Organ would operate at Summit level, but there would only be one Summit meeting - the SADC Summit. The implementation of the Windhoek decisions in respect of the SADC Organ was deferred to the next regular annual SADC Summit in Blantyre, when the "Protocol on Politics, Defence and Security Co-operation" was adopted. Of 14 member states, only Angola has not yet signed. By early October 2002, however, only six member states had ratified the protocol. It will come into force when two-thirds of SADC member states, i.e. ten states, have done so.

The significance of the decision to integrate the Organ into the SADC structures tended to be somewhat obscured behind the personalised dispute between South Africa and Zimbabwe. There were in fact experts from both countries who aired the option of creating a separate security organisation in Southern Africa.⁷ This option would seem to favour more strongly a traditional understanding of military security. The option ultimately chosen, on the other hand, would seem to be more conducive to a broader concept of human security. Whether such expectations will be satisfied, time will tell. For the moment, we can conclude that the decision to integrate the Organ into SADC structures favours the implementation of a concept of human security.

The "Protocol on Politics, Defence and Security Co-operation" as adopted in Blantyre in August 2001 does not differ fundamentally in respect of the principles it commits itself to and the objectives it aims to achieve from the communique originally establishing the SADC Organ in 1996. The principles are part of the preamble (SADC 2001:Preamble) and include, notably, the following four points:

1. The prime responsibility of the United Nations for the maintenance of international peace and security and the role of the OAU Mechanism

⁷ See Tapfumaneyi (1999:7) (from Zimbabwe); and Malan (1998b:17-19,32) (from South Africa).

for Conflict Prevention, Management and Resolution are acknowledged. The relevance of Chapter VIII of the UN Charter for the SADC Organ's efforts to promote regional security is referred to.

2. "[T]he principles of strict respect for sovereignty, sovereign equality, territorial integrity, political independence, good neighbourliness, interdependence, non-aggression and non-interference in each other's internal affairs" are stressed.
3. The significance of peace, security and strong political relations as "critical factors in creating a conducive environment for regional cooperation and integration" is affirmed.
4. The desire to ensure that co-operation to achieve solidarity, peace and security within the region "shall at all times promote the peaceful settlement of disputes by negotiation, conciliation, mediation and/or arbitration".

The objectives of the SADC Organ are detailed in Article 2 of the protocol. They cover a comprehensive spectrum of areas ranging from political cooperation ("evolution of common political values and institutions", "development of democratic institutions and practices", "observance of universal human rights"), "common foreign policy approach", conflict prevention, peacekeeping, peace enforcement, public security (police cooperation), state security, defence cooperation and capacity-building for extra-regional peacekeeping operations. The all-embracing nature of the stated objectives, particularly in the realms of defence and security, is shown in the clause tasking the Organ to "protect the people and safeguard the development of the Region against instability arising from the breakdown of law and order, intra-state conflict, inter-state conflict and aggression" (SADC 2001:Article 2, 2(a)).

It is not quite clear whether the Organ is conceived as a "collective security body", such as the Organisation for Security and Co-operation in Europe, with the prime task of promoting peace and security **within** the SADC region, or as a defence pact, such as the North Atlantic Treaty Organisation, geared to defend Southern Africa against threats from **outside**, or both. Given its nature as an inter-governmental organisation based on decision-making by consensus (Article 8 (c)), it would seem appropriate to characterise the Organ as a collective security body. This would be in line with its stated links with the United Nations and the OAU Mechanism. A defence pact requires greater supra-national authority. The use of the heading "Conflict Prevention, Management and Resolution" for the key operational Article 11 of the protocol seems to deliberately underline the link to the OAU Mechanism and the essence of the Organ as a collective security body.

However, the matter is confused - as it was in retrospect in the 1996 communique establishing the Organ - precisely in the two instances in which the protocol refers to "collective security" (SADC 2001:Articles 2, 2(h), and 11, 3(e)). Article 11, 3 (e) says that "[e]xternal military threats to

the Region will be addressed through collective security arrangements, to be agreed upon in a Mutual Defence Pact among Signatories". Collective security, in the protocol, is understood as a defence pact, and the Organ, while basically a collective security body in the sense defined above, is also given the task of developing a defence pact component. Such a Mutual Defence Pact has not yet been submitted to a SADC Summit meeting.

The 1996 communique establishing the Organ had made a clear reference to a broader concept of human security when it tasked the Organ "to promote the political, economic, social, and environmental dimensions of security". This objective is a noticeable omission in the protocol. It does have a clause calling for the enhancement of "regional capacity in respect of disaster management and co-ordination of international humanitarian assistance" (Article 2, 2 (l)), but it is clearly more specific than the earlier one and primarily applicable to natural disasters such as the Mozambique floods in 2000. The broader security outlook of the Organ will need to emerge from its integration into overall SADC structures.

Where the "Protocol on Politics, Defence and Security Co-operation" differs significantly from the 1996 communique (as well as the draft protocol prepared in 1997) is in the structure of the SADC Organ it defines. The decisive distinction is given in Article 1 in which "Summit" is defined as "the Summit of the Heads of State and Government of SADC, established by Article 9 of the SADC Treaty". The Organ "operates at the Summit level" in the sense that its chairperson is a SADC Head of State or Government, but it does not hold summit meetings. Rather, the chairperson is elected by the SADC Summit and reports to Summit (SADC 2001:Articles 4, 2, and 4, 3). The person chosen should not at the same time be Chairperson of the SADC Summit. The Chairperson of the Organ, who is responsible for policy and politics of the Organ (Article 4, 4), is called upon to operate "at all times" in consultation with his predecessor and his successor (Article 4, 7). This is the "Troika system" adopted by the Windhoek Summit in 2001 for the SADC Summit, the SADC Organ, the SADC Council of Ministers and the Standing Committee of Officials (SADC 2001b).

The procedure regarding peace enforcement, as laid down in the protocol, is very pertinent in analysing the role of the re-established Organ. Three points are of interest. Firstly, enforcement action should only occur as a last resort where peaceful means have failed. Secondly, it may only be conducted in accordance with Chapter VIII of the UN Charter, i.e. only with the authorisation of the Security Council. Thirdly, within SADC the decision to engage in enforcement action is taken by the Summit following a recommendation from the Chairperson of the Organ. Ultimate authority in other words rests with the SADC Summit (SADC 2001:Articles 2, 2(f), and 11, 3c) and (d)).

The new chairperson of the SADC Organ and his Deputy were elected at the SADC Summit in Blantyre in August 2001. The issue of the Organ

chair had become a highly sensitive matter due to Mugabe's long tenure. The degree of prestige attached to his continuing tenure, especially in official circles in Zimbabwe, became visible when the Windhoek Extraordinary Summit left him in his position. Notwithstanding the far-reaching substantive decisions on institutional reform in SADC as a whole, including the Organ, all Zimbabwean government papers headlined their reports on the Summit with the news of Mugabe's retention of the Organ chair referring to it "as a major regional power relations coup for Zimbabwe".⁸ In fact, the issue was not even mentioned in the communique on the Summit. It had been dealt with as a purely procedural matter leaving the appointment of a new chairperson to the forthcoming regular annual Summit meeting so as to be in step with the tenure of the SADC chair and the annual rotation of both positions. President Chissano was duly elected as the new Chairperson of the Organ and Tanzania's President Ben Mkapa as his Deputy, while President Mugabe completed the Organ Troika as the outgoing chairperson.

The other structures of the SADC Organ the "Protocol on Politics, Defence and Security Co-operation" established were the "Plenary Ministerial Committee", the "Inter-State Politics and Diplomacy Committee" (ISPDC) and the "Inter-State Defence and Security Committee" (ISDSC) (SADC 2001:Articles 5, 6, and 7). The Plenary Ministerial Committee comprises ministers responsible for foreign affairs, defence, public security and state security, and reports to the Chairperson of the Organ. The ISPDC and ISDSC also operate at ministerial level and comprise the foreign affairs ministers and the ministers for defence, public security and state security, respectively. The ministers who sit on the Plenary Ministerial Committee, in other words, split up to form the ISPDC and the ISDSC. These two committees report to the Plenary Ministerial Committee, but also report regularly to the Chairperson of the Organ. All three committees are chaired by ministers from the country holding the Organ chair on a similar annually rotating basis.

The structure of the Organ thus will rest on two columns, one for the objectives relating to politics and diplomacy, the other for those relating to defence and security:

- The ISDSC, as mentioned above, has existed since the days of the Frontline States group. It ensured a framework for defence and security co-operation at ministerial level when the Organ was dysfunctional and can now be fully integrated into the structure of the SADC Organ. This includes, as the protocol specifies (Article 7, 7), the incorporation of the ISDSC Sub-Committees on Defence, Public Security and State Security

⁸ *Sunday Mail*, 11.3.2001 ("SADC gives thumbs up to Zim's defence post"); *The Chronicle*, 10.3.2001 ("President retains organ's chairmanship"); *The Herald*, 12.3.2001 ("Retention of SADC organ post nod for President's leadership" and "Comment: Why President retained SADC organ post").

rity as well as other subordinate structures into the new Organ structure.⁹

- The ISPDC, on the other hand, had to be built up from scratch. It was formally established at a SADC foreign ministers meeting held in Maputo in May 2002. On this occasion, the SADC Executive Secretary stressed the twin tasks of the committee in supporting democratic governance and strengthening “the political and diplomatic mechanisms for conflict prevention, management and resolution at regional level”.¹⁰

How this triangle of ministerial committees under the Organ Chairperson (see Figure 25) will function in practice remains to be seen. A group of experts who discussed the proposals of the ISDSC Ministerial Meeting in Swaziland in October 1999, mentioned above, which have found their way into the protocol now adopted as policy, pointed to two important issues (De Coning 1999:4, 8). The first relates to the establishment of two columns, one dealing with politics and diplomacy, the other with defence and security. The division of labour and balance between these two areas is crucial in determining the future trajectory of security cooperation in the SADC region. The introduction of a Plenary Ministerial Committee makes sense in order to ensure an integrated approach to security initiatives. The fact that the ISDSC already has an established institutional structure might, however, strengthen its position vis-à-vis the ISPDC to the detriment of new security thinking. This might be compounded by the second point which refers to the provision in the protocol that both ISDSC and ISPDC, while basically under the Plenary Ministerial Committee, can also report directly to the Chairperson of the Organ (SADC 2001:Articles 6, 3, and 7, 3). This could encourage a practice of by-passing the Plenary Ministerial Committee and might be more likely to occur in urgent conflict-related (and possibly disputed) matters than in respect of routine business.

The procedures which are established as the Organ develops depend also on the existence of an organisational core supporting the Chairperson and the ministerial committees. The need for a secretariat to service the Organ has been acknowledged for some time, but one of Zimbabwe’s arguments for giving the Organ independent status was that because SADC is highly donor-funded the Organ should not operate through the SADC Secretariat in Gaborone, as otherwise sensitive security information might become available to donors.¹¹ The protocol now adopted seems to have compromised on this issue. It has a single line on a secretariat which reads “the country that holds the Chair of the Organ will provide the Secretariat of the Organ” (SADC 2001:Article 9). In other words, the secretariat will move from country to country, from year to year. This will

⁹ Details of the inherited ISDSC structures are given in Cilliers (1999:37-44).

¹⁰ *The Herald* (Harare), 23 May 2002 (“SADC launches Inter-State Committee”).

¹¹ See *Sunday Mail* (Harare), 11 March 2001 (“SADC gives thumbs up to Zim’s defence post”); *The Zimbabwe Mirror*, 9-15 March 2001 (“Mugabe to lose grip on organ as SADC restructures”).

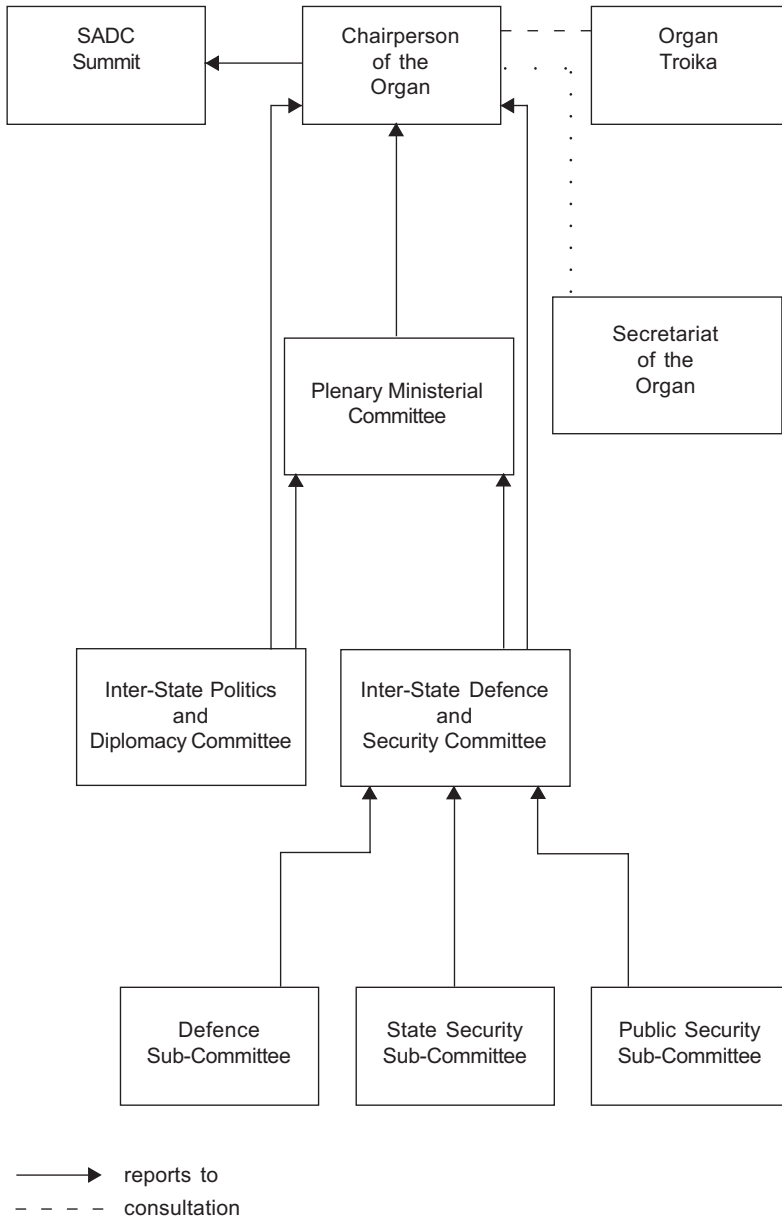


Figure 25: Structure of the Organ on Politics, Defence and Security
 Source: Based on Protocol on Politics, Defence and Security Co-operation

make the establishment of an infrastructure conducive, for instance, to conflict prevention measures requiring permanent secretariat facilities, extremely difficult, if not impossible. There would seem to be a serious discrepancy between the far-reaching collective security-cum-defence pact objectives of the SADC Organ and the lack of permanent secretariat facilities envisaged in the Protocol on Politics, Defence and Security Co-operation. The same Summit in Blantyre which adopted the SADC Secretariat in Gaborone also decided that the SADC Secretariat should service the Organ, and the Secretariat has in the meantime appointed a Political Affairs Officer, though his capacity will hardly satisfy the secretariat facilities the Organ needs to fulfil its tasks.

Conflict Resolution Efforts in the SADC Region

Since 1998 the SADC Region has experienced a series of violent conflicts which can be said to be jeopardising "a conducive environment for regional cooperation and integration" in the sense expressed in the preamble to the protocol. This is particularly true of the violence which has occurred in Zimbabwe since 1999 when the turmoil involving the war veterans, political power and the land issue began. In 1998 violence had erupted in the Congo, Lesotho and also in Angola, which called for conflict resolution efforts.

Even though the SADC Organ was not functional at this point in time, peace and security initiatives were embarked upon involving individual member states and SADC as a whole, as well as the United Nations and the OAU. A brief review of these initiatives in this context is intended to show the diverse nature of efforts to promote peace and security in the region, and discuss their possible contribution to a security structure in the SADC region along the lines now defined by the SADC Organ.

Inter-State and Intra-State Conflict in One: The Congo Imbroglio

The decisive escalation of violence in the Congo occurred on 2 August 1998 when the rule of President Laurent Kabila was challenged by insurgent forces. As a result of the military intervention of various African countries on either side of the intra-state conflict, the fighting soon assumed dimensions described by some observers as Africa's first Great War.

In analysing the efforts to resolve the conflict, which began without delay, four points seem important at the outset to define the framework for these efforts:

- The very dimension of the war in the Congo and the military forces involved made it a conflict which called for a broader context of peacebuilding efforts than SADC alone could provide. It was a conflict which required the involvement of the OAU and, in particular, the United Nations to restore peace.

- There were two conflicting readings of the conflict, one looking at it as a straight-forward inter-state conflict, and the other seeing it as an intra-state conflict with strong inter-state components.
- Among SADC members there was consensus on the fact that President Laurent Kabila, who had taken over power in 1997, was the rightful authority in the Congo and could demand respect for his country's sovereignty and territorial integrity.
- The escalation of violence in the Congo occurred at a point in time when relations between the Chairperson of SADC, President Mandela, and the Chairperson of the SADC Organ, President Mugabe, were tense. This fact compounded differences in the approach to conflict resolution in the Congo which would probably have surfaced in any case.

Talks on the situation in the Congo began within days of the beginning of hostilities. At the request of Uganda's President Museveni, Mugabe convened an *ad hoc* meeting which also involved the Congo, Rwanda, Angola, Namibia, Tanzania and Zambia in Victoria Falls on 7 and 8 August 1998. South Africa was not present. Given the antagonism between the Congo, Uganda and Rwanda, the meeting set up a verification committee at Foreign Ministers' level comprising Namibia, Tanzania, Zambia and Zimbabwe to assess the nature of the conflict in the Congo and make recommendations for peace (Punungwe 1999:142-143). From here, peace efforts took two separate directions based on two different readings of the conflict.

1. Having received a request for assistance from President Kabila, Zimbabwe, which still held the chair of the SADC Organ at the time, called for a special meeting of the ISDSC Defence Ministers which was held in Harare on 18 August and decided, on the basis of the verification committee's findings, that "those SADC countries able to do so should give assistance to President Kabila" (Punungwe 1999:143). In other words, the ISDSC did not commit itself as a body, but left it to individual member states to decide. Zimbabwe, Angola and Namibia sent military contingents to the Congo in support of Kabila's rule. Based on a reading of the conflict as an inter-state conflict in which Uganda and Rwanda had violated the Congo's sovereignty, their intervention could claim legitimacy on the strength of Article 51 of the UN Charter which allows for individual or collective self-defence in such cases.¹²

To refer to the intervention of the three countries as "a SADC operation" or as a "SADC allied intervention", however, is not justified (Punungwe 1999:144; Mandaza 2001). The ISDSC does not have the authority to take such a decision. Even the SADC Organ, had it been convened at Summit level, could not have taken such a decision. The communique

¹² Chigara argues against the applicability of Article 51 of the UN Charter unless the Security Council has judged the situation in question to be a threat to international peace and security. In his view the intervention can be justified on the principle of "consent to intervention" of other states in the consenting state's internal affairs (2000:62, 64).

establishing the SADC Organ in 1996 is clear on this. For one, it calls for the conclusion of a Mutual Defence Pact to respond to external threats, and such a pact does not yet exist.¹³ Furthermore, it stipulates that should the Organ see military intervention as inevitable to solve a conflict, it may “recommend that the Summit should consider punitive measures” (SADC 1996).¹⁴ In other words, only a Summit meeting of SADC countries could have committed SADC to a military intervention. This ruling is confirmed by the Protocol on Politics, Defence and Security Co-operation, adopted subsequently, which in addition asserts that enforcement action requires the authorisation of the UN Security Council in accordance with Article 53 of the UN Charter (SADC 2001:Articles 11, 3(d) and (e)).

2. When the Chairperson convened a special SADC Summit meeting to consider the Congo crisis, also inviting Kenya, Rwanda and Uganda to Pretoria on 23 August, the ISDSC decision was not even mentioned in the communique. The thrust of the meeting was to achieve an immediate cease-fire and to initiate a peaceful process of dialogue to resolve the conflict (Baregu 1999:195-107). It was based on an understanding of the conflict as incorporating intra-state and inter-state components. This initiative led to the peace efforts coordinated by Zambia’s President Frederick Chiluba and supported by SADC, the OAU and the United Nations, which in July 1999 led to the signing of the Lusaka ceasefire and peace agreement involving both external and internal parties to the conflict.

In terms of the security structure in the SADC region it is of interest how Zambia assumed the role as principal mediator in brokering a ceasefire agreement. After the Lusaka Agreement had been signed, the SADC Heads of State and Government “paid a glowing tribute” to President Chiluba’s tireless efforts in the peace process (SADC 1999). But there had been no mention of his appointment as SADC’s official mediator in the communique of the previous annual SADC Summit. It would seem that circumstances involving Chiluba’s own availability and his acceptance by other actors led to his increasing involvement in the mediation efforts. This is borne out by a Zambian Foreign Affairs official who said his country’s involvement began with its inclusion in the verification committee set up by the Victoria Falls Summit.¹⁵ The fact that Zambia was chair of the ISDSC when the war in the Congo broke out and as such chaired the Harare meeting of the ISDSC, may also have been

¹³ The four SADC countries involved in the war in the Congo (Congo, Angola, Namibia and Zimbabwe) formed a Mutual Defence Pact in April 1999, but SADC as a whole has not yet done so.

¹⁴ Objective of the Organ g) and I).

¹⁵ The Communique of the Pretoria SADC Summit is reproduced in Baregu (1999:195-107)

¹⁶ Kapambwe, Lazarus. “The Position of Zambia”. In: Baregu (1999:110).

relevant. Clearly, Zimbabwe was interested in keeping South Africa out of the mediation process as far as possible, and South Africa also accepted Zambia's role.

As SADC Chairperson, President Mandela had made it clear initially that he was in favour of a peaceful settlement in the Congo, as advocated by the Pretoria SADC Summit. Mandela subsequently accepted the justification of the three countries' intervention on the grounds that the Congo's territorial integrity had been violated by the invasion of Ugandan and Rwandan forces and that Kabila had requested their support. With the Summit of the Non-Aligned Movement forthcoming in Durban, and South Africa due to assume the chairmanship of the movement for the next three years, Mandela was certainly under some pressure to adopt this position, as there is hardly an organisation in the world which has defended the principles of national sovereignty and territorial integrity more vigorously over the years. The annual SADC Summit in Grand Baie on 13-14 September reiterated this position. Speaking of "rebels and their allies" the Summit acknowledged the intra-state and inter-state components of the conflict. The Summit communique (SADC 1998) was phrased to satisfy all sides, while again prioritising efforts to achieve a peaceful settlement:

The Summit welcomed initiatives by SADC and its Member States intended to assist in the restoration of peace, security and stability in DRC, in particular the Victoria Falls and Pretoria initiatives. In that regard, the Summit reaffirmed its call for an immediate cessation of hostilities and commended the Governments of Angola, Namibia and Zimbabwe for timorously providing troops to assist the Government and people of the DRC defeat the illegal attempt by rebels and their allies to capture the capital city, Kinshasa, and other strategic areas. The Summit emphasized the need for all political actors in the DRC to commit themselves to orderly and peaceful transition to multi-party democracy, primarily through constructive consultations and negotiations involving all stakeholders.

This wording did not retroactively endorse the military intervention of Angola, Namibia and Zimbabwe as a "SADC intervention", though it did acknowledge its complementary contribution, together with ongoing conflict resolution initiatives, to the re-establishment of peace and security in the Congo.

The Lusaka Agreement, adopted in July 1999, again reflected the inter-state and intra-state components of the conflict, envisaging on the one hand the "withdrawal of all foreign forces from the national territory" and, on the other, calling for "inter-Congolese political negotiations" in "an open national dialogue" in view of "a new political dispensation and national reconciliation in the DRC" (United Nations 1999).

The implementation of the agreement, in accordance with the concept of the OAU "mechanism", relies principally on the United Nations. The task of the Joint Military Commission (JMC) comprising the parties to the conflict and representatives of Zambia, the OAU and UN is backed up by a UN

peacekeeping force. The Security Council on 30 November, 1999 and 24 February 2000 adopted Resolutions 1279 and 1291 setting up the "Mission Observatrice des Nations Unies au Congo" (MONUC) to monitor the peace process. As the facilitator of the dialogue process, the OAU in December 1999, after consultations with the Congolese parties, appointed the former President of Botswana, Ketumile Masire. Ongoing fighting in the Congo delayed the peace process time and again. Rwanda and Uganda, while insisting on their security concerns in eastern Congo (also part of the Lusaka Agreement), had apparently also developed economic interests in those parts of the Congo under their control (United Nations 2001). President Kabila on the other hand continued to insist on a purely inter-state reading of the conflict in his country, thereby hindering progress in the implementation of the Lusaka Agreement. By refusing to cooperate with Masire as the facilitator for the internal dialogue and demanding his withdrawal, Kabila was effectively blocking the peace process.¹⁶

The assassination of Kabila by people from his entourage in mid-January 2001 and the assumption of power by his son eased the tensions which had built up to some degree. Joseph Kabila, Congo's new President, was more committed to the peace process as laid down in the Lusaka Agreement. Progress was made in respect of the gradual withdrawal of external forces, Namibia having withdrawn its contingent fully, and Angola and Uganda partially. But the situation on the ground remained tense. Kabila jnr. also accepted the role of Masire as facilitator of the national dialogue. For security reasons it was to be convened outside the country. After a preparatory gathering in Gaborone and an unsuccessful meeting in Addis Ababa, the Inter-Congolese Dialogue (ICD) was finally held from late February to mid-April 2002 in Sun City in South Africa. The presence of the OAU Chairperson and Secretary-General, the SADC Chairperson, the President of South Africa as well as a representative of the UN Secretary-General at the opening ceremony underlined the combined effort of all external actors involved in the peace effort to put the Congolese actors under pressure to come to an agreement.

However, amidst allegations of violations of the ceasefire arrangements, even a last-minute mediation initiative by South Africa's President Thabo Mbeki proved unsuccessful. An alliance between President Kabila, the MLC rebel leader Jean-Pierre Bemba and other internal forces, all of whom signed Mbeki's compromise proposal, was declared by the facilitator to be outside the terms of the Inter-Congolese Dialogue, as important actors, notably the Rwandan-backed RCD-Goma, had refused to sign.¹⁷

Amidst renewed violence inside the Congo initial attempts by the facilitator to reconvene the ICD were unsuccessful. Putting particular focus on the

¹⁶ See Interview with Ketumile Masire, IRIN News Service, 18 May 2000.

¹⁷ See IRIN News Service, 20 April 2002 ("DRC: Agreement between gov't and MLC; RCD excluded"); 25 April 2002 ("DRC: Focus on the results of the inter-Congolese dialogue").

security concerns of Rwanda, a Security Council delegation mooted the idea of creating a security zone along the boundary between the Congo and Rwanda (IRIN News Service, 15 May 2002 ("UN Security Council reports on recent mission")). Pursuing this line, President Mbeki managed to set up talks between the Congo and Rwanda in the wake of the African Union Summit in Durban, which led to the "Pretoria Memorandum of Understanding" on the withdrawal of Rwandan troops from the Congo and the dismantling of ex-FAR and Interahamwe forces in the Congo. The agreement was signed by presidents Kabila and Kagame on 30 July 2002, with the Secretary-General of the United Nations and South Africa acting as "third party" guarantors of its implementation (IRIN News Service, 31 July 2002). A similar agreement was signed on 6 September between the Congo and Uganda, so that progress on the crucial issue of the withdrawal of Rwandan and Ugandan troops from the Congo was made, and Zimbabwe also began withdrawing its forces. By October 2002, however, the Inter-Congolese Dialogue had not yet been reconvened. The establishment of a comprehensive power-sharing arrangement, therefore, remained elusive (IRIN News Service, 23 July 2002 "DRC-Rwanda - 'Understanding' reached on peace pact, Kabila and Kagame must now approve"). Should his mediation efforts succeed, RCD-Goma would return to the dialogue and the Congo peace process would hopefully move ahead again.

Given the dimensions of the Congo war multiple efforts of conflict resolution have been involved. Several SADC member countries have made contributions to the process. Zimbabwe, Angola and Namibia came to the rescue of the embattled Kabila regime. SADC's main initiative was the Lusaka peace process mediated by Zambia and supported by the OAU, the United Nations as well as SADC. Ex-president Masire, a former SADC chairman, was appointed facilitator of the ICD in his personal capacity. Hosting the ICD in early 2002, South Africa made an important financial input and also served as mediator in the conflict. It is impossible to say whether SADC's peace efforts would have been more successful if the Organ had been fully functional. Certainly, once the Organ was re-established the SADC Summit has called upon it regularly to coordinate the region's efforts to enhance peace and security, also with respect to the implementation of the Lusaka peace process (see the Final Communiqué of the SADC Extraordinary Summit, Blantyre, 14 January 2002).

Intra-State Conflicts in the SADC Region: Lesotho, Zimbabwe, Angola

According to the principles of national sovereignty and territorial integrity to which SADC is committed, intra-state conflicts are an internal matter for which the established authority in a country and people in question are deemed to be principally responsible. The "Protocol on Politics, Defence and Security Co-operation", adopted in 2001, does, however, envisage the possibility of the Organ seeking to resolve "significant intra-state con

flicts”, such as “a military coup or other threat to the legitimate authority of a state” or “a conflict which threatens peace and security in the Region or in another Member State”. Furthermore, the Organ will seek “to obtain the consent of the disputant parties to its peacemaking efforts” (SADC 2001:Articles 11, 2(b)(ii) and (iv), and 11, 4(a)). Were the intra-state conflicts in countries like Lesotho, Zimbabwe and Angola in the past few years dealt with in accordance with these clauses (even though the protocol was not yet in force)? What do the initiatives undertaken tell us about the practical approach to conflict resolution in the SADC region?

Only a month after the escalation of war in the Congo, violent unrest occurred in Lesotho. The conflict in Lesotho was essentially a political one arising from the disproportional distribution of seats in parliament due to the “first past the post” (FPTP) electoral system and dissatisfaction among losing parties. A crisis had occurred in 1993/94 in which the Frontline States Zimbabwe and Botswana together with South Africa (later referred to as the SADC Troika) had mediated successfully using peaceful means. Following the 1998 elections the crisis repeated itself. An attempt to avoid an escalation of the crisis failed when the committee of regional experts South Africa had proposed to scrutinise the disputed elections confirmed their results. Violence ensued threatening the elected government under Prime Minister Pakalitha Mosisili, who then requested assistance from four SADC countries, Botswana, Mozambique, South Africa and Zimbabwe (Matlosa 1999:9).

On 22 September 1998 South Africa intervened with a military contingent, following the initial clashes by Botswana (Neethling 2000:141). The aim of the intervention was to prevent the overthrow of the elected government and to restore law and order, but also to protect South African interests, particularly as regards the multi-million dollar water project (LHWP). Only after more bloodshed and once South Africa had committed more troops to the conflict was law and order eventually re-established.

The legitimacy of the South Africa/Botswana intervention in Lesotho is based, as was the Zimbabwe/Angola/Namibia intervention in the Congo, on the request - i.e. the “consent to intervention” - of the legitimate government. As in respect of the Congo, the conditions to refer to the intervention as a ‘SADC peace enforcement mission’ were not given. The SADC Summit was not involved in the decision to intervene. Nevertheless, the SADC Summit a year later spoke of a “SADC military intervention in the form of Botswana and South African forces” (SADC 1999). This can be seen as a reflection of the degree of consensus which existed with regard to this mission.

Post-conflict peacebuilding in Lesotho involved reforming the electoral system and holding new elections. An “Interim Political Authority” comprising all political parties was formed to participate in this process, with the SADC Troika continuing to act as mediator. The elections were postponed several times and finally took place on 25 May 2002 on the basis of

a reformed electoral law combining the FPTP and proportional representation systems. The SADC Extended Troika comprising Mozambique, South Africa, Botswana, Namibia and Zimbabwe as well as the SADC Parliamentary Forum observed the elections and described them as “a model for Southern Africa and the continent”.¹⁸ After much wrangling over the new constitutional dispensation, the May elections gave Lesotho a new chance to consolidate democratic governance, and an opportunity to relaunch the country’s economic development.

The intra-state conflict which has escalated in Zimbabwe since 1999 could be said to be potentially far more disruptive to peace and security in the SADC region than the conflict in Lesotho. The way it has been dealt with so far, however, differs quite markedly. In formal terms, it is a matter of an established authority insisting on its sovereignty and territorial integrity. There is also, however, the difference between a small and weak country and a more powerful regional actor. With respect to Lesotho, South Africa was quick to intervene militarily, while with respect to Zimbabwe, President Mbeki has not deviated significantly from his – hitherto unsuccessful – “quiet diplomacy”.

Of course, the situation is more difficult in Zimbabwe. It is the established authority which is the source of the problem. Intervention, if deemed necessary, would require applying principles of international law which are not undisputed. There is no indication that SADC sees such a necessity, but it does realise that the situation in Zimbabwe is dangerous for the region.¹⁹ At the 2001 Blantyre Summit the Heads of State and Government voiced their concern and set up a “task force” to engage the Zimbabwe government in a dialogue (SADC 2001a):

Summit expressed concern on the effects of the Zimbabwe economic situation on the region, and indicated its readiness to engage in a dialogue with the Government of Zimbabwe and other cooperating partners to resolve the situation. Summit established a task force comprising the SADC Troika, Botswana, Mozambique and South Africa, to work with the Government of Zimbabwe on the economic and political issues affecting Zimbabwe.²⁰

Though carefully worded, this initiative was a significant one. However, the follow-up since then has shown only a limited preparedness to put pressure on the Zimbabwe government. Malawi’s President Bakili Muluzi, the current SADC Chairperson, made an important point during the first visit of the “task force” to Zimbabwe when he said that, as he saw it, “the problem lies in the way the government of Zimbabwe is trying to implement the land reform process”.²¹ At a later meeting in Blantyre the “task

¹⁸ See IRIN News Service, 28.5.2002 (“Lesotho election positive step for region”).

¹⁹ See the Final Communiqué on SADC Extra-Ordinary Summit, Blantyre, 14 January 2002; and also the contribution by Christian Peters-Berries in this volume.

²⁰ The SADC Troika after the Blantyre Summit comprises Namibia, Malawi and Angola.

²¹ See *International Herald Tribune*, 12 September 2001 (“A Neighbor Denounces Zimbabwe”).

force” did set up a list of commitments to be met by Zimbabwe in the March 2002 presidential elections, but appeared satisfied by Zimbabwe’s declaration of its intention to ensure free and fair elections. The chairperson of the “task force”, Malawi’s Foreign Minister, at a further meeting in Harare expressed concern about developments in Zimbabwe but added: “We in SADC would like to make it clear that we do not support sanctions”,²² thereby forfeiting in advance SADC’s most important instrument to put pressure on the Zimbabwe government.

Following the presidential elections in Zimbabwe, the SADC Parliamentary Forum Election Observation Mission concluded its report by saying “(t)he climate of insecurity in Zimbabwe since the 2000 parliamentary elections was such that the electoral process could not be said to adequately comply with the Norms and Standards for Elections in the SADC region”. The report recommended urgent action by SADC leaders to engage the Zimbabwe government “to facilitate dialogue and reconciliation”.²³ SADC state leaders and delegations, including one from South Africa, however, endorsed the elections and their result.²⁴

It was left to the Commonwealth to suspend Zimbabwe for a year because of the state-sponsored election irregularities, with South Africa’s President Thabo Mbeki acting as a reluctant party to the recommendation of the “committee of three”.

The intra-state conflict in Angola has troubled SADC for many years. Peacekeeping efforts until early 1999 were conducted largely by the United Nations, at great cost to the international community. In terms of the security structure in the SADC region, Angola, like Zimbabwe, is a case of acknowledging the legitimacy of an established authority. The pertinent question whether that authority might not also be part of the problem – which in respect of Zimbabwe has at least been ventilated – never seems to have been raised with respect to the MPLA government in Angola. On the contrary, after the collapse of the Lusaka Protocol peace process and the renewed outbreak of full-scale war in 1998, SADC branded rebel leader Jonas Savimbi a “war criminal”.

SADC’s main concern was that the sanctions the United Nations imposed on UNITA should be implemented by all member states. To this effect, the 2001 Summit in Blantyre “endorsed the creation of an Ad-hoc Committee, coordinated by the Chairperson of the Organ on Politics, Defence and Security, composed of Botswana, Namibia, Zambia and Zimbabwe to compile a full report on how SADC member States are

²² IRIN News Service, 11 December 2001 (“Zimbabwe: Presidential election due in March”).

²³ Statement by the SADC Parliamentary Forum Election Observation Mission: Zimbabwe Presidential Elections 9-10 March 2002, Harare, 13 March 2002.

²⁴ The South African mission described the elections as “substantially free and fair”, only later qualifying their assessment with some criticism couched in the form of recommendations. See *Business Day*, 31 May 2002 (“SA observer mission report out at last”).

implementing the recommendations of Resolution 1295 of the Security Council" (SADC 2001a). The death of Savimbi in combat in February 2002 raised hopes once again that the intra-state conflict in Angola would come to an end. On 4 April 2002 the military leaders of the government and the UNITA rebels signed a ceasefire agreement, paraphrased as an addendum to the 1994 Lusaka Protocol and designed therefore to set in motion the peace process which had collapsed in 1998/99. Within a short time after the ceasefire, the extent of the human tragedy in Angola, the social problems of millions of displaced and impoverished people became visible. Durable peace will only be achieved if the broad dimensions of human security are incorporated into the peace process now getting underway.

What the intra-state conflicts in Lesotho, Zimbabwe and Angola show is that the principles of sovereign equality and non-interference in each other's internal affairs, as laid down in the preamble of the Protocol, are paramount in determining SADC policy. An intra-state conflict needs to be "significant" to justify SADC intervention. Article 11 (2)b, which defines "significant intra-state conflicts", on the one hand follows the UN Charter (Article 39) in making a threat to peace and security a condition for intervention, but on the other hand also specifies conflict situations which justify humanitarian intervention, such as genocide, ethnic cleansing and the gross violation of human rights. Here the Protocol is in line with the "non-indifference" clause in the Constitutive Act of the recently inaugurated African Union (Article 4 (h)).

The Protocol defines situations which justify intervention fairly broadly and limits the use of enforcement action quite narrowly (to decisions by the SADC Summit and with UN Security Council authorisation). The military intervention in Lesotho may not have fulfilled the conditions for enforcement action, but it was conducted with "consent to intervention" and, given the threat to the authority of an elected government, did occur in a "significant" intra-state conflict. With respect to SADC's hesitant initiatives regarding Zimbabwe, the threat to "peace and security in the Region", as Christian Peters-Berries argues elsewhere in the volume, is evident, but intervention in this case collides with the principles of sovereignty and non-interference. The dispute about whether SADC has gone either too far or not far enough in its attempt to facilitate a return to peace and stability in Zimbabwe clearly reflects the sensitivity of the issue. Whichever line prevails, however, in its substantive definitions of conflict situations, the Protocol does provide a useful framework for conflict prevention, management and resolution in the SADC region.

Conclusion

- After the re-establishment of the Organ on Politics, Defence and Security at the SADC Summit in Blantyre in August 2001, SADC created an institutional framework for future security cooperation in the Southern African region.

- The Protocol is not yet in force. The necessary number of instruments of ratification required for this to happen have not yet been deposited by October 2002. Nevertheless, the SADC Organ is functional again. Chairperson and Troika have been appointed, its new institutions are taking shape, and more frequent mandates regarding peace and security in specific issues have been given to the Organ by the SADC Summit during the past year. All these are indicators that the Organ is now assuming its role as the security column of SADC.
- Clarification still seems to be needed with regard to the secretariat of the Organ. If the existing SADC Secretariat is to provide support services for the Organ, and the annually rotating chair country also provides a technical support unit, there is likely to be some administrative confusion which will not be conducive to the efficient functioning of the Organ. Clearly, the establishment of a durable security structure in the SADC region is still at an early stage of its development.
- The "Protocol on Politics, Defence and Security Co-operation", which has now been adopted, clarifies earlier disputes regarding the autonomy of the Organ in the sense that it is now clearly defined as an integrated part of SADC structures, led by a Chairperson who consults closely with the Organ Troika and reports to the Summit of SADC Heads of State and Government.
- The SADC Organ can be described as a collective security arrangement designed principally to promote peace and security within the member countries of the SADC region. The Protocol does, however, also refer to a Defence Pact which would be an instrument of collective self-defence in the case of an armed attack against a SADC member country from outside the region, as envisaged by Article 51 of the UN Charter. SADC has not as yet adopted such a Defence Pact.
- The SADC Organ is defined as being part of the international structures for peace and security coordinated at international level by the United Nations Security Council, and at continental level by the OAU Mechanism on Conflict Prevention, Management and Resolution.²⁵ Integration into these structures is particularly relevant in respect of measures of peace enforcement by military means as these require endorsement by the UN Security Council. It is also relevant in cases where the dimensions of a conflict are such that SADC alone cannot ensure peace and security. The Congo crisis is the most obvious case in point.
- The Protocol provides a framework for the future security structure in the SADC region and defines guidelines to achieve a regional peace and security environment in Southern Africa. In this sense it represents an opportunity to raise security cooperation in the region to the new level of a more systematic and institutional approach. With established

²⁵ The African Union, due to be launched in Durban in July 2002, is expected to decide to create an AU Peace and Security Council to replace the OAU Mechanism.

Type of conflict	D R Congo	Lesotho	Angola	Zimbabwe
	intra-state + inter-state conflict ("Africa's first Great War")	intra-state conflict (following disputed elections)	intra-state conflict (renewed warfare after collapse of peace process)	intra-state conflict (breakdown of law and order over land issue and power struggle)
Duration	August 1998 - ongoing	September 1998 - May 2002	1998/99 - April 2002	1999 - ongoing
Call for support	yes, by government, for military assistance	yes, by government, for military assistance and political mediation	yes, by government, for political backing	yes, by opposition, for political intervention
SADC peace efforts	support for <i>ad hoc</i> mediation by Zambia (Ceasefire Agreement, July 1999)	SADC Troika (mid-mediation 1990s), SADC Extended Troika (1998 - 2002)	no (Savimbi proclaimed "war criminal" in 1998); <i>ad hoc</i> committee to back UN sanctions in 2001	task force (to engage in dialogue in view of democratic governance)
Military intervention	Zimbabwe, Angola, Namibia at President Kabila's request	South Africa, Botswana at PM Mosisi's request	no	no
OAU involvement	active diplomatic involvement in Zambian peace mediation (Joint Military Commission; Inter-Congolese Dialogue)	support for SADC mediation efforts	no	proclamation of elections as "transparent, credible, free and fair"
UN involvement	active diplomatic involvement in Zambian peace mediation (peacekeeping force MONUC as from early 2000)	no	after end of MONUA mission in early 1999, only token presence (UNOA); sanctions against UNITA rebels	no

Table 46: Conflicts in the SADC Region since 1998/99 and Resolution Efforts

procedures in place, disputes such as those which arose around the military intervention of SADC member states in the Congo and Lesotho can hopefully be avoided in future through adherence to the agreed guidelines. Whether this does in fact occur, however, depends on the way SADC as a whole and its member states use this instrument. In particular, bringing the potential of the SADC Organ and its Protocol to fruition will require moving beyond *ad hoc* summitry in the FLS tradition and establishing an institutional set-up capable of performing the ongoing tasks needed for effective conflict prevention and management.

- A functioning Organ will not fundamentally change SADC's approach to peace and security measures. The general experience that a range of conflict situations can arise which require a range of solutions remains true. It will not always be the Organ itself or its chairperson which can provide the best solution. As in past years, *ad hoc* initiatives such as Zambia's mediation effort in the Congo war will continue to be useful instruments. High politics will continue to be important in security cooperation. The importance of the SADC Organ will lie in its establishing common standards on the basis of the Protocol, and regular dialogue on conflicts and their management in Southern Africa and Africa as a whole, which will guide political behaviour and enhance the peaceful settlement of conflicts in member states. In this sense, the Organ can make a real difference in the region's endeavour to achieve collective security.

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The African Renaissance, NEPAD and the African Union: The Prospects for Co-operation and Integration in Africa¹

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Abstract

This paper describes the African Renaissance, the New Partnership for Africa's Development (NEPAD) and the African Union and assesses the prospects for co-operation and integration: it traces their roots to the Africanist Pan-African Movement working for the political unification of Africa, the integrationist Lagos Plan of Action (1980) and the Abuja Treaty (1991) working for market-integration. It shows how the Pan-Africanist roots led to the formation of the Organisation of African Unity (1963) and the discourse about the African Renaissance. The integrationist Abuja Treaty foresaw an African Economic Community. In the Sirte Declaration (1999) these were combined. The CSSDCA introduced a security dimension. Against this background came MAP, Omega, NAI and eventually NEPAD in 2001. NEPAD goes much further than continental union and integration: it makes security and good governance requirements for development through global partnerships for African development in the 21st century. A crucial feature of NEPAD is the peer review mechanism which provides for intervention in the domestic affairs of states that do not comply with the standards of good governance. NEPAD strives to generate external funding. This is manifested in the G8 Action Plan for Africa. Continental and regional integration are in line with NEPAD initiatives, but are not preconditions for NEPAD. They are pillars of the African Union. As NEPAD was endorsed by the African Union, speedier integration on the basis of the Abuja Treaty is a desired outcome.

Introduction

The issues of African political unity and African development co-operation and integration go back a long way in history. For some time these issues progressed along disparate trajectories: the issue of political unity is much older and is linked with the histories of Pan-Africanism and the Organisation of African Unity, while the other issue, that of continental and sub-regional development co-operation and economic integration, is more recent in origin and is linked to the Lagos Plan of Action (LPA) of 1980 and the Abuja Treaty of 1991. It was the Sirte Declaration of 1999 that combined these unity and integration visions (Meyns 2002:62; Maloka 2002).

New impetus was provided by the consideration of the African Renaissance and various initiatives that culminated in the Organisation of African Unity's (OAU) adoption in July 2001 of the New Partnership for Afri

¹ Nepru/KAF Workshop on the Monitoring of Regional Integration, Windhoek, 1 June 2002 (amended 16/8/2002).

ca's Development (NEPAD), and the replacement of the OAU by the African Union in Durban on 9 July 2002.

Up to this point, the debate was either about political unity or economic integration. An important dimension was added with the adoption in Kampala of a vision (in 1991, but revived in 1999) by some African leaders (the chairman was General Olusegun Obasanjo, later to become president of Nigeria, and today one of the driving forces of NEPAD), which linked security, stability and regional co-operation in a comprehensive fashion (Cilliers 2002:98). At the time, the OAU had not adopted the visions of this initiative: the Conference on Security, Stability, Development and Co-operation (CSSDCA). In 1999, Obasanjo, newly elected Nigerian president, submitted this document to the OAU Summit in Algiers. One year later, the OAU adopted the Solemn Declaration on the CSSDCA in Lomé. It was then decided to implement this within the framework of the OAU. At the founding summit of the African Union in Durban in July 2002, NEPAD as well as the Peace and Security Council of the African Union were established in similar fashion (i.e. adopting the protocol and calling on member states to sign and ratify). Interestingly, neither the Constitutive Act of the African Union (2001) nor the NEPAD document as adopted in Abuja (in October 2001) refers to either the CSSDCA or the Peace and Security Council. However, at the time of the Lusaka Summit when the Constitutive Act was adopted by the OAU, it had been decided to incorporate the OAU Central Organ as part of the African Union, to review its structures and to consider the possibility of changing its name. NEPAD played a role in this respect.

At the meeting of the Implementation Committee of NEPAD that took place in Abuja on 26 March 2002, the Committee proposed that the OAU's Mechanism on Conflict Prevention, Management and Resolution (adopted in 1993) be renamed the Peace and Security Council (PSC), and it took note of the fact that there is convergence and complementarity between the CSSDCA and NEPAD. It directed the Steering Committee (para. 23), in co-operation with the OAU Secretariat, to submit proposals on the rationalisation of the two initiatives (Nepad Implementation Committee, 2002).

This paper will sketch the background to these initiatives, including relevant aspects of pan-Africanism, African unity, the Lagos and Abuja market integration plans, the formation of the African Union, and NEPAD itself. The specific focus is to assess prospects for co-operation and integration in Africa.

Background

For many years the political issues of continental unity predominated: they were manifested in demands for decolonisation, liberation from colonial rule, and the promotion of continental unity through the institutions of the Organisation of African Unity (1963-2002). The headquarters and secretariat are situated in Addis Ababa, the seat of Africa's oldest independent state, Ethiopia.

Until the mid-1970s, there was remarkable indifference to the promotion of regional co-operation and market integration in Africa (Adetula, 1996:49). Under the leadership of Abebayo Adedeji, the UN Economic Commission for Africa (UNECA) - which co-operated closely with the OAU - devised plans for integration. UNECA was inspired by the example of co-operation and integration in Europe, and proposed similar initiatives in Africa. This culminated in the formation of the Economic Community of West African States (ECOWAS) in 1975, and the adoption of the Lagos Plan of Action in 1980 and the Abuja Treaty on African economic integration in 1991. After ECOWAS was formed, similar regional integration schemes for Southern Africa (1980), East and Southern Africa (1981), and the Maghreb states (1989) also came into being. At the time, the UNECA set up Multinational Programming and Organisational Centres (MULPOC's) in Lusaka, Gisenye, Niamey, Yaounde and Tangier to harmonise these integration schemes, though these were "snail-paced" (Onimode 1996:110).

There was then a shift from purely economic to security considerations. In West Africa, ECOWAS established a Ceasefire Monitoring Group (ECOMOG) to introduce peace and order in Liberia (Ero 1999). These plans were concerned not only with regional market integration, but also about the harmonisation of policies, as well as security co-operation. Similar processes took place in Southern Africa in the mid-1990s. Although the OAU was not the prime originator of these initiatives, it fully endorsed them.

Integration plans were set out in the Abuja Treaty of 1991. The Abuja Treaty foresaw market integration that went further than mere economic co-operation: an African Customs Union by 2014; an African Economic Community by 2025; and an African Union by 2034. This has now been fast-tracked mainly due to the initiatives of Libyan leader Muammar Gaddafi in initiating the Sirte Declaration. The Abuja Treaty was adopted at a time of global restructuring with the end of the Cold War a new reality. During this time, "security was global and development was regional" (Clapham 2001:63). From then onwards, a new generation of post-liberation African leaders realised that unity at all costs meant little more than "seeking the political kingdom": this was necessary, but not sufficient from a developmental point of view. External partnerships globally, as well as stability domestically, became the missing links.

The late nineties then witnessed the emergence of significant policy initiatives aimed at precisely that, plus the economic renewal of Africa. The discourse about the African Renaissance fits in here. Now in the post-Cold War world, "security has become regional and development is global" (Clapham 2001:63). It was in this context that NEPAD arrived. However, NEPAD does not spell out any new continental or regional economic community integration plans. Instead, it calls on existing integration programmes (the Abuja Treaty as endorsed by the Constitutive Act of the African Union) to be speeded up.

NEPAD's Unity and Renaissance Roots

Unity initiatives are rooted in Pan-Africanism. These ideas were first expressed in the United States of America in 1900, before they were embraced by Africans from 1945 onwards (Geiss, 1974).

Kwame Nkrumah was Africa's main theorist on Pan-Africanism. He pleaded for a "United States of Africa", and not for a "United Nations of Africa" which is what the OAU became. Building on the Pan-Africanist ideas of William du Bois and Marcus Garvey in the United States and George Padmore in Trinidad and London, Nkrumah (and Kenya's Jomo Kenyatta and Tom Mboya, Guinea's Sekou Touré and South Africa's Peter Abrahams) became Africa's main inspirer on Pan-Africanism. He advocated an immediate political union of all Africa's former colonies once they became independent. His book, *Africa Must Unite*, published in London in 1963, remains the most powerful single source on this topic dating from those early days of African independence. (In today's terminology, Nkrumah would probably have rejected NEPAD as neo-colonialist, much the same as Gaddafi does. See later.)

The year 1963 was also the year the Organisation of African Unity (OAU) was founded, based in Addis Ababa in Ethiopia. Although the foundation of the OAU was undoubtedly the most glorious moment for the Pan-Africanist movement on the African continent, the founding act - the OAU Charter of 1963 - also contained a contradiction that would fundamentally undermine Nkrumah's vision ever after. This is the dual stipulation in Article II of the OAU Charter that the OAU will not only promote unity but also defend the sovereignty and territorial integrity of independent states. It disallowed intervention in the domestic affairs of African dictatorships. The retention of sovereignty therefore made it an intergovernmental body (Meysns 2002:61). Today the AU has moved beyond that, as supranational institutions will be able to intervene as set out in Article 4(h) and 9(1)(e) of the Act. In this way, the new African Union will look more like the Euro-Union and resemble a "United States of Africa", instead of the OAU that was, as explained above, a kind of "United Nations" of Africa.

In the meantime, the concept of an African Renaissance was popularised. Thabo Mbeki is widely credited as the mobiliser behind this concept of an African Renaissance. It began with his speech in the South African Parliament on 8 May 1996 when he declared "I am an African". Then, visiting the United States in April 1997, Mbeki elaborated on this idea, creating the vision of African renewal (Vale & Maseko 1998:271). At that stage, it was very much a South African concept.

In hindsight it appears it was an idea whose time had come, because acceptance was quick. For example, K.Y. Amoako, the executive secretary of the UN Economic Commission for Africa (UNECA 1999) notes that the vision of an African Renaissance was not a mere mirage. By 1998, the UNECA, as well as the African Development Bank and the UN Conference on Trade and Development (UNCTAD 1998) had committed them

selves to the need for an economic renaissance. The European Union also supported the renaissance (Mouradien 2001). Eventually it led to the drawing-up of several blueprints by African leaders and institutions (for instance Mbeki's Millennium African Renaissance Plan was directly linked to this idea, whereas Wade's Omega Plan and Obasanjo's resuscitated CSSDCA were not expressly linked) for the reaching of this goal (Speio-Garbrah 2001:44-46). This led to NAI. Algeria's Bouteflika and Egypt's Mubarak also endorsed these initiatives.

It also gained academic credibility. It came to combine Africanist views on the reinterpretation of history and culture, as articulated by Pan-Africanists, African and Afro-American intellectuals with the imperatives of new partnerships. For example, Eddy Maloka (2000:1014) argues that the African Renaissance should be viewed within the framework of the long history of the struggle for the reawakening of the continent, and must be based on the historical and cultural heritage of Africa. Pierre Botha (2000:15-42) and Peter Waller (2001:1-10) argue that the African Renaissance is a survival imperative initiated by development-minded African leadership. For others it is Africa's response to marginalisation and globalisation (Godwin 2000:4).

The African Renaissance therefore captured many different visions of the continent and synthesised them into a single project (Vale & Maseko 1998:276) at the time of Mbeki's MAP. Finally, Colin Legum (2000:81-92) concludes that the African Renaissance must be seen as a long-term, century-long project for the revival of the continent, and cautions against judging its successes or failures too soon. Since then, the concept has more or less disappeared, but what has lived on is a much wider legacy.

MAP and Omega were combined in July 2001 after the OAU ordered their merger in February 2001, and called the New African Initiative (NAI). This was adopted by the OAU in Lusaka. The name was changed to NEPAD. Then, in October 2001, NEPAD was officially launched in Abuja, Nigeria, though the secretariat is in South Africa. Quite often the question is asked as to how NEPAD fits into the political organisations working for unity and integration. The Lusaka decision was that NEPAD should be an integral part of the African Union.

The African Union and NEPAD

The Constitutive Act of the African Union was adopted in Togo with the Lomé Agreement in 2000. The CSSDCA was adopted simultaneously. It was ratified when two-thirds of the members signed it on 26 May 2001.

This Act proposed the adoption of 17 organs, as opposed to the OAU's four. Of the 17 new ones, only four are operative: the Assembly or Summit (of Heads of State); the Executive Council (of Foreign Ministers); the Permanent Representatives (of Ambassadors to the AU in Addis Ababa), and the Commission (the former Secretariat). At the Durban Summit, the Peace and Security Council and NEPAD - with its APRM - were established by the AU. The other 13 are still outstanding, such as the Pan-

African Parliament (PAP). As mentioned, the Constitutive Act is a supranational design (akin to the Maastricht Agreement in the case of the European Union), since it proposed not just an African legislature, but also such supranationalist (that is "single-state") institutions for the whole continent as the establishment of an African Central Bank, an African Monetary Fund, an African Investment Fund and a judiciary (the Court of Justice). Details about the executive and judicial branches are still sketchy. The PAP was supposed to co-operate closely with the CSSDCA, but Article 17 of the Act leaves the composition and the powers of PAP to a protocol. Details again are sketchy. One issue that was fast-tracked was that at the Durban Summit, Gaddafi proposed the establishment of a single African Army. These proposals will be submitted for consideration to an Extraordinary Summit within six months; that is, by January 2003.

In this kind of design, sovereignty is at stake as mentioned above. Commenting on the African Unity, Rok Ajulu explains that the Constitutive Act of African Union is ambiguous in so far as it proposed the right to intervene in the internal affairs of member states (Ajulu 2002:2). Peter Meyns also makes the point that the Act states that autocratic rule will not be protected by sovereignty and that the AU will have the right to intervene (Meyns 2002:65).

At the time of the adoption of the Constitutive Act of the African Union in Togo in 2000, many delegates voiced concern at the speed with which Gaddafi wanted to implement the full Act, especially the Pan-African Parliament, presumably (and this is speculation) with its seat in Tripoli (Godwin 2000:4-6). At that time, NEPAD had not yet been adopted by the OAU. However, more was to come: in the aftermath of the Zimbabwe election controversy, NEPAD structures suggested a peer review mechanism to be adopted by the AU, although the Act itself contains no references to this.

In this respect, the Abuja Meeting of the AU Heads of State and the NEPAD Steering Committee on 26 March 2002 was a watershed. It took place just after the Zimbabwe election crisis, and good governance became paramount. It was noted, with approval, that the African Union would have a Commissioner for Democracy, Human Rights and Good Governance. Then followed the Dakar Meeting of the NEPAD Steering Committee on 15-17 April 2002, which mooted the idea of an African Union Unit which would oversee NEPAD's African Peer Review Mechanism (APRM), to be approved by the founding summit of the African Union in Durban in July 2002. This provides for an elaborate set of signing-up processes, progress reports and review mechanisms. It therefore provided for self-assessment mechanisms that could be submitted appropriately to the African Union, which indicated that it would co-operate with the UN Economic Commission for Africa (UNECA) in this respect. The African Union on 9 July 2002 duly authorised the Interim Commission (former secretariat), adopted the Protocol on the Peace and Security Council, referred the proposals for a single African army to an extraordinary session in six months' time, and adopted a declaration on the implementation of NEPAD and the APRM.

By the end of 2001 and the beginning of 2002, these NEPAD institutions referred to above were created, though exactly how is not clear. Baffour Ankomah (2002:20) writes: "By last December, and out of the blue, Nepad had had a 15-member Implementation Committee established to monitor its implementation." The most plausible way to interpret this "out of the blue" is that the Steering Committee of Five (see below) probably decided to invite up to three representatives per region. In Southern Africa's case, this was South Africa, Mozambique and Botswana. At that stage neither SADC nor any other regional organisation was consulted.

The management mechanisms thus consist of the following layers: at the top is the Implementation Committee of Heads of State of 20 members (initially 15). As Africa consists of five regions (the Arab Maghreb Region, the West African Region, the Central African Region, the East African Region and Southern Africa), each region is represented by four countries, initially invited by the Steering Committee. Regional organisations apparently play no role. The African Union is the 21st member of this committee. The Implementation Committee's enlargement from 15 to 20 member states was decided at the time of the Durban Summit, aimed at including Libya in the hope that Gaddafi's inclusion would weaken his opposition to NEPAD (Katzenellenbogen 2002). Again how this happened is not quite clear. Obasanjo is the current chairman of this NEPAD Implementation Committee. Then there is a smaller Steering Committee of Five Members (referred to above) which co-operates closely with the Secretariat in South Africa. The five member countries of the Steering Committee represented the five driving personalities in NEPAD: Ankomah calls them the "A5" (2002:20): South Africa (Mbeki), Nigeria (Obasanjo), Senegal (Wade), Algeria (Bouteflika) and Egypt (Mubarak). It should be pointed out, however, that Mubarak's role became more titular than executive, as he attended neither the NEPAD/G8 meeting in Canada, nor the launch of the African Union in Durban. However, at the time of the Durban Summit when Gaddafi was made a member of the Implementation Committee, it was also rumoured that he was made the sixth member of the Steering Committee. At the time of writing, there was no documentation substantiating this claim. (This surfaced in newspaper reports, but the website on "Documents and Speeches" contains nothing.²) Immediately after the Durban Summit, Gaddafi toured Swaziland, Mozambique and Malawi, in an apparent attempt to win support for his (rejectionist) views on NEPAD. This certainly adds to the dynamics of the politics of NEPAD with SADC (Zambia's Mwanamasa is an outright supporter of Gaddafi, while Mozambique's Chissano is not only an original member of the Implementation and Steering Committees, but also an enthusiastic supporter).

In the period leading up to the NEPAD/G8 summit in Canada in June 2002, and the Durban Summit of the AU, the Implementation Committee had al

² http://www.au2002.gov.za/docs/summit_council/audecisl.htm

ready identified eleven Initiatives for which eight Draft Codes were recommended in Abuja in March. In June, it met again in Italy.

The eleven Initiatives include:

- peace, security, democracy and political governance;
- economic and corporate governance including more efficient African banking as preconditions;
- then the priority sectors: human resources development;
- upgrading infrastructure;
- diversification of agricultural production and exports;
- the environment;
- culture, science and technology;
- capital flows and debt relief;
- creating market access - especially for African agriculture; and
- a new global partnership in the realisation of these objectives.

The NEPAD secretariat calculated that the required commitment of the G8 was \$64 billion annually, calculated as 12% of Africa's Gross Domestic Product: this was required to produce 7% growth. Herbst & Mills (2002) say this is a simple bargain: in return for increased aid, investment, debt relief and improved market access, Africa will commit to peace, good governance and the rule of law.

On the issue of projects, it remains uncertain precisely who or which organisation will take responsibility for the drafting of NEPAD projects: the secretariat in South Africa, the UN Economic Commission for Africa, or the African Development Bank? Durban documentation (see below) suggests that the African Development Bank is crucial in this respect. From this, it was clear that the emphasis fell on infrastructure and agriculture.

The Future of NEPAD: Some Issues

The partnership is about mutual obligations. Africa's obligations in terms of NEPAD may be summarised under five headings: the new African leadership will integrate Africa into a globalisation world; will end armed conflicts; will restructure African economies; will respect human rights and good governance; and will improve infrastructure. These obligations are self-imposed. The G8's response in Canada is in the form of the G8 African Action Plan mooted by Jean Chretien on his African visit (Matisonn 2002). It committed the G8 to half of the \$12 billion made available to developing nations at the time of the Monterrey Conference on Financing for Development. Many critics objected to this as disappointing, saying that this \$6 billion for Africa (for the period to 2006) was not new, since it was previously announced in Monterrey. The issue of better market access for African products into developed markets - including the issue of agricultural subsidies was deferred to the Doha Round of the World Trade Organisation as was predicted by Sally (2002). Capital flows into Africa

was made dependent upon the formulation of viable infrastructural projects by NEPAD, the details of which were listed in a document released by the African Development Bank. On debt reduction, the G8 had committed itself to add \$1 billion to an amount it had already announced in Cologne in 1999. Otherwise, the G8 committed itself to existing IMF and World Bank initiatives. Lastly, the G8 Action Plan lacked any time frames.

NEPAD's partnership with the G8 also raises the issue of conditionalities. In the past these have been imposed by the World Bank, the IMF and the donor community, but in this context first surfaced at the time when the New African Initiative (NAI) was debated. Amaizo (2002:23) says the international donors said "No" to NAI, but "Yes" to NEPAD. He says by introducing the word "partnership", the way was paved for a joint African/G8 document in which more conditionalities were introduced. He comments that the conditionalities are less well-publicised, and may redirect finances to projects that are primarily of importance to the G8 rather than to Africans.

On the nature of the partnership, John Dlodlu (2001) makes the point, "uncharacteristically, the World Bank and the IMF pledged their support". Why this raises interest is tied in with Richard Gibb's question: "But is globalisation compatible with Africa's economic recovery?" (Gibb 2002), especially in the light of Africa's role in global trade and investment that have fallen consistently, and through the era of globalisation. For example, according to Gibb (*ibid*), African exports have fallen from 7.4% of world trade in 1948 to 2% in 2000. Taylor and Nel (2002:163-169) make the general point that globalisation has often promoted the interests of powerful actors such as transnational corporations, the United States and the G8. Unlike the old New International Economic Order (NIEO), NEPAD does not want to stop globalisation, but pushes for greater integration into the global capitalist order. If so, according to Taylor and Nel (*ibid*), the issue arises whether this partnership will not expose NEPAD to counter strategies of co-optation by the North? Moreover, according to President Wade of Senegal, the proposer of the Omega Plan, about two-thirds of the NEPAD resources utilised for infrastructural projects would anyway go to Western companies (Taylor and Nel 2002:174).

This cautious beginning for the partnership may have much to do with the G8's anticipation of the AU's response to the visions of NEPAD: to test Africa's willingness to adhere to self-imposed standards of peace and good political and economic governance. The mechanism through which this is to be implemented is the African Peer Review Mechanism (APRM). The discourse about to what degree the Zimbabwean presidential elections in early March 2002 were free and fair had much to do with this. First, Walter Kansteiner, the US Assistant Secretary of State for African Affairs, said that the election in Zimbabwe was a test for NEPAD (*Business Day*, 10 April 2002). This was spoken after the George and Abuja Meetings. However, Zimbabwe was then suspended from the Commonwealth, and Canadian Prime Minister Jean Chretien visited Africa, also in his capacity as host of the G8 Meeting in Canada in June when NEPAD finances were

supposed to be discussed. Chretien endorsed NEPAD's peer review mechanism. African states doing better - according to the APRM - will get more, while those doing worse, will get less. Only AU members could sign up, and on a voluntary basis.

It is therefore fair to say that the Abuja Meeting of the NEPAD Steering Committee agreed to the peer review mechanism at a relatively late stage, and that the Zimbabwean crisis might have been the catalyst. It will be at the heart of the management of the self-imposed obligations of peace and good governance, and may not necessarily be sited at the African Union, but in an independent institute approved by the African Union. (Speculation is that it may be sited at the UN Economic Commission for Africa.) Peer reviews will determine material support from the outside world. Sally Matthews points out that the NAI document explicitly referred to the request for outside material support for conflict resolution. She then asks: "Is the whole idea of African solutions to fall by the wayside as Africans continue to call on the West to intervene and resolve conflicts on the continent?" (Matthews 2002:23).

All AU member states are potential participants in the NEPAD process, though membership is not automatic. States such as Libya (invited to join the Implementation and Steering Committees) or Zimbabwe will have the right to stay out voluntarily. The guidelines are contained in a protocol that was adopted as the Declaration on Democracy, Political, Economic and Corporate Governance at the Durban Summit. It is this Declaration that contains details on the APRM. As mentioned, it was first mooted at the Abuja Meeting of 26 March 2002. Interpreting the watershed decision of the Abuja Meeting of 26 March 2002, Francis Kornegay (2002a) explains that NEPAD is not punitive - though the consequences may be punitive - but rather an incentive framework which offers aid, trade and investments to qualifying states. With reference to the debate whether the problems with free and fair elections in Zimbabwe and the African response to Mugabe's re-election has been "the test" for NEPAD's credibility, Kornegay (ibid) answers that the West's response infuriated NEPAD because Zimbabwe has automatically excluded itself from NEPAD. It will also be interesting to see whether Libya, the driving force behind the African Union, a participating member of the enlarged Implementation and Steering Committees, but opposed to NEPAD, will benefit from NEPAD projects.

This also raised the issue of the political relationship between the AU and NEPAD. As explained above, NEPAD is part of the African Union. But Baffour Ankomah (2002:21) refers to NEPAD's external funding, separate secretariat and far-reaching implications of the NEPAD-introduced peer review mechanism, and then remarks that it is "a grotesque animal threatening to eat the African Union up". Francis Kornegay (2002b) disagrees. He says there is no way that NEPAD becomes an alternative to the AU, and that they are not comparable. NEPAD is incorporated in the AU, and is aligned with the CSSDCA. However, there is much dynamism involved as the AU had at the time of its inception become polarised between pro-

An important issue concerning NEPAD's future is the role of South Africa, and of SADC. South Africa hosts the secretariat, and the President's Office will be restructured to take account of NEPAD interests as well. Funds are set aside for this purpose. Being owned now by the AU and having representative NEPAD Committees lessens the perception that it is South African-controlled. On SADC, NEPAD documentation alludes to the fact that implementation will take place through regional and national structures. SADC will continue to drive security co-operation and market integration in the region, which are important preconditions for NEPAD's success. NEPAD therefore needs SADC, and SADC needs NEPAD projects. In this way, NEPAD helps, and not hinders, integration. The linkages remain implicit, however. But the concept of "partnership" undoubtedly promotes North/South integration. Stremiau (2002b) comments: the real significance of the G8 meeting in Canada was its promotion of integration, not in Africa, but of Russia that benefited financially more than Africa with a commitment of \$12 billion in order to destroy its arsenal of weapons. Apart from NEPAD's call on existing regional organisations to integrate further, there is not too much interaction at this early stage. For example, at the time of the Durban Summit a list of 77 "NEPAD projects" was released by the African Development Bank and the Nepad Secretariat. The intention, though, is that these projects will be in the form of public-private partnerships and that regional organisations, such as SADC, will be stakeholders in implementation.

What these projects have in common is that most cross borders, and very often involve more than one country. Integration through interdependence will therefore be promoted. The NEPAD Implementation Committee did indicate that proposals for external funding will in the foreseeable future be put before the G8 donors. In this way, integration will be project-driven.

Conclusion

In Africa itself, visions of an African Economic Community were restated by the Sirte Declaration and Article 3 of the Constitutive Act of the African Union. The NEPAD programme refers to the acceleration of these co-operation and integration initiatives. It also foresees that infrastructural projects will be implemented by regional organisations such as ECOWAS and SADC. Such a scenario calls for closer co-operation between such organisations and the private sectors of Africa and of the outside world. As many of these projects are intended to be of a cross-border kind, NEPAD will undoubtedly promote intra- and inter-regional project co-operation, and eventual better market integration regionally. Here, capacity and political will, will be crucial for success. One point of criticism, however, has been that NEPAD has hardly been canvassed among trade unions, professional associations and business. This "partnership model" is deplored by many (Woldemariam 2002 and Mbeki 2002). There is also much uncertainty about relations with the developed world, such as issues of market access, increased aid, debt reduction and infrastructural

investments. The G8 seems to have made good governance the major precondition for this kind of co-operation. This means "wait and see" by the G8, while the onus for self-renewal and project identification have now shifted, more than ever to Africa, its leaders and its nations.

At best benefits may be mixed: a more peaceful and a better governed Africa will attract more support than non-compliant states; infrastructural projects that are commercially viable will attract more investment than other projects; and project investments as well as trade will benefit the private sectors more than the public sectors. For Africa as a whole, the elusive ideals of development may not come through partnership with the North, but maybe through more stability and better governance at home. This may help the integration process. Until then, benefits may accrue only to those playing according to the rules of the West. That is, if the West abides by the rules.

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The Zimbabwe Crisis and SADC: How to Deal with a Deviant Member State?

Christian Peters-Berries

Introduction

Over the last two years, hardly any African country has received as much international attention as Zimbabwe. None of this publicity has been positive, however, as the world press reports on the general breakdown of the rule of law, invaded and looted farms, murdered white farmers and opposition supporters, and Government-sponsored inverted racism directed against the white minority in that country. Lately, worrying information about a looming famine in Zimbabwe has been adding to the negative picture.¹

Little distinction is made between Zimbabwe as a country and the region of which it is part. As a result of increased regional inter-dependence in Southern Africa in political and economic terms, and high expectations related to the 'New Partnership for Africa's Development' (NEPAD), the crisis in Zimbabwe has and will continue to have a marked impact on the region, and on SADC as an organisation.

The paper attempts to assess the political, economic and to some extent the social impact of the crisis in Zimbabwe on SADC. It will look also at the reaction of SADC as an organisation and those of its key members on the developments in Zimbabwe.

The Zimbabwe Crisis - a Short Review

What is now often termed the 'Zimbabwe Crisis' is a complex situation, which has its origins in a number of structural factors emanating from the country's special history. These structural factors can be summarised as follows:

- A grossly uneven distribution of land and economic resources between an affluent white minority and an increasingly impoverished black majority,² which changed little after Zimbabwe became independent in 1980. This eventually provided the social context for the current crisis.³
- Only partially implemented socio-economic reforms including land reform, economic liberalisation and privatisation of parastatals led to

¹ Latest estimates put the maize deficit in Zimbabwe until the next harvest at more than 1 million tons; more than 6 million people are estimated to face starvation if help is not forthcoming fast; see: *The Economist*, 1.6.2002:43, 29.6.2002:41f.

² On the extent of poverty in Zimbabwe see Sabine Fiedler-Conradi (1999:9). According to her in 1995/6 61% of all Zimbabwean households and 76% of the population was poor; 45% of households were very poor, i.e. unable to meet basic physical needs. Moreover, the national GINI-Coefficient of 1998 of 0.26 puts Zimbabwe amongst the worst countries in the world as far as inequality of property and income distribution is concerned.

³ See for example Moyo (1995;1998).

socio-economic paralysis disadvantaging the younger generations. This, however, dates back to the years immediately after independence, when the majority of combatants did not benefit economically from the 'liberation'. Thus tens of thousands of Zimbabweans felt betrayed by the outcome of the liberation war they had waged for close to a decade.

- An increasingly authoritarian political system that vested far-reaching and barely-controllable powers in the office of the Executive President.⁴ Over the past few years, this has allowed President Mugabe to ignore Supreme Court orders, to utilise the police, secret police and army to quell opposition in the countryside and to shun international criticism.
- Rampant corruption and cronyism embedded in a system of political patronage has eaten away the political legitimacy of the Mugabe Government and hampered any meaningful economic reforms⁵. Towards the end of the 1990s, Mugabe and his closest allies had to be genuinely afraid of losing power, and perhaps even of being called to account for their alleged embezzlements.

The crisis itself was triggered by two events:

1. the establishment of a potent challenge to the ruling ZANU-PF party in the form of the Movement for Democratic Change (MDC) in September 1999, which was led by the former union leader Morgan Tsvangirai; and
2. the loss of a constitutional referendum in February 2000, which was the first loss ever that the ZANU-PF Government of Robert Mugabe had suffered.

The intervention of Zimbabwean troops in the civil war in the Democratic Republic of Congo (DRC) from August 1998 and the transformation of the war veterans into a political force contributed significantly to the economic meltdown and provided for the socio-economic framework on which the political crisis could thrive.

The new party, MDC, managed to focus the growing (urban) discontent with the Mugabe Government about price increases for basic commodities, fuel shortages and general corruption into a rejection of the new constitution - the first (and so far only) electoral defeat Mugabe ever suffered. This

⁴ According to the constitution, the president –

- is the supreme commander of the security forces;
- can block any legislation with his veto;
- can dissolve Parliament at any time for any reason;
- can rule by Presidential decree valid for 181 days;
- appoints 30 additional members of Parliament on top of the elected 120 MPs; and
- can overrule any court order (see Peters-Berries 2001).

⁵ The plundering of a fund meant to compensate veterans of the liberation war for justice and psychological trauma by the political establishment (August 1997) was probably the most damaging act of politically-approved corruption by the establishment; see for example Peters-Berries (2001).

defeat then triggered the virulent crisis as the war veterans, under their late leader Chenjerai Hunzvi, took the initiative and started to invade, occupy and loot white-owned farms, justifying it as the third *chimurenga*. Mugabe snatched up the chance to regain the political initiative just before the June 2000 parliamentary elections, and put himself at the top of the column, calling it 'accelerated land reform'. During the violent campaign against white farmers, their farm workers and supporters of the opposition (mainly MDC) in the run-up to the June 2000 parliamentary elections, more than 30 people were killed, scores tortured and raped, and hundreds of farms occupied and looted. The previously highly independent judiciary was intimidated and replaced by more government-friendly judges.⁶

The message this conveyed to the world - as the events in Zimbabwe were widely reported upon on all major news channels world-wide - was clear: the Zimbabwe government, and at its helm President Mugabe, were fighting to stay in power with little or no regard for the human, social, political and economic cost. That Mugabe's ZANU-PF party narrowly won the parliamentary elections⁷ reinforced the perception in the West that the elections were not free and fair.

In the aftermath of the elections, the opposition from MDC was showing signs of political weakness. They appeared unable to take any political initiative, and were divided on how to respond to the violent campaign waged against their predominantly urban supporters by war veterans, a newly created and militarily trained Youth Brigade and even the security forces. The intimidation campaign waged by ZANU-PF intensified the closer the date for the presidential elections came. ZANU-PF reverted to 'mobilisation' strategies similar to those employed in the preparations for the first elections in 1980: sending militias out on a campaign of rural terror, either forcing people to vote for Mugabe or at least to abstain from voting for the opposition candidate Morgan Tsvangirai. In the urban areas, this was increasingly met by counter-violence and did not succeed. But it was enough to ensure Mugabe a safe victory in the March 2002 elections.

The current (August 2002) situation in Zimbabwe is thus characterised by –

- wide-spread lawlessness coupled with serious violence against Whites, Asians and opposition supporters;
- sharp economic decline accompanied by severe shortages; fast-rising unemployment (70%) and inflation (116%) levels;⁸
- an intensifying feeling of hopelessness and despair amongst ordinary Zimbabweans; and
- growing international proscription.

⁶ See the daily reports on www.zwnews.com.

⁷ The EU Election Observer Mission declared the elections as not free and fair due to the tremendous amount of violence and intimidation emanating from the ZANU-PF camp and biased access to the media.

⁸ See *The Economist* (London), 23.02.2002:30f.

The Impact on SADC

The developments in Zimbabwe have had a negative impact on SADC on at least four different levels. The Zimbabwe crisis –

- damaged the international reputation of SADC and in the West undermined the credibility of some of its leading politicians;
- had and still has negative economic consequences for a number of SADC countries regarding exchange rates, direct foreign investment, and/or stock market developments;
- undermines through its implications regarding land policy the political stability in at least South Africa, Namibia and Malawi; and
- slows down the pace of regional economic integration as far as trade, transport and food security are concerned.

SADC's Damaged International Reputation

SADC's reputation as an organisation has suffered from the Zimbabwe crisis because it has been perceived by most Western countries as watching inactively as one of its key members plunged into political turmoil and socio-economic unrest.

The document originally establishing the SADC OPDS spells out quite clearly that the principles of good governance each member state is supposed to adhere to are the "... d) observance of human rights, democracy and the rule of law ..." (Meyns 2001:258).

However, the official SADC documents such as the Treaty (1993) do not determine what the organisation or its individual members must or can do in case another member loses its democratic way. Are they supposed to intervene in military terms? Should they apply diplomatic, political and/or economic sanctions against deviant members? Or would it be the best course of action to resort to a strategy of 'quiet diplomacy'?

The clearest statements in this regard can - ironically⁹ - be found in the document first establishing the OPDS (Meyns 2001). It urged the SADC countries to strive for the –

- a) *sovereign equality of all member states;*
- b) *respect for the sovereignty and territorial integrity of each State ...;*
- c) *achievement of solidarity and peace in the region; ...*
- f) *peaceful settlement of disputes by negotiation, mediation and arbitration;*
- g) *military interventions of whatever nature shall be decided upon only after all possible political remedies have been exhausted in accordance with the Charta of the OAU and the United Nations.*

⁹ When Zimbabwe slid into its current crisis the OPDS had been virtually defunct since 1997. Only after the extraordinary summit in Windhoek in March 2001 did the factual revival of the Organ commence – too late to have any immediate impact on the situation in Zimbabwe.

While the reformed OPDS is now based on a slightly different agenda, the basic principles of the original document are still valid and were definitely relevant when the Zimbabwe crisis first unfolded.

In the case of Zimbabwe, military intervention was never an option for SADC. On the other hand, diplomatic, political and economic sanctions against Zimbabwe could have been an option, especially for South Africa - at least that was and still is the perception in the North and has also been called for by the opposition in Zimbabwe.

The approach of a 'quiet diplomacy' as applied by SADC towards Zimbabwe is probably the most appropriate one at the beginning of a crisis which was unfolding itself only gradually. It carries, however, the danger of being misunderstood as 'appeasement' and/or even instrumentalised by the regime under pressure. It also can easily be misinterpreted by external observers as showing signs of political weakness as far as the mediators are concerned. The latter was most probably the case with regard to South Africa. President Thabo Mbeki's quiet efforts to convince President Mugabe to return to a path of good governance and end the lawless state of affairs in Zimbabwe seemingly fell on deaf ears, at least as long as Mugabe was fighting for his political survival. Also, the efforts of the SADC chairmen President Sam Nujoma (Namibia) until August 2001 and President Bakili Muluzi (Malawi; current chairman), various ministerial delegations to Zimbabwe and even some more recent public admonishments did not change the course of political developments in Zimbabwe.

Consequently, the criticism of the West (and here especially from Britain) and of international Human Rights organisations such as Amnesty International was soon no longer confined to the developments in Zimbabwe, but extended to the way in which SADC and its leading power South Africa were handling the crisis in Zimbabwe.

As a result, SADC was increasingly seen by the West as politically unstable and its leadership as being indecisive or even condoning undemocratic behaviour. The most visible indicators for the changing perception of the globalised economy regarding SADC were the currency turmoil the South African Rand (ZAR) and the Zambian and Malawian Kwacha experienced from mid-2000 and the declining rate of foreign direct investment in the region despite the ratification of the SADC Trade Protocol and the Preferential Trade Agreement between South Africa and the EU.

The Economic Costs of the Zimbabwe Crisis for the Region

The Zimbabwe crisis influenced the region's economic fortunes negatively from 1999, as the country was not only the second strongest economy of SADC but also a central link in the transport network of the region, the regional electricity grid and food security strategy. Moreover, the negative international publicity about Zimbabwe has cost SADC in terms of foreign direct investment (FDI), tourism arrivals and currency stability.

The major economic costs of the Zimbabwe crisis for SADC can be summarised as follows:

- FDI has slowed down for the region since 1999. Already in the first quarter of 2000, FDI to the region was 40% below that of 1999.¹⁰ Regional growth forecasts, which had been very optimistic for the year 2000, have been down-scaled because of the turmoil in Zimbabwe. Investors have been scared away particularly from landlocked countries such as Botswana, Zambia and Malawi, which are to some extent dependent on Zimbabwean transport routes.
- Intra-regional trade has slowed down since 1999 despite the start of the implementation of the SADC Trade Protocol. This is partly due to increased transport costs for intra-regional traffic as the fuel crisis in Zimbabwe from January 2000 to June 2001 made the country difficult to pass for trucks servicing the landlocked countries such as Malawi and Zambia. Another factor could be the difficult regulations of the Trade Protocol, which because of its complexity may be likened to a non-tariff trade barrier. But also a major cause for the decrease in intra-regional trade is the economic crisis in Zimbabwe itself, which led to a substantial decrease in trade with South Africa. In 1999 Zimbabwe was South Africa's seventh biggest export market worldwide and biggest export market in Africa. Unlike South African exports to Europe, the exports to Zimbabwe are to a large extent manufactured goods and thus have a comparatively strong bearing on South African employment levels.¹¹ Any reduction in exports to Zimbabwe have a visible effect on the South African economy.
- Reduced income from tourism as foreign guests were afraid to visit a region in turmoil (although that was only true for Zimbabwe). While the Zimbabwean tourism industry has almost collapsed,¹² other countries such as Swaziland, Botswana, Zambia and Malawi have also been affected. The impact on the South African tourism industry has not been all that dramatic, but is still palpable.
- Unstable currencies such as the South African Rand (ZAR), the Zambian Kwacha (ZK) and the Malawian Kwacha (MK). While the Zimbabwe Dollar's value has reached record lows on the black market, many of the other SADC currencies also lost heavily against the major currencies. In particular, the ZAR's drop by nearly 50% between 1999 and January 2002 cannot be attributed to a strong US\$ alone, but must also be blamed on the civil strife and economic decline in Zimbabwe.

¹⁰ See *Mail & Guardian*, 12.5.2000.

¹¹ *Business in Africa*, (7)1999.

¹² Although no official figures on tourist arrivals are currently available, the crisis is evident from the high number of hotels, lodges and resorts which have either closed or reduced their operations to a minimum. In Victoria Falls – the major attraction in Zimbabwe and also one of the highlights of regional package tours – the occupancy rates in the hotels reached less than 10% in 2001.

The crash of the ZAR has shaken the other SADC countries considerably. In the wake of the Rand devaluation, the Zambian and the Malawian Kwacha also lost considerably against major currencies.

- Erratic Stock Exchange movements in South Africa. As much as the Rand is the regional lead currency, the Johannesburg Stock Exchange (JSE) is the most important stock exchange of the SADC region. It reflects and magnifies economic thinking and attitudes towards the SADC region like a prism. In March 2000, when the farm invasions started in Zimbabwe, the JSE index lost 18% of its value in one week as international investors hurried out of the JSE. The Malawi Stock Exchange experienced similar problems and blamed them squarely on Zimbabwe's internal unrest.¹³ The worldwide slump of stock exchanges after the tragedy of 11 September 2001 has since prevented the JSE from recovering substantially.

The economic costs to the region are thus reduced investment levels, less employment (forcing skilled people to leave their home countries), higher prices and interest rates and unstable currencies and stock exchanges, which will all eventually undermine the region's investment climate further.

The Political Fallout from Zimbabwe on its Neighbours

Politically, the direct fallout from the Zimbabwe crisis on its neighbours was less visible than the economic effects. This has to do with the adopted policy of 'solidarity' with Mugabe, which was so much criticised by the West. By keeping Mugabe within the circle of 'respected' SADC leaders, the potentially disturbing political effect of the Zimbabwe crisis on countries such as South Africa, Namibia, Zambia and Malawi was minimised. Thus the actual and the potential political negative consequences of the Zimbabwe crisis on SADC countries must be differentiated when looking at the political impact of the Zimbabwe crisis on its neighbours.

The potential negative political repercussions of the Zimbabwe crisis on SADC countries pertain to the following aspects:

- **Destabilisation of uneasy racial relations:** In South Africa, Namibia and to some extent Zambia and Malawi, race relations are far from relaxed because of the pronounced socio-economic differences between the white and black or Indian and black segments of society. The cynical populist racial instigation of President Mugabe against the Whites with its politically encouraged farm invasions can easily lead to copying by ambitious politicians (as the PAC in South Africa). The destabilising costs of renewed 'racial' conflicts especially in South Africa and Namibia would be tremendous.
- **Destabilisation of unsolved land reform processes in neighbouring countries:** As in Zimbabwe, South Africa, Namibia and Malawi are faced with the problem of unequal land distribution along racial lines. The

¹³ See *The Nation* (Blantyre), 05.03.2002.

governments in these countries have so far trodden carefully in order not to “kill the goose laying the golden eggs“, as white commercial (often large-scale or plantation-type) agriculture still provides an important economic asset. Land reform processes have been initiated in both Namibia and South Africa in accordance with the respective country’s laws and the agricultural skills of landless black people. In South Africa Land Claims Courts have been established which handle the demands for redistribution of disputed land. The process, however, has been criticised as being cumbersome, slow and inefficient. Following the Zimbabwean example - as President Mugabe urged Namibians to do during a visit in May 2000¹⁴ - would, however, not only offset any economically smooth and lawful land reform process, but would practically kill it. Land reform processes are costly¹⁵ and usually need external support, which is only forthcoming when such reforms are implemented in an orderly and lawful way. After some early indications that certain pressure groups in South Africa, particularly in Northern Province (bordering Zimbabwe), would no longer be sufficiently patient to let the lawful process run its course and were keen to take the law into their own hands,¹⁶ swift and decisive reaction from the South African Government ensued. In Malawi, the Zimbabwean land invasion inspired landless peasants to illegally occupy parts of the big tea estates in the Southern Region (Mulanje District). They were encouraged by a local strongman turned political ‘dissident’ (Brown Mpinganjira) more for political gain than out of a genuine concern for the fate of the people. The British owners of the tea estates used their channels to the British Government to put pressure on the Muluzi Government to act against the squatters. Muluzi, however, was limited in his room for manoeuvre because he feared alienating crucial voters and playing into the hands of his political rival Mpinganjira. As a result the land invasions are a low-key topic in Malawi and the squatters are not removed. In the wake of the forthcoming election in early 2004, ‘land’ could become an important issue.

The land crisis and the Zimbabwean way of dealing with it might, on the other hand force Governments in the region to take demands for a just distribution of land seriously.

¹⁴ See *Sunday Times* (Johannesburg), 28.5.2000.

¹⁵ It is estimated for Zimbabwe that developing the land to be used for resettlement (physical and social infrastructure, marketing facilities, etc.) will cost ca. 40 times as much as the mere purchase of the land. In the Namibian case, land invasions would on the one hand upset the delicate ecological balance and lead, with high probability, to land degradation, and on the other hand to a strong loss in employment and production; see Maier (2001:18).

¹⁶ See *Mail and Guardian* (Johannesburg), 5.5.2000.

The already tangible negative political repercussion of the Zimbabwe crisis on SADC countries are as follows:

- **Increased illegal immigration into South Africa** is already a serious problem for South Africa, as currently several hundred thousand mostly illegal immigrants from Zimbabwe are living in the country. As the situation in Zimbabwe has worsened and the South West of the country has a severe food shortage, the stream of illegal immigrants has risen even further. The Botswana authorities have reported that they had sent more than 14 400 illegal immigrants back to Zimbabwe during the first six months of 2002.¹⁷
- **Damages to the political culture** as in Malawi and South Africa, where vigilante groups are starting to undermine the rule of law and the accountability of politicians. In Malawi, so-called 'Young Democrats' intimidate, damage the productive base (printing presses) and even kill supporters of political opponents or their respective political masters. They have clearly been fashioned after the image of the 'war veterans' in Zimbabwe, though some similarities might also apply with regard to the 'Young Pioneers' of the Banda regime. In South Africa - although based on different roots in the liberation struggle - immediate 'justice' handed out by self-proclaimed neighbourhood watches, vigilante groups and white militia is on the increase again.

The Impact on Regional Integration in SADC

The Zimbabwe crisis has also affected the regional integration efforts of SADC. Deeper integration has to some extent been made more difficult. As seen above, the crisis in Zimbabwe lowered trade volumes, increased intra-regional transport costs and strained the regional electricity network. The implementation of the trade protocol as started in early 2001 can only succeed if the intra-regional trade volumes are increasing (trade creation). As South Africa and Zimbabwe account for a large share of the overall intra-regional trade¹⁸ and Zimbabwe's ability both to afford imports and to export has suffered severely from the internal developments, the overall trade volumes are decreasing. Both the fuel shortage in 2000/2001 and the threat of political turmoil have negatively affected Zimbabwe's role as a transit country. This has also contributed to the decline in trade volumes. The realisation of the trade protocol and its benefits could thus become more difficult than expected to achieve.

At this stage it is difficult to determine whether the crisis in Zimbabwe helped to facilitate the internal reforms in SADC pertaining to the reorganisation of the set-up and the OPDS. Moreover, it is hard to say, as

¹⁷ See *The Mercury* (Durban), 13.08.2002.

¹⁸ In 1996 the trade between South Africa and Zimbabwe alone accounted for about 13% of the overall intra-SADC trade; the exports of both countries to SADC amounted to 79% of overall intra-SADC exports (SADC 2000:6).

concrete evidence and hard figures are not yet available, in which way the crisis in Zimbabwe and the Western reaction to it has influenced thinking and political behaviour in the SADC states. It seems that it has led to a greater awareness amongst political leaders about the dangers of delaying crucial structural socio-economic reforms in some SADC countries. It also seems to have contributed to an understanding of inter-relationships within the region. Last but not least, the Zimbabwe crisis and its political and economic fallout have demonstrated that SADC needs to have clear and enforceable policy principles in place to avoid undue pressure from the West.

The International Reaction

The Regional Reaction

The developments in Zimbabwe have naturally been of great concern to its neighbours and to SADC. Zimbabwe is a key factor for the regional economy as it links most of its transport and energy systems and forms part of the bread-basket for the region. A politically unstable country with a declining economy in the heart of the region greatly affects all its neighbours. However, SADC as an organisation as well as Zimbabwe's immediate neighbours have been quite wary of openly criticising the Zimbabwean Government; instead they have pursued for the most part an approach of 'quiet diplomacy'.

Namibia, which held the SADC chairmanship from August 2000 to August 2001, together with South Africa and Mozambique tried to keep open the channels of communication to President Mugabe and his government. In a series of high-level meetings and at the various ordinary and extraordinary SADC summits, the last of which took place in Blantyre (in January 2002), the SADC leaders repeatedly urged the Zimbabwean government to respect the rule of law, human rights, the independence of the judiciary and to curb political violence.¹⁹

Only at a SADC meeting in Harare in September 2001 did the new SADC chairman, President Bakili Muluzi of Malawi, show the Zimbabwean Government for the first time the growing irritation of its neighbours when he declared that Zimbabwe's turmoil was of its own making:

*To me the problem lies in the way the government of Zimbabwe is trying to implement the land reform process and the principle of equitable land distribution. That is the heart of the matter.*²⁰

The Zimbabwean Government was further called to task at the Extra-ordinary SADC Summit in Blantyre in January 2002. In the official communiqué (SADC 2002) the Heads of State called upon Zimbabwe to (inter alia) –

¹⁹ See Amnesty International Press Statement 15.01.2002: "Zimbabwe: SADC's 'Quiet Diplomacy' should not be silent acquiescence in human rights violations".

²⁰ Quoted from *The International Herald Tribune*, 12.9.2001.

[show] full respect of human rights including the right to freedom of opinion, association and peaceful assembly for all individuals; ...

... [allow for] the accreditation and registration of national independent monitors in good time for the elections;

[allow for] a timely invitation to, and accreditation of a wide range of international election observers; ...

... [make a] commitment ... to the independence of the judiciary and to the rule of law; and

[ensure] the transfer ... of occupiers of non-designated farms to legally acquired land.

The Zimbabwean Government pledged to adhere to these principles during those meetings, but acted differently thereafter. In mid-2001, the South African Government also began to criticise Zimbabwe more openly, and defeated a motion of Libya's Qaddafi to back Zimbabwe during an OAU meeting.²¹

Most of the neighbours of Zimbabwe and other African states, however, continued to shy away from openly criticising Zimbabwe, in particular the election processes and results and the increasingly lawless state of country. In fact, a number of African organisations and governments endorsed the results of the Presidential Election in Zimbabwe in March 2002:²²

... we are largely satisfied with administrative arrangements of the election process despite some difficulties that we experienced ... (Namibia)

... the poll was legitimate. (South Africa)

... in general the election was transparent, credible, free and fair. (OAU)

... the will of the people of Zimbabwe has prevailed. (ANC)

... the elections were substantially free and fair. (SADC Ministerial Task Force).

The situation was particularly embarrassing for the South African Government when its hand-picked observer team declared the presidential elections of March 2002 and its result as 'legitimate' (steadfastly avoiding use of the internationally accepted terms 'free' and 'fair'), as this assessment was in contradiction to the Commonwealth Observer Group (2002) – of which South Africa was also a member – and the verdict of the SADC Parliamentary Forum.

The region – both through its organisational structures and most of its national governments – created the impression to the rest of the world that it tacitly condoned Zimbabwe's behaviour. The predominant perception generated was that SADC had been unable to deal with a regional crisis and that the creed for democracy and human rights was for some heads of state in the SADC region only a matter of paying lip service.

²¹ See *The Economist*, 3.11.2001:47.

²² See website of the Electoral Institute of Southern Africa (EISA), which compiles a full account of the reactions on the Zimbabwe Presidential Election of March 2002, www.eisa.com.

The Reaction of the West

The irritation of the West with the governance record of Zimbabwe started in 1998, when the country sent 10 000 troops into the DRC to protect a regime that was not democratically elected and was under threat from rebels. The row between the Zimbabwean and British governments which erupted over land reform in Zimbabwe, and the funding of its compensatory mechanisms at about the same time, contributed further to the setting of a conflict in which Zimbabwe saw itself under increasing scrutiny from the West. Western countries and funding agencies expressed concern first about the spiralling budget deficits, then about the farm invasions, the breakdown of the rule of law, the contempt for human rights, and finally about the political violence which had engulfed the country since March 2000. Another factor was concern about the plundering of natural resources in the DRC by Zimbabwean politicians and military leaders and the use of the Zimbabwean army to safeguard this looting under the cloak of the ongoing civil war (UNSC 2001:16ff).

The Western reaction justified by the non-adherence to agreed economic policy targets and defaulting on loan repayments was to freeze or suspend aid. At the same time Zimbabwe was also suspended from access to IMF loans and structural adjustment programmes, as it had defaulted on repayments since 2000. The World Bank stopped any financial support to Zimbabwe as far back as July 1999 for the same reasons; on top of that the banks downgraded Zimbabwe's creditworthiness to levels where it became virtually impossible for the country to obtain commercial loans without the provision of extensive collateral. The USA excluded the country from its trade incentive scheme for Africa (AGOA).

By mid-2002, the bulk of the remaining development co-operation to Zimbabwe had been channelled to NGOs. Apart from the German GTZ, the British DFID and the Dutch development co-operation also closed down their offices - or are in the process of doing so. Just before the 2002 elections, the EU imposed 'smart' sanctions on the Zimbabwe leadership:²³ the assets of the 20 top people including President Mugabe in EU member states are frozen and none from this group is allowed to travel to the EU any longer. This move was upgraded in July 2002 to include 72 people.²⁴ The USA passed a similar law.

The biggest blow, however - at least to the ego of President Mugabe - was the one-year suspension of Zimbabwe from the Commonwealth as a direct result of what the Commonwealth regarded as flawed elections in March 2002. The suspension from the Commonwealth followed a long

²³ The Zimbabwean government had refused to accredit the leader of the EU election observer team, which forced Brussels to withdraw its entire team. As a further reaction the EU imposed the 'smart sanctions'.

²⁴ See the statement on General Affairs and External Relations of 22 July 2002 by the Council of the European Union after its 2447th meeting.

discussion amongst the former British colonies on how to deal with Zimbabwe. While the British and Australian governments had already pushed for a suspension following the 2000 elections, the majority of the member states refused such drastic action, arguing that a suspension would only be possible if a military putsch took place, and could not be evoked on a formally democratic country. The suspension in 2002 was then the result of dismay about the conduct and result of the presidential elections, and probably of some heavy arm-twisting by the British government. When Australian Prime Minister Bob Hawke - as the speaker of a high-powered assessment team on the elections in Zimbabwe - made the announcement in London, the other team members - the South African and the Nigerian presidents - went along out of concern that otherwise the future of NEPAD could be in jeopardy.²⁵

In other words, since July 2002 Zimbabwe has been rather isolated outside Southern Africa and receives support from only a few countries such as Libya.²⁶

Possible Explanations for the Muted SADC Reaction on Zimbabwe

The reasons behind the somewhat tolerant reaction of SADC towards the economically negative and potentially politically destabilising repercussions of the developments in Zimbabwe on SADC and its individual member states have to do with a number of reinforcing factors:

- Fear of political destabilisation;
- Basic resentment against attempts at political influence by Western donors; and
- Similar political socialisation of major SADC leaders and Mugabe.

Fear of Political Destabilisation

The *political fears* of Zimbabwe's SADC neighbours regarding the impact of the Zimbabwe crisis can be summarised as follows:

- Political fear amongst leaders of an import of the Zimbabwe 'revolution- type' solutions for pressing social problems. The particular interest of some regional governments is to keep the land issue out of politics. One way to achieve this was to deny President Mugabe any reason to interfere with the delicate topic in any of these countries. Mugabe had made it clear in Namibia that he considered the 'Zimbabwean solution' to the land problem a path other countries in the region should follow. By supporting Zimbabwe, other SADC countries hoped to keep the land issue out of their internal politics.
- Internal destabilisation of Zimbabwe: President Mugabe and his top generals emphasised on several occasions that they would not be

²⁵ See also Chapter 5 and the discussion about NEPAD.

²⁶ Libya is said to provide the bulk of the Zimbabwean fuel requirements on undisclosed terms.

prepared to hand over the country to the opposition, even should Tsvangirai win the presidential elections.²⁷ They stressed (also with a view to the electorate) that they would take up arms, and hinted that a new civil war could be on the cards. A civil war in Zimbabwe would not only paralyse SADC, but at some time would have forced the organisation to make a decision about applying sanctions - or even an intervention. Moreover, South Africa in particular was afraid that it could be faced with millions of refugees in the case of a civil war in Zimbabwe.

By giving Mugabe an economic life-line (in case of South Africa) and backing him politically the SADC leaders indirectly supported him against Tsvangirai²⁸ in the hope that he would win the elections and a civil war could be averted.

Resentment against Western Attempts to Influence Internal Politics in SADC Countries

Over the past decade Western donors have increasingly focused on aspects of good governance, democracy and human rights as a condition for aid. Despite the fact that no common working definition for these issues exists amongst donors, it has led to increasing pressure on undemocratic or authoritarian regimes, as aid was frozen or cancelled in some cases (Nigeria, Kenya, DRC). The 'democratic conditionality' of aid has also affected some SADC members other than Zimbabwe, such as the DRC, Malawi and Zambia. Substantial aid promised to the DRC was cut off when it became obvious that the late President Laurent Kabila was not interested in holding elections and the civil war erupted.

Malawi had a number of run-ins with Western donors such as the UK, EU and Denmark over the last three years. A row over good governance and the role of the ambassador led to the expulsion of the Danish Ambassador in October 2001, and the subsequent closure of the Danish Embassy and all development projects until 31 May 2002 (Peters-Berries & Fauti 2002). The EU and the UK are currently delaying or withholding pledged budgetary support in an attempt to force the Muluzi Government to become more transparent and committed to good governance. This provoked President Muluzi in January 2002 to say that donors should not try to teach democracy to Malawians as the country was mature enough to know itself what was good for it.²⁹

In Zambia, donors in conjunction with an active civil society forced the former President Frederick Chiluba to backtrack from his officially announced intention to stand for presidency for an unconstitutional third term in December 2001.

²⁷ See, for example, *The Economist* (London), 23.02.2002:31.

²⁸ Tsvangirai was seen by many of the SADC leaders as being too close to white economic interests. In South Africa he was portrayed as being close to the white opposition of the Democratic Alliance under Tony Leon. He was only able to meet top ANC politicians in 2001.

²⁹ See *Daily Times* (Blantyre), 25.01.2002.

In other words, there was definitely resentment in some SADC countries against Western attempts to tell them how to conduct themselves. Even the South African Government became increasingly annoyed with Western 'interventions' in their policies. The criticism from the West regarding former President Nelson Mandela's visit to Libya in 1996 was repudiated as none of their business; the controversial stand of President Mbeki on HIV/AIDS was also attracting criticism from the West, which South Africans - even if they did not share Mbeki's views - were rejecting.

Against this background, President Mugabe was able to score points for his course when he portrayed the (media) campaign in the West as malicious, unfounded and fuelled by anti-Africanism. Especially in his tirade against the UK Mugabe was able to score home a number of times as the British press and some members of the British government, such as the current Minister for European Affairs, Peter Hains, seemed to be on a kind of crusade against Zimbabwe and its government. This might help to explain why SADC leaders showed solidarity with President Mugabe and his politics, even when they did not entirely agree with them.

Similar Political Socialisation of SADC Leaders

A further reason for the sometimes surprisingly strong solidarity of SADC leaders with President Mugabe could be their similar political and cultural socialisation. While this argument can be regarded as speculation, it may also help to explain some of the - for the West - surprising developments and attitudes in the region.

In the (Southern) African context it is socially and culturally not accepted to criticise an older person, as a matter of respect. It was thus difficult for 'junior' persons - even if they are presidents of bigger and more powerful countries such as South Africa - to approach President Mugabe, being the oldest of the SADC presidents in age and years in office. While this cultural practice may have made it difficult to openly criticise President Mugabe, the rather similar political socialisation of Presidents Mbeki, Nujoma, Chissano, dos Santos (Angola) and the late Laurent Kabila in the liberation struggles of their countries probably formed a solidarity band which it was difficult to break. The way President Mugabe and his colleagues from Namibia and Angola immediately rushed to support Laurent Kabila in the DRC when he was on the brink of being overthrown by rebels says something about this "club of the old liberation war leaders".

Conclusion

The Zimbabwe crisis has damaged the SADC region in three ways:

1. It has tarnished the reputation of SADC as a stable and generally democratic region in Africa attractive to foreign investors, donors and tourists alike. It might even contribute to problems for the acceptance of NEPAD through the G8.

2. It has brought the region social and economic costs - albeit difficult to quantify - through reduced FDI, lower tourism arrivals, higher intra-regional transport costs, loss of intra-regional trade and increased illegal immigration.

3. It has to some extent undermined the political stability and democratic process in the region, as politicians in South Africa, Namibia and Malawi might be compelled to follow the Zimbabwean way of handling a 'land reform' process. At the same time the implicit acceptance of the way President Mugabe used violence, vigilantes and even racism to stay in power could have repercussions throughout the region which are not yet fully visible.

The crisis has also demonstrated that SADC as an organisation has no 'tool kit' or even policy on how to react if member states experience a constitutional crisis with repercussions to the region. SADC urgently needs a code of conduct as far as good governance, adherence to democratic principles and human rights are concerned, that could for example follow the line taken by the NEPAD document (2001:17f) which is not only accepted all over SADC, but also enforceable.

In this respect it could be argued that SADC should adopt a differentiated set of political reactions to respond to political crises in its member states:

- Quiet discussions to determine whether support is needed for a country in political distress, or if a potentially 'erring' leader needs to be brought back into line;
- Open warning if a member country does not adhere to the agreed principles of democracy and good governance, with the understanding that political and economic sanctions could be imposed;
- Imposing economic sanctions, for example in the form of withdrawal of regional insurance covers, bank guarantees, credit lines or the interruption of traffic, electricity or water in a scaled manner;
- Imposing political sanctions; for instance in form of exclusion from SADC meetings up to a temporary suspension of membership; and
- Military intervention as a very last resort in case a military coup takes place and a plea for help by the ousted legitimate Government for support to the SADC authorities is made.

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The Quandary of Land Policy Implementation in SADC: Lessons from Malawi

Rafiq Hajat

LAND! An intensely powerful, emotional, and controversial subject. A glance through the annals of history reveals the fieriness and emotiveness of the subject. The earliest cave dwellers fought tribal wars over territory. Cain committed the first murder in biblical history when he slew his brother Abel because he envied the other's wealth and blessings. The Israelites were led out of Egypt by Moses to find the 'Promised Land' and Hitler used 'Lebensraum' as a potent rallying cry for his cause. Thus, it is evident that land has been and still is a highly charged emotive issue globally as well as within our region.

This paper is an analysis of the newly formulated Land Policy of Malawi (17 January 2002). It will extract the main issues prevalent therein, highlight probable impacts emanating from it and propose possible options for defusing potential conflicts that may arise if all stakeholders' aspirations are not addressed satisfactorily, with the view that most of the issues are common throughout the region. Thus, lessons gleaned here may well be applicable in other arenas within the region.

At this juncture, it may be appropriate to provide some factual data to put matters into their proper perspective:

	Million Ha	%	% of Total
Total land area of Malawi	9.4		100
Less national parks, forest and game reserves	1.7	18	
Land available for agriculture	7.7		82
Land available for smallholder agriculture and estates	7.7	100	82
Estimated land under estates	1.2	16	13
Land available for smallholders	6.5	84	69

*Table 47: Total Land Area of Malawi
Source: MG Land Policy p. 21*

	Hectares (Million)	%
Suitable customary land	4.4	34
Unsuitable customary land	2.1	15.5
Public land	1.7	18
Estate land	1.2	16
Urban land	0.3	0.02
Leasehold land	1.2	16
Freehold land	0.34	0.03

Table 48: Land Balance

Background

Local history and folklore suggest that the original inhabitants of Malawi were the Akafula or the Abathwa who dwelt in the area from 300-1500 CE. There followed incursions comprising pastoral and agricultural tribes, such as the Chewas who migrated from the Rift Valley lakes region in the 9th century. These influxes continued over the ages, with the Yao, Sena, Lomwe tribes and the Ngonis (who were actually Zulus escaping from Chaka) in the 19th century.

These influxes created a spiralling struggle for territory and power between the various groups; thus, land was acquired by military conquest and occupation and not by documented negotiations or treaties (*Land Reform Commission Report*, Vol. 1, 1999:14). These struggles intensified into ethnic wars of such proportion that the British Colonial Forces were forced to intervene and end the conflicts between 1891 and 1896.

British colonial occupation lasted for 73 years (1891-1964), during which time the colonial policy was to expropriate all land in Nyasaland (now Malawi) to the British Crown, to vest the administration of the land in the Crown's representative and enable free access to such land by privileged elites such as the white settlers. These measures succeeded in stripping Malawians of ownership of most of their prime land and creating a system whereby land was classified into three broad categories – private, public and customary land.

In 1965, the government of newly independent Malawi passed a new Land Act (Cap. 57.01), which maintained the status quo, but changed the ownership from the British Crown to the Government of Malawi and supplanted the colonial administrators with the appropriate governmental ministry. This did not really change anything at grassroots level; it merely supplanted one elite with another, the new elite being those who were in favour of the new government under Dr Hastings Kamuzu Banda.

In 1967, the Government of Malawi introduced a more comprehensive legal framework for land matters (Registered Land Act, Cap. 58.01) in a bid to address the land disputes that were emerging in areas where estates (mostly owned by white settlers) held vast tracts of prime agricultural land, whilst villagers complained of land shortages. This Land Act was copied entirely from the Kenyan Land Act of 1963 (*Land Reform Commission Report*, 1999:23), and failed to address the issues specific to the Malawian scenario.

The need for reform has continued to dominate the national consciousness, and this resulted in the formation of a Land Reform Commission in 1997. The Commission was mandated to investigate the root causes of dissatisfaction, and compile a report that could be used as a tool to tackle the problems effectively.

The Commission conducted intensive grassroots consultations and produced a report in 1999. Approximately 15 000 copies were printed for circulation to the public, although very few of these have seen the light of day and the general public remains largely oblivious of its contents.

Subsequent to this, the Government of Malawi requested assistance from the World Bank towards the formulation and finalisation of a new Land Policy. A foreign consultant was identified, and work on the project commenced in mid- to late 2000 with a team from the local Ministry of Lands and Housing. A Draft Land Policy was produced in January 2001, and has since been the subject of intense and often acrimonious debate between various stakeholders. The Policy had not been passed by Parliament in August 2002.

The summary of the new Land Reform Policy (Annex 1) indicates that a remarkable degree of thought and endeavour had gone into the preparation of the Policy, but fails to reveal the inadequacies that may militate against the successful implementation of the Policy. Some of these elements came to light during workshops that were held by the Institute for Policy Interaction on 4 May 2001, and civil society organisations, who held a National Civil Society Conference on the Draft Land Reform Policy of Malawi on 10 March 2002, and this paper has drawn extensively upon the findings emanating therefrom.

The three focal areas that are directly related to land distribution, and would therefore be affected by any changes within that equation, are –

1. Social
2. Economical
3. Political

Though they are normally deemed to be inextricably intertwined, this paper will separate the three into distinct components and address each one independently of the other two.

Social

- **Accessibility:** The Land Reform Policy Document is not easily accessible to the general Public and was initially protected by a copyright that prohibited any copying or distribution without prior permission from the Ministry of Lands. This was seen as unusually inhibitory, and people from all walks of life professed perplexity as to why a public document should be protected by copyright.
- **Circulation:** Most participants had not seen the document, which implies that the document had not achieved adequate circulation. Some participants assumed that the document under discussion was the *Report of the Land Reform Commission* (1999), and were unaware of the existence of the Land Reform Policy Document in its present format.
- **Consultations:** The youth were not consulted by the drafters of this document, which could cause problems in the future if their aspirations are thwarted upon attaining maturity, for they are the inheritors of the future.
- **Formulation:** The meeting questioned the rationale of using a foreign consultant - assisted by a team of local persons who were not sufficiently qualified to pose a feasible counterpoint to him.

- **Ownership:** The workshop observed that the ownership of the Land Reform Policy was not clear, and that any such policy would have to be acceptable to the people, for otherwise the nation may well end up with unenforceable legislation.
- **Local Participation in Purchase of Farms:** Some communities have expressed concern regarding the lack of transparency with which farms are bought and sold without notifying villagers who live on the periphery and thus have a keen interest in the ownership of such farms. The same applies to cases where the government has taken over farms and redistributed them to the landless in another area/region. This often imposes extra strain on the social fabric, and could quite conceivably lead to conflicts in the future.

Continuance: Patrilineal and Matrilineal Societies

Malawi has a multifaceted cultural tradition. In the Northern and Central Regions, traditional rules of inheritance are based on the patrilineal system, whilst in the South (with the highest population density) a matrilineal system is practised. The salient points of each system are as follows (Kanyangolo) –

Patrilineal System of Inheritance

- The man's village is the matrimonial home;
- Inheritance passes through the male line;
- Women do not own property in their own right;
- Widows inherit property through their children (*kumwana nkhuwuryero*);
- Payment of bride price (*lobola*) means that the man owns everything (children and property);
- Wives are inheritable (*chokolo*);
- Unlike the widower, if a widow remarries, she forfeits her inheritance;
- Women can only inherit 'womanly things' (kitchen utensils and clothes); and
- Upon the death of the husband, there is no distribution of property if his widow remains in the matrimonial home – this is meant to protect the widow and children from any disturbance after his death, though this is not always observed.

Matrilineal System of Inheritance

- Marriage is mainly uxorilocal – the wife's village is the matrimonial home;
- No payment of bride price (*lobola*);
- Inheritance passes through the female line (*mwinimbumba*);
- Man's nieces and nephews inherit property, not his children;
- Children belong to the wife - she has sole custody - and thereafter, her brother(s);

- Upon the death of the husband, the widow and children are undisturbed in terms of residence and land use; and
- Upon the death of the wife, the man must leave the home and children and return to his village.

It is difficult to see how this could be implemented within the context of the two different systems described above. It is obvious that the Wills and Inheritance Act would have to be extensively rewritten to encompass all the diverse elements mandatory for an effective solution.

However, it would appear that there are significant obstacles to the implementation of the policy, such as possible opposition from traditional and cultural forces that could have difficulty accepting any alteration to or erosion of their norms. This once again poses the problem of ownership and acceptance of the policy, and no amount of civic education will negate the absence of consideration for cultural values that have prevailed for centuries.

Economic

- **Transferability:** Participants observed that limitations to the transferability of land would impact adversely upon an economy that is already fragile. It would also erode Investor confidence that is already in decline. The same scenario would apply to certainty of tenure for both leasehold and freehold land.
- **Legality:** In legal terms, a company registered in Malawi and operating within Malawi is a “body corporate” with rights and obligations. Though the policy makes reference to “publicly traded corporations”, i.e. companies listed on the stock exchange, it does not address the rights of private companies. This could lead to considerable confusion and misunderstanding in ascertaining the status of freehold properties held by private companies that are registered in Malawi, with non-citizen ownership. This would inevitably result in massive disinvestments by such firms, which would then spill over into a hindrance for the foreign direct investment that is generally accepted as being vital for development of most economies in the region.
- **Diminishment of Title:** If the government proceeds with commuting freehold land owned by non-citizens into leasehold title, this would be a direct diminishment of title and thus may be liable to compensation for those who are affected. Yet past experience during the forced removal of Asians from rural areas indicates that the government may not entertain any such claims, which could lead to yet more challenges and long drawn-out legal battles. Since the freehold land is only 0.03% of the total land, and foreign ownership is yet another fraction of that 0.03%, it may be advisable to allow the current freehold non-citizen owners to retain their title, but to prevent them from selling or transferring it to any other foreigner (regardless of relationship). This would certainly de

fuse much of the prevalent uncertainty and achieve the ultimate goal of the Policy in the long run, i.e. Malawian ownership of freehold land.

- **Archaic or Inappropriate Legislation:** Section 24(a) of the Land Act was identified as a major hindrance in the land transfer process. This section states that ministerial consent must be obtained for any transfer of land, and that this consent must be received within 30 days. This implies that the transfer automatically goes through if the ministry does not respond within 30 days, though in reality the registrar will not effect any transfer in the absence of the ministerial consent, thus causing delays in transfers of up to 18 months. The meeting queried why this problematic section had not been addressed in the Land Reform Policy document, and recommended that any new initiatives in land reform should review Section 24(a) and revise it in line with modern-day realities.
- **Rural vs Urban Land:** The Malawi Land Reform Policy does not clearly differentiate between rural and urban land, yet vastly different parameters apply. This requires clear guidelines to be drawn for each scenario once a usufructuary study has been carried out. As it stands, implementation will be problematic until clear parameters have been established.
- **Misdirected Focus:** Inordinate attention is being focussed on the relatively small proportion of land under private ownership, whilst large swathes of land under public ownership are not being utilised efficiently. The total arable land-mass in Malawi is approximately 7.7 million hectares, and of this only 1.2 million hectares (16%) are being utilised by the private sector. Of the area under private sector ownership, only 34 000 hectares are freehold, that is 0.003% of the total arable land-mass in Malawi, yet the productivity emanating from it generates a disproportionately large slice of GNP (30-40%). It may thus be considered counterproductive to send negative signals to the productive sector over such a minuscule proportion of freehold land, which doesn't change the ratio of land-holding to any significant degree.
- **Capacity for Optimal Usage:** The real issue at hand is the economic empowerment of the poorest strata of the people, and this will not be solved by merely transferring land from productive sectors to sectors that are not equipped to extract optimal usage and productivity from that land. It therefore is necessary to take a holistic view and identify all other factors, such as capacity, training, the resource base, work ethic, cultural barriers, etc., that impede the poorest in their quest for social justice. These factors must be tackled in their totality, and not piecemeal, if the Holy Grail of overall social and economic empowerment is to be attained.
- **Land Scarcity in spite of Idle Lands:** On the basis of estimates made in 1994, 2.6 million hectares of suitable agricultural land remain uncultivated in the rural areas. This means that approximately 28% of the

country's total land area is lying idle. Similarly, speculative holding of urban plots and lack of infrastructure causes artificial shortages of urban development land (MG Land Policy).

- **Security of Tenure:** The Land Policy emphasises that security of tenure is one of its main objectives and that the new measures, i.e. codification and formalisation of the tenets of customary land tenancy, would solve many problems that have plagued villagers and administrators alike. However, field research suggests that security of tenure is not under threat within the traditional system where generations of one family have occupied and tilled the same piece(s) of land without hindrance. Ironically, the threat to security of tenure would only arise if customary land were converted into a marketable commodity by formalisation of title.

The Policy does allude to restrictions on the sale of customary land, but it is not clear as to exactly how that would be workable, since any restriction on the sale of customary land would lower its value and, indeed, may render it ineligible for collateral purposes with financial institutions, which are extremely conservative in their lending practices.

It is interesting to note that the current rates of interest in Malawi are hovering at the 54% level. It is therefore difficult to foresee how a villager could possibly hope to repay loans independently, at such high rates. The probable effect would be mass defaults and seizure of rural property – thereby undermining the very security of tenure that the Malawi Land Reform Policy seeks to enhance.

Thus, the whole scenario of empowering villagers with the ability to use their land to access loans with which they could expand their productivity will be a non-starter unless ancillary measures are implemented to ensure that villagers have easy access to the resources and inputs required for optimal usage of their land. Land ownership *per se* would not alleviate dire poverty, unless it were accompanied by a supportive infrastructure providing access to vital inputs such as seed, fertiliser, implements, finance, etc. All these would have to be provided at costs lower than market rates. Any land redistribution without such a supportive system may not achieve the professed objectives of empowerment and development. It could, rather, rebound into a system of a new elite class of landed gentry (those who have the capacity to develop and enhance their land holdings) and a landed peasantry who will not see much improvement in their day-to-day lives.

Poverty is endemic in the rural areas where 80% of Malawi's population live. At present, there is a chronic food shortage and people in the villages are literally starving because of the unavailability of food and their inability to buy food due to inadequacy of income (per capita US\$140) to afford the high prices of their staple food – maize (MK34 per kg). Life expectancy has dropped to 39 years and the number of orphans is increasing at an alarming rate.

In this scenario, villagers (a rapidly increasing number of whom are looking after orphans from other families) holding formal title to land would be highly susceptible, in their desperate predicament, to selling their land at give-away prices to anyone with cash to offer. Thus we would see guardians selling their wards' land to pay for their upkeep, or starving villagers willing to sell their last piece of land for the price of a few bags of maize. Once that maize is finished, the villagers would find themselves in an even more terrible situation – they would still be starving, but on top of that, they would now be landless.

A possible alternative would be to create collective village ownership of communal land instead of conferring formal title on individual families. For example, let us envisage a scenario where villages are converted into corporate entities – “Village Incorporated”. The Village Incorporated would have a “Board of Directors” comprising the Village Chief and the Group of Elders (including women), which would collectively oversee and manage the activities of their village and control any allocation or sale of land. The ordinary villager would be a “Shareholder”.

Since the ownership of the land is collective, it would be very difficult for anyone to buy, seize or use land without the permission of the “Board.”

Each village would be invited to submit a “business plan” to a special financial institution created purely for rural development by the Government. This institution would be charged with training and educating villages in the attainment and administration of optimal gains from their resources and to disburse loans (at preferential rates) to villages that have submitted feasible business plans.

In this way, each villager would be encouraged to diversify economic activity, and be motivated to strive for maximum gains from property that had previously been taken for granted. The preparation of annual reports and accounts would also help instil financial discipline and prudence, as well as to highlight shortcomings in activities that are not productive.

This scenario would obviate many of the threats that have been outlined above, and, indeed, could even create a “green revolution” that would transform the face of rural Malawi into a far more humane picture.

For example, a project in Cote d'Ivoire registers both individual and communal rights under customary law, and a project in Colombia has titled natural resources exclusively to Afro-American and indigenous communities rather than to individuals. The model implemented with great success in Mexico, where there is a choice between individual and communal title, and a well-defined mechanism which allows transition between the two, illustrates how the rigidities of such a dogmatic approach can be avoided without sacrificing either quality or speed (the programme regulated more than 50 million hectares in about 6 years) (prepared for the 2001 Annual Meetings of the Boards of Governors – World Bank Group and International Monetary Fund, 29-30 September 2001, Washington DC).

- **Affordability:** Economic incapacity was identified as the most prevalent barrier to ownership of land. It superseded all other factors such as race, tribe and religion. One line of thought avers that as property values are dependent upon supply and demand, the more demand there is for an item of limited supply, the higher the price will be. If, for example, one were to restrict demand by excluding foreigners, the demand would then be smaller and the price of land should fall, making land available to a greater number of local people.

However, unless land values make it worthwhile for a developer to provide plots - that is, that the value exceeds the cost of supply of the land and services plus a reasonable margin for profit and risk - there will be no land delivery. Land of a size, location and price acceptable to the market therefore becomes scarce, and depending upon the degree of scarcity, prices could shoot up - perhaps even to levels exceeding those when foreign investment was a factor, if those with the land delivery skills have left the market.

One of the attributes of properly functioning property markets is that a reasonably steady supply meets a similar demand. So although foreign demand could increase prices, a much more damaging cause is market imbalances through such causes as standards inappropriate to delivery of land to the target market (Swazi Draft Land Policy).

- **Lack of capacity in the formal market encourages informal market practices:** Demand will continue to rise even when supply does not. If land is unavailable in the formal market, it will place increased demands on the informal market, aggravating the problems of uncontrolled developments (squatter settlements).
- **Mismanagement of Land Development:** The evidence of under-utilisation of land, obstruction of watercourses, illegal development, and unplanned or unregulated buildings in urban settlements indicate the failure of development controls. These are occurring in the context of all land tenure categories and land uses (MG Land Policy).
- Surprisingly, many of the land reforms implemented in the past have often had less than the desired impact. In many countries, regulations that have been introduced with the aim of facilitating swift implementation of a land reform programme have acted as potent impediments to the development of land markets. This has in many cases increased rather than reduced the barriers to land access by the poor. For example, land ownership ceilings have, in a number of countries, not only reduced landowners' tendency to offer land to poor people for rental, but by making it impossible to foreclose on land, undermined the functioning of rural financial markets, thus hampering overall rural investment. Avoiding such indirect and unintended consequences is a major challenge for current land reform efforts (prepared for the 2001 Annual Meetings of the Boards of Governors - World Bank Group and International Monetary Fund, 29-30 September 2001, Washington DC).

Political

- **Foreign Ownership of Freehold land:** This area has been singled out for special attention in the Malawi Land Reform Policy which states the following:
 - (a) In granting land to non-citizens, the rights and interests of the citizens of Malawi shall be safeguarded.
 - (b) To encourage access to land with transparent legal guarantees, non-citizens and foreign companies will be permitted to acquire land from the government or directly from private landowners for residential and investment purposes in accordance with their investment objectives.
 - (c) With the coming into effect of this policy, only citizens will be permitted the privilege of owning freehold title in Malawi. Access to land for non-citizens will be construed as purely for residential and investment purposes and an appropriate renewable leasehold term determined.
 - (d) Non-citizens will no longer be allowed to acquire any new freehold rights or interest in Malawi after 17 January 2002. Foreign investors interested in freehold land will be encouraged to form partnerships with Malawian free owners.
 - (e) In accordance with current Malawi naturalisation laws, non-citizens in possession of freehold estates in Malawi will be encouraged to attain Malawian citizenship in order to retain their freehold ownership. The right of citizenship for eligible non-citizens will be protected by law and will not be politicised or left to individual discretion.
 - (f) Failure to naturalise will not result in dispossession, but will automatically cause title to the land in question to be converted to a renewable leasehold contract with the reversion to the state.
 - (g) Subject to existing transfer laws, non-citizens already in possession of registered freehold assets of publicly traded corporations shall be permitted to hold and/or transfer such assets (through the normal trading of shares) to citizens and non-citizens.

This policy is intended to limit the amount of freehold land held by non-citizens and foreign corporations (MG Land Policy).

These statements caused ripples of alarm within various sectors of society and the business community, and disrupted trends of investment and investor confidence that were already fragile. Considering the total percentage of land (0.02%) that is currently freehold, and then shrinking that even further for the amount of freehold land owned by "foreigners", the amount was deemed too minuscule to alter the equation of land ownership in any way, but the effects of tampering with this tiny percentage would be far-reaching and inordinately damaging to the economy.

Whilst the issue of citizenship was regarded as relevant to ownership of freehold land, historical experience indicates that though appropriate legislation is in place, in reality, applications for citizenship by bona fide residents have frequently been rejected with no reason given. Thus, to attach it as a precondition for ownership of freehold land is cynical to say the least, unless measures are taken to ensure that applications for citizenship from residents who have satisfied all legal requirements are granted without delay or excessive bureaucracy by strict and unwavering adherence to the rule of law and constitutionalism.

• **Constitutional Conflicts**

- **Section 20(1) of the Constitution of Malawi** states, “Discrimination of *persons* in any form is prohibited and *all persons* are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, colour, sex, language, religion, political or other opinion, *nationality, ethnic or social origin, disability, property, birth or other status.*” This gives rise to profound questions as to whether the Land Policy complies with the Constitution, which is the supreme law of the land. (Author’s italics)
- **Section 28(1) of the Constitution of Malawi** states, “Every *person* shall be able to acquire property alone or in association with others.” (Author’s italics).

It does not discriminate between citizens and non-citizens in the right to acquire property and own property. It uses the word “persons”, which is a general term. This cannot be taken to mean citizens only because the Constitution clearly uses the term “citizen” in other sections such as eligibility for presidency, where such terminology was deemed necessary. Yet, the Land Policy has misquoted the section. This could be open to legal challenge in the Supreme Court, which could paralyse the implementation of the Policy for years.

- **Ministry Mindset:** The past performance of the Ministry of Lands does not inspire confidence. There are serious doubts whether the Ministry will be able to meet the new demands and challenges posed by the Policy – even with expanded capacity – without a radical change in mindset and work ethic.
- **Neopatrimonialism:** Recent scholarly papers have tended to describe African modes of governance in terms of ‘neopatrimonialism’ and clientelist relationships.

According to Michael Bratton and Nicolas van de Walle, in old patrimonial political systems:

An individual rule[d] by dint of personal prestige and power: ordinary folk [were] treated as extensions of the “big man’s” household, with no rights or privileges other than those bestowed by the ruler. Authority [was] entirely personalised. The ruler ensure[d] the political stability of the regime and personal political survival by providing a zone of security in an uncer-

tain environment and by selectively distributing favours and material benefits to loyal followers ...

In post-colonial neopatrimonial political systems, such as in Malawi under Dr Banda and with modifications, Dr Muluzi (Cammack 2001) –

... the right to rule is ascribed to a person rather than to an office, despite the official existence of a written constitution. One individual ... dominates the state apparatus and stands above its laws. Relationships of loyalty and dependence pervade a formal political and administrative system, and officials occupy bureaucratic positions less to perform public service, their ostensible purpose, than to acquire personal wealth and status. The chief executive and his inner circle undermine the effectiveness of the nominally modern state administration by using it for systematic patronage and clientelist practices in order to maintain political order.

The key to the success of democratic consolidation is to implement rules, and the rule of law, to create institutions, strengthen civil society and the media especially, to promote transparency and accountability, and thereby transform the neopatrimonial processes and structure. Sources of wealth other than the state must be created, and allegiances that cut across patronage networks (such as class) fostered. It is a monumental task and has not happened in Malawi.

The above excerpts illustrate some of the dangers that imperil equitable land reform in our region in general, and in Malawi in particular. There is a very real danger that political and economic patronage as well as corruption could create new strata of elitist land owners owning vast tracts of land, whilst the landless continue to scabble for survival in abject poverty.

Land policies must rigorously address this possibility and create adequate safeguards (checks and balances) to prevent any future possible occurrence of this nature. It is therefore vital to devise and incorporate institutional and systemic safeguards to protect the interests of the poorest people in the world.

Conclusion

In conclusion, one can only state that the complexities and intricate nuances that attach to land matters must warrant an extensive, dynamic, ongoing process of consultation and formulation that continues even after a policy has been adopted. It is imperative to cater for the needs and aspirations of all stakeholders – rural and urban, smallholder and estate owner, citizen and non-citizen, for all have a vital role to play in the economic, developmental, societal, political and cultural life of the nation. The Malawi Land Policy is a laudable attempt to tackle the problems to some degree, but it still requires considerable fine-tuning before it can attain broad public acceptance and acclaim.

Any hasty, arbitrary action based on emotive aspirations that flout constitutionalism, ignore the rule of law and attempt to impose an enforced redistribution of land, for whatever reason, will ultimately impair and, in the long run, even destroy fragile economies, with irreparable damage inflicted upon social and political infrastructures. This can only mean

additional misery for the rural masses whose daily lives are already a struggle for survival and who are the worst affected by national economic downturns and adversity.

The Zimbabwean scenario is a case in point and it threatens to destabilise the entire SADC region. These are vivid lessons to be learnt, and ways must be found to solve land issues without resorting to violent seizures that are largely counter-productive and will only serve to drive a healthy economy into an economic chasm. One wrong does not correct another.

The solutions lie in extensive consultation within and beyond our borders and a receptive mindset that will take all inputs seriously towards inclusion in a comprehensive land policy document that fully serves the interests of all stakeholders. It is important to bear in mind, however, that policies are merely words on paper – it is the interpretation and implementation of these words that carries paramount importance. This is the crux of the matter – flawed implementation can thwart the best of intentions and twist the final outcome beyond recognition. The following excerpt from a World Bank Document (prepared for the 2001 Annual Meetings of the Boards of Governors - World Bank Group and International Monetary Fund, 29-30 September 2001, Washington DC) sums it up very neatly:

Existing property rights have to be respected; expropriation without compensation would not only have deleterious effects on the economy as a whole but also have the potential of generating a wave of subsequent restitution claims. Land reform cannot be limited to giving land only but needs to put households on a viable trajectory of development. This normally requires a strong element of training and capacity building as well as provisions for complementary investment to make the land productive. Finally, implementation of land reform will need to involve beneficiaries as well as government and NGOs at the local level, with a strong element of participation rather than a top-down and centralized approach.

“The best laid plans of mice and men gang aft agley!” – Robbie Burns.

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Annex I

Malawi Land Policy Summary

The Malawi National Land Policy epitomizes the government's desire to address the constraints to Malawi's social and economic development caused by the absence of a comprehensive land policy. The following are some of the key recommendations:

A. Distinction between Government Land and Public Land

1. **Government Land** will henceforth refer exclusively to land acquired and privately owned by the government to be used for dedicated purposes such as government buildings, schools, hospitals, public infrastructure or made available for private use by individuals and organisations.
2. The **Public Land** categorisation will be reserved strictly for land managed by agencies of the government and in some cases by Traditional Authorities in trust for the people and openly used or accessible to the public at large. This will include land gazetted for national parks, conservation, historical and military sites, etc.
3. In the case of customary land managed by Traditional Authorities, common access land reserved as *dambos* (permanent wetlands), community woodlots, etc, will be classified as public land exclusive to members of the Traditional Authority.
4. Except in the exercise of the state's police powers, all acquisitions by the government will require negotiation and the payment of compensation at fair market prices for the land as well as improvements on the land.

B. Land Access and Tenure Reforms

1. The Government will allow all customary land to be registered and protected by law against arbitrary conversion to public land. The traditional supervisory role of chiefs, clan leaders, headpersons and family heads in land matters will be formalised and streamlined to allow uniform administrative procedures and transparency in all customary land transactions.
2. All customary landholders, defined to include entire communities, families or individuals, will be encouraged to register their holdings as private customary estates with land tenure rights that preserve the advantages of customary ownership but also ensures security of tenure.
3. Private leasehold estates shall be created as subsidiary interests out of any private land, including registered customary estates without relinquishing the ownership of the customary landholder. This provision will allow traditional leaders, family heads and individual holders of registered customary land to grant leases.

C. Land Access for Non-Citizens

1. The amount of freehold land in Malawi owned by non-citizens will be frozen and limited to freehold land already registered to non-citizens as of 17 January 2002. Non-citizens will no longer be allowed to acquire title to any new freehold estate.
2. Non-citizens and foreign companies will be permitted to lease land from the government or directly from private landowners for investment purposes in accordance with their residential and investment objectives.
3. From the coming into force of this policy, freehold ownership will be a privilege reserved for citizens of Malawi. Foreign investors interested in freehold land for investment purposes will be encouraged to form partnerships and/or joint ventures with Malawians.
4. In accordance with current Malawi immigration laws, non-citizens currently in possession of freehold estates in Malawi will be encouraged to obtain Malawian citizenship in order to retain their free ownership. The citizenship right of eligible non-citizens will be protected by law and will not be politicised or left to individual discretion.
5. Subject to existing transfer laws, non-citizens already in possession of registered freehold assets of publicly traded corporations shall be permitted to transfer such assets to other non-citizens only when deemed necessary to preserve the investment value of these companies.
6. With the exception of a few very special types of investments, such as mining, forestry and some perennial tree crops such as tea (a comprehensive list of eligible investments shall be prepared), most leasehold terms for industrial and commercial investment purposes throughout the world generally are for less than 50 years, with renewal clauses allowed. For that purpose, the standard leasehold term for land leased for investment purposes in Malawi will also be for a renewable term of 50 years or less.
7. The standard leasehold term for owner-occupied residential development will remain 99 years with renewable clauses allowed.

D. Land Use Planning and Registration

1. Land use planning will be extended to all rural and urban land, including freehold, leasehold and customary estates. However, the declaration of a planning area will not automatically require the conversion of all customary land to public land, as has been the practice prior to this land policy. Instead, all landowners in such planning areas will be required to comply with approved planning and development regulations.
2. Urban physical planning and development controls will be enforced to discourage speculation, and guidelines for rural land use planning, conservation and environmental management will be developed by

Local Planning Authorities and community development agencies to guide rural and urban land use and development decisions.

3. To avoid lengthy and costly delays in the granting of land titles and the issuing of leases, land administration responsibilities will be decentralised and District Land Registries established in each district to record all land transfers, conveyance and title registration, and to offer surveying and land management services.

E. Land Administration and Dispute Settlement

1. In the interest of Malawi's economic and social development, the land policy provides guidelines designed to encourage certain cultural attitudes and traditional land institutions to change in line with contemporary cultural norms.
2. The government strongly supports gender-sensitive access to land and calls for changes in inheritance laws to allow the remaining spouse, children and especially orphans to inherit the property of their parents even when the deceased parent or parents die without a will.
3. The land administration role and responsibilities of chiefs, clan leaders, headpersons and family heads will be formalised and made more democratic and transparent.
4. The government will install special protections for the land rights of minors and place a legal duty on chiefs, headpersons and adult members of the family to protect the land rights of a surviving spouse and children in both matrilineal and patrilineal inheritance areas throughout Malawi.
5. In areas with higher than normal land pressure, the government will encourage community-based land acquisition and development strategies to ease land pressure and secure the resources necessary to support the resettlement of land starved households.

F. Cross-cutting and Inter-Sectoral Issues

1. The land policy calls for training, modernisation and capacity building in all the surveying and land management professions (planners, surveyors and valuers) to ensure adequate professional advice and support services are available for land use and environmental management decisions at all levels of government and by the private sector.
2. The government supports community participation in the management and the right to a share of the revenue derived from public land established on land managed by a traditional authority. This includes land reserved for national parks, forest reserves and protected areas.
3. Other land sector policy reforms enacted since 1994 to encourage agriculture, forestry, tourism, mining and natural resource management and habitat preservation are also recognised and affirmed by this policy.

This land policy has been prepared carefully and in a balanced way to remove most of the pressing problems that has created tenure insecurity and undermined speedy and transparent land transactions in Malawi. In many cases, the inadequacies of existing laws, delays in land administration, arbitrary applications of the public interest criteria, constraining inheritance laws and uncertainty regarding the strategies for dealing with land pressure have all operated to discourage needed investments and the nation's ability to eliminate poverty and pursue social harmony.

Fundamental measures and processes contained in this National Land Policy will equip Malawi to minimise, if not eliminate the most constraining land problems and bring progress and prosperity to all (MG Land Policy 17/02/2002).

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