

Monitoring Regional Integration in Southern Africa Yearbook

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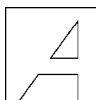
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Foreword

Regional Integration is generally accepted as an important step towards a wider global involvement. This is particularly true in Southern Africa, where we can find many countries with rather small economies.

This has been realized very early: SACU, SADC and COMESA can be considered as vehicles for integration both economically and probably also politically.

The European example has shown, that integration can work, both economically and politically. Even if the countries participating have very different economic and political histories and backgrounds.

Today there are many studies and publications about regional integration, looking at various aspects of economic, social and political integration.

The rationale of the yearbook "Monitoring Regional Integration" is not so much to reflect the present status of integration, but rather to portray the development of the process of integration in the region. This process is complex and progress can only be demonstrated if there is an ongoing analysis available. The objective of the yearbook is to provide facts, opinions and suggestions and to analyse the progress.

The Konrad-Adenauer-Foundation is particularly interested in this process, because we have been actively involved in the process of the regional integration in Europe and in the promotion of regional integration in Latin America and in Asia.

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 Unit (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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Introduction: Monitoring the Process of Regional Integration in Southern Africa in 2003-2004

***Dirk Hansohm, Willie Breytenbach, Trudi Hartzenberg
and Colin McCarthy***

Most discussions of economic development in Africa focus on regional integration as an important element. From the first post-colonial meetings, African leaders emphasised regional integration as a key element of their strategies. In the most recent African plan for economic development, the New Partnership for Africa's Development (NEPAD), regional and sub-regional approaches to development are again a key element. The plan sees the small size of countries, low incomes, and consequently limited markets as a limit to economies of scale, thus denying attractive returns to investors and in so doing constraining the diversification of production and exports. This is the key reason for pooling resources in order to enhance regional economic integration.

However, this emphasis on, and the high hopes for regional integration do not appear to match the real progress made. As the European example shows, regional integration is a long-term and complex process. Expectations for increased socio-economic gains is countered by fear of the consequences of sacrificing national sovereignty. In sub-Saharan Africa (SSA) with its many states and fragmented economies, regional integration is even more difficult. 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 their lack of success. It appears that the Southern African region is the most advanced in terms of regional integration. However, this view is disputed in some quarters, and it is unclear how the region compares internationally. This was the basis for starting an initiative to monitor the progress of regional integration in Southern Africa.

This book is based on the contributions to the 7th Workshop on Monitoring the Process of Regional Integration in SADC, held in Midgard outside Windhoek on 12-13 June 2004. The seminar was a continuation of a process started in 1999 by the Konrad-Adenauer Foundation (KAF) that originally aspired to develop a regional integration index for SADC. The rationale for this approach was that hardly anybody has a clear understanding of whether SADC is

- making any progress from co-operation to integration;
- stagnating in its integration efforts;
- starting to disintegrate;
- lacking focus as a result of the complexities of the region;
- integrating at a similar speed and depth in each sector; or
- moving at different speeds and levels of commitment.

However, it became apparent that reliable, comparable and up-to-date data for the region is hard to come by, and that developing an index entails a host of methodological problems. It was for these reasons that the second workshop adopted the less stringent, more cautious but at the same time, broader approach of monitoring instead of measuring the process of regional integration. Such a method allows for expanding the competence, databases and academic networks necessary for the development of a regional integration index. It also allows for the assessing of and commenting on regional integration.

The results of the initial two workshops had been published in April 2000 as volume 1 of the KAF SADC studies series (Peters-Berries and Marx 2000). The aim - to publish an annual review of monitoring regional development in southern Africa - was put into practice in 2001.

The yearbook 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 what possible drawbacks could be expected;
- analyse the de facto state of integration in each of the policy fields selected, identifying the existing obstacles to further and deeper regional integration.

The first yearbook, based on the results of the previous workshop of March 2001 in Zimbabwe, was published in March 2002 (Hansohm et al. 2002a). Since 2001, participation in the annual workshops has become broader in terms of participants and dimensions of integration. The first yearbook featured six aspects: comparison of SADC with other regional integration schemes in Africa (ECOWAS and EAC), macro-economic trends, trade, democracy, regional institutions, and stock exchanges. The sections on macro-economic trends, trade and democracy have become regular features. The second yearbook (Hansohm et al. 2002b) also addressed trade and competition policy, foreign direct investment, exchange rate policy, good governance, the security structure, NEPAD and the AU, land policy and the Zimbabwe crisis. The third yearbook featured fifteen contributions, plus a conclusion drawing together the results. The papers dealt with economic, political and institutional aspects.

This, the fourth yearbook (for 2004), has 13 chapters that address economic, political and institutional issues, and an introduction and a conclusion. For the first time, the yearbook also contains a statistical appendix with some basic data on the region and its countries..

The papers on economic issues analyse macro-economic trends in SADC, the implementation of the SADC trade protocol, the negotiations with the European Union on Economic Partnership Agreements (EPA), the regional business climate, capital costs in the region, and the energy sector.

Rosa Endjala and Calicious Tatalife review macroeconomic trends in SADC. The chapter shows that during the period under review

- The structural changes in the economies of the region have not been substantial, as one would expect of a review that covers a short period
- The major macroeconomic stability and growth indicators also reveal little relative change among the countries, while the overall performance of the SADC member states has been better
- The large difference in the levels of economic development still characterises SADC economies.

Paul Kalenga considers the implementation of the SADC Trade Protocol and finds much to be concerned about. He identifies a number of critical weaknesses, for example,

- The differentiation and back loading of tariff reduction schedules
- Restrictive rules of origin
- The slow pace at which agreed commitments are implemented

He concludes that successful integration will require these constraints to be addressed.

Mareike Meyn addresses Economic Partnership Agreements (EPAs) and asks the question of whether they are likely to benefit or constrain regional integration in Southern Africa. She focuses her analysis on the experience and situation of Botswana, Mauritius and Mozambique. The chapter raises interesting points, for example:

- EPAs could force countries to reduce their membership of overlapping trade arrangements and so concentrate on one regional body, thus promoting regional integration in southern Africa.
- But EPAs could also force southern African countries to opt for a regional body that does not necessarily represent their best economic interests.
- Trade between the EU and southern African countries still has a traditional North-South pattern, which means that static losses from regional integration can be expected. Whether dynamic effects of North-South integration could arise, such as economies of scale and attraction of FDI, will depend on the design of EPAs.

Christoph Stork presents and discusses the results of the first regional business climate survey of Southern Africa. Key points are:

- Business climate surveys can be a powerful instrument for private sector development.
- Overall, current business performance is described as favourable by the respondents.
- However, the results have to be interpreted with care because of the small size of the sample.

Marin Grandes considers the cost of capital in the region and ways to reduce it. Key findings include:

- The cost of capital in the region is too high.
- Stemming the premium volatility of the Rand as the leading currency and bringing its level down would help to reduce financing costs in the region.
- Measures proposed include enhancing liquidity of the bond market and easing access of local entities to the South African financial markets, boosting domestic savings, and improving international investors' perception of the market.

Margaret Matinga looks at the energy sector with special emphasis of the Southern African Power Pool. She finds that:

- Integration can bring substantial benefits to both suppliers and demanders of energy.
- Considerable progress is being made.
- However, there is a danger that benefits will be concentrated on those countries endowed with better governance.

The political papers deal with the civil society and the security agenda and the peer review agenda.

Gina van Schalkwyk and Jakkie Cilliers deal with civil society and the SADC security structure. They find an absence of meaningful SADC/civil society interaction; because of

- o Mutual suspicion and hostility;
- o SADC fatigue;
- o civil society weakness;
- o state weakness, and
- o institutional weakness.

Ayesha Kajee deals with the African Peer Review Mechanism and finds that it is regrettable that responsibility for the political aspects of peer review has been delegated to the AU rather than NEPAD and bypassing any of Africa's regional bodies as far as operationalisation is concerned.

The institutional papers assess the African Union (AU) and NEPAD, the new SACU agreement, and the higher education sector.

Willie Breytenbach's paper reviews developments in the African Union (AU) and NEPAD. He emphasises that the objectives of NEPAD go beyond continent-wide integration to include security, regional integration and good governance as requirements for development through the range of partnerships for African development.

He discusses issues related to:

- the reliance on external funding, specially foreign direct investment, for African development;
- the vagueness as regards implementation, with only general indications that regional organisations will be assisted to implement NEPAD projects;
- the relationship between the AU and NEPAD, with some stakeholders suggesting that NEPAD should be independent of the AU;
- the peer review mechanism and the challenges of safeguarding its independence

Colin McCarthy's assessment of the new SACU Agreement focuses on three specific objectives: a fair distribution of revenue, the adoption of a common industrial policy and establishment of institutions to manage the affairs of SACU in a spirit of democratisation. He emphasises that the Agreement is a framework document that will have to be given more explicit content through a series of side agreements or annexes.

Key issues raised in the assessment include:

- the importance of developing capacity to produce trade statistics to give effect to the new revenue distribution arrangement;
- the decline of the customs contribution to the revenue pool as trade liberalisation proceeds, which poses challenges for Lesotho, Namibia and Swaziland, given their reliance on this source of revenue;
- the challenge of devising a common industrial policy given the diversity of industrial structures, and the dominance of the South African economy in both manufacturing and services sectors.

Gerhard Erasmus examines the new SACU institutions and assesses the implications for regional integration. He notes the following:

- The development of common policies, as required by the new Agreement, could promote regional integration.
- The Council of Ministers is premised on the formal equality of the Member States. As the highest decision making body in SACU it can decide on policy guidelines and on a common negotiating mechanism for the negotiation of trade agreements with third parties.
- Member States have undertaken to harmonise product standards, SPS measures and technical barriers to trade - how will this be done?
- The SACU Tribunal can make an important contribution to the development of the jurisprudence of a rules-based system in SACU.

Karola Hahn poses the question 'Towards a SADC area of higher education and research?' She points out that

- Globalisation results in a major restructuring of higher education in the region. Educational services are becoming increasingly transnational.
- However, there has been little study on this subject.

- In addition to the SADC protocol on education and training there are many institutions and initiatives aiming at regional integration in the field of higher education.
- However, the region has not yet become a major player in the field of higher education.

Dirk Hansohm deals with indicators for regional integration in Southern Africa. Key points arising are:

- There are various initiatives for measuring regional integration globally and in Africa, but no agreed framework of indicators.
- It is important to combine quantitative and qualitative indicators, involve stakeholders, strike a balance between international comparability and usefulness for the region.
- Dimensions of monitoring include interdependence, institutionalization, actors, structural factors, implementation, and effects.

In the concluding section, the editors draw together the results of the previous sections and reflect on the progress in regional integration in Southern Africa.

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Macroeconomic Trends in SADC

Rosa Endjala and Calicious Tatalife

Introduction

As is customary in this yearbook, this chapter reviews the macroeconomic trends in the SADC region in order to set the stage for the discussion of other topics of regional interest. A comparison of selected indicators is conducted across the region and in relation to other regions in the world. Particular reference is given to developments during the past year.

Economic Welfare and Welfare Growth

Table 1 shows that during 2002 the overall performance of SADC member countries has been on the upside. However, not much should be read into the GNI figures though, as the figure for 2002 is an average for thirteen countries as opposed to 14 for year 2001. Indeed, it can be shown that when thirteen countries are considered for 2001 the GNI per capita would show a decline of 3.4% from 1726 (2001) to 1668 (2002). The drop in the overall GNI per capita arose through corresponding drops in some Member States, particularly, with respect to Botswana, Lesotho, Namibia, Seychelles, South Africa and Swaziland. Of equal concern though is the performance of low income countries where the GNI per capita had little or no improvement in 2002, with the exception of Angola. Nevertheless, the overall GDP growth of 3.9%, translating into 2.3% growth GDP per capita and also helped by a slightly lower population growth is encouraging for the region, given a rather subdued global economic environment over the past years.

	GNI per capita (US\$)		GDP per capita % growth		GDP annual % growth		Population growth (%)	
	2001	2002	2001	2002	2001	2002	2001	2002
Angola	530	680	0.2	12.0	3.2	15.3	2.9	2.9
Botswana	3120	2990	4.0	2.9	5.3	3.9	1.2	1.0
Congo, DR	90	90	-4.9	0.0	-2.0	3.0	3.0	3.0
Lesotho	510	470	1.9	2.6	3.2	3.8	0.9	1.0
Malawi	160	160	-6.2	-0.2	-4.2	1.8	2.1	2.0
Mauritius	3850	3860	5.5	3.4	6.7	4.4	1.1	1.0
Mozambique	200	200	10.6	5.6	13.0	7.7	2.1	2.0
Namibia	1990	1830	0.6	0.9	2.4	2.7	2.6	2.1
Seychelles	7220	6910	-2.3	-1.2	-2.2	0.3	1.2	2.4
South Africa	2840	2630	1.6	2.8	2.7	3.6	1.8	1.2
Swaziland	1330	1240	-0.5	1.6	1.7	3.6	2.2	1.9
Tanzania	270	280	3.8	7.1	6.1	6.3	2.2	2.1
Zambia	330	340	3.0	1.6	4.9	3.3	1.9	1.7
Zimbabwe	480	..	-9.8	-6.7	-8.4	-5.6	1.6	1.2
SADC ^a	1637	1668	0.5	2.3	2.3	3.9	1.9	1.8

a Figures for SADC as a whole are calculated as the sum of the country figures divided by the number of countries

Table 1: Economic Growth in SADC Countries (2001-2002)

Source: World Bank(c) (2004)

At the regional level (Table 2), the performance of SADC countries compares fairly well in all indicators with other regional groupings. However, the level of GNI per capita is still further away from the upper middle income countries. As shown earlier, excluding Zimbabwe would show a decline in GNI per capita which does not augur well for economic convergence particularly when one takes into account the differences within SADC countries. Though population growth in SADC seemed to have slowed slightly, hidden in these figures are the impacts of HIV/AIDS, of which the region has the highest prevalence rates. Thus due to a high number of deaths, the population growth rate can be contained. The situation is further compounded by expenditure on health services, which may further divert resources earmarked for other developmental projects.

Overall, looking at GDP indicators, the performance of SADC countries has been better in 2002. A concern arises with the continuous poor performance of low income countries in the region. It should be emphasised that SADC countries cannot afford a drop in GNI per capita levels if they are serious with economic convergence. This also calls for concerted efforts in addressing the spread and impact of HIV/AIDS.

	GNI per capita	GDP per capita % growth	GDP annual % growth	Population annual % growth	
	2002	2001-2002	2001-2002	2001	2002
SADC	1668	2.3	3.9	1.9	1.8
East Asia & Pacific	960	5.8	6.7	0.9	0.9
Low income	400	2.2	4.1	1.9	1.9
Lower middle income	1340	4.1	4.9	0.9	0.8
Middle East & North Africa	2250	1.2	3.1	1.9	1.9
South Asia	460	2.6	4.3	1.8	1.7
Sub-Saharan Africa	450	1.0	3.3	2.4	2.3
Upper middle income	5140	-2.3	-1.2	1.2	1.1
World	5130	0.8	1.9	1.3	1.2

Table 2: Economic Growth of SADC in Global Comparison (2001-2002)

Source: World Bank(c) (2004)

Development of Economic Sectors

The structure of SADC economies remains fairly constant, with few changes in the contribution of the agriculture sector in all the Member States. Mozambique has recorded the only significant change, with the industrial sector gaining some prominence over the agricultural and service sectors (Table 3). A similar development can be observed for Swaziland where industry recorded a five-percentage point increase at the expense of the service sector. For the rest of the SADC countries, the status quo remains.

	Agriculture			Industry			Services		
	1990	2000	2002	1990	2000	2002	1990	2000	2002
Angola	18	6	8	41	73	68	41	21	24
Botswana	5	3	2	56	46	48	39	51	50
DR Congo	30	55	56	28	18	19	42	27	25
Lesotho	23	18	16	34	41	43	43	41	41
Malawi	45	37	37	29	17	15	26	46	49
Mauritius	-	6	7	-	32	31	-	63	62
Mozambique	37	27	23	18	27	34	44	47	43
Namibia	12	11	11	38	28	31	50	61	58
Seychelles	-	3	3	-	29	30	-	68	67
South Africa	5	3	4	40	31	32	55	66	64
Swaziland	-	16	16	-	45	50	-	40	35
Tanzania	48	45	44	16	16	16	36	39	39
Zambia	18	22	22	45	25	26	37	52	52
Zimbabwe	16	18	17	33	25	24	50	57	59

Table 3 Value Added as % of GDP in SADC Countries (1990, 2000-2002)

Source: World Bank (b) (2004)

However, it should be noted that only slight structural changes can be expected in the short-run. Over the longer run changes can be substantial as shown by Lesotho and Mozambique where notable changes took place with significant shifts from the agricultural to the industrial sectors (Table 3). Lesotho is particularly known for the rapid growth of its textile industry. Sub-sectoral changes within industry has been fairly limited save for Angola and Namibia, with the former registering an increase, and the opposite in the latter. With respect to the service sectors, Malawi and Zambia seem to have experienced the most significant changes when compared to 1990.

Overall, the service sector remains the strongest in the region despite efforts to increase the level of manufacturing activities. In some cases this is a result of government efforts. The results of initiatives such as the Cotonou Agreement and the African Growth and Opportunity Act (AGOA), aimed at increasing manufacturing activities and diversifying economies from reliance on mining in the mineral dependent economies, can be better assessed in the long-run.

Macroeconomic Indicators

Without doubt, macroeconomic stability is a key to achieving both national and regional objectives. As is well known, countries that have always had unstable macroeconomic environments (of which the majority are African countries) remain the ones with poor and less developed economies. In contrast, all developed nations are characterised by a sound and stable macroeconomic environment. It is also important to note that trade can only take place under a stable economic environment and that stability is a necessary condition for investment (McCarthy, 2002). This section analyses selected macroeconomic indicators to assess the macroeconomic environment in SADC countries. The analysis focuses on exchange rates, inflation rates, budget deficits, and external debt.

Exchange Rates

Exchange rates are defined as the price of a currency in terms of another currency. Traditionally, appreciating currencies have always been seen as leading to less competitiveness of exports, whereas volatility thereof is a sign (and a cause too) of instability. However, in the case of SADC countries, three issues need to be noted. First, it should be noted that four of the member countries (Lesotho, Namibia, South Africa, and Swaziland) belong to a Common Monetary Area whereby currencies of the other three countries trade at par with the South African Rand. Thus, the fact that the three smaller countries have no independent monetary policies and given the dominance of the South African economy, it is difficult to assess the stance of the macroeconomic environment of these three countries through the exchange rate.

Secondly, some SADC countries still have fixed exchange rate regimes (e.g. Zimbabwe) and thus the picture is often distorted since the exchange rate is not a deliberate result of market forces, but rather of decisions by the monetary authorities.

Thirdly, most SADC economies are commodity exporters and are thus price takers, which leaves them exposed to the vagaries of international trade. Therefore fluctuations in exchange rates are not entirely the making of domestic economies but rather reflect the stance of the export market.

On the other hand, the past few years have been characterised by the depreciation of SADC currencies against the US Dollar. As shown in the table below, the situation seems to have continued in 2003 for many countries with the notable exception for CMA countries and Botswana. In the case of the former, the Rand has retrieved losses suffered during the 2001/2002 depreciation.

Overall, exchange rate developments do not show convergence. The current evidence seems to point to divergence with richer economies showing firming exchange rates whereas it is quite the opposite for lower income countries. Given different levels of institutional capacities and general economic development, the current situation should be expected to continue for a few years.

	1996	1997	1998	1999	2000	2001	2002	2003	Currency
Angola	127556	228939	392821	2.79	10.04	22.05	43.7	74.6	New Kwanza
Botswana	3.32	3.64	4.22	4.61	5.08	5.81	6.3	4.93	Pula
Congo, DR	0.5	1.31	1.61	4.02	21.82	206.6	346.5	405	Nouveau Zaire
Lesotho	4.3	4.61	5.54	6.11	6.94	8.62	9.48	7.56	Maloti
Malawi	15.32	16.44	43.07	44.08	59.54	72.2	76.69	108.6	Kwacha
Mauritius	17.95	21.06	23.99	25.19	26.25	29.13	29.96	27.9	Rupee
Mozambique	11140	11406.3	11851.8	12673	15141	20454	23180	23341	Metical
Namibia	4.29	4.87	5.53	6.11	6.93	8.6	10.51	7.56	Dollar
Seychelles	4.96	5.02	5.26	5.34	5.71	5.85	-	-	Rupee
South Africa	4.29	4.6	5.53	6.11	6.93	8.6	10.51	7.56	Rand
Swaziland	4.29	4.6	5.52	6.11	6.91	8.57	10.45	7.5	Lilangeni
Tanzania	579.98	612.12	666.75	800.4	800.4	876.4	966.6	1038	Shilling
Zambia	1207.9	1314.5	1862.1	2388	3111	3820	4307	4733	Kwacha
Zimbabwe	10.06	12.11	23.5	38.3	55.04	55.04	55.04	-	Dollar

Table 4 Real Exchange Rates Indices (Period Average), (National Currency per US\$, 1995 = 100) (1982-2003)

Source: SADC (2004)

Inflation

High and persistent inflation is often seen as a sign that authorities are losing control and thus remains one of the most important indicators of macroeconomic environment. Indeed, this partly explains why SADC central bankers have committed themselves to lowering inflation to a single digit level. The framework set for this target is the period 2004 to 2008, with a below five percent figure expected between 2009 and 2019 (Business Africa, 2003). While ideal for fostering further integration, the vast differences in inflation rates in the region make this target unattainable for some countries. Once again, the performance of relatively richer economies stands out. Among lower income countries, Zambia, though still recording double digit figures, managed to reduce inflation by more than half whereas Tanzania maintained the level achieved in 2002. However, not much can be said about the DRC as the reported figures are rather suspicious given the level of instability in that country.

	1990-95	1996	1997	1998	1999	2000	2001	2002	2003
Angola	1452.9	1650.1	147.7	134.8	329	268.4	116.1	105.6	76.6
Botswana	12.2	9.6	7.8	6.4	8.4	8.5	6.6	8	9.2
Congo, Dem. Rep.	381.7	693	13.8	134.8	483.7	511.2	135.1	15.8	4.4
Lesotho	12.9	9.3	8.6	7.8	8.6	6.1	6.9	11.9	-
Malawi	30.6	37.6	9.2	29.7	44.7	29.68	27.5	14.8	9.6
Mauritius	8.2	6.6	6.6	6.8	6.9	4.2	5.4	6.4	3.9
Mozambique	56.5	19.3	6.2	-1	6.2	11.4	21.9	9.1	13.8
Namibia	11.9	8.0	8.3	6.2	8.6	9.3	9.2	11.4	7.3
Seychelles	2.0	-1.1	0.6	2.6	6.3	6.3	6	-	-
South Africa	11.8	7.4	8.6	6.9	5.2	5.4	5.7	9.2	5.8
Swaziland	11.2	6.5	7.2	8	5.9	7.3	7.5	11.7	7.4
Tanzania	28.9	21	16.1	12.8	7.9	5.9	5.1	4.6	4.4
Zambia	107.2	43.1	24.4	24.5	26.8	25.9	21	38	17
Zimbabwe	25.6	21.7	18.8	31.7	58.5	55.9	71.9	133.2	365

Table 5: Consumer Price Indices (annual % changes), (1990-2003)

Source: SADC (2004)

Budget Deficits/Surpluses

Table 6 shows that the overall deficit spending of SADC countries has declined to 3.5% over the last decade compared to a decade ago. On the positive side, Lesotho, Tanzania, and Zambia seems to have improved significantly when considering that these are all low income countries. The

2003 figures for Zimbabwe and 1991-2003 average are rather suspect given the economic turmoil that have engulfed the country in the last three years in particular.

Meanwhile SADC central bankers are aiming towards lowering and maintaining budget deficits as a percentage of GDP to five percent during 2004 to 2008 and three to four percent during 2009 to 2019. Beyond 2019, the target rate set is three percent or less (Business Africa, 2003). Actual figures for 2002 showed that nine out of fourteen SADC member countries were above the five percent target intended for the period 2004 to 2008. The 2003 estimates, however, show a reduction of countries with budget deficits below five percent to four out of fourteen.

Overall, while the approach taken by central bankers is to be appreciated, the duty of managing government expenditure should not be seen as the primary function of the monetary authorities. More often than not most economic instability originates from severe fiscal imbalance. Therefore, commitment by the fiscal institutions is vital and this should exist at the political level too. Once again, given structural differences among SADC countries some kind derogation would need to be extended to poorer member countries. This is mostly true for post-conflict countries (Angola and DRC) whose governments are faced with massive economic reconstruction, with relatively little revenue to finance it.

Overall Government deficit/surplus as a percentage of GDP at current prices (percentage)						Annual Average	
	1980	1990	2000	2002	2003*	1980-1990	1991-2003
Angola	-9.9	-23.7	-6.3	-9	-4.6	-10.2	-16.1
Botswana	31	10.4	6.6	1.1	-2.7	11.8	5.4
Congo DR	-0.4	-10.9	-6	-2.7	-4.9	-6.3	-9.1
Lesotho	-10.1	-0.9	-1.5	-3.8	-3.5	-9.7	-0.8
Malawi	-11.6	-2.8	-4.9	-5.2	-1.3	-7.1	-6.2
Mauritius	-10.6	-2.1	-3.8	-5.9	-5.9	-6.3	-4.3
Mozambique	-2	-5.9	-2	-8.1	-3.9	-7.7	-3.7
Namibia	-	0.6	-1.1	-4.4	-3.7	-0.1	-3.5
Seychelles	-6.6	5.6	-11.7	-15.1	6.4	-7	-6.2
South Africa	-1.4	-3.3	-2	-1.2	-2.1	-3.8	-4
Swaziland	-	6.5	-1.4	-6.3	-6.7	-0.6	-1.9
Tanzania	-5.7	-3.2	-1.7	-2.7	-3.2	-5.8	-2.1
Zambia	-18.5	-8.3	-5.7	-5.6	-5.6	-13.2	-4.4
Zimbabwe	-9.6	-6.2	-21.9	-5.4	8.8	-7.8	8.4
SADC	-4.6	-3.2	-4.5	-5.3	-2.4	-5.3	-3.5
Africa	-3.6	-4.8	-1.9	-3.4	-3	-5.8	-3.9

Table 6: Overall Government deficit/surplus as a percentage of GDP at current prices (percentage) (1980-2003)

Source: World Bank (a) (2004)

* estimates

External Debt

Another key objective on the SADC central banks' agenda is the lowering of the ratio of debt as a percentage of GDP to 60 percent (Business Africa, 2003). However, such a figure would only put SADC countries in the same range as Sub-Saharan African countries (figure 1). Conventionally, high external debt ratios are often seen as a deterrent to foreign investment due to the perceived likelihood of the host country tightening foreign exchange controls. Nevertheless, it is encouraging to note that SADC's average external debt declined by 15 percentage points from 2000 to 2002. As can be seen in figure 2, almost all countries except Lesotho registered lower external debt ratios in 2002. Zambia needs to be singled out for her consistency in reducing her external debt. Overall, the status quo seems to continue, with richer economies maintaining low debt while the opposite is true for low income countries.

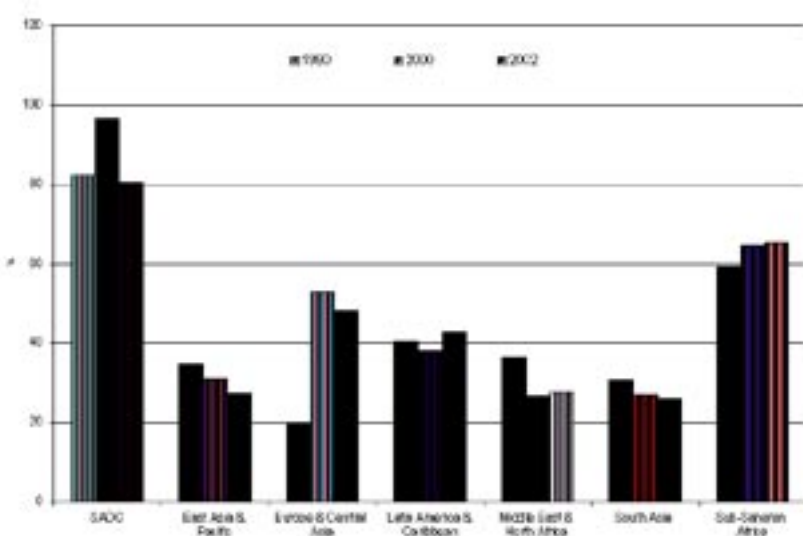


Figure 1: External debt as % of GDP for SADC in comparison with other regions (1990; 2000; and 2002).

Source: World Bank(c) (2004)

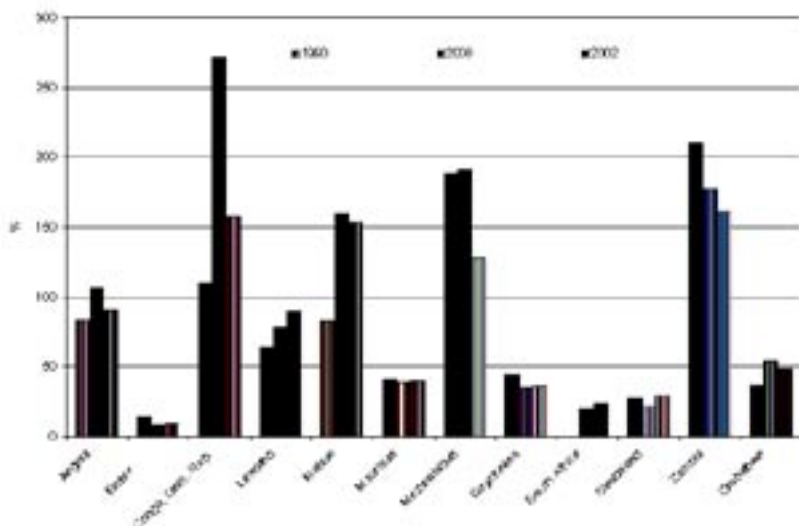


Figure 2 Current External Debt of SADC Countries as percentage of current GDP (1990; 2000; and 2002)

Source: World Bank(c) (2004)

Outlook: Future Scenario

The SADC region comprises countries at different levels of development with some being mineral economies. This brings to the fore, the question of how fast convergence can take place amid such circumstances. The pattern of indicators has changed little over the past few years and even when changes did take place, these were mainly country-specific, with no significant effect on the region as a whole.

The Committee of Central Bank Governors in SADC has identified macroeconomic stability as one of the most important conditions for enabling integration. Recent discussions of the SADC central banks on this are expected to change the current scenario. However, given the heterogeneity among SADC economies in terms of institutional capacity and stages of development, macroeconomic stability may only be achieved in the long-run. Once the alignment takes effect, the region will come one step closer towards the realisation of economic convergence.

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Implementation of the SADC Trade Protocol: A Preliminary Review

Paul Kalenga

Introduction

The Southern African Development Community (SADC) Trade Protocol was signed in August 1996 but only came into effect on September 1, 2000, after protracted negotiations. Four years after the Trade Protocol came into force, it is imperative to assess the progress made with its implementation. This paper seeks to highlight key critical shortcomings arising from the implementation process. It is argued that the design and modalities for the phased elimination of tariffs and prevailing non-tariff barriers (NTBs) will adversely affect the realisation of the potential positive effects of the Trade Protocol. It is further argued that unless these shortcomings are redressed the goal of attaining a SADC free trade area (FTA) by 2008 with 85 per cent of all intra-SADC trade duty free and the establishment of a SADC Customs Union as envisaged in the Regional Indicative Strategic Development Plan (RISDP) will be seriously undermined.

A review of the tariff phase-down schedules and slow pace of implementation of tariff reductions suggest a rather cautious approach to trade liberalisation by SADC Member States. Little consideration appears to have been given to the countries' pattern of trade and current comparative advantages. Concerns over products and sectors deemed to be sensitive to domestic industrial activities and tariff revenue have dominated the trade negotiation process. Such concerns have also resulted in the substantial back loading of tariff reductions (postponing tariff reductions towards the final years of the implementation period) and the adoption of strict rules of origin. Concerns about sensitivity and the desire for continued protection are likely to be magnified towards the end of the liberalisation period with the potential to derail the regional integration process.

The Trade Protocol provides for the elimination of all existing non-tariff barriers (NTBs) and refraining from introducing new ones. However, in practice it does appear that non-tariff measures are pervasive, increasing and are a real hindrance to intra-regional trade expansion. Some SADC Members States continue to introduce non-tariff measures such as a periodic ban on imports, imposition of additional import levies and other forms of import controls, often as protectionist devices. This undermines the credibility of the Trade Protocol and makes it irrelevant in the eyes of traders, investors and consumers at large.

Empirical insights suggest that regional trade integration schemes are more beneficial if accompanied by lowering protection against the rest-of-the world, i.e. more most-favoured-nation (MFN) based trade liberalisation.

To prevent trade diversion, it is also important to harmonise integrating partners' external tariffs. This is an important consideration that SADC Member States should make in rationalising their external trade policies, including dealing with some of their membership in overlapping, multiple and conflicting preferential trading arrangements, in a manner that will promote effective and efficient regional and global economic integration.

Without fast-tracking the tariff reduction schedules, improving the rules of origin regime, reducing NTBs, and lowering and harmonising members' external tariffs, SADC countries will comprise the benefits that can be gained from the Trade Protocol. The protocol provides for a mid-term review, which is scheduled for completion by the end of 2004. This mid-term review process offers SADC Member States a window of opportunity to address these critical issues.

Overview of the SADC Trade Protocol

The SADC Trade Protocol came into effect on September 1, 2000. Angola, the Democratic Republic of Congo (DRC) and Seychelles are not yet party to the free trade process. Angola formally acceded to the protocol in March 2003 but is yet to negotiate a tariff liberalisation schedule with other Member States. The overall objective is to have 85% of all intra-SADC trade at zero tariffs by 2008 and the remaining 15% to be liberalised by 2012, effectively establishing a free trade area (FTA). The main instrument of trade liberalisation is therefore the elimination of customs tariffs and non-tariff measures on substantial intra-SADC trade. The intention is also to extend trade liberalisation to services. However, services liberalisation has not yet been a subject of negotiations. More energy had to be devoted to protracted negotiations on the liberalisation of trade in goods, especially on rules of origin for sensitive products.

In addition, the protocol calls for other trade and investment facilitation measures, including harmonisation of customs rules and procedures, attainment of internationally acceptable standards, quality, accreditation and metrology (SQAM) and harmonisation of sanitary and phyto-sanitary (SPS) measures. Some progress has been made in the areas of customs co-operation, SQAM and related measures. So far the focus of the Trade Negotiation Forum (TNF) has been on the reduction of customs duties on intra-SADC trade and the adoption of common rules-of-origin.

The reduction of tariffs is being carried out based on four categories. Category A requires immediate reduction of duty to zero at the beginning of the implementation period, by 2000. These commodities already attracted low or zero tariffs. The second category B deals with goods that constitute significant sources of customs revenue and whose tariffs are to be removed over 8 years, by 2008. Categories A and B should account for 85% of intra-SADC trade so that by 2008 SADC can be regarded as a free trade area in compliance with Article 24 of the General Agreement on Tariffs and Trade (GATT). This required that "substantially all trade" should be duty free.

Category C deals with sensitive products (imports sensitive to domestic industrial and agricultural activities) whose tariffs are to be eliminated between 2008 and 2012. Category C is limited to a maximum of 15% of each Member's intra-SADC merchandise trade. Category E is goods that can be exempted from preferential treatment under Articles 9 and 10 of the Trade Protocol such as firearms and munitions, comprising of a small fraction of intra-SADC trade.

There are two special agreements on trade in sugar and clothing and textiles, regarded as sensitive products. Sugar has been one of the highly sensitive products and susceptible to the influence of domestic interest groups and politicians in the world's sugar producing countries including SADC. It was not easy to find common ground within the Trade Protocol negotiation process; hence, a special agreement on trade in sugar was adopted. This allows the SADC sugar producers to have a non-reciprocal access to the Southern African Customs Union (SACU) market. A market growth share has been agreed upon ensuring a steady increase in sugar tonnage exports into the SACU market until 2012. Market access is based on a country's exposure to the world market on trade in sugar and not to preferential markets. This will be reviewed after 2012 depending on a positive assessment of conditions prevailing in the world sugar market.

Problems are currently being experienced with regard to the general provisions on market access in the Annex VII of the Trade Protocol Concerning Trade in Sugar. Mauritius wants the force majeure provisions to be amended to enable it to obtain a quota even in years when it has no surplus and carry it forward to the succeeding years, arguing that force majeure is an accepted and implicit concept in commodity trading agreements. Namibia and Botswana raise the question as to why despite the duty-free quota from SADC, sugar is still not cheaper. These problems are to be reviewed in the mid-term review process.

The special agreement relating to trade in clothing and textiles is based on a two-stage substantial transformation rule of origin. Malawi, Mozambique, Tanzania and Zambia (referred to as MMTZ countries) are allowed access to the SACU market under a one-stage transformation rule subject to quotas. The quotas are based on current production capacity. This dispensation has been put in place for a period of five years during which the MMTZ countries are expected to graduate to the two-stage transformation rule of origin where there are no limits on market access.

Tariff Liberalisation Schedules – The Need for Fast-tracking

A Member State accedes to the Trade Protocol by submitting an instrument of implementation, which is in fact a tariff phase down schedule over the implementation period¹. The country specific offers are based on the principle of reciprocity, i.e. tariff preferences will be extended only to Member

¹ These can be obtained from the SADC website: www.sadc.int

States that have submitted their instruments of implementation. Tariff liberalisation is based on an offer approach designed based on asymmetry, which takes into account the level of development of Member States. This principle of asymmetry allows the least-developed Member States a slower phase down period, and is seen as a means of enhancing equity in the region. Each Member State submitted two offers – one schedule for South Africa and a 'differentiated offer' to the rest of SADC (excluding South Africa), which allows for a faster tariff phase down schedule). Members of SACU² made a single offer to the other SADC members by virtue of having a common external tariff (CET).

SACU members made a single offer to the other SADC members for immediate reductions to achieve zero tariffs after five years, except for sensitive products, i.e. front-loading their offer. Zimbabwe and Mauritius (as developing economies) also agreed to start their tariff reductions earlier than other non-SACU members (least-developed economies), i.e. mid-loading their differentiated offers.

Generally, SADC countries displayed a cautious approach to intra-regional trade liberalisation in the construction of their tariff liberalisation offers and schedules. This cautiousness is largely driven by a pre-occupation with 'sensitivity' considerations arising from the desire to offer continued protection to existing domestic industries as well as fears of foregoing tariff revenues. Little consideration appears to have been given to countries' pattern of trade in evolving their tariff offers. Most tariff lines that are zero-rated at the commencement of the implementation process are not traded regionally, and have already very low MFN rates or are subject to rebates. Most countries adopted a formula that resulted in very low tariff being levied before reaching zero. When trade-weighted tariffs are below a certain threshold, it is likely that the cost of collecting such duties will be higher than the revenue raised from them. Tariffs below 2% unless they are on readily observed high value imports, cost more to collect than the revenue they bring in. Yet, such a situation is observed in many cases around the end of the official phase down period. These small and inefficient tariffs often extend to the full 12-year period and even beyond to 14 years in some cases.

Much space has also been left for countries to maintain trade protection. Unfortunately this has been more pronounced on goods where there is potential for cross-border trade. Sectors such as tobacco, leather, beverages, furniture and foodstuffs phase down very slowly. Shorter phase down periods are observable in inputs to domestic production though of limited regional availability.

² SACU consists of Botswana, Lesotho, Namibia, Swaziland and South Africa. They are in a customs union and have a common external tariff (CET). As such, despite varying levels of development, they can only make a single offer.

An analysis of the tariff reduction offers³ reveals the seriousness of the back loading of tariff reductions. The rationale for such back-loading lies in the apparent need to contain adjustment costs related to a reduction in customs revenue and pressure on import-competing sectors. For example by the end of the fourth year of liberalisation SACU would have only affected 47% of its liberalisation of SADC imports. Tanzania, Zimbabwe and Zambia would have offered 32%, 39% and 37% respectively to other SADC partners' imports (excluding South Africa). The picture is even worse in the case of Malawi, Mauritius and Mozambique's commitments to other SADC partners' imports (excluding South Africa) ranging only 12%, 7% and 9% respectively. The above scenario depicts planned reduction, yet in 2004 many countries have not yet liberalised their Category B items. Surprisingly, some countries provide faster liberalisation of trade to South Africa than with the rest of SADC at the fourth year. This is despite the principle of asymmetry and differentiation.

	Fourth Year	Fourth Year	Eighth Year	Eighth Year
	Offer to RSA	Offer to SADC	Offer to RSA	Offer to SADC
SACU	N/A	46.8	N/A	99.5
Malawi	1	12	70.4	60
Mauritius	26.4	7.4	70.4	72.5
Mozambique	9.2	8.7	62.7	76.3
Tanzania	8.3	31.4	87.3	87.9
Zambia	18.5	38.7	62.7	76.9
Zimbabwe	18.6	37.4	68.3	57.7

Table 1: Proportion of Liberalisation Achieved (%)

Source: SADC Trade Project, 2001

SACU offers most sectors for immediate liberalisation and in most instances reaches duty-free access within four years (beginning 2005). However, longer periods apply to product lines in clothing, machinery and vehicles – key industrial sectors in South Africa. By 2008, SACU countries will have achieved over 90% of intra-regional tariff free trade. While this suggests free access for most products, these zero tariffs apply only to imports satisfying the SADC rules of origin, which can be difficult to achieve. This is further discussed below.

³ SADC Trade Protocol Project, 2001

If a country's trade weighted tariff rate is 20% at the beginning of the liberalisation process, and it falls to 10% after four years, it is concluded that it has achieved 50% of its planned tariff reductions by the end of four years $((20-10)/20 = 50\%)$. This may not be true in practice since this will depend on the extent to which Member States are honoring their implementation commitments. It has been reported that some Member States are not on schedule in implementing their commitments. Interviews with officials from the Secretariat indicated that by mid-2004 Zimbabwe, Malawi and Zambia were already delayed with respect to their schedules of tariff reductions.

The back-loading of tariff reductions as well as reports that some Member States are lagging behind in implementing their implementation commitments remain a serious shortcoming that should be addressed, especially if a free trade area has to be realised by 2008 and the RISDP stated goal of the establishment of a customs union by 2010 is to be achieved. Experience elsewhere demonstrates the difficulties of delaying tariff reductions and elimination towards the final years of the implementation period. The reason for such a delay was due to anticipated adjustment costs related to customs revenue and competitive pressures on domestic industries. Unless some measures are being implemented to deal with such adjustment costs, spreading the costs of adjustment towards the final phase will not reduce the overall cost and is likely to create a severe adjustment burden. The result will be demands for continued protection and derailment of the integration process. It is advisable that, as part of the mid-term review, SADC Member States realise this risk and consider a *fast-tracking* of tariff reductions.

Rules of Origin – The Need for Reform

Preferential trade agreements require that only goods originating in participating countries should enjoy tariff preferences. Without such rules third country imports are likely to enter the preferential trade area through a lower tariff member of the trade agreement so as to avoid the payment of duties. This is often referred to as '*trade deflection*' or '*tariff jumping*'. This is particularly so under circumstances where participating countries' external tariffs vary greatly.

Initially, the Trade Protocol provided for simple and less restrictive rules of origin. Products could qualify for SADC tariff preferences if they underwent a single change of tariff heading (CTH) or if they contained a minimum of 35% regional value-added or if they included not more than 60% of non-SADC imported materials of the value of total inputs used. Agricultural and primary products were to be wholly produced or obtained in the region. During the negotiation process, certain Member States demanded a tightening of the rules of origin. Certain interest groups cited concerns that because of weak customs administrations in many SADC Member States there was a possibility for non-originating goods to claim preferences. A usual reference was made to cheap clothing and electronic goods from Asia being dumped on regional markets. To avoid this, a case was made for tightening the rules of origin on some of these 'sensitive' goods. Other interest groups also called for the use rules of origin as instruments of regional industrial development by encouraging the use of intermediate inputs and raw materials available in the region. It was overtly assumed that inputs for any traded goods were readily available in the region and were cost-effective. Again, these arguments were exemplified by the fact that Member States afforded different levels of protection on intermediate inputs and raw materials such that a balanced development of processing industries could be undermined. The result was that initial rules of origin were revised and replaced by a more complex, restrictive, cumbersome and

costly product-specific rules of origin⁴, especially in manufacturing products such as electronics and electrical goods, textiles and garments, and motor vehicles. There are now specific rules for all chapters of the HS tariff code. To date no agreement could be reached on rules of origin for wheat flour (HS Chapter 11) and products (HS Chapter 19) such that the Trade Negotiation Forum is now investigating the possibility of having a common external tariff on wheat.⁵

Both economic theory and empirical evidence suggests that the nature and application of rules of origin have profound implications on the competitiveness of domestic producers, on consumer welfare, trade and investment. It is now recognised that restrictive rules of origin limit the potential benefits of preferential market access. Rules of origin are regarded as the prime suspects for low levels of utilisation of preferential access to the EU by least developed countries (Brenton, 2003). Rules of origin have also been found to be one of the fundamental causes of the under-utilisation of EU preferences under the Generalised System of Preferences (GSP), the Lomé Convention and the Cotonou agreement. The recent performance of some countries benefiting from US Africa Growth and Opportunity Act (AGOA), which offers them duty-free market access for some products, including clothing items points to the positive effects of less restrictive rules of origin. All the countries that have been able to substantially increase exports of clothing to the US have been granted liberal rules of origin permitting them to source their inputs from cheaper global sources⁶. Liberal rules of origin can also explain recent investment in Lesotho's garment industry and rising exports to the US market under AGOA preferences. Such experience appears to be emerging in other Southern African countries, which are AGOA beneficiaries. Unfortunately, the SADC rules of origin deprive them of the SADC market. Such rules deny SADC producers access to internationally competitive inputs and raw materials, which are probably their best hope for becoming globally competitive. The case of the adverse impact of SADC rules of origin on cost and international competitiveness has been made by Flatters (2002).

Restrictive rules of origin are not only a barrier to international competitiveness but also costly in terms of ensuring conformity. Traders will have to incur costs of complying with the certification requirements, which are often complex in the case of restrictive rules of origin. Customs

⁴See Annex I of the SADC Protocol on Trade and Appendix 1 on conditions regarding working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status.

⁵HS Chapter 19 concerns downstream flour products such as pasta and biscuits. Some stakeholders have proposed rules that require significant use of locally produced flour and/or wheat. There are large variations for protection given to downstream producers of flour and its products generating differences in domestic policy stances with regard to liberalisation of intra-SADC trade in these products.

⁶The experience of successful export-oriented investments in labor-intensive sectors such as electronics, footwear, and garments and textiles in South East Asia and Mauritius suggest that access to lower cost inputs of production is critical to raising global competitiveness.

authorities will have to satisfy themselves as to proof of origin of goods often requiring costly administrative systems. The value-added criterion can be difficult and costly to prove and the availability of alternative ways to prove origin may be a better option. The situation is likely to be worse in the case of membership to multiple and varied trade agreements, especially when such rules are not harmonised as with the case of many SADC Member States.

Clearly, SADC rules of origin are likely to undermine the potential benefits of the Trade Protocol. They are based on those governing the EU preferences, which are product specific, complex and restrictive. Ironically, SADC Member States themselves are now highlighting problems with very similar rules in the Cotonou Agreement aiming to revisit them in their negotiations of Economic Partnership Agreements (EPAs) with the EU. This underscores the necessity of reforming the SADC rules of origin regime, not only to make them simple and less restrictive, but also to permit the use of alternative rules of origin.

Non-Tariff Measures – Undermining Regional Trade Integration

Article 6 of the Trade Protocol provides for the elimination of all existing non-tariff barriers (NTBs) on intra-SADC trade and for refraining from introducing new ones. Article 7 calls for the phasing out of all existing quantitative restrictions (QRs) on imports and exports originating in and destined to the other Member States, and that no new restrictions are to be introduced. However, there are provisions to apply quotas on SADC originating imports if the tariffs under such quotas are more favourable than the preferential rates agreed under the tariff implementation schedule. Article 9 allows for imposition of QRs on imports and exports for the protection of public morals, human, animal or plant life and health, maintenance of public order and protection of national treasures and cultural property. Article 16 deals with sanitary and phyto-sanitary (SPS) measures, which should be harmonised and based on international standards and in conformity with the WTO Agreement on SPS. Technical barriers to trade (TBT) should also be guided by the WTO TBT Agreement.

The SADC Committee of Ministers responsible for Trade Matters (CMT) agreed at a meeting in November 1999 to immediately eliminate the following core NTBs: cumbersome customs procedures and documentation; cumbersome import licensing/permits, cumbersome export licensing/permits; import and export quotas; and unnecessary import bans/prohibitions. The following NTBs were also to be gradually eliminated: restrictive charges not within the definition of import or export duties; restrictive single channel marketing; prohibitive transit charges, cumbersome visa requirements; and restrictive technical regulations. Member States were also to notify the SADC Secretariat of NTB National Contact Points (NCP).

It is necessary to conduct an investigation as to the progress made on these commitments. However, anecdotal evidence suggests that no significant progress has been made to eliminate such NTBs. Listing them is certainly not enough. Necessary processes, rules and clear action timetables should be in place to eliminate NTBs and to implement safeguards against their

use as instruments of disguised protection. Many countries continue to introduce new NTBs such as periodic import bans or restrictions on certain goods, temporary surcharges and additional levies, etc. This is often done in an arbitrary and non-transparent manner.

NTBs are particularly pervasive in trade in agricultural goods often cited as necessary for health and safety reasons, but in many cases for the protection of domestic producers. Erasmus and Flatters (2003)⁷ provide some accounts of NTBs on wheat flour trade in SADC such as: Botswana imposing a 15% import duty on flour in response to 'dumping' from South Africa. Namibia replaced its local purchase requirement with a ban on flour imports. Swaziland requiring a permit to be granted by the National Agricultural Marketing Board, which restricts the number of permits being granted. Mauritius controlling all wheat flour imports through its State Trading Corporation. South Africa requiring all domestically sold wheat flour to be vitamin enriched. Zambia imposing a substantial cash deposit requirement on wheat flour in transit from South Africa to the DRC.

In deed, the scope of NTBs in the SADC region remains extensive and forms a substantial hindrance to intra-SADC trade. Member States will have to implement their formal commitments with respect to the elimination of such barriers through some form of a rules-based and transparent system.

In the area of TBT and SPS measures, some progress continues to be made on regional cooperation in these issues. Draft Annexes to the Trade Protocol are in development to deal with these issues more effectively. There are regional cooperation initiatives through the SADC Institutions for Standardisation, Quality Assurance, Accreditation and Metrology (SQAM). Nevertheless, such initiatives remain constrained by the lack of a clear and transparent policy and regulatory framework on standards and technical regulations in many countries.

Intra-SADC Trade Flows

Previous work on monitoring regional integration in Southern Africa included some discussions on intra-SADC trade patterns. Hartzenburg (2001) was quite reserved about the progress SADC has made in the trade sector arguing that most of the increase in intra-regional trade during the second part of the 1990s was due to South African exports. Chauvin and Gaulier (2002) argued that given the economic structure disparities among participating members the prospects for increasing trade among SADC countries from the SADC FTA were rather limited. It is still early to make any conclusive argument about the impact of the SADC Trade Protocol on intra-regional trade flows⁸. Nevertheless, the following observations can be made.

Firstly, South Africa's exports to African countries have been rising in absolute terms since the 1990s. This is largely due to the aggressive

⁷Although they warned that this picture might not be fully accurate but it should provide a general picture on NTBs patterns in the wheat trade.

⁸The quality of trade data for many SADC countries remains relatively poor and matching trade flow data with the tariff phase down schedules is still technically problematic.

marketing strategy of South African exporters to penetrate world markets after the end of sanctions. The move towards trade openness in many structurally adjusting African countries also complemented this trend. For example, the share of the EU as the main origin of SADC imports decreased from 44% in 1991 to 31.7% in 2001 (Yagci and Aldaz-Carroll, 2003). Such declines are generally attributed to a certain degree of trade diversion from European goods in favour of South African ones (De la Rocha, 2003). It is important to note that such a trend has also been experienced in the case of other non-SADC countries. The past three years have also witnessed significant growth of exports from SACU (especially from South Africa, Namibia and Swaziland) to Angola despite the fact that Angola has not been party to the Trade Protocol (Kalenga, 2004).

Secondly, a considerable proportion of intra-SADC trade has already been taking place duty free or at lower tariffs as a result of bilateral and plurilateral trading schemes, including COMESA⁹ preferences, SACU¹⁰ and the Regional Investment Facilitation Forum (RIFF)¹¹.

Thirdly, non-SACU SADC countries' tariff phase-down offers are characterised by substantial back-loading of tariff reductions (especially offers to South Africa) for 'sensitive' products towards the end of the implementation process. Most tariff lines that are zero-rated at the commencement of the implementation process are not traded regionally and have little impact, if any, on intra-regional trade expansion. Many countries are not yet adequately implementing their tariff reduction offers. Therefore, the effect of the Trade Protocol on intra-regional trade flows is likely to be limited so far.

External Trade Policy: The Need for Convergence

Regional integration agreements have been a subject of empirical analysis following their explosion over the past two decades. There is now growing evidence that can guide policymakers in their decisions to form, join or design such arrangements. Such empirical insights are useful as we review the implementation of the SADC Trade Protocol. A critical insight is that regional trade integration schemes can be beneficial if they are part of a broader strategy of integration with the global economy (World Bank, 2000). This outward looking approach to regional integration is generally referred to as "open regionalism".

Setting aside political rhetoric, it is arguably not clear whether the move towards a SADC FTA is driven by a desire to create a larger but protected regional market or a stepping stone towards greater openness to international trade and investment. There are, of course, some indications at national levels pointing towards the latter. SACU countries have significantly lowered their external tariffs and continue to do so within the context of

⁹Most of COMESA members grant each other important preferential market access and are set to establish a customs union by 2004.

¹⁰This is a fully-fledged customs union with a common external tariff accounting for a significant proportion of intra-SADC trade.

¹¹Previously known as the Cross Border Initiative (CBI)

bilateral trade agreements such as within the context of the EU-South Africa TDCA and the prospective FTA with the US. It can also be expected that the negotiation of EPAs with the EU may become a driving force towards greater outward orientation and external trade policy convergence of the SADC Member States.

The issue for debate here is the nature of domestic trade policies of SADC Member States and their ability to support an outward-looking approach to regional integration in SADC. The Trade Protocol does not in general restrict the external trade policies of individual Member States. However, it is necessary to link intra-regional trade liberalisation with the reductions of member's MFN tariffs. This should lead to a marked convergence of their external tariffs and facilitate the effective establishment of a SADC customs union by 2010 as envisaged.

The current MFN tariff rates vary considerably across SADC countries. Except for SACU, the SADC Member States apply tariffs on all their imports. SACU has the highest 7,914 tariff lines comprising of 216 tariff bands and a maximum rate of 55%. The least developed Members (Malawi, Mozambique, Tanzania and Zambia) have relatively simpler and rationalised tariff structures with maximum rates ranging from 25% and 30%. The tariff structure of Mauritius and Zimbabwe is relatively complex attracting a maximum rate of 80% and 100% respectively. The motive behind customs tariffs in the least developed members appear to be revenue generation while in the other developed Members there are specific bias towards protectionism of selected 'sensitive' industries. The result is that effective protection of selected products tends to be higher in SACU, Mauritius and Zimbabwe.

SADC countries' principal exports continue to be sold in world markets. There are limited prospects in the short- to medium- term of increased exports to SADC despite preferential market access (except for South Africa). The entire SADC regional market is very small by international standards with aggregate gross domestic product (GDP) of about US\$ 187.7 billion in 2000, of which South Africa contributes over 70% (SADC, 2003). This limits the scope for an inward-looking regional trade strategy. Therefore, for many SADC members (if not all) the SADC Trade Protocol is only useful if it is used as a platform for improving global competitiveness

Conclusions

Both the design and implementation of the SADC Trade Protocol suffers from some critical weaknesses. The differentiation and back-loading of tariff reduction schedules; restrictive rules of origin and excessive concerns about the costs and risks of tariff liberalisation as well as the slow pace of implementation of agreed commitments are likely to undermine the potential benefits to be gained from the Trade Protocol. Does this represent lack of commitment of SADC Member States towards trade liberalisation? Does this mean that the protectionist lobbies in Member States are dictating the nature and pace towards a SADC free trade area? Alternatively, is it a reflection that Member States have different visions about the type of

regional integration they wish to see? Without redressing these issues, the Trade Protocol is unlikely to increase regional integration.

All SADC countries are facing the challenge of adjusting their economies to the rapid pace of globalisation and the progressive opening up of national economies to trade and factor markets. The smallness of the SADC market does not serve as a sufficient base to develop industries that can compete in wider markets behind trade barriers. International trade and openness to it, has to play an important role in the region's strategy to stimulate growth and export competitiveness. If the Trade Protocol is to be useful to the region's growth and development objectives, it has to be designed and seriously implemented as a twin project for both regional and global integration.

Four things should be done to prevent the Trade Protocol from being yet another failed regional integration instrument in Africa: fast-track the tariff liberalisation process so that by 2008 substantial intra-SADC trade is duty free; design a clear program to eliminate non-tariff barriers to trade within a transparent rules-based framework; reform the SADC rules of origin towards the promotion of international competitiveness and investment as well as moving towards the reduction and harmonisation of external levels of protection. This will facilitate the region's gradual and smooth integration into the world economy.

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Are Economic Partnership Agreements likely to Promote or Constrain Regional Integration in Southern Africa?¹

Mareike Meyn

Introduction

The vast majority of SADC and COMESA countries belong to the group of African, Caribbean and Pacific (ACP) states and are members of the Cotonou Agreement that grants Europe's former colonies preferential, non-reciprocal access to the EU market. To bring the Cotonou Agreement in line with WTO provisions, the countries are called upon to enter into negotiations of free trade agreements (FTA) with the EU. The so-called "Economic Partnership Agreements" (EPAs) are supposed to come into force by 2008 and will liberalise around 90% of EU-ACP trade within 10-12 years. One of the underlying rationales of the EU's approach is that EPAs promote ACP countries' economic integration in both counts: in a regional and international way (European Commission 1996).

The switch from preferential to reciprocal trade relations implies several challenges for southern African countries, such as revenue losses and increased competition in the domestic market. On the other hand, it also offers the option to overcome the traditional "donor-beneficiary" relationship, to benefit from cheaper consumer and producer goods and to enter into a more equitable partnership with the EU. To achieve issues that are of fundamental interest for southern African countries, such as improved market access for traditional and processed agricultural products, technical assistance to cope with sanitary and phytosanitary standards and support to restructure industries that are threatened by increased competition, it is important to negotiate the EPAs in a strong regional body. The European Commission states that customs unions would offer the best condition to enter into an EPA, followed by effectively implemented FTAs. Regional economic integration frameworks that have not reached a binding agreement yet should however be considered to negotiate with if all members have agreed on a harmonised position (EC 2001 as cited in IDS/BIDPA 2003:7).

However, neither SADC nor COMESA has reached a binding agreement for all its members that has effectively been put into place yet. Furthermore, seven out of 13 SADC countries are also members of COMESA. The issue of overlapping membership and to what extent it is a stepping stone

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or obstacle towards regional integration has already been discussed in Yearbook 1-2001 (Mair 2002, Hartzenberg 2002). It is generally argued that the double (or even triple) membership of southern African countries in regional integration frameworks does rather constrain than facilitate intra-regional trade and wastes the already limited human and financial resources. Though the internal and external efforts to reduce overlapping memberships have been limited so far, this picture is going to change due to the all-embracing re-organisation of southern African countries' trade relations with the EU. The question that has to be raised is, however, whether the European approach that pushes southern African countries to opt for one integration framework promotes regional integration in southern Africa or whether single countries' different economic and political interests constrain EPA negotiations and hamper regional integration efforts. In other words: can political integration in form of EPAs work when no economic integration has been reached so far?

The chapter is structured as follows. Section two discusses the concept of EPAs from a theoretical point of view, in particular its innovative approach in comparison to Cotonou and how it is supposed to overcome the marginalisation of ACP countries. Section three investigates whether these inherent assumptions of EPAs are likely to become true. For this purpose, the EU's trade relations with Botswana, Mauritius and Mozambique are briefly examined.¹ The EU is an important trading partner for all of them and Mauritius and Botswana benefit highly from the EU Protocols on sugar and beef. However, so far it is only Mauritius that has been able to diversify its exports to the EU significantly, while Botswana and Mozambique receive more than 80% of their export earnings from one commodity. Section four discusses therefore what an EPA should look like in order to become a successful developmental tool.

To what extent the optimal EPA outcome for southern African countries can be realised, depends considerably on the bargaining power of southern African countries. In this respect, section five looks at the involvement of Botswana, Mauritius and Mozambique (BMM) in SADC and COMESA respectively and how far this affects the re-organisation of their trade relationship with the EU and intra-regional trade relations in southern Africa. Where are BMM's main trading partners in the region, in which direction does regional trade gravitate and what does this mean for the geographical EPA configuration? Section six concludes whether EPAs live up to their

¹These three countries were chosen since they are exemplary for the trichotomy of interests within SADC. The SACU member Botswana is locked-in in the EU-South Africa FTA and has therefore already a de facto FTA with the EU. Mauritius, which is hardly involved in intra-SADC trade but trades actively with COMESA countries, has decided to negotiate an "Eastern Southern Africa" EPA. Finally, Mozambique, classified as a "Least Developed Country" and theoretically able to maintain its non-reciprocal trade relationship to the EU, has decided to negotiate a contractual non-reciprocal trade agreement with the EU in a SADC EPA framework. As the discussion in the paper shows, the different interests of SADC countries in EPAs are not only likely to constrain EPA negotiations but also to have negative consequences for SADC's regional integration efforts.

promise and promote regional integration in southern Africa or whether they are likely to impose a regionalism concept without promoting economic regionalisation sufficiently.

The Theoretical Concept of EPAs

The Lomé Conventions (I-IV, 1975-2000) that granted ACP countries preferential market access to the EU have not reached their goal to integrate ACP countries into global markets and to diversify their export base. ACP's share of total EU imports has almost halved to 3.7% in 1992 and is still highly skewed towards few primary products (Davenport et al. 1995:5-10). Aside from internal reasons, the Lomé Conventions also expired because they were not compatible to the WTO principles of Most Favoured Nation (MFN) and non-discrimination that forbid preferential treatment to selected countries and apply favourable conditions to all trading partners. Exemptions are however allowed in the form of FTAs or custom unions (CUs) if these agreements demolish trade barriers between partner countries for "substantially all trade" within "a reasonable lengths of time" (Art. XXIV, GATT).²

The Cotonou Agreement, which entered into force in 2000, established a new trading regime between the EU and ACP countries by creating reciprocal trade relations in conformity to the WTO trade rules from 2008 on. According to the Cotonou Agreement the EU-ACP cooperation shall foster ACP countries'

- sustainable economic and social development;
- smooth and gradual integration into the world economy;
- efforts to alleviate poverty (European Commission 2000, Art. 19).

This should initially be achieved by economic and trade cooperation with the EU that is supposed to address supply-side constraints, to enhance production capacities, and to attract investment (Art. 34). The instrument for these objectives is the EPA that comprises a reciprocal, WTO compatible FTA between the EU and regional groupings of ACP countries (Art. 36, 37).

Theoretically, the chances of a North-South FTA lie in receipt of cheaper, high-technical inputs and consumer goods, offering the chance to promote economic diversification and leading to optimal factor allocation due to increased competition. However, this could also be achieved by ACP countries' unilateral liberalisation, which would not bear the risk that the EU substitutes more competitive imports from the rest of the world

²Art. XXIV, GATT is generally interpreted as embracing 90% of trade within 10 years time (Hoeller et al. 2000:95). However, this interpretation is disputed for North-South FTAs since developing countries are entitled to be granted "special and differential treatment" under the so-called "Enabling Clause" (GATT 1994, Art. XVIII). SACU is the only WTO recognised customs union in southern Africa and has gone through a WTO Trade Policy Review in 2003.

(trade diversion). On the other hand, it could be argued that, since the ACP countries are not ready to liberalise their markets unilaterally, an FTA with EU offers the chance to “lock-in” economic policies, as it would make it costly for ACP countries to reverse their policies. A reciprocal trade agreement with their main trading partner could act like an “agency of restraint” and signal willingness of ACP countries to economic reform, thus offering the chance to attract foreign direct investment (FDI) (Collier and Gunning 1999). However, it must be borne in mind that an FTA is only a potential but not sufficient condition for reaping FDI. Furthermore, ACP countries have not aspired to enter into EPAs with the EU but had to agree because they want to keep their market access. The contractual affirmation of current and future market access to the EU is the main motivation for ACP countries to negotiate EPAs. Because of their contractual character, EPAs are even attractive for southern African LDCs: Angola, DRC, Madagascar, Malawi, Tanzania, and Zambia prefer to enter into reciprocal FTA with the largest trading block in the world because preferential trade allowances granted under the “Everything But Arms” (EBA) initiative can be withdrawn at any time, which creates an uncertain environment.³

Another potential benefit of EPAs is trade creation since more competitive European suppliers replace inefficient ACP suppliers, thus leading to an efficient use of resources. However, due to the different factor endowment of the EU and ACP countries, the trading partners do not stand in direct competition to each other and show a complementary trade structure (see section 3). This different industrial development level implies the risk for ACP countries that trade diversion dominates. Moreover, infant industry protection may not be feasible for ACP countries if the EU has free market access.⁴ Thus, ACP countries may not have the chance to build-up own industries and set-up an adequate market chain. Another problem for ACP countries is that they are still considerably protected and have to reduce their tariffs to a much larger extent than the comparable open EU. Furthermore, the EU is a major trading partner for ACP countries, but these countries are only of negligible economic relevance for the EU. Adjustment costs, such as industrial restructuring and revenue losses, are therefore expected to be very high for most ACP countries (European Research Office 2003). The high imbalance between the two free trading partners can lead to further polarisation between the EU and ACP; demote the South to the “spoke” that is supposed to deliver the “hub” with raw materials. One opportunity for ACP countries to avoid such a hub-and-spoke relationship is to integrate in a South-South framework before entering into a North-South FTA. This would offer ACP “spokes” the chance to build-up adequate negotiation capacities

³Lesotho, as part of SACU, did not have a chance to decide for non-reciprocal trade with the EU.

⁴The WTO allows developing countries to protect their infant industry temporarily (GATT 1994, Art. XIX and Art. XVIII). However, this uniform transition period is not judged as sufficient for developing countries (UNCTAD 2000). An FTA, which will liberalise ACP countries' import regimes vis-à-vis their main trading partner much faster and more comprehensive than the multilateral trading regime is therefore restricting ACP countries' industrial policy considerably.

and limit the lopsided negotiation power of the EU (Kennes 2000:112). The EU sees regional integration schemes and processes as “key instrument” for ACP countries’ integration into the world economy, which shall be “encouraged and supported.” (European Commission 2000, Art. 35). South-South integration will help small ACP countries to strengthen their competitiveness, save resources and increase their bargaining power vis-à-vis the EU. However, to let such a positive scenario come true, a certain degree of economic integration (FTA, CU) as well as the establishment of regional institutions that are in a position to act as a common negotiation body would be a prerequisite (Kennes 2000:120-2). In light of missing adequate regional bodies, mainly in Africa, the EU decided also to negotiate EPAs with countries “...which consider themselves in a position to do so...” (European Commission 2000, Art. 37.5). However, this freedom of choice includes consideration of the fact that (non-LDC) ACP countries would face a substantial deterioration of EU preferences if they rejected to enter into EPA negotiations.⁵ Moreover, it implies considerable challenges for those countries that are part of a South-South integration that lacks progress and still has structural and institutional problems.

To analyse how a North-South FTA between the EU and southern African countries should be designed to strengthen trade relations and to support southern Africa to integrate into global markets, the following section looks at southern African-EU trade relations, considering BMM as examples, and their constraints to enter the EU market.

Trade Relations and Market Access to the EU

Trade Structure and Current Status of Privileges

The EU is the main export market for Botswana and Mauritius and, as Table 1 shows, absorbs around 85% and 67% of their total exports respectively. The main export commodities for Botswana are diamonds and beef and for Mauritius textiles, garments and sugar. Mauritius benefits highly from the Cotonou Sugar Protocol that guarantees the purchase of 507,000 tons of sugar per annum at a pre-determined price. Botswana gains from the EU Beef and Veal Protocol that allows the country to export guaranteed quantities at duties reduced by 92%. For Mozambique, whereas, the EU is a middle-level trading partner and is losing its importance as export destination: while 35% of Mozambique’s exports were destined for the EU in 1994, this figure shrank to 19.3% in 2001. The same happened with Mozambique’s imports from the EU, which did more than halved in the period 1994-2001 (European Commission 2001:10). Mozambique’s main export commodity is unwrought aluminium, which accounts for around 80% of its total exports to the EU.

⁵If non-LDC ACP countries reject to negotiate an EPA with the EU they would be treated like any developing country under the General System of Preferences (GSP).

	Export volume in million € and % of total exports	Main export products to the EU	Import volume in million € and % of total imports	Main import products from the EU
Botswana	1,563.6 (84.7%)	Diamonds (80.4%), Beef and Beef Products (12.2%), Wires and Cables (7.4%)	143.3 (9.2%)	Tractors and Machinery (36.6%), Electrical Machinery (25.8%), Mechanical Parts and Accessories (7.4%), Medicaments (2.9%)
Mauritius	1,342.0 (67%)	Textiles and Garments (48.4%), Cane Sugar and Sucrose (25.6%), Aircrafts (9.2%), Diamonds and Jewellery (9.1%), Prepared Fish (5.9%)	735.8 (27%)	Aircrafts and parts thereof (33.9%), Jewellery and Diamonds (13.5%) Electrical Machinery (11.7%), Machinery and Vehicles (9%),
Mozambique	582.9 (19.3%)*	Unwrought Aluminium (82%), Crustaceans (11.3%), Unmanufactured Tobacco (2.7%), Cotton (1.6%)	311.8 (14.8%)*	Electrical Machines and Apparatus (41.8%), Machinery and Vehicles (13.1%), Tubes, Pumps and Centrifuges (12.3%), Parts and Accessories (7.3%)

*Table 1: Export and Import Volumes and Main Trading Products with the EU, 2002
(in Mio €)*

** Data of 2001 (ITC 2003).*

Source: European Commission, DG Trade (2003a, 2003b).

The export of one commodity makes up for more than 80% of Botswana's and Mozambique's total exports to the EU. Their trade relation with the EU is characterised by a complementary trade structure that is typical for North-South trade relations.⁶ The African countries export above all primary commodities and labour-intensive products and import mainly high-tech, capital-intensive commodities, such as transport equipment, machinery and electronic products. Only Mauritius has reached a certain diversification degree in its trade with the EU and broadened its export base to textile, garments, and assembled aircraft parts (9% of total exports to the EU).

⁶It should however be noted that single-year data might be influenced by single, isolated transactions and should be interpreted with caution.

Thus, there is a limited amount of intra-industrial trade between the EU and Mauritius.

In sum, it can be stated that Botswana and Mauritius are very dependent on the EU market and on EU preferences for beef and sugar. Mozambique on the other hand exports only 1/5 of its total exports to the EU and hardly benefits from preferences under the Cotonou Agreement since its main product, unwrought aluminium, faces a low MFN tariff of 6% (EU Export Help-Desk 2004).

BMM are members of different regional bodies in southern Africa that have already influenced their trade relations with the EU. Botswana, which is a member of the "Southern African Customs Union" (SACU), has already a de facto FTA with the EU, as South Africa locked-in BLNS countries (Botswana, Lesotho, Namibia, Swaziland) in its liberalisation schedule when entering into an FTA with the EU in 2000. Due to Botswana's inability to supervise indirect imports coming from the EU via South Africa and as goods are supposed to flow freely within a customs union, Botswana has to accept the EU-South Africa liberalisation schedule. By implication, Botswana will have opened its market for goods from the EU by 2012 without receiving any improved market access in return so far.

Mauritius, which, like Botswana, is classified as a middle-income country, still benefits from non-reciprocal trade relations with the EU. As the government receives 20% of its revenue from tariffs on European imports, the country is not interested in opening its market voluntarily before it has too (Trades Centre 2003:11, 20). Mauritius has decided to negotiate a "Southern-Eastern Africa EPA" that contains mainly COMESA states but excludes SACU countries. Reasons for this decision are Mauritius' improved market access to COMESA countries compared to SADC countries, mainly South Africa (see section 5), and its aversion to adopt the EU-South Africa liberalisation schedule.

Mozambique, contrary to Botswana and Mauritius, keeps its status as least developed country (LDC) and is theoretically able to maintain its non-reciprocal trade relation with the EU under the "Everything but Arms" (EBA) initiative. However, the EBA initiative is a non-contractual arrangement and can be withdrawn at any time. Furthermore, the EBA has more stringent rules of origin than the Cotonou Agreement and is currently inadequately used by ACP LDCs and therefore of very limited benefit (Brenton 2003). Moreover, Mozambique is, as a member of the SADC FTA, not able to enforce non-reciprocal trade relations with the EU if other SADC members open their markets for European goods. This is the general problem for LDCs in southern Africa: due to imperfect supervision of the rules of origin they are not in a position to select indirect European goods imported from their southern African free trading partners. Thus, even if Mozambique retained its non-reciprocal trade relationship to the EU under the EBA initiative, EU imports could enter the country duty free vis-à-vis South Africa once the SADC FTA had been implemented.

The European approach to differentiate in the regional dimension according to ACP countries' development level and to assure "special treatment" to LDCs (European Commission 2000, Art. 1) is therefore only feasible as long as the SADC FTA has not been established.

Constraints to Enter the EU Market and Challenges Botswana, Mauritius and Mozambique are Facing

Although southern African countries have almost free market access to the EU, considering their exports that are allowed to enter the European market duty free, they still face substantial constraints to enter the EU market effectively.

There are above all the detailed rules of origin that hamper BMM's market access to the EU for labour-intensive manufactured products. Regarding textile products, specific processing requirements are formulated in order to be granted originating status (Annex IX to Protocol 1, Cotonou Agreement). To enter the EU market duty free, the clothing exports have to meet the precondition of "double transformation". This refers to two stages of production, i.e. the transformation from yarn to fabric and from fabric to clothing must take place within any ACP country. The clothing industry in BMM is therefore forced to source inputs from ACP countries (which is not the cheapest option) or to risk losing its preferred market access. The EU argues that the requirement for "double transformation" should help the ACP countries to build-up their own textile industry or make existing textile industries more competitive. However, this instrument has not been successful during the past 30 years, as exporters are not interested to create backward linkages that are inefficient. Moreover, it is very hard for small, often poorly-equipped and landlocked, ACP countries to establish their own industry in the age of globalisation (Brenton 2003:18). So far, it is only Mauritius among the three that has a textile industry, which faces the severe constraints of increasing worldwide competition and shrinking protection options. Because of the precondition of double transformation, Botswana and Mozambique export hardly any textiles and garments to the EU, but they do export to the USA where they are allowed to utilise third country inputs to manufacture eligible garments until September 2004 under the "African Growth and Opportunity Act" (AGOA).

Another problem facing southern African countries in penetrating the EU market is the quota that exists for beef and sugar. For beef, in particular, the measures requested to fulfil the quota requirements are very expensive. An official from the Department of Customs and Excise in Botswana explains the difficulty:

"First, we have to divide the country in quarantines to ensure that the cattle do not move from area one to area two. In early 2003, we had foot and mouth disease in the North, which had nothing to do with our products in the South. But we were not allowed to export. Second, the meat has to be tested, for which we have to pay. Third, the EU requires new standards without

informing us in a suitable way. Since 2000 they want to know where the cow has been born, to which place it moved, what it ate etc. The beef must be of a certain quality, i.e. the cattle must have been fed with certain products. This information comes often too late so that we cannot prepare. There is no mechanism in place that informs us about the latest requirements. From the consumer side, Europe has the right to do so but it would be fair to inform us already when they are considering implementing new requirements and offering us assistance to meet them.” (Meyn, forthcoming)

Mozambique, also, faces problems to comply with strict European health regulations and administrative requirements (IMF 2004:18). Agritrade (2003) judges that EU's sanitary standards and health provisions are often "...more trade restrictive than necessary to achieve consumer information..." and act as NTBs. European standards not only hamper southern African exports of raw commodities but also constrain the diversification of exports and value addition of products. Botswana for instance is, like all ACP countries, not allowed to export bone-in meat to the EU due to disease control provisions. As a result, the de-boned "premium cut" sold to the EU is destined for the low-value "pub market", whereas high-value products are not allowed to be exported. In addition, canned beef from southern African countries is refused by the EU due to disease control conditions, although countries offer to treat their beef according to the same sanitary standards applied by the EU. On the other hand, it must be noted that poor marketing has led to the supply of a low-value market segment. Southern African meat is not branded or packaged, but sold at auction in the EU market.⁷

Market entry costs are also high for new products southern African countries seek to introduce. Namibia for instance wants to export horticultural products such as essential oils and herbal diet pills to the EU but faces high non-tariff barriers in form of registration costs, minimum volumes and detailed packaging and labelling requirements.⁸ These manifold regulations make it very difficult for southern African countries to enter new market niches successfully.

Another problem southern African countries face is the harmonisation of product standards in the EU. Although this procedure is generally desirable, as the unification of standards raises transparency levels, the problem is that the most stringent rules are applied.⁹

In addition to these trade barriers, the EU market becomes increasingly unattractive because of the erosion of preferences, which will above all affect non-LDC southern African countries negatively. Preferences are eroding because of:

⁷See interview results in Meyn (forthcoming).

⁸See interview results in Meyn (forthcoming).

⁹For instance, the EU harmonised its standard regarding the "black spot", a harmless fungus on citrus fruits. While ACP countries were in earlier days allowed to export citrus fruits showing "black spots" to the northern European countries, the stringent rules for southern Europe are now valid in the entire EU region (See interview results in Meyn, forthcoming).

- The reform of the European Common Agricultural Policy (CAP), moving away from price support to a system of direct support to EU farmers. This again means that the EU intervention price reduces, thus leading to lower unit returns for southern African exporters. Though beef and sugar prices are still well above world market prices, they are expected to continue their decline in the coming years.
- The European “Everything but Arms” (EBA) initiative that allows all LDCs duty free market access, resulting in increased competition in the EU market. Sugar exports from LDCs to the EU are still exempted but will have free access from 2009 on. This is going to have negative impacts on Mauritius but offers new opportunities for Mozambique.
- The EU approach to establish many FTAs with developing countries, such as South Africa, MERCOSUR, Chile, Morocco, Turkey and others. Since these countries are now largely enjoying the same market access as southern African countries, competition is going to increase and prices are likely to decrease. In this context, it is also the EU’s multilateral liberalisation effort in the WTO framework that leads to the erosion of existing preferences for southern African countries.

Considering the massive development disparities between the EU and southern African countries as well as southern Africa’s internal and external constraints to enter the European market, it is very questionable that a pure FTA has such a deep effect on southern African economies that it helps them to enter the EU market successfully. The asymmetry of North-South FTAs, which relates to both the volume and the liberalisation schedule, does not consider the high development disparities.¹⁰ Considering the above mentioned supply and demand side restrictions as well as southern African countries’ limited capacities to cope with the challenges EPAs are going to pose, several requirements can be formulated to let EPAs become the “successful development tool” they are supposed to be.

What Should an “Optimal” EPA for Southern African Countries Look Like?

Negotiations of EPAs have started in September 2002 and should end by December 2007. The negotiations, which take place on an all-ACP and sub-regional level, are structured under six headings; 1) Market Access, 2) Agriculture and Fisheries, 3) Trade in Services, 4) Development Cooperation, 5) Trade Related Issues, and 5) Legal Requirements.¹¹

¹⁰ Thus, the EU-SA FTA foresees that the EU opens its market for 95% of all South African products by 2010, while South Africa liberalises its market for 86% of all EU products by 2012.

¹¹ ACP countries decided to discuss several cross-cutting issues on an all-ACP basis before entering into regional EPA negotiations. However, phase 1 ended in March 2004 without having defined any common positions towards the EU (Qualmann 2004).

EPAs are supposed to be asymmetrical in both period and content, taking into account the enormous economic imbalance between the EU and the ACP countries. However, as EPAs have to be WTO compatible, they will include around 90% of total trade and allow a time frame of 10 years for liberalisation (according to the interpretation of Art. XXIV, GATT).¹² Thus, there is only limited scope for asymmetry, and ACP countries have to cope with inherent challenges, such as substantial loss of revenue and increased competition.

As discussed above, southern African exports to the EU are constrained by NTBs. Southern African countries should, therefore, seek to include these demand side constraints into their negotiation strategy. This means for instance that SPS regulations are clearly defined and that suitable assistance is ensured to comply with them. To protect southern African industries from unfair (subsidised) competition from the EU, simple, pre-emptive safeguard measures should be implemented. A monitoring and surveillance mechanism that could pre-emptively identify the threat of market disruptions will be effective (Goodison 2004). However, it must be emphasised that southern African countries' ability and willingness to apply safeguard measures has been very limited so far.¹³ It is, therefore, crucial for southern African countries' sensitive industries to have effective safeguard measures to use if required and to avoid the EU exerting pressure on them not to apply them.

Southern African countries again are called upon to identify export areas that are of potential interest to them but do not enjoy preferential market access under the Cotonou Agreement. Furthermore, the countries should determine constraints that their current exports to the EU face and discuss with the EU how these could be overcome. To enhance market access to the EU further and to harmonise developing countries' and LDC's market access, southern African countries should try to receive duty free market access for all products. If they succeed, this would also simplify EPA negotiations since the regional bodies in southern Africa comprise LDCs and non-LDCs. Furthermore, easier, less restrictive rules of origin should be applied, which would allow southern African countries a more generous value-added rule and full cumulation with other ACP countries, the EU and South Africa.¹⁴

¹²However, it remains unclear whether 90% of all trade refers to tariff lines or value of exports. While the WTO Agreement refers to tariff lines, the EU-South Africa FTA liberalises 90% of trade values (Goodison 2004).

¹³Namibia for instance has according to WTO provisions adopted 147 safeguard measures but not applied a single one yet (see interview result in Meyn, forthcoming).

¹⁴Full cumulation with South Africa would imply that any value added in southern African countries could be added to the value added in South Africa and jointly the countries would meet the origin specification. Since South Africa has a higher development degree this condition would offer southern African countries the chance to diversify their exports to the EU.

However, southern African countries have to keep in mind that the EU is not forced to open its agricultural market to a larger extent than hitherto agreed. The WTO Agreement on Agriculture has not committed industrialised countries to reduce their protection substantially. Therefore, EPAs can be WTO compatible without forcing the EU to open its agricultural market substantially. The Doha Round's lack of progress and the outstanding issues of subsidies and protection for agricultural products mean that, southern African countries will face problems to reach improved market access before the problem of agricultural protection in the developed world is solved on a multilateral level. This is above all a problem for processed agricultural products, which still face substantial barriers when entering the EU market (GAWU et al. 2004:3-6). Since subsidised European imports result in unfair competition in the southern African market, products produced in southern Africa that are subject to European export subsidies should be excluded from free trade. This also applies to agro-processed goods, which strongly feature as southern African countries' main agricultural products and benefit from high subsidies in the EU. Chocolate, dairy and meat products are examples of the latter.

To cope with increased competition from EU imports and to be able to restructure their industries, southern African countries need technical assistance. Very few companies in southern Africa have the capacity and capability to understand the potential implications of the ongoing negotiations for their business (European Research Office 2002:15-6). It would be fair if the EU released technical assistance for southern African countries to cope with the challenges of EPAs to assess the restructuring needs for industries and the training needs for managements. For southern African countries, on the other hand it is crucial to establish an international trade forum when entering into EPA negotiations, as South Africa did when negotiating the EU-South Africa FTA so that the private sector is (indirectly) involved in discussions and has an influence on the agenda. This would also offer private sector support institutions the option to formulate comprehensive requirements for technical assistance. Stakeholder from the SADC EPA made a good start in this respect when publishing a declaration with their concerns and claims in two Namibian newspapers just before SADC EPA negotiations were launched in Windhoek.

However, southern African countries are constrained by limited human capacities to negotiate EPAs, which has to be done simultaneously with multilateral trade obligations (WTO Doha Round), regional trade negotiations (Malawi, Mauritius, Zambia, Zimbabwe: COMESA CU; BLNS: SACU-USA, SACU-EFTA and SACU-MERCOSUR FTA; Tanzania: EAC CU), and implementation of existing trade agreements (SADC FTA). Moreover, the countries face additional administrative costs of creating effective regional bodies to negotiate EPAs.

The all-embracing EPA negotiation agenda also comprises topics such as government procurement, protection of intellectual property rights, investment, and services. Since the EU has not been successful to push

through these issues in the WTO yet, it tries to implement them on a bilateral basis (Stevens 2003). For southern African countries, this implies – in light of the enormous power imbalances – that they do not have the chance to develop their own trade-related policies but have to accept the regulations of the EU. To avoid the overextension of southern African countries in manifold trade negotiations as well as the impression that EPAs are rather a neo-colonial construct that serves above all the interests of the EU than an effective development tool. The EU should have a strong self-interest in supporting southern African countries to build capacities in trade related areas and to upgrade their institutional capacities. Furthermore, it must be taken into account that regional integration in southern Africa is still at an early stage; the countries have not agreed on common trade-related policies in their respective regional integration bodies yet. Not even SACU, the most advanced regional framework in southern Africa, has developed common trade-related policies yet (see articles by McCarthy and Erasmus in this Yearbook). The formulation of common positions vis-à-vis the EU is therefore hardly feasible.

Another grave problem for southern African countries in implementing reciprocal trade relations with their main trading partner is the loss of revenues and the need to restructure their income sources. Import duties are still a major income source for most SADC countries and revenue losses due to EPAs are calculated to be substantial (Morrissey et al. 2004, Trades Centre 2003). Furthermore, the origins of imports from the EU have to be checked, which requires increased organisational efforts. Currently most countries in southern Africa are not able to guarantee the supervision of origin for their imports.¹⁵ Thus, there is a need to assist southern African countries to improve customs processing, to restructure their income sources, and to shift toward indirect taxation.

Annex 1 summarises the steps recommended be taken by the EU, the southern African national states, and the regional body to promote the developmental character of EPAs.

However, whether southern African countries can rely on a benevolent approach of the EU remains doubtful. Though the EU underlines that EPAs are above all development tools, supposed to integrate ACP countries into regional and international markets, there is the fear that trade liberalisation is used as substitute for development policy. Epawatch (2004) comments: *“For the European Commission EPAs, by the very nature of their trade liberalising agenda are about development. By imposing external disciplines ... EPAs will ensure policy consistency and transparency ... It is this aspect of policy change in ACP countries which is central to ... the development dimension of EPAs.”*

The EU pursues to considerable extent economic and strategic interests in reciprocal trade agreements with southern African countries (Meyn

¹⁵See interview results in Meyn (forthcoming).

2003). This has also become evident in the EU-South Africa FTA where South Africa as lesser-developed country opened its agricultural market to a larger extent than the EU and where the EU accepted to lock-in BLNS countries into the EU-South Africa liberalisation schedule without granting them improved market access or increased technical assistance in return.¹⁶ It is therefore important for southern African countries to negotiate issues that are of elementary interests for them in a strong regional body in order to build a certain counter weight against the superior negotiation capacity of the EU. The following section investigates BMM's economic interests in the southern African sub-region and their involvement in SADC and COMESA respectively. It is further discussed to what extent a SADC EPA and SEA EPA can represent BMM's interests and whether these regional bodies are able to act as a common mouthpiece vis-à-vis the EU.

BMM's Trade Relations with Southern African Countries and their Involvement in SADC and COMESA

South Africa is the most important trading and investment partner for Mozambique, the second most important trading partner for Botswana (after the EU) and a middle-level trading partner but major investor for Mauritius.

Since Botswana is a landlocked country, it receives the vast majority of its imports via South Africa but exports only few of its products, mainly meat, to South Africa. This can be explained by Botswana's lack of product diversification: the country relies heavily on diamond production, which is, like the majority of Botswana's beef exports, absorbed by the EU. Thus, Botswana produces hardly any commodities that can be exported to South Africa. South African investment in Botswana again does primarily take place in the diamond industry.

A similar pattern as with Botswana applies to South Africa's trade with Mauritius. Mauritius receives around 17% of its total imports from South Africa, which are mainly energy-related and capital-intensive products but exported less than 1% of its total exports to South Africa in 2001. Mauritius' main export commodities, namely textiles, garments and sugar related products, are products that are regarded as sensitive in the SACU market and face substantial barriers. Mauritian sugar and textile exports that enter the SACU market face an average MFN duty of 54% and 26.7% respectively (WTO 2003:27). South Africa is therefore currently not an attractive export destination for Mauritius. However, Mauritius is the largest investment destination in Africa for South African firms, receiving R7.4 billion in 2001 (Tralac news, 02/04/04).

¹⁶The BLNS countries were supposed to get technical assistance to cope with the challenges of the TDCA under the "Economic Integration Programme to the BLNS – Phase I", which comprises a total funding of € 6 million. However, since not all BLNS countries have concurred to the TDCA, the money has not been released. The programme is currently re-designed. The coordination of relevant projects is supposed to be organised by the recently created SACU Secretariat, which shall channel the funding accordingly (Cervone D'Urso 2004).

Mozambique in turn shows very strong trade and investment ties to South Africa. South Africa's investment in Mozambique accounted for R4.9 billion in 2001, which is almost 50% of the total FDI Mozambique received (Tralac news, 02/04/04). Large FDI projects include a chemical and fuel-company and a hydro-electricity plant that brings natural gas and electricity to South Africa (European Commission 2001:10). Electrical energy is Mozambique's largest export product to South Africa. Furthermore, South Africa is investing in Mozambique's tourism industry, its banking sector and the sugar industry. In addition, for South Africa, Mozambique is becoming increasingly important and has already displaced Zimbabwe as South Africa's main trading partner in Africa (Tralac news, 28/05/02).

	Export volume in million US\$ and % of total exports	Main export products to South Africa	Import volume in million € and % of total imports	Main import products from South Africa
Botswana	339.8 (6.5%)	Live animals, Meat, Carbonate	2,978.8 (86.6%)	Petroleum Oils, Motor Vehicles and Transport Equipment, Electrical Machinery and Equipment, Medicaments
Mauritius	11.9 (0.9%)	Cotton Yarn	274.2 (16.8%)	Coal and Petroleum Products, Cotton Fabrics, Plastic Goods, Vehicles
Mozambique	107.1 (54.4%)	Electrical Energy, Brazil Nuts, Coconut + Palm Oil, Fish	427.5 (67.5%)	Petroleum Oils, Electrical Machinery, Vehicles, Transport Equipment

Table 2: Export and Import Volumes and Main Trading Products with South Africa 2001 (in Mio. US\$)

Source: ITC (2001).

SADC countries, excluding South Africa, are not relevant as trading partners for BMM. They account for only 0.1 – 0.3% of their total trade volume (see Table 3). Though missing complementarities in trade can be named as an important reason for limited intra-regional trade within SADC (Yeats, 1998), there is evidence that SADC's intra-regional trade potential is much greater than what is currently exploited. Main hindrances for increased intra-SADC trade are seen in the delayed process of the implementation of the FTA and the still high tariffs and non-tariff-barriers to trade (see article of Kalenga in this Yearbook). Evidence for this thesis is also provided when investigating Mauritius' trade relations with SADC and COMESA. While SADC is a neglected market because Mauritius' main export products, textiles, garments and sugar, are regarded as sensitive in most SADC countries, its trade with COMESA increased by US\$ 60 million to US\$ 189.3 million in the period 1997-2002. Mauritius was above all able to raise its exports by more than 30% (COMESA 2003a). Madagascar, which is the main trading partner of Mauritius in COMESA, imports textiles, garments and sugar from Mauritius.

	Export volume in million US\$ and % of total exports	Main export products	Import volume in million € and % of total imports	Main import products
Botswana	<u>SADC</u> 18 (0.3%)	<u>SADC</u> Salt, Blood, Copper Mattes	<u>SADC</u> 6.5 (0.2%)	<u>SADC</u> Sugar, Cement, Cotton Yarn and Fabrics
Mauritius	<u>SADC</u> 1.4 (0.1%) <u>COMESA</u> 81.0 (6.2%)	<u>SADC</u> Woven Cotton Fabrics <u>COMESA</u> Woven and Cotton Fabrics, Wheat Flour, Fertilizer, Feed Preparations	<u>SADC</u> 2.2 (0.1%) <u>COMESA</u> 54.1 (3.3%)	<u>SADC</u> Coal and Fuels <u>COMESA</u> Energy and Fuels, Textiles and Garment, Food
Mozambique	<u>SADC</u> 0.2 (0.1%)	<u>SADC</u> Petroleum Oils, Fish, Palm Oil, Coconuts	<u>SADC</u> 0.8 (0.1%)	<u>SADC</u> Beer, Wine

Table 3: Export and Import Volumes and Main Trading Products with SADC (minus South Africa) and COMESA 2001 (in Mio. US\$)

Source: ITC (2001), COMESA (2003b).

The Impact of EPAs on Regional Integration in Southern Africa

The countries surveyed in this paper chose their EPA configuration according to their intra-regional trade relations. Botswana and Mozambique that are highly dependent on the South African economy opted to enter into a SADC EPA, a configuration that is supported by South Africa. As discussed, South Africa has already an FTA with the EU and only observes SADC EPA negotiations. The SADC EPA comprises in total seven countries, namely Angola, Botswana, Lesotho, Mozambique, Namibia, Swaziland, and Tanzania.¹⁷

Mauritius again decided together with the other SADC countries DRC, Malawi, Zambia, and Zimbabwe to negotiate an EPA in a "Southern Eastern Africa" (SEA) framework.¹⁸ To avoid being forced to open their market according to the EU-South Africa FTA liberalisation schedule was a major motivation for the non-LDCs Mauritius and Zimbabwe to enter into

¹⁷The configuration of a SADC EPAS was decided on 27 February, 2004. Negotiations were launched on 08 July, 2004 in Windhoek.

¹⁸All countries negotiating a SEA EPA are members of COMESA: Burundi, Comoros, Djibouti, DR Congo, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia and Zimbabwe. Negotiations started on February 7th, 2004 (EU Business 2004).

a SEA and not into a SADC EPA with the BLNS countries. However, since Mauritius has strong investment ties with South Africa, its membership in a SEA EPA bears the risk that Mauritius' trade interests are pursued at the cost of its investment interests.

From a theoretical point of view, members of a CU would be ideal to negotiate EPAs with the EU because they share a common external tariff (CET) and have thus harmonised their external trade relations.¹⁹ Members of FTAs, where each country has its own external trade policy, could only negotiate as a trading block if they accept a common external tariff towards the EU. So far, neither the SADC EPA nor the SEA EPA is capable of negotiating an EPA collectively, as they lack the mandate and the coordination and coherence of a common policy. Since the EU is not interested in negotiating diverse sub-agreements with single southern African countries and since such a procedure would imply the risk of highly biased negotiation power towards the EU, a common negotiation strategy is in southern African countries' own interest. However, the low level of trade integration, the divergent economic interests and the missing convergence in tariff levels as well as the perpetuation of "special and differential" treatment for LDCs complicate the formulation of a common negotiation position (Trades Centre 2003:43). Particularly for agricultural products, the high deviation of economic development within southern Africa that results in very different economic interests is problematic. Food net importing countries would for instance appreciate the import of certain (subsidised) agricultural products, as they do not have an accordant industry and hope to reap consumer benefits as well as to promote the production of locally processed value added products. The same commodities are, however, sensitive in other countries that seek to protect their agricultural sector and agro-processing industries against European competition. As neither the exclusion of single sectors nor the creation of extremely long exclusion lists would be WTO compatible, it is very difficult for the countries of the SADC EPA and the ESA EPA to find a compromise.

Another problem many southern African countries faces is the uncertainty of the treatment of the Commodity Protocols in EPAs (IDS/BIDPA 2003:13). Up to now, it is not clear whether single EPA members can maintain their country-specific preferences and treatments vis-à-vis the EU. If Swaziland, for example, is not able to fulfil the SPS to export beef to the EU, would this also imply that Botswana and Namibia that are together with Swaziland in a SADC EPA are not allowed to export their beef to the EU market, though they are able to meet the requirements? In this case, the EPA would imply the de facto abandonment of Protocol preferences. On the other hand, the EU's Common Agricultural Policy (CAP) is heavily constraining promising export commodities, most of all of processed agricultural products. Southern African

¹⁹Thus, from a theoretical point of view, the trading block SACU would be ideal to negotiate an EPA with the EU. However, South Africa has already an FTA with the EU, which does not foresee the accession of BLNS countries. Nor is any party interested in re-negotiating the EU-SA FTA again. Thus, the BLNS countries decide to negotiate with the EU in a SADC-EPA formation.

countries can only achieve improved market access for their agricultural and agro-processed products if the preferences obtained from EU's CAP will be reduced. Though this may, in the short run, hit hard those countries that benefit highly from the Commodity Protocols, it offers more equitable and forward-looking export chances to all countries in southern Africa. The maintenance of the Protocol preferences is not sustainable and used by the EU as apology for protecting its agricultural market (Davenport et al. 1995, Kennes 2000:136-7). Therefore, EPA negotiations offer southern African countries the chance to reject the Protocols and aim at improved market access for all agricultural commodities in return. Since the maintenance of preference on the one hand and the improvement of market access and broadening of product range on the other hand, are incompatible, southern African countries would be well advised to acknowledge the erosion and shrinking attractiveness of preferences and to negotiate alternative market penetration strategies. However, so far southern African countries' position is to keep their preferences and to prevent their further erosion.²⁰

To what extent the EU is willing to open its agricultural market for ACP exports is highly determined by the outcome of the WTO Doha Round. Since the Doha Round's lack of progress, EPA negotiations also bear the risk for southern African countries that the EU creates facts on regional levels that it is not being able to accomplish on a multinational level.

Although there is the theoretical option of a SADC EPA being negotiated within the provisions of the SADC Trade Protocol, thereby taking the different economic development levels of the SADC countries into account, this approach would not be, like the EPA negotiation on a national level, in the interest of the EU.²¹ If the SADC EPA differs significantly from the SEA EPA it will furthermore complicate intra-SADC trade relations considerably, dividing the SADC countries in at least three blocks (see also Annex 2):

- 1) South Africa and the BLNS countries that are locked into the liberalisation schedule of the EU-South Africa FTA and have de facto liberalised their markets towards the EU by 2012;
- 2) The rest SADC EPA countries, namely Angola, Mozambique and Tanzania, that are all LDCs and thus potentially able to retain their non-reciprocal trade relations with the EU under the EBA initiative; and

²⁰The stakeholders of the SADC EPA for instance ask the EU to eliminate the remaining 8% special duty for beef and to broaden the product range to compensate for preference erosion of the Beef and Veal Protocol (Namibian Agricultural Trade Forum and Namibian Manufacturers Association 2004).

²¹In this context it is also COMESA's approach of "cluster system" negotiations (COMESA 2003c), i.e. the creation of trade agendas that would allow countries to negotiate each cluster according to its interest, which can be considered as problematic. Though ESA countries intend to formulate common negotiation positions in the areas of development issues, market access, agriculture, fisheries, trade in services and trade related areas, and establish a Regional Negotiation Forum, it must be kept in mind that this forum is not a decision making body but only supposed to structure and support negotiations. The formulation of a common ESA negotiation position on these issues remains doubtful (Nalunga 2004).

- 3) The remaining SADC countries (DR Congo, Malawi, Mauritius, Zambia and Zimbabwe) that are entering into the SEA EPA.

A compromise could be that all SADC and SEA countries receive the same market access that is granted to ACP LDCs under the EBA initiative. However, it is uncertain whether the EU is ready to equate LDC and developing countries' market access. Furthermore, this deal would neither be in the interest of Southern Africa's LDCs, as it implies the erosion of their preferences and increased competition in the European market. It also does not offer southern African countries the chance to improve their market access for non-traditional export products since non-tariff barriers to trade, such as strict rules of origin, minimum volumes and high registration costs would persist.

In the case that SADC EPA agrees on different tariffs for EU imports than the SEA EPA, the inspection of origins of imports from the EU will not only be an enormous administrative burden but also hardly feasible, taking the imperfect supervision of rules of origin in southern Africa into account. The perpetuation of non-reciprocal trade relations between the EU and southern African LDCs is therefore only a theoretical but not a workable alternative. From an economic point of view, it would therefore be best if the countries of the SADC EPA and the SEA EPA agreed on a CET towards the EU. This could avoid smuggling; trade diversion and economic polarisation and intra-regional trade and regional integration in southern Africa could be promoted. However, such a joint approach is rather unrealistic taking southern African countries' different economic interests in the region, their limited commitment to regional integration and the dispartment of SADC countries trade relations to the EU into account.

Moreover, the SACU countries that already have an FTA with the EU dominate the SADC EPA. When South Africa agreed to enter into an FTA with the EU and to open its market by 86% by 2012, this also applied to the BLNS countries that share a CET with South Africa. Since the EU wants to harmonise its trade relations with southern African countries and since South Africa is not interested in opening the TDCA again, the SADC EPA is likely to adopt the EU-South Africa FTA liberalisation schedule (Goodison 2004, Stevens 2003). If the SADC EPA accepts in large parts the EU-South Africa FTA liberalisation schedule (by granting Angola, Mozambique, and Tanzania longer transition periods), while the SEA EPA negotiates a different liberalisation schedule, this will have a considerable impacts on regional integration in SADC. If the SADC members Malawi, Mauritius, Zambia and Zimbabwe implement a different CET with the EU than the other SADC members, this would bear the risk of substantial trade diversion once the SADC FTA has implemented since the countries are not in a position to monitor indirect imports from the EU.

To avoid a further fragmentation of SADC and to negotiate EPAs in a strong regional body, it is therefore recommended that SADC puts pressure on its member states to opt for a consistent regional policy and to decide for regional integration in a SADC, COMESA or – in case of Tanzania – in an

EAC framework. The EU has offered southern African countries a chance to change their EPA configuration during negotiations (Hübner 2004). Thus, those countries that decide that their economic interests are within the SADC region should join the SADC EPA and create the conditions to implement a CU as soon as possible. The move towards deeper regional integration and the harmonisation of trade-related policies and strategies would make it easier for SADC countries to cope with the challenges created by EPAs. However, since not all SADC member states are ready for deeper integration yet, there is a proposition to adopt an integration framework of different speeds where core members work constructively towards a CU.

Outlook and Policy Recommendations

The paper discussed options and risks of EPA negotiations and their impact on regional integration in southern Africa on the example of Botswana, Mauritius and Mozambique. The core question is whether EPAs are likely to promote or constrain regional integration in southern Africa. As the discussion showed, EPAs might promote regionalisation in southern Africa in a sense that they force the countries to reduce their membership of overlapping trade arrangements and concentrate on one regional body. On the other hand, EPAs push southern African countries to decide for a regional body, which does not necessarily represent their economic interests. Regional integration in southern Africa is still in its infancy and neither the countries of the SADC EPA nor those of the SEA EPA are sufficiently integrated or have established a collective negotiation mechanism. Moreover, their economic interests vary considerably as the analysis of BMM's trade relations with the EU and the southern African region showed.

As the trade pattern between the EU and southern African countries demonstrated, trade is still characterised by a traditional North-South trade pattern so that no static gains but rather losses from regional integration can be expected. Whether southern African countries can benefit from dynamic effects of North-South integration, such as economies of scale and attraction of FDI, depends on the design of EPAs. Trade policy is not a substitute for development policy; a North-South FTA is therefore not a sufficient instrument to integrate southern African countries into the international trade regime. EPAs can only become a successful development tool if they improve southern African countries' market access considerably and address supply side constraints effectively.

To avoid a "hub-and-spoke" relationship and to achieve issues that are of vital interest for them, such as improved market access and simplified rules of origin, southern African countries should work towards a common bargaining position when negotiating an EPA with the EU. However, considering the widespread agenda and the strict time-schedule of EPA negotiations as well as southern African countries' divergent economic interests, it is very difficult to formulate a common bargaining position in time.

SADC countries' decisions to negotiate an EPA in two different regional frameworks give reason to question whether the current configuration of 13 SADC member countries is going to survive. Five SADC members are currently negotiating a SEA EPA and four of them, namely Malawi, Mauritius, Zambia, and Zimbabwe, might join the COMESA CU later this year.

Though all seven members of the SADC EPA have attended the opening of SADC EPA negotiations in Windhoek on 8 July 2004, it is doubtful that all of them will enter into a common EPA with the EU. Tanzania has announced it is bound in a CU with Uganda and Kenya from 2005 on. Since this means that Tanzania will share a CET with Uganda and Kenya, which are both members of COMESA and the SEA EPA, Tanzania will neither be able to implement the SADC FTA nor to join the SADC EPA.

Furthermore, four countries of the SADC EPA (Botswana, Lesotho, Namibia and Swaziland) already have a *de facto* FTA with the EU. South Africa, as an observer of SADC EPA negotiations, has made it clear already that it is not interested in changing the EU-SA FTA liberalisation schedule significantly.

Considering this fragmentation of SADC EPA countries, the following scenarios of negotiations are possible:

1. *BLNS plus South Africa negotiate an EPA* with the EU. Angola and Mozambique keep their non-reciprocal trade preferences under the EBA initiative and become "associated" SADC EPA members, i.e. that they negotiate bilateral FTAs with SACU in order to become more integrated into the SACU trade and investment framework.

Such an EPA would be similar to the EU-South Africa FTA but might offer BLNS countries superior market access than South Africa. Though SACU is not an entity with common goals and does not have a collective negotiation mechanism yet,²² the countries have already developed (at least to a certain extent) common negotiation positions for FTA negotiations with the USA, EFTA and MERCOSUR. The experience of these bilateral trade negotiations might help SACU countries when negotiating an EPA. Furthermore, EPA negotiations go hand in hand with the implementation of the new SACU Agreement and might promote the development of common trade-related policies.

2. *SACU becomes enlarged by Mozambique* and Angola, keeps its non-reciprocal trade relation vis-à-vis the EU and becomes an associated SACU member. There is currently a lot of speculation on whether Mozambique is going to join SACU, which is also supported by the USA that is going to enter in an FTA with SACU

²²The new SACU Agreement, which aims to harmonise SACU countries' trade-related legislations and to develop common trade related policies as well as a common bargaining mechanism was only ratified in June 2004.

by 2005 (Economist, 19/02/2004). As the discussion in the paper showed, Mozambique has strong trade and investment ties with South Africa. Moreover, the revised revenue sharing formula under the new SACU Agreement would empower Mozambique to participate in SACU without increasing South Africa's costs to the Common Revenue Pool.²³ Mozambique is currently exploring the benefits and costs of a SACU membership. However, there has not been any official statement about Mozambique's possible accession to SACU yet.

3. *Other SADC countries join the SADC EPA.* However, this approach is very unlikely since the major motivation to opt for an ESA EPA was to avoid being locked into the EU-South Africa liberalisation schedule. Moreover, an enlarged SADC EPA would only help to avoid SADC's fragmentation if the parties agreed on common negotiation positions. Since SADC has not been able to harmonise its intra-regional trade related policies yet, a common SADC position vis-à-vis the EU is hardly feasible.

These three scenarios show the difficulty for SADC EPA countries to negotiate an EPA collectively. In any of the scenarios, it looks like the SADC EPA includes sub-agreements with single SADC countries (South Africa and SADC EPA LDCs). This again, does not only undermine the EU's approach of promoting regional integration in southern Africa and its efforts to limit the lopsided negotiation power but is also likely to restrict intra-SADC trade and further delay the implementation of the SADC Free Trade Area. Since the SADC countries are going to agree on different liberalisation schedules for EU imports, they are likely to impose intra-SADC trade restrictions due to customs officials' inability to distinguish between intra-SADC trade and indirect EU imports coming from other SADC countries.

In sum it can be stated that the implementation of EPAs in southern Africa violates the originally formulated requirements of the EU according to which ACP countries should have been treated depending on their different development status. This principle was already disregarded when negotiating the EU-South Africa FTA, where the EU locked-in BLNS countries in the same tariff structure as South Africa, without granting them improved market access. EPA negotiations do therefore imply the risk – not only for southern African LDCs but also for developing countries - to lose out when opening their markets without receiving anything substantial in return.

²³However, if Mozambique joins the SACU, it would reduce BLNS revenue under the revised formula since 15% of the excise duties form a development component and are distributed in reverse correlation to member countries' per capita income.

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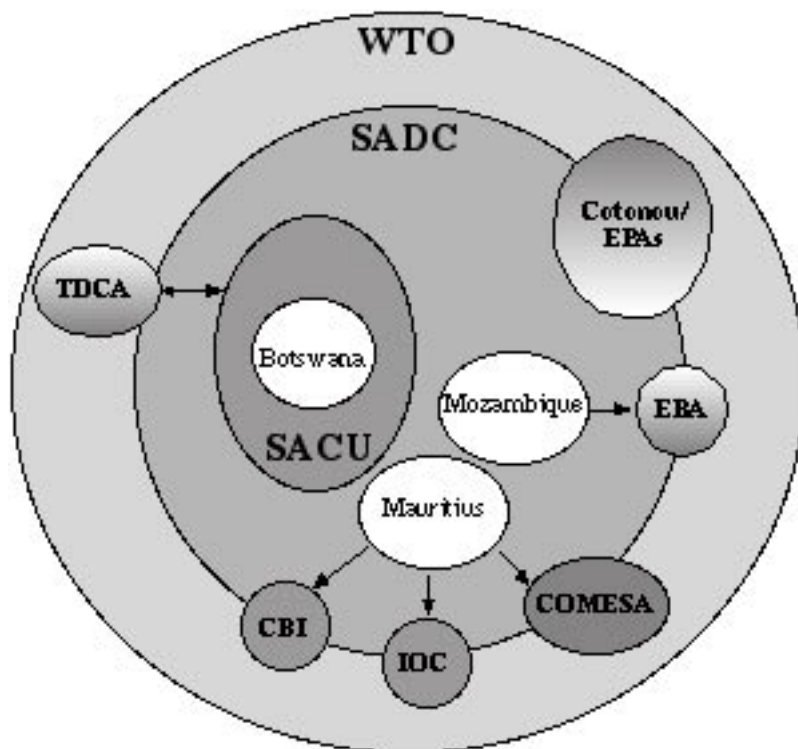
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EPA Issue	Action EU	Action Southern African Nation State	Action Regional Body
Market Access	<ul style="list-style-type: none"> ➤ Harmonisation of southern African countries' market access by granting all countries the same market access southern African LDCs enjoy ➤ Efforts to reduce protection and export subsidies of the CAP 	<ul style="list-style-type: none"> ➤ Evaluation of current and potential export products ➤ Evaluation of barriers to trade for current and potential export products 	<ul style="list-style-type: none"> ➤ Reduction of intra-regional tariffs and non-tariff barriers to trade
Protocol Preferences	<ul style="list-style-type: none"> ➤ Determination of country specific conditions (and not EPA specific conditions) to benefit from Protocol preferences 	<ul style="list-style-type: none"> ➤ Reconsideration to turn down Protocol preferences for enhanced and expanded market access and more generous RoO 	<ul style="list-style-type: none"> ➤ Formulation of a common negotiation position
Sanitary and Phytosanitary Standards (SPS)	<ul style="list-style-type: none"> ➤ Formulation of uniform SPS measures in all EU member countries according to international standards ➤ Provision of funds to assist southern African countries to comply with SPS measures ➤ Securing country specific and not EPA specific check-up of imports 	<ul style="list-style-type: none"> ➤ Evaluation of problems to comply with SPS demands ➤ Evaluation of technical assistance needed 	<ul style="list-style-type: none"> ➤ Formulation of a common negotiation position
Rules of Origin	<ul style="list-style-type: none"> ➤ Formulation of more generous value addition of rules of origin ➤ Allowance of full cumulation with ACP, EU, and South Africa 	<ul style="list-style-type: none"> ➤ Overcoming of protectionist demands of national interests groups 	<ul style="list-style-type: none"> ➤ Implementation of more generous rules of origin that promote intra-regional trade
Administrative Arrangements	<ul style="list-style-type: none"> ➤ Formulation of uniform administrative requirements in cooperation with southern African countries ➤ Granting support to implement administrative requirements 	<ul style="list-style-type: none"> ➤ Evaluation of administrative barriers to enter the EU market and constraints to identify the origin of imported goods ➤ Formulation of required assistance 	<ul style="list-style-type: none"> ➤ Creation of a CET towards the EU to minimise trade diversion effects ➤ Harmonisation of trade related policies and strategies

Annex 1: Agenda for Action for EPA Negotiations to Support Economic Development and Regional Integration in Southern Africa

EPA Issue	Action EU	Action Southern African Nation State	Action Regional Body
Import safeguard measures	<ul style="list-style-type: none"> ➤ Transparent and uniform definition of import safeguard measures in all EU member countries with the aim to reduce southern African countries' trade barriers ➤ Assistance to enable southern African countries to apply safeguard measures effectively. 	<ul style="list-style-type: none"> ➤ Determination of infant industries /products that need protection ➤ Exclusion of agricultural products/agro-processed products that are subject to high EU export subsidies 	<ul style="list-style-type: none"> ➤ Mutual consent on product lists that aims to be granted infant-industry protection / to be excluded from the FTA
Customs Losses / Industrial Restructuring	<ul style="list-style-type: none"> ➤ Technical assistance to conclude impact studies about EPAs' effects on customs losses and industrial restructuring efforts ➤ Provision of technical support to assess the restructuring needs for industries, the training needs for managers and to identify new trading opportunities ➤ Provision of technical support to implement alternative income sources 	<ul style="list-style-type: none"> ➤ Establishment of a national trade forum to inform companies about challenges and to consider their concerns. 	<ul style="list-style-type: none"> ➤ Establishment of a functioning regional trade forum to promote cross-national exchange of experience
EPA Negotiations	<ul style="list-style-type: none"> ➤ Build capacities to cope with regional and multilateral trade negotiations and to evaluate the all-embracing EPA negotiation agenda ➤ Grant support in trade-related areas and assist the countries to develop their own competition, standardisation, and investment policy. ➤ Reconsider the EPA time schedule and grant southern African countries more time to cope with challenges. 	<ul style="list-style-type: none"> ➤ Handing over of competences to a supra-national negotiation body 	<ul style="list-style-type: none"> ➤ Moving towards deeper regional integration to avoid a hub-and-spoke trade relationship and high negotiation power biases ➤ Creation of a collective negotiations mechanism

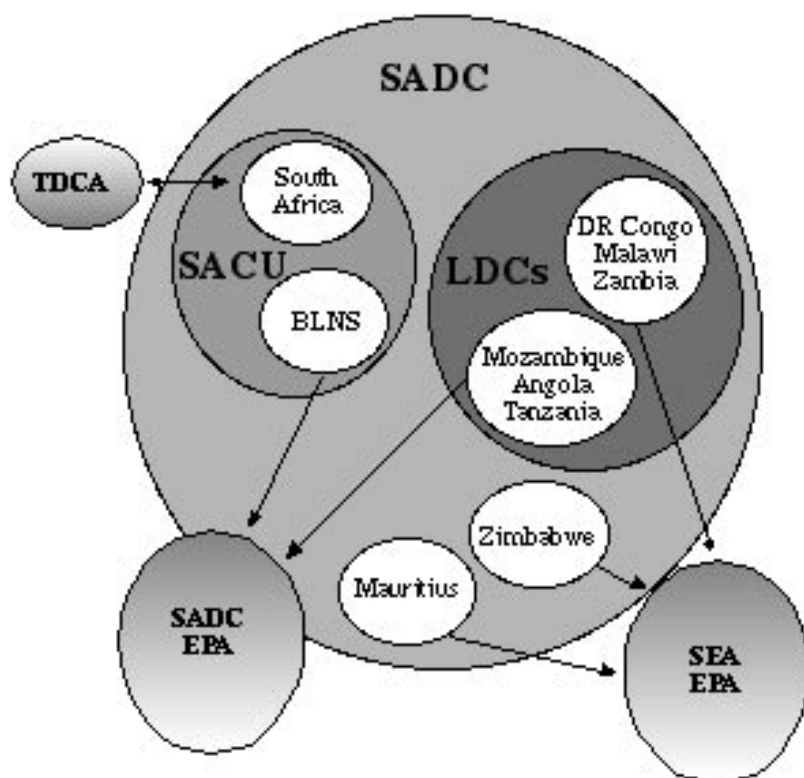
Annex 1: Agenda for Action for EPA Negotiations to Support Economic Development and Regional Integration in Southern Africa



Annex 2a: Botswana's, Mozambique's and Mauritius' Involvement in Regional Integration Agreements and Trade Agreements with the EU

Acronyms

CBI	Cross Border Initiative
COMESA	Common Market of Eastern and Southern Africa
EBA	Everything But Arms
EPA	Economic Partnership Agreement
IOC	Indian Ocean Commission
SACU	Southern African Customs Union
SADC	Southern African Development Community
TDCA	Trade, Development and Co-operation Agreement (EU-South Africa FTA)
WTO	World Trade Organisation



Annex 2b: SADC Countries' chosen Configuration for EPA Negotiations

Acronyms

BLNS	Botswana, Lesotho, Namibia, Swaziland
EPA	Economic Partnership Agreement
SACU	Southern African Customs Union
SADC	Southern African Development Community
SADC EPA	BLNS+MAT (Mozambique, Angola, Tanzania)
SEA EPA	Southern Eastern Africa EPA
TDCA	Trade, Development and Co-operation Agreement (EU-South Africa FTA)

Annex 3: Glossary

- *Multi Favoured Nation (MFN) Clause*: First Article of the General Agreement of Tariffs and Trade (GATT). Every time a member improves the benefits it gives to a trading partner it has to give the same treatment to all other member countries of the World Trade Organization (WTO). The MFN treatment is also the priority in the General Agreement on Trade in Services (GATS) and in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Exceptions from MFN treatment: According to Art. XXIV, GATT, exceptions are allowed in case of Free Trade Agreements (FTAs) and Customs Unions (CUs) if they fulfil the following conditions:

- o Tariffs and non-barriers to trade must be reduced for “substantially all trade within a reasonable length of time”;
- o Tariffs and other barriers to trade applied to third countries must not be higher or more restrictive than they were before establishment of an FTA/CU.

In 1994, during the Uruguay Round, member countries agreed on the specification of the vague formulation of Art. XXIV. Thus, FTAs and CUs are WTO compatible if

- o They cover substantially all trade in terms of number of sectors and volume of trade affected, which has been interpreted as 90% of total trade flows;
- o The liberalisation period does not generally exceed 10 years.

However, no consensus was reached to prohibit the exclusion of major goods, for instance agricultural products.

- *Economic Partnership Agreement (EPA)*: Arranged in the Cotonou Agreement (2000). Supposed to replace non-reciprocal EU-ACP trade relations by WTO compatible free trade agreements by beginning of 2008. EPAs are supposed to include trade in goods, services and the “Singapore issues” (investment, competition, government procurement, and trade facilitation measures). EPAs will be negotiated between the EU and regional blocks of ACP countries.
- *Generalised System of Preferences (GSP)*: Preferential tariff treatment granted by industrialised countries for imports from developing countries. The GSP is authorised by the WTO.
- *Everything But Arms Initiative (EBA)*: Extending the GSP system since 2001. Under the EBA, all countries that are classified as Least Developed Countries (also non-ACP countries) receive duty free market access to the EU for all their goods, except for ammunition. Sugar, bananas and rice are excluded from duty free market access until 2009.
- *Rules of Origin*: Stipulate conditions under which goods supposed to be exported are considered to originate from a specific country.
- *African, Caribbean and Pacific countries (ACP)*: The group of ACP countries comprises actually 79 countries; most of them were former colonies of the EU. The majority of ACP countries (48) are in Africa. Trade and development relations between the EU and the ACP countries are arranged in the Cotonou Agreement.

Monitoring Regional Integration with Business Climate Surveys

Christoph Stork

Introduction

In many countries, Business Climate Surveys (BCS) have proven to be a useful tool for private sector development. While reliable official data is either released with a time lag or is non-existent, business climate surveys provide unique information about current business conditions as well as investment and employment forecasts. Private sector organisations like chambers of commerce, by conducting business climate surveys, thus contribute to rational decision making in business and politics.

The Association of SADC Chambers of Commerce and Industry (ASCCI) embarked on a process to conduct regional business climate surveys (RBCS) in the SADC region. The pilot surveys were carried out during June and July 2004 with the financial assistance of the Advisory Services for Private Business (ASPB) in Johannesburg and the technical assistance of the Namibian Economic Policy Research Unit (NEPRU). The pilot focused on the manufacturing sector in the SADC region and was conducted by following private sector organisation:

- Industrial Association of Mozambique (AIMO)
- Lesotho Chamber of Commerce and Industry
- Malawi Chamber of Commerce and Industry
- Mauritius Chamber of Commerce and Industry
- Namibian Chamber of Commerce and Industry
- Swaziland Chamber of Commerce & Industry
- Zambia Association of Chambers of Commerce and Industry

The RBCS project aimed at promoting advocacy and dialogue between the private and public sector within SADC. The main objectives of the RBCS are:

- Strengthening public-private sector dialogue on SADC and national level;
- Strengthening the relationship of private sector organisations and their members;
- Monitoring the business climate across the SADC region;
- Developing a sustainable business climate survey model for the SADC region; and
- Empowering national business umbrella organisations to develop business climate surveys for domestic advocacy purposes.

Methodology

Participating private sector organisations (PSOs) administered a common questionnaire to all their members from the manufacturing sector and as many other manufacturing businesses as possible. The member lists were complemented by addresses from sources such as:

- Municipalities (often businesses are required to register with local authorities);
- Ministries of Trade and Industry or Commerce;
- Company registrars;
- Yellow Pages;
- Ministries of Labour, Social Security Commission or similar institutions (often companies have to register employees);
- Ministries of Finance or Receiver of Revenue (at least larger businesses will be registered for VAT, smaller businesses might still be registered for income tax); and
- Pension funds (in some countries a pension provision for employees is compulsory for businesses).

The method in which the questionnaires were administered was left to the participating PSOs; possible options included:

- Mail
- Email
- Face-to-face interviews
- Telephone interviews

This allowed for PSOs in countries where businesses had confidentiality concerns to make use of an anonymous mail survey, while other PSOs could use the most cost effective or most practical method.

Responses

The response rate differed from country to country and varied between 5% and 15%.

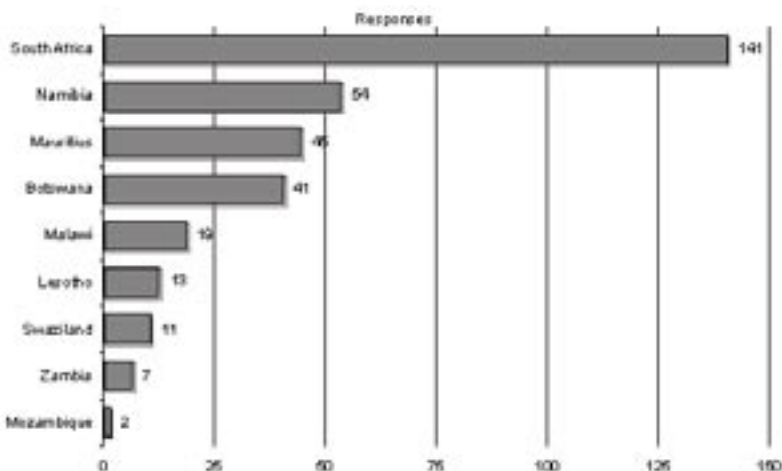


Figure 1: Total Number of Responding Companies by Country

Sector Classification

The questionnaire used the ISIC categories for the classification of sub-sectors of the manufacturing sector. Due to a low response rate it was necessary to group the ISIC categories into five sub-sector clusters. The composition of these clusters is given in Table 1.

Respondents were spread evenly between the clusters. The greatest percentage came from the Other Manufacturing, with 27% of respondents, followed closely by Metal, Machinery, Vehicles, and Precision Manufacturing, which accounted for 24% of respondents. Textile, Apparel, and Leather Manufacturing; Food and Tobacco production; and Chemical Manufacturing accounted for 19%, 17%, and 13% of respondents, respectively.

Cluster 1: Food, Beverages & Tobacco	Manufacture of food products and beverages
	Manufacture of tobacco products
Cluster 2: Metal, Machinery, Vehicles & Precision Manufacturing	Manufacture of fabricated metal products, except machinery and equipment
	Manufacture of basic metals
	Manufacture of machinery and equipment NEC (not elsewhere classified)
	Manufacture of office, accounting and computing machinery
	Manufacture of electrical machinery and apparatus NEC
	Manufacture of radio, television and communication equipment and apparatus
	Manufacture of other transport equipment
	Manufacture of medical, precision and optical instruments, watches and clocks
	Manufacture of motor vehicles, trailers and semi-trailers
Cluster 3: Textile, Apparel & Leather Manufacturing	Manufacture of textiles
	Manufacture of wearing apparel; dressing and dyeing of fur
	Tanning and dressing of leather; manufacture of luggage, handbags, saddlery, harness and footwear
Cluster 4: Chemical Manufacturing	Manufacture of chemicals and chemical products
	Manufacture of coke, refined petroleum products and nuclear fuel
	Manufacture of rubber and plastic products
	Manufacture of paper and paper products
	Manufacture of wood and of products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials
	Manufacture of furniture; manufacturing NEC
	Manufacture of other non-metallic mineral products

Table 1: Sub-Sector Cluster

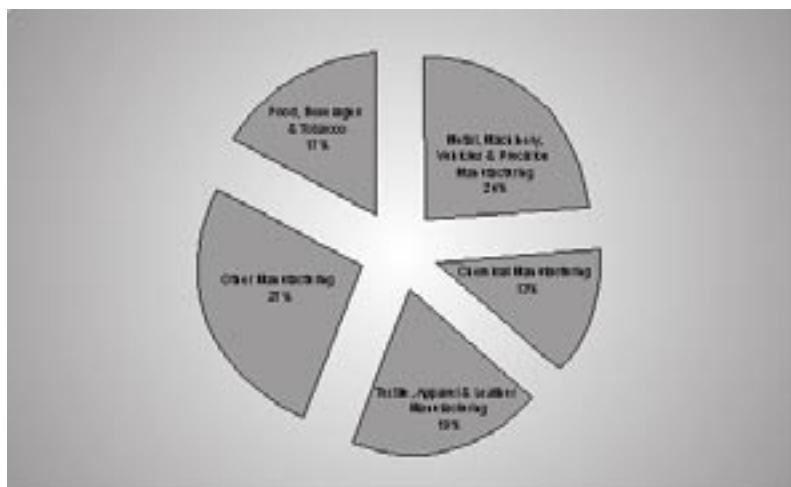


Figure 2: Share of Responding Manufacturing Companies by Sector-Cluster

Profile of Respondents

The large majority of responding firms were Pty Limited companies. Sole Proprietors, Partnerships, Close Corporations, and Other classifications accounted for the minority of respondents.

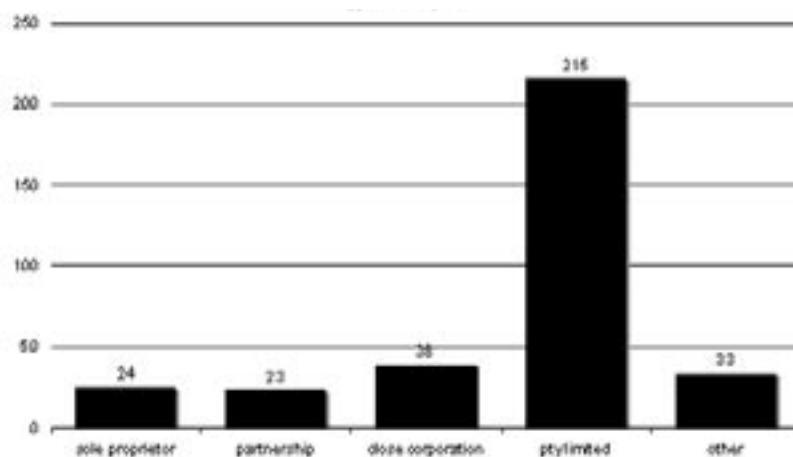


Figure 3: Respondents by Type of Company

Firms with more than 251 employees made up the largest group of respondents while the smallest firms, those with one to ten employees, made up the smallest group of respondents. The size distribution of the responding firms, with many of the firms having large numbers of employees, reflects the larger numbers of employees needed for most types of manufacturing.

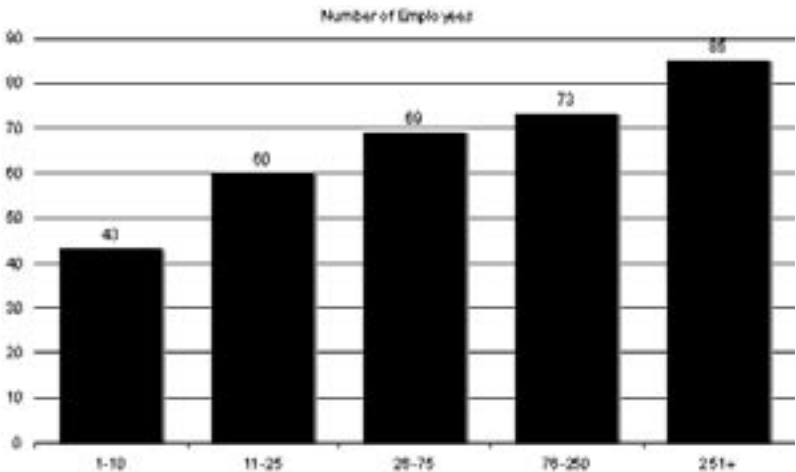


Figure 4: Respondents by Employment Categories

Of responding businesses a large majority act as independent entities while the rest act as a part of either a domestic or foreign corporate group.

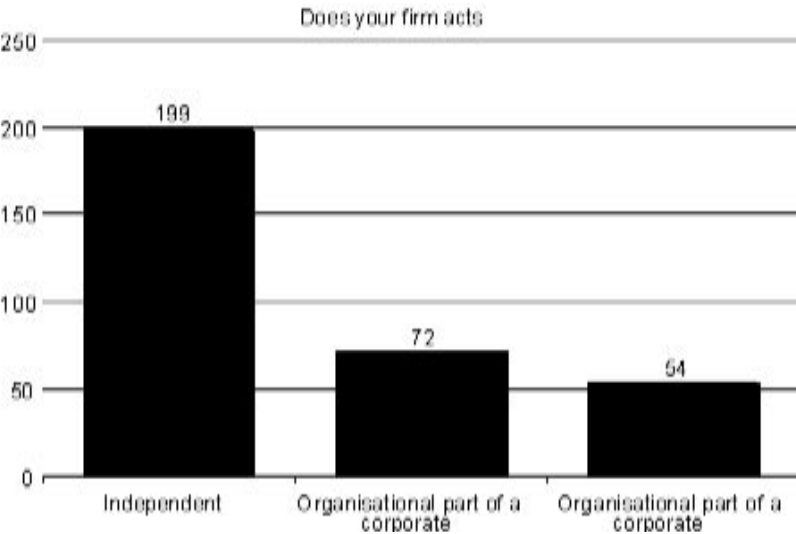


Figure 5: Respondents by Mode of Operation

Business Climate

Nine questions regarding the business climate were asked. These questions were:

- Please rate your current business performance:
- Please rate your expected business performance for the next 12 months:

- Over the next 12 months will you employ...?
- Over the next 12 months will the capital expenditure of your company in your country...?
- Over the next 12 months will the capital expenditure of your company in the SADC region...?
- How do you expect your export revenue from other SADC countries to change over the next 12 months?
- How do you expect your export revenue from outside of the SADC region to change over the next 12 months?
- How do you expect your expenditure for imports from other SADC countries to change over the next 12 months?
- How do you expect your expenditure for imports from countries outside of the SADC region to change over the next 12 months?

The responses to these questions are translated into scores that can vary between -10 and +10. The responses for the business climate section are converted into scores by multiplying the share of responses with the values specified in Table 2 and then summing the results up.

Category for current performance	Category for expected performance	Category for employment plans	Category for investment plans	Multiplier
very good	very good	much more	increase a lot	+10
good	good	more	increase	+5
fair	fair	same	remain the same	0
poor	poor	less	decrease	-5
very poor	very poor	much less	decrease a lot	-10

Table 2: Business Climate Score Multiplier

For example, the current performance score takes the value +10 if all businesses rate their current business performance as very good and it would take the value of -10 if all businesses would rate their current performance as very bad. A value above zero indicates a positive climate on average, a value below zero a negative one.

Business Performance

Overall, respondents in the SADC region describe current business performance favourably. The overall business performance score of 2.4 in Figure 6 reflects an average response between fair and good. Current performance for all sectors is positive with the best performance seen in the Metal, Machinery, Vehicles, and Precision Manufacturing cluster and the Food, Beverages, and Tobacco sector.

As shown in Figure 7, firms are optimistic about their performance in the next twelve months. Overall, respondents expect their businesses to perform better than they are currently. All sectors expect to be performing better next year with Other Manufacturing, and Textile, Leather, and Apparel Manufacturing expecting the largest increases. Sectors with the best current performance expect the highest level of performance in the coming year.

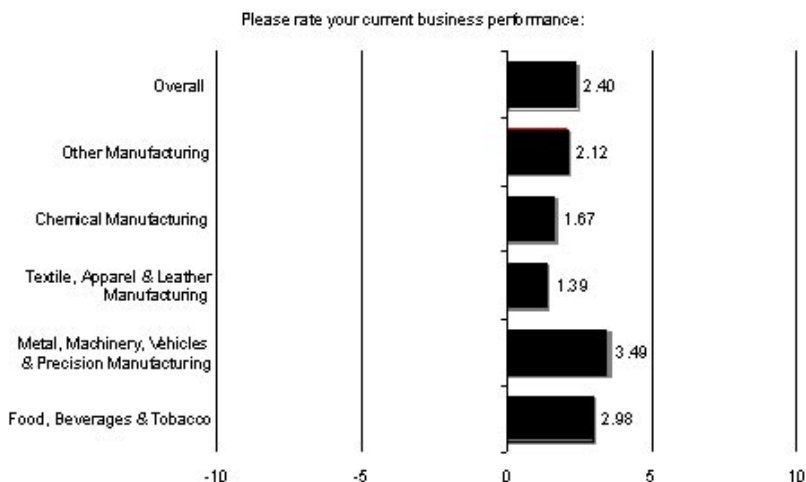


Figure 6: Current Performance Score

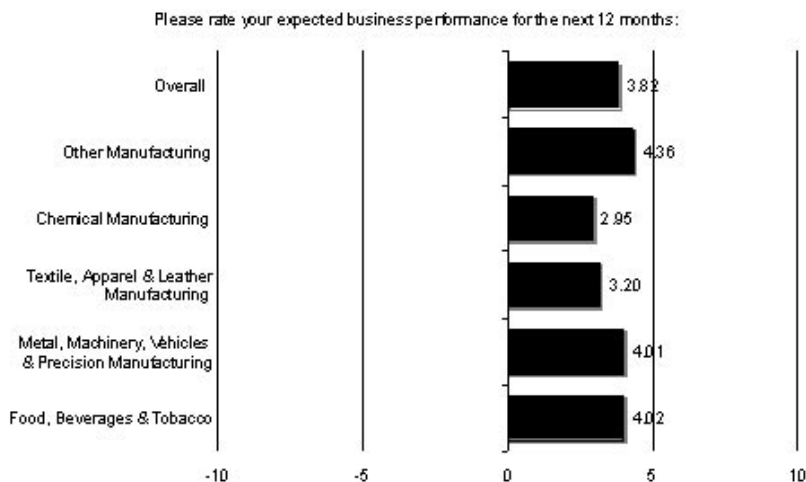


Figure 7: Expected Performance Score

Employment

Respondents expect employment in the next twelve months to remain mostly unchanged or to increase very slightly. Sectors with good current performance like Metal, Machinery, Vehicles, and Precision Manufacturing and Food, Beverage and Tobacco Production expect to do the most hiring, but scores in the range of 1.67 to 1.73 reflect expectations that employment will mostly remain at current levels.

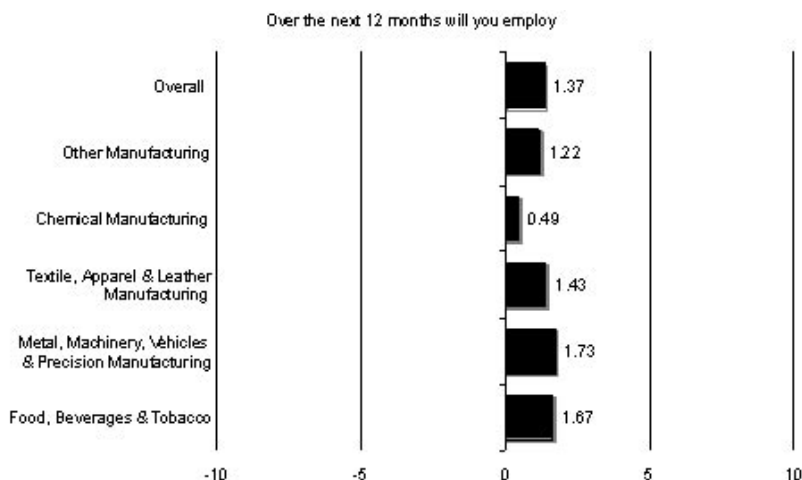


Figure 8: Employment Score

Capital Expenditure

Responses regarding future capital expenditure in both respondents' home countries and the SADC region as a whole were positive. When asked how the capital expenditure of their business would change in other SADC countries, respondents expected a slight increase overall, reflected by an overall score of 1.53. The Food, Beverage, and Tobacco sector expects a larger increase than others with a score closer to "increase" than "stay the same."

Responses regarding expected capital expenditure in the respondents' own countries indicated a higher level of expected capital expenditure. The overall score of 2.84 reflects an average response between "same" and "more" expenditures, but tending toward "more." Responses from all sectors indicated a higher level of expected capital expenditure in their own country than in other SADC countries. Again, Food, Beverage and Tobacco Production had the strongest responses.

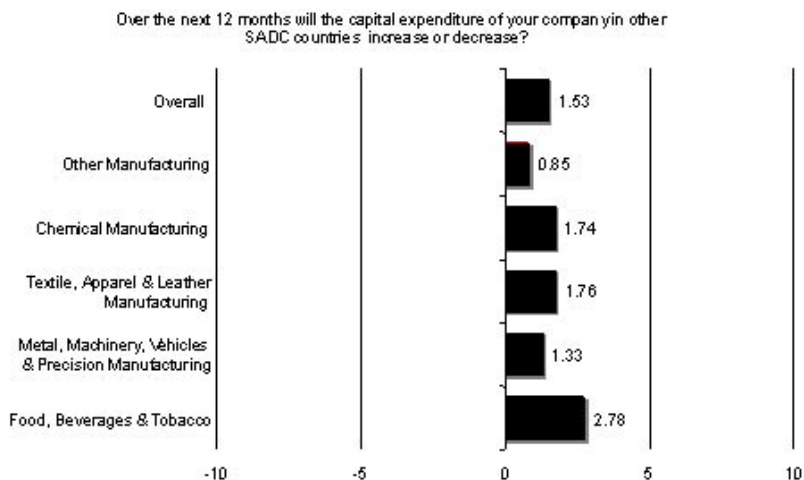


Figure 9: Capital Expenditure Score in SADC

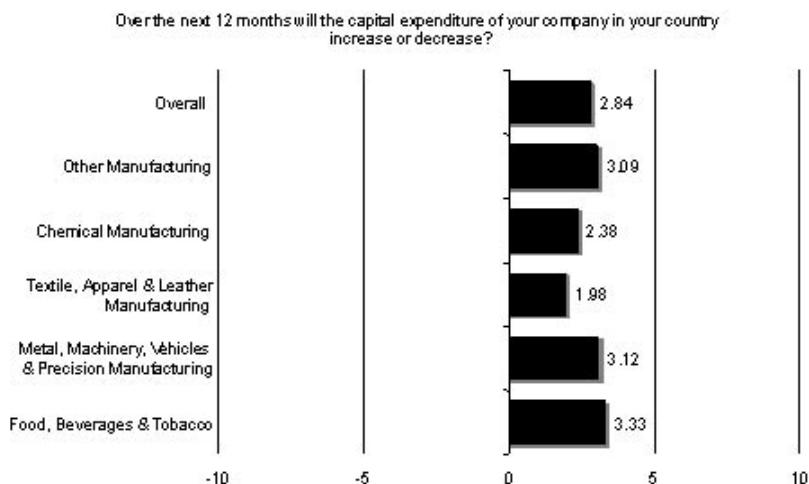


Figure 10: Capital Expenditure Score in Own Country

Export Revenues

Overall, respondents expect to earn more from exports to both SADC and non-SADC countries in the next twelve months than they do currently. Export revenues to countries outside the SADC region are expected to grow the most, but responses in both categories are positive.

Expectations for export revenues from countries outside SADC, in all sectors except Chemical Manufacturing, have scores that fall closer to an average response of “increase” than to “stay the same.”

Export revenues from SADC countries are also expected to increase, with Textile, Leather, and Apparel Manufacturing expected to increase less.

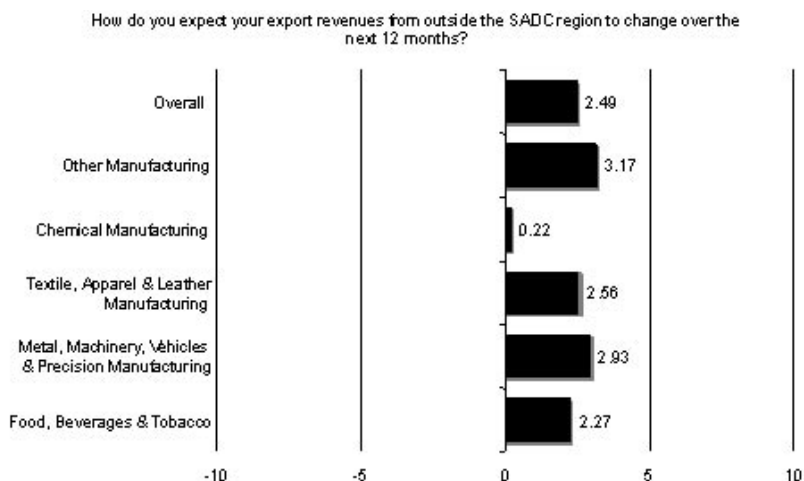


Figure 11: Export Revenue Score Outside SADC

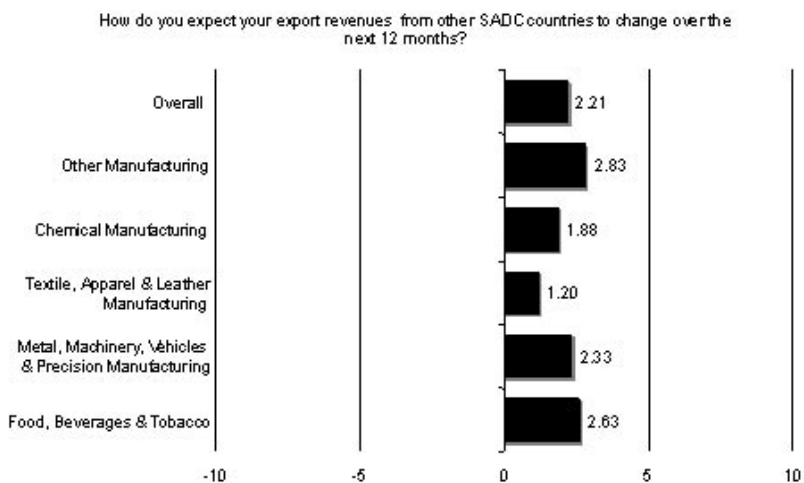


Figure 12: Export Revenue Score Inside SADC

Import Expenditure

High export revenues in SADC may be offset by high import expenditures. Overall scores show that respondents expect expenditures on imports from both SADC and non-SADC countries to increase.

The overall score of 2.39 puts expectations for changes in import expenditures from non-SADC countries halfway between “remain the same” and “increase.” Other Manufacturing; Food, Beverage, and Tobacco production; and Metal, Machinery, Vehicles, and Precision Manufacturing expect import expenditures to increase the most while Chemical Manufacturing, which also had the lowest expected increase in export revenues, had the lowest expected increase for import expenditures.

Increases in expenditures on imports from countries inside SADC are also expected, but to a lesser extent. Sectors expecting to experience impact the most are Food, Beverage, and Tobacco Production, and Chemical Production.

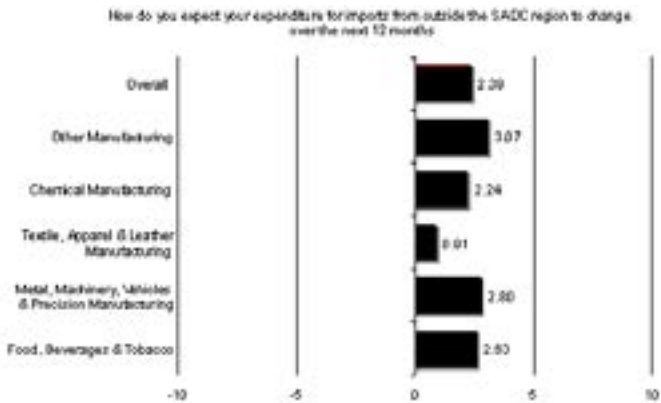


Figure 13: Import Expenditure Score Outside SADC

How do you expect your expenditure for imports from other SADC countries to change over the next 12 months

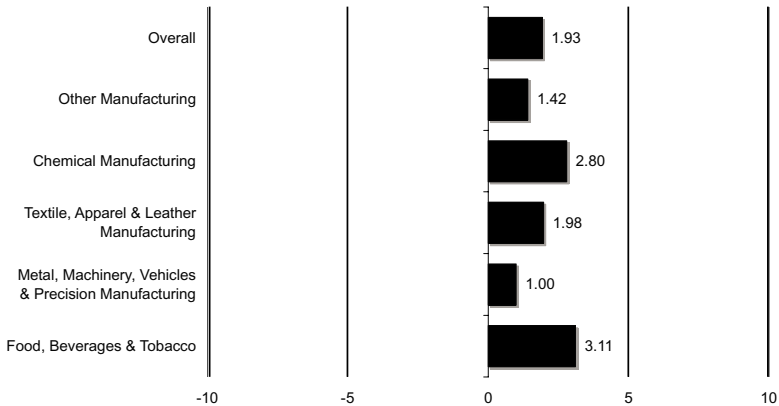


Figure 14: Import Expenditure Score Inside SADC

Obstacles to Trade in SADC

Manufacturing businesses were asked how far they perceive several issues as obstacles to their business activities in other SADC countries. They were asked to rate potential obstacles as “no problem”, “minor problem”, “major problem” or “not applicable”. The table below displays the average scores for these potential obstacles, with 0 reflecting “no problem”, 5 “minor problem” and 10 “major problem”. Fluctuations in exchange rates scored on average 7.49, which is just above midway between minor and major problem.

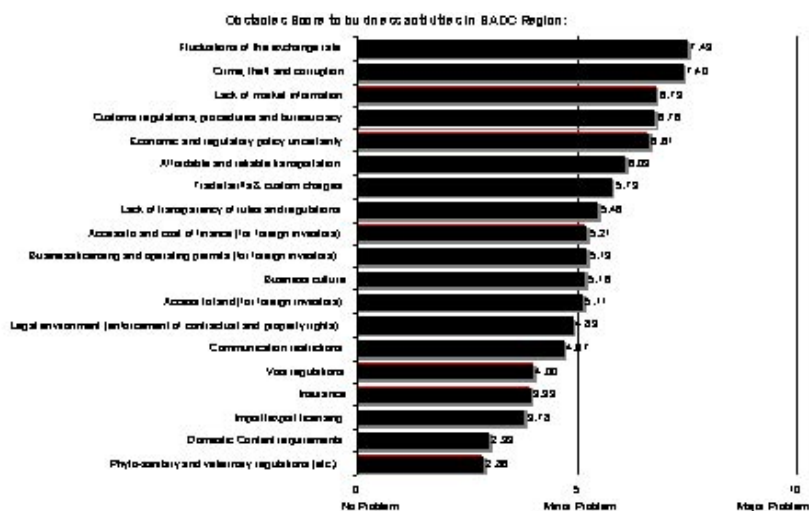


Figure 15: Obstacles to Business Activities in the SADC Region

External Factors

There was a blank area in the survey where respondents were given the option to identify any external factors affecting their business. Results were compiled and grouped and are displayed in the table below. The exchange rate is identified by one third of respondents as affecting their business. Other important factors that were identified as affecting business were import/export regulations, the cost of raw materials, access to/cost of finance, transport costs or difficulties, and cheap imports.

	Number of Mentionings	Share of Mentionings
BEE regulations	4	1.33%
Corruption	4	1.33%
HIV/AIDS	4	1.33%
Crime	5	1.66%
Lack of skilled and qualified staff	6	1.99%
Inflation	6	1.99%
Political stability	8	2.66%
Cheap imports	14	4.65%
Transport cost or difficulties	15	4.98%
Access and/or cost of finance	19	6.31%
Cost of raw materials	22	7.31%
Import or export duties and regulations or difficulties with customs	25	8.31%
Exchange rate	102	33.89%

Table 3: What External Factors (such as exchange rates etc.) are Affecting your Business?

Conclusion

The low response rates meant that the results could not be analysed country by country but only by clusters of manufacturing businesses. Yet, most value will be derived from analysing countries individually; only then can obstacles to trade be clearly identified and trends in regional integration be monitored.

The main weakness of the pilot has been the requirement for participating businesses to mail back the questionnaire to NEPRU in Namibia. Mail surveys in general yield low response rates in SADC. Having to send questionnaires abroad added a cost obstacle as well. From Malawi to Namibia only a courier service will deliver the questionnaire in time, for example.

The decision for a mail survey for the pilot was made to allow complete anonymity to responding companies. This seemed to be necessary due to political repressions businesses are subject to in some countries.

The response rate for those countries where this security concern was most pronounced was particularly low or the corresponding chamber of commerce did not participate.

Given the low response rate of the pilot survey, a panel approach would be more suitable for a RBCS for SADC countries. The panel approach is the ideal choice for the following reasons:

- Changes in business climate can best be detected when asking the same businesses each time. This also allows for the construction of a SADC Business Climate Index (SBCI).

- A panel can be based on expert opinions, which constitutes a way around missing lists of companies and lack of statistics about the distribution of companies across sectors and sizes in a country.
- It is a cost effective approach since the sample size can be kept small compared to other approaches.

The survey could be conducted by members of the ASCCI in co-operation with other institutions should the need arise. The aim would be that each ASCCI member organisation establishes a panel of companies that are consulted each time the RBCS is conducted. The panel needs to be constructed so that the companies included in the panel are representative for the manufacturing sector for the respective countries. The types of predominant manufacturing companies are likely to vary from country to country; it would therefore be left to the partner organisation in each of the SADC countries to determine what type of manufacturing companies to include in the sample. The initial establishment of such a panel will require face-to-face interviews. Once a panel is established, the survey could also be carried out by letter, email or telephone. However, it would be of paramount importance to have response rates of close to 100%. For that reason face-to-face or telephone interviews would be the approach of choice.

A SADC-wide business climate survey with national representative results would allow analysis of results for individual sectors across SADC and for countries separately. Giving a voice to the private sector in SADC would be a valuable tool for the monitoring of regional integration.

Which Policies Can Reduce the Cost of Capital in Southern Africa?¹

Martin Grandes and Nicolas Pinaud

Introduction

The aim of this paper is to discuss policies to reduce the cost of capital in Southern African countries, with a view to stimulating investment and growth, thereby reducing unemployment and supporting poverty reduction. In particular, this contribution studies the experience of countries in the Common Monetary Area (CMA), namely Lesotho, Namibia, South Africa and Swaziland, and builds on the lessons drawn from a research project being conducted at the OECD Development Centre.²

Section 1 starts out by reviewing the arguments for lower local-currency cost of capital in developing countries to stimulate growth and domestic finance. Section 2 describes the policy background at a global, regional and local level, highlighting the context in which policies to reduce the cost of capital in CMA should be implemented. In this regard, section 2 recalls the provisions made by the CMA Treaty in terms of financial integration and exchange regimes. Section 3 analyses the causes why the real cost of capital stands relatively high in CMA countries. Section 4 discusses alternative policies to deal with high financing costs in the region. More specifically, this discussion focuses on how South African macroeconomic and financial policies, including the possibility of turning Johannesburg into a “financial hub” channelling cheaper resources toward other neighbouring countries, may help achieve lower interest rates. A last section puts forward some concluding remarks and raises some policy recommendations.

This paper brings out four major policy lessons on how to achieve lower local-currency cost of capital in CMA countries:

First, the South African government should further develop the domestic bond market and enhance its liquidity. The gradual relaxation of remaining regulations constraining capital outflows, the consolidation of municipal debt and its subsequent floating on the Johannesburg bond market or the development of new instruments such as the Mortgage Backed Securities (MBS, often found in developed countries) may rank among the priorities.

¹This article is based upon “Which Policies Can Reduce the Cost of Capital in Southern Africa”, ©OECD, Development Centre Policy Brief #25, published in September, 2004, and available at www.oecd.org/dev.

²This is a project funded by the Swiss Agency for Development and Co-operation, entitled: “Understanding Debt Costs in South Africa: What Policies Can Narrow the Spread? Also see www.oecd.org/dev/sa2004 for information about a conference (“How to Reduce Debt Costs in Southern Africa”) held in Johannesburg on March 25-26 2004 as part of this project.

Second, the South African government should prop up domestic savings for instance by reforming their taxation regime. In a country where the cost of capital is high and savings rate low, the logic of levying a capital gains tax (CGT) on asset holdings together with taxing interest on savings at the (high) marginal rate of the personal income tax might be reassessed.

Third, reducing the rand currency premium by addressing “unfinished business”, i.e. stepping up structural micro and institutional reforms, and coping with regional risks (“Zimbabwe effect”) must be high on the South African policy agenda

Fourth, turning Johannesburg into a financial hub for the region alone does not seem to be a miracle recipe to get borrowing costs down for South Africa’s partners. A pre-condition should be to strengthen financial development and institutions in Lesotho, Namibia and Swaziland (LNS). Indeed, financial institutions and regulations in these countries act as a major constraint on lending activity to CMA borrowers. Not only are lending opportunities very limited (not least because investment opportunities are scarce in LNS), but also the lending activity is very risky.

Capital Cost and Development

The weighted average cost of capital (WACC) – a combination of equity and debt costs paid by either public or private entities³ – is an important determinant of economic growth (see IOSCO (2002) or Henry (2003)). The WACC sets the proper *hurdle rate* to determine true, economic profits earned by a firm, i.e. the economic value added of an investment project. In other words, when the expected returns to capital are lower than WACC, economic value is being destroyed.

Typically, in less developed countries which are not perfectly integrated into the world capital market, when calculating the (risk-adjusted) *hurdle rate* at which the expected cash flows from an investment project are discounted, the country risk premium has to be added to the risk-free rate. Hence, a lower country risk premium makes a broader range of investment projects profitable as more of them will have a positive net present value. Thus, lower country risk supports domestic capital accumulation, a critical driver of long term, sustained growth.

Most developing economies have been traditionally reliant on short-term bank lending to finance investment projects at long maturities. While the equity market had generally accounted for most of the small, shallow capital market financing available in developing countries, bond finance has only recently increased its share in total finance for both sovereigns and corporate borrowers in these countries (see BIS, 2002 or IOSCO,

³In the case of a corporation, its capital base is a blend of debt and equity. Therefore, the cost of capital for a corporation is the average (weighted by their respective share in the capital base) of equity and debt costs it faces.

2002) thanks to the development of domestic bond markets.⁴ In fact, and especially in the case of corporations, the development of bond markets is seen as an alternative to bank lending for raising capital. At least four reasons underpin the positive link between capital (bond) market financing and lower cost of capital conducive to high, sustained economic growth.

- 1) Diversification of systemic risks. It has been argued (IOSCO, 2002) that excessive reliance on bank lending can expose the economy to the risk of systemic banking crisis, hence affecting economic activity suddenly and adversely because companies would find themselves credit-constrained and be forced to abandon investment spending, culminating in a reduction of aggregate demand through the multiplier effect. Thus, domestic bond markets can contribute to mitigating that risk bringing the overall cost of capital down.
- 2) Liquidity enhancement. The development of the domestic bond market may bolster liquidity, making investment in countries or corporations that otherwise would not be targeted more attractive for a wider array of investors. Thus, better liquidity conditions could also help reduce the overall cost of capital.
- 3) Lower intermediation costs. The development of domestic bond markets can also lower financing costs because they eliminate intermediation costs or, at least reduce them given that underwriter costs are subject to competitive pressures which are often absent in the case of banks.
- 4) Avoidance of maturity and currency mismatches. In addition, firms (but also the government) may tailor their asset and liability profiles to reduce the risk of maturity and currency mismatches on their balance sheet, thus reducing their currency and default risk and therefore the overall cost of capital (IOSCO, 2002). This again points to boosting long-term growth, as suggested above.⁵

Policy Background and Context for Policy Implementation

Policy Relevance

Reducing the cost of capital in African countries, and in particular in CMA, is a policy goal which is reflected high on several current policy agendas at both the global and regional level.

⁴However, for some countries the foreign debt market has still provided the bulk of finance (e.g. Argentina in the 1990s).

⁵See Levine (1997) for a general reference on the effect of financial development on economic growth.

First, it stands out in the context of the post-Monterrey discussions on the ways and means of providing developing countries with cheaper and sustainable sources of financing for development.

Second, allowing for the existing resource gap on the African continent (especially toward achieving the Millennium Development Goals), NEPAD (the New Partnership for Africa's Development) has recently underscored the importance of increasing domestic savings in and foreign capital inflows to Africa as a means to bridge that gap. In its section on the Capital Flows Initiative, the NEPAD policy document underlines the necessity of addressing "investors' perception of Africa as a "high-risk" continent, especially with regard to security of property rights, regulatory frameworks and markets []. The Capital Flows Initiative also makes the case for "the deepening of financial markets within countries, as well as cross-border harmonisation and integration []".

Not least, reducing the cost of capital has also become a concern for South African authorities, as evidenced by ongoing reflections pertaining to the process of financial integration in Africa. In this respect, the South African Minister of Finance, Mr. Trevor Manuel has been recently quoted by the Financial Times (19 February 2004) declaring that South Africa would take action in 2004 to promote itself as "a regional financial centre able to cater more fully for the needs of the African continent". Section 4 discusses this possibility.

Financial Arrangements in the Common Monetary Area (CMA)

The CMA is a monetary arrangement between Lesotho, Namibia, South Africa and Swaziland whereby Lesotho, Namibia and Swaziland's exchange rates are pegged to the South African rand at par, and the South African Reserve Bank acts as a lender of last resort for its partner central banks. Moreover, their national currencies must be fully convertible into the rand for current account and financial transactions (see box 1 below for further information about the historical background and main provisions made by the CMA Treaty).

In the CMA full intra-zone capital mobility should be guaranteed so that domestic interest rates in rand currency and ultimately the real cost of capital should equalise across countries. As inflation rates have gradually converged to South African levels (Grandes 2003), any interest rate differential between South Africa and its partners must be explained by default or jurisdiction risk premia, as will be seen below. Ultimately the level and volatility of CMA interest rates are fundamentally driven by the developments in and the stance of South Africa's monetary and exchange policies.

Moreover, as South Africa is by far the most developed capital market in the region, public and private entities from the neighbourhood should be tapping the Johannesburg financial centre to realise profitable investment opportunities at a given (and supposedly lower than would be in their "inexistent" financial markets) cost of capital.

The “rand monetary zone” has formally been in place since 1974, when South Africa, Botswana, Lesotho and Swaziland signed the Rand Monetary Agreement (RMA). This currency union had already informally existed prior to 1974 under British rule, using the pound as the common currency until 1961, when the rand replaced it. However, Botswana, Lesotho, Swaziland⁶, and later Namibia (1993), introduced and kept their own currencies at parity with the South African rand. The first major event after the RMA occurred when Botswana opted in 1976 to pursue independent monetary and exchange rate policies. Nevertheless, Botswana has since been linked to the rand through a currency basket where the Rand weighs around 60 to 70%.⁷ With the signing of the Trilateral Monetary Agreement the CMA replaced the RMA in 1986. Namibia joined in 1992 shortly after gaining independence.

As reported in Grandes (2003) or Tjirongo (1995), the main provisions made by the CMA Treaty with regards to exchange controls and monetary policy, are the following:

a) Management of Gold and Foreign Exchange Reserves

The respective monetary authorities have responsibilities over the management of gold and foreign exchange reserves of the countries. However, to enable the South African authorities to monitor the exchange control system of the CMA, each member state provides the South Africa Reserve Bank with a monthly statement reflecting the total balances of gold and foreign exchange, including rand held by the monetary authorities and authorised dealers in their respective areas.

b) Access to South African Money and Capital Markets

Articles 3 and 4 provide for the free flow of capital within the area. Both private and official capital flows are encouraged, provided such flows are neither disruptive to money and capital markets nor inconsistent with the management of domestic financial institutions. Further, governments and private companies of the contracting parties have access to the South African capital and money markets. In order to underwrite the monetary stability of the area, the South African Reserve Bank acts as a lender of last resort to the monetary authorities of the LNS (Lesotho, Namibia and Swaziland) countries.

c) Gold and Foreign Exchange Transactions

Article 5 provides for South Africa’s partner countries to have access to South Africa’s foreign exchange markets.

Box 1: CMA in Practice

⁶During the 1960’s those countries became independent and started running their own monetary institutions around South Africa’s.

⁷It is also worth recalling that Botswana alongside the CMA countries form the South African Customs Union (SACU), so they have common external tariffs, and hence a common revenue pool tilted to make up for the imbalances in tax collections that arise from asymmetric trade patterns.

d) Compensatory Payments (Seigniorage)

Article 6 establishes the formula for computing compensation payments for seigniorage on the rand currency circulating in South Africa's partner country. Seigniorage is calculated as follows: $s = (2/3) * (I_{\text{bond yield}}) * (cu^R)$, where $I_{\text{bond yield}}$ represents annual yield on the most recently issued long-term South African government stock and cu^R an estimate of the volume of rand in circulation in South Africa's partner country. The 2/3 is based on interest earned by a portfolio in the area, which is likely to contain both long-term and short-term assets with lower yields.

e) Transfer of Funds within the Joint Monetary Area

A contracting party shall not apply any restrictions on the transfer of funds (current and capital transactions) to or from the area of the contracting party. Restrictions can be only imposed in cases of investment or liquidity requirements that may from time to time be prescribed to domestic financial institutions, but such restrictions should not be discriminatory to any contracting party. Also the Government of South Africa's partner countries may introduce measures relating to the investment of funds in domestic securities, for the mobilisation of domestic resources in the interest of the development of its area. Members also have obligations to work together to avoid disruptive capital flows arising as a result of measures taken in one area.

Box 1: CMA in Practice

The rest of the paper and in particular section 3 will present evidence on interest rate differentials in the period starting from 1992, as this is the year when Namibia joined the CMA.

Why is the Real Cost of Capital Relatively High in CMA Countries?

Financing Costs: Where Do CMA Countries Stand?

Borrowers in developing countries - be it the government itself or some large firms - which are able to tap international capital markets generally pay a considerable risk premium over a risk-free asset (such as US-Treasury securities) when issuing debt. In the case where these debt instruments are denominated in domestic currency, one of the main components of this risk premium is the currency premium, which reflects the risk of a depreciation or devaluation of the domestic currency. In the CMA case, this is attributable to the anticipated and non-anticipated rate of change in the e.g. rand-US dollar exchange rate. A second important component is the pure default premium, which reflects the financial health (solvency) of the borrower under consideration. That is, the ability and willingness of the sovereign (or corporate) in question to repay its debt. The third component of this risk premium is a jurisdiction (or "onshore-offshore") premium that is due to the differences between domestic ("onshore") financial regulations and international ("offshore") legal standards (see diagram 1). In theory, as

these regulations should be the same across CMA countries, any difference in their total risk premia across should amount to a different pure default risk premium.⁸

Diagram 1

Cost of rand-currency-denominated debt for a CMA country

=

Risk-free rate (US Treasury Bill rate)

+ { 1) Rand currency (risk) premium
 2) Default (risk) premium
 3) Jurisdiction premium }

Total risk premium Country (risk) premium

Figure 1 below plots the nominal yield to maturity on comparable Treasury Bills for all CMA countries, as defined by the IMF Financial Statistics database. The figures show that nominal Treasury bond yields across CMA countries have been roughly similar, with the exception of Swaziland which for some periods displays a slightly lower bond yield. In general and on average, the yield differential between CMA countries other than South Africa and this latter meander around zero in the period 1992-2004,



Figure 1: Nominal Treasury Bill Rates in CMA Countries 1992-2004
Source: DATASTREAM and IFS

⁸However, in order to be able to compute a jurisdiction premium for any given CMA country, there should be financial assets denominated in the same currency, floated by the same borrower but in different jurisdictions, i.e. a country in CMA and another extra-CMA country (e.g. the United Kingdom or the US). Unfortunately, this is generally not feasible (with the exception of a few South African parastatals companies which issue bonds in Johannesburg and London in the same currency) so the jurisdiction premium will be unavoidably embedded into the default premium.

supporting the case that CMA interest rates are largely driven by South African rates (through the rand currency premium).

This finding should be nevertheless taken with some caution due to the incompleteness of financial markets in the region, i.e. the virtual inexistence of long-term government bond issuances, let alone private sector issuances, in countries other than South Africa.

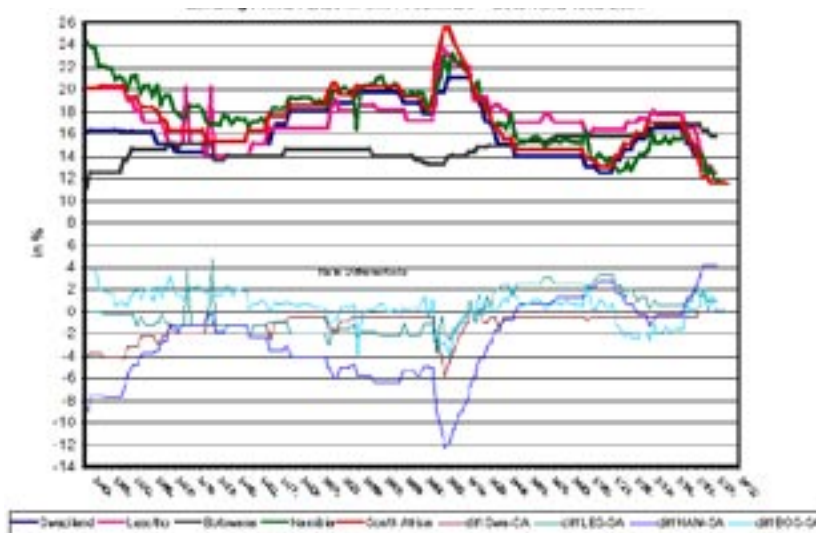


Figure 2: Lending Prime Rates in CMA Countries + Botswana 1992-2004

Source: DATASTREAM and IFS

As money market instruments are better developed in CMA, interest rate convergence is also evidenced on the lending side. Figure 2 shows again that, with the exception of Namibia in 1994-1999, all lending prime rates have roughly converged to South African rates.

It has been evidenced that South African rates set the floor for CMA countries interest rates. And because CMA countries are pegged to the rand, their domestic rates closely move in tandem with those of South Africa. In this context, the culprit for high interest rates in CMA countries partly lies in the level of South African real interest rates which have remained themselves high over the last years.

In a context of disinflation in South Africa, the “risk free rate” in local currency (South Africa’s government bond benchmark) has been relatively high in the 1990s, making capital expensive be it in real terms or by international standards. The weighted average cost of capital (WACC) for South African corporations has indeed stood at high level over the period:

- Equity costs for an ungeared South African company (i.e. a company without any debt) are about 15%, which may itself be

broken down into a 9.5% risk free rate (RFR) and an equity risk premium (ERP) of 5.5%. By comparison, the equity costs for an ungeared company are 8% (RFR of 4% + ERP of 4%) in the UK and 7.7% (RFR of 3.7% + ERP of 4%) in the US.

- Local currency debt costs are even higher, not least because of little appetite of South African investors for bonds. South African investors have been traditionally overweight in equity and underweight in bonds. While bonds have almost constantly outperformed equity in the 1990s, South African financial institutions continue to regard equities as a better inflation hedge than bonds. This (misplaced) belief in the primacy of equities might be a 'hang over of the prescribed assets era' (Power, 2004). During the apartheid era, it was compulsory for South African funds to invest massively in bonds, issued by the government, public utilities and state companies. In the 80s however, these assets started to deliver falling (and sometimes negative) returns.

Figure 3 evidences that spreads (as measured by the MSCI index 1-year to 3-year) between South African Treasury rand-denominated bonds and US Treasury dollar-denominated bonds have never been less than 500 basis points over the period 1995-2004. On average, they have been close to 830 basis points



Figure 3: South African Total Risk Premium
MSCI South Africa - MSCI US (1-year to 3-year maturity)

Why is the Cost of Capital so High in South Africa?

Even though the economic strategy conducted in South Africa since the mid-1990s has been largely positive overall, some elements of the macroeconomic policy framework might have had some adverse impact on the real cost of capital in South Africa.

First, South Africa has suffered from structurally low savings. In particular, declining households' savings, which have led to falling investment and rising real interest rates since 1980, have offset lower budget deficits from the early 1990s on, hence further keeping domestic savings rates at low levels. It may be argued that South African tax policies have not been conducive to raising savings over the period. The level of personal income taxation in South Africa is high (the marginal tax rate levied on amount over ZAR 270000⁹ is 40 per cent) while the taxation regime applied to capital revenues is barely supportive of higher savings rate. Both capital gains and interest are subject to taxation.¹⁰

Second, monetary and exchange policies have been instrumental in keeping interest rates at a high level. The abolition of the dual currency regime in 1995 had to bring about a rise in real interest rates for the current account deficit to be adequately financed. Moreover, some 'stickiness' of inflation expectations, i.e. their relatively slow responsiveness to monetary policy, has translated into a lagged response of nominal bond yields to the process of disinflation in South Africa. To some extent, this phenomenon has resulted in persistently high real interest rates since the mid-1990s.

Third and more importantly, as evidenced by Grandes, Peter and Pinaud (2003), the South African spread on local currency denominated bonds has been essentially driven by the rand currency premium (at least at short and medium-term maturities, see table 1). A high currency premium (which accounts for more than 90% of the South African total premium for short maturities) is indeed required by investors to hold rand denominated assets because they look upon the South African currency as a particularly risky and volatile asset. In this respect, the rand may be subject to a "Peso problem".¹¹ Investors' perception of the South African currency as a risky asset has been driven by both domestic factors and global determinants. While global determinants refer to global risk aversion and appetite for the emerging asset class, domestic factors encompass political risk, monetary policy, external liquidity indicators, and capital control regulations. The existence of a specific 'Zimbabwe effect' accounting for the strong volatility of the rand has been statistically difficult to evidence. Yet, the fear of political instability (related to land issues) spilling over from Zimbabwe into

⁹ZAR 27000 is equivalent to approximately USD44415.

¹⁰The portion of the capital gain (or inclusion rate) that is taxable (by way of inclusion in taxable income) is 25% for an individual, special trusts and an insurer's individual policyholder fund and 50% for all other taxpayers like a company, or family trust. Gross interest income on assets holdings is aggregated to the individual taxable income and is therefore subject to the marginal rate of personal income taxation.

¹¹The "peso problem" refers to a systematic bias in the foreign exchange market's expectations of devaluation for a given currency.

its neighbours (Namibia and South Africa in particular) has undoubtedly had an adverse impact on the rand stability (as evidenced by the collapse of the rand in late 2001) and may still be regarded as a culprit for the rand "Peso problem".

At 1-Year Horizon (based on 1-year ZAR and USD interest rates)

	Total Risk Premium (TRP)		Currency Premium		Pure Sovereign Default Premium
	Basis points	Basis points	In Percent of TRP	Basis points	In Percent of TRP
Average Jun 97 - Aug 02	850	689	81%	160	19%
Average Aug 99 - Aug 02	596	466	78%	129	22%
Average Aug 00 - Aug 02	616	490	80%	126	22%

*Table 1: Decomposition of the South African Total Risk Premium
Source: Grandes, Peter and Pinaud (2003)*

A high and volatile rand premium has a direct bearing on the cost of capital for countries which are pegged to the South African currency and are willing to issue local currency denominated debt: as evidenced by diagram 1, the rand premium is one of the components of CMA countries' yield spreads over a risk free rate.

Lastly, South African capital pools, albeit liquid by African standards, remain shallow compared to G7 countries' capital markets. The Johannesburg financial market exhibits lower market capitalisation and turn-over (other things being equal) than developed-country markets and the liquidity premium associated with issuing securities in Johannesburg stays at high levels. On the supply-side, the range of investible risk options open to investors is limited thus restraining the scope for risk diversification and limiting the tolerance involved in an individual risk opportunity (either in terms of price or quantity of assets held). On the demand side the limited aggregate amount of capital being available for investment restrains appetite for risks. As a result, the 'liquidity premium' required by investors to hold assets issued in Johannesburg remains significant. While South African portfolio investments are limited by low domestic savings capacity, foreign investors still regard rand denominated assets as risky, which in turn constrains the expansion of the rand denominated asset class and the deepening of the Johannesburg financial markets.

High Real Cost of Capital in Southern Africa: What Can be Done about it?

Macroeconomic Policies in South Africa

The absence of monetary autonomy for CMA countries and the strong co-movement between South African rates and those of its neighbours strongly make the case for reducing the cost of capital in South Africa. As mentioned above, lower interest rates in South Africa, in particular a less volatile and lower rand currency premium are essential to bring down financing costs in neighbouring countries pegged to the rand.

For this objective to be achieved, the South African authorities need to carry on with the good macroeconomic management which has prevailed since the mid 1990s. Sound macroeconomic policies have indeed allowed South African borrowers to preserve the fortunate specificity of issuing bonds denominated in local currency, at long maturities, with fixed interest rates and at relatively (by developing country standards) 'affordable' spreads.¹²

In this respect, Grandes, Peter and Pinaud (2003) have found that the rand currency premium, the major component of the South African total premium is not only driven by global factors ("push-factors"), but it is also and primarily related to domestic factors ("pull-factors"). Monetary indicators, i.e. the level of the Net Open Forward Positions¹³, the amount of net foreign reserves held by the South African Reserve Bank (SARB) and the deviation of the actual inflation rate from the initial inflation target¹⁴ play a key role. South Africa's sovereign ratings are the other essential determinants. Accordingly, it is essential that South African authorities keep on improving ratings and liquidity ratios to stem currency volatility. This requirement underlines that the consistency of the South African economic management is not only critical to the domestic economy but has also, through the rand channel, a strong bearing on CMA economies, as they import credibility from the SARB.

Even though South Africa is able to issue long term local currency denominated bonds at 'affordable' spreads, the latter remain large. As evidenced by table 1, there is still scope for reducing the cost of capital in local currency by trimming down the currency premium. In this respect, the positive macroeconomic track record of the South African authorities in the late 90s has turned out to be not just sufficient (at least so far) to dramatically slash South African real cost of capital. Therefore, bold policy steps are required to achieve this objective and, by extension, to rein in financing costs in CMA countries. For the South African authorities, priorities might be:

To further develop the domestic bond market and to enhance its liquidity. Possible steps might be:

- The consolidation of municipal debt and its subsequent floating on the Johannesburg bond market;
- The development of "Ginnie Mae -style of securities (i.e. Mortgage Backed Securities);
- The relaxation of regulations constraining capital outflows: the objective is to ease the listing of non-resident entities in the Johannesburg bond and stock markets and to allow them to

¹²South Africa can be dubbed a "no Original Sin country". According to Eichengreen and Hausmann (1999), a country suffers from "Original Sin" if it cannot borrow abroad in its own currency and/or if it cannot borrow in local currency at long maturities and fixed rates even at home. As a matter of fact, most emerging countries suffer from "Original Sin".

repatriate resources raised in South Africa. As indicated by South African exchange control regulations, entities *outside the CMA* are defined as 'non-resident'. They are not allowed to list on the South African stock and bond markets. Moreover, South African companies controlled by non-resident shareholders are subject to tight regulations regarding their access to local finance (credit, equity and debt finance): their local borrowing can not exceed 100% of the rand value of funds introduced by non-resident shareholders (up to 300% when borrowed resources aim to finance a direct investment in South Africa).

To prop up domestic savings for instance by reforming their taxation regime: a radical re-look at the logic of taxing interest on savings should be considered;

To reduce the rand currency premium by addressing "unfinished business", i.e. stepping up structural micro and institutional reforms (labour market, skills shortage, privatisations, etc.).

Johannesburg as a "Financial Hub" for the Region: Prospects, Risks and Challenges Ahead

As of today, the Johannesburg financial centre offers potential issuers from the CMA lower jurisdiction and liquidity premia than those required on securities issued on their respective domestic financial market.

Indeed, South African financial markets operate in a comparatively reliable, stable and business-friendly legal and political environment. Therefore, the jurisdiction premium required by investors to hold assets issued and listed on the South African bond and equity markets remains lower than anywhere else in Africa. Moreover, by African standards, Johannesburg is endowed with liquid and sophisticated financial markets which are unrivaled on the continent and the technological infrastructures of which stand comparison with the most advanced emerging financial markets.

On top of this, countries from the CMA, which already enjoy a potential access to the South African capital market, and Botswana would benefit from long-term finance in rand currency, i.e. their own anchor currency or, in the case of Botswana, a key element of its currency basket, thus avoiding potential disruptive balance-sheet effects stemming from a currency mismatch.

¹³The "Net Open Forward Position" (NOFP) is the amount of forward sales of dollars by the central bank not covered by equivalent forward purchases of the US currency nor by hard foreign currency reserves detained by the monetary authorities. The NOFP is an instrument to support the exchange rate in the absence of an adequate level of hard currency reserves. However, it also amounts to the accumulation of contingent liabilities which materialise in case the domestic currency nose-dives: therefore, the NOFP must be regarded as a source of strong vulnerability (cf. the case of Thailand in July 1997 after the collapse of the baht).

¹⁴The South African Reserve Bank moved to an inflation-targeting system in April 2000.

One may therefore envisage that the South African business centre gradually become 'a financial hub' not only for CMA countries but also for Africa as a whole. In this context, why do so few African entities (either sovereign or corporations) outside South Africa rely on the Johannesburg financial market?

Indeed, South Africa has been so far more of a magnet for portfolio investment from African countries than a source of financing. (See Table 2).

	Direct investment		Portfolio investment		Other investment	
	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities
Africa	14,031	5,049	747	12,031	12,023	11,395
SACU	1,547	1,381	261	11,707	4,312	5,720

*Table 2 South Africa's investment relationship with Africa
(South African assets in and liabilities to Africa)*

Source: based on Thomas (2004), Quarterly Bulletin, December 2003, South African Reserve Bank

The cases of non-CMA African countries and of CMA countries must actually be considered separately.

South African capital control regulations (see above) make it impossible for *non-CMA African entities* to raise equity and debt finance on the South African capital markets. However, the South African Minister of Finance, Mr. Trevor Manuel is contemplating the possibility of relaxing regulations limiting the access to South African financial markets by African entities located in *non CMA countries*. He has been recently quoted declaring that South Africa would take action in 2004 to promote itself as "a regional financial centre able to cater more fully for the needs of the African continent".¹⁵ The South African budget speech 2004 indeed states that "Measures will be implemented during the course of 2004 to enable foreign firms to list on South African capital markets, thus allowing them to raise debt and equity finance on the JSE Securities Exchange (JSE) and Bond Exchange of South Africa (BESA). [] It is envisaged that inward listings by African companies, institutions and governments should be encouraged through a special allowance for institutional investors, allowing them to invest up to an additional 5 per cent of their total retail assets in African securities listed on the JSE or BESA".

This analysis does not hold for *CMA countries* which are allowed to raise equity and debt finance in South Africa and to repatriate it. In this context, why has South Africa not yet become a regional financial hub for its neighbours despite the full liberalisation of capital flows within the CMA?

The high cost of capital in South Africa may not have contributed to making the Johannesburg financial centre appealing to neighbouring countries. This difficulty emphasises the need for a lower rand premium: not only

would it result in lower interest rates on rand denominated assets including securities issued by CMA countries. There are also other benefits to be expected beyond this direct impact: a more stable rand would make rand denominated assets more attractive and the Johannesburg financial centre more appealing to foreign portfolio investors. As a result, the liquidity of South African capital pools might be bolstered, the Johannesburg liquidity premium would be curtailed (other things being equal) and it would be easier for CMA issuers to float equity and issue debt in Johannesburg.

However, the main stumbling block on the way to further regional financial integration lies in the weaknesses of local financial systems in the CMA. Aziakpono (2004) for instance points to the minor role played by financial intermediation in the growth process in countries of the CMA and Botswana, with the notable exception of South Africa. Reasons for this insignificant impact of the financial sector on the growth momentum in Namibia, Lesotho, Swaziland and Botswana are likely to vary depending on countries. Botswana notwithstanding, South African neighbours have two important features in common:

- These are low growth countries where investment opportunities are scarce and where entrepreneurial investment-driven demand for financing remains anecdotal (set against consumption-oriented credit in particular);
- Weak financial institutions and regulations also act as a major constraint on lending activity to CMA borrowers. Not only are lending opportunities very limited, but the lending activity is also very risky. With respect to Lesotho for instance, Aziakpono writes: "There is also the perception of non-loan repayment culture and all the difficulties in pursuing defaulted debt" (idem, p. 17).

The trouble with the financial systems of countries like Lesotho, Swaziland and Namibia is not so much a shortage in the supply of capital and liquidities (the domestic banking systems record excess liquidity), but the lack of investment opportunities in countries endowed with weak legal environment (see Aziakpono, 2004; or Vollar, 2000, for the case of Namibia).

Thomas (2004) further points to the risk that "capital inflows from the region may partially offset outward investment from South Africa as economies become more integrated". Instead of becoming a source of financing, South African financial markets might further attract liquidities available for productive investment in neighbouring countries.

In this context, channelling cheap resources through a financial hub located in Johannesburg is unlikely to change the big picture for Southern African countries endowed with an inadequate institutional environment. Risk management related issues will remain high on the agenda of investors contemplating lending to entities located in CMA countries. The

¹⁵See Financial Times (19 February 2004)

strengthening of local financial systems in CMA countries is therefore essential if the latter are to reap the full benefits of an enhanced regional financial integration and lower the cost of capital on the South African financial markets.

Concluding Remarks

Considering its impact on investment and economic growth, the real cost of capital in CMA countries (Lesotho, Namibia, Swaziland (LNS) and South Africa) remains far too high. Lowering interest rates in these countries may be therefore regarded as a priority.

Because the currencies of LNS are pegged to the South African rand, the rand currency premium (i.e. the premium required by investors to hold rand denominated assets prone to depreciation) is a key driver of local-currency interest rates within CMA countries. Stemming the rand premium volatility and bringing its level down would therefore help reduce financing costs in the region. Since the South African economic policy has a strong bearing on the rand premium, not only is its consistence an issue at the national level but it is also critical to all CMA countries.

Reining in the perception of rand denominated securities as a risky asset class would also contribute to raising the profile of South African financial markets, drawing in more foreign investors and enhancing the liquidity of these markets. As a result, raising finance in Johannesburg would be made easier and cheaper for entities located in CMA countries (which already enjoy an access to South African financial markets). After some time, Johannesburg might even become a financial "hub" for the region channelling cheap resources to its neighbours.

In this context, bold policy steps are to be taken by South African authorities, should they want to lower domestic local-currency interest rates. Measures to be implemented include:

- Enhancing the liquidity of the bond market and easing the access of African entities (including from outside the CMA) to South African financial markets. This might require a gradual relaxation of remaining regulations constraining capital outflows, the consolidation of municipal debt and its subsequent floating on the Johannesburg bond market or the development of new instruments such as the Mortgage Backed Securities (MBS, often found in developed countries) may rank among the priorities;
- Boosting *domestic savings* for instance by reforming their taxation regime. The logic of levying a capital gains tax (CGT) on asset holdings together with taxing interest on savings at the (high) marginal rate of the personal income tax might be reassessed.
- Improving international investors' perception of the rand, i.e. reducing the rand currency premium. This breakthrough may be achieved by addressing "unfinished business", i.e. stepping up

structural micro and institutional reforms. A steadfast policy of regional risk containment by South Africa, the regional political and economic heavyweight, would also help assuage jittery markets.

However, South Africa has been so far more of a financial 'magnet' in the region (at least with respect to portfolio investment) than a 'hub'. The poor quality of financial institutions and regulations in CMA countries, alongside the scarcity of lending opportunities, help explain this phenomenon. On a risk-adjusted basis, lending activity in CMA countries remains little profitable. This suggests that fostering financial integration in the region and turning Johannesburg into a regional financial hub would be no miracle recipe for CMA countries, absent a consolidation of their financial sectors and the emergence of a local dynamic demand for capital.

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Pooling African Power: Issues, developments and Outlook of a Reforming and Integrating Southern African Power Sector

Miss Margaret Njirambo Matinga

Introduction to the SAPP

The Southern African Power Pool (SAPP), created in 1995 by an Intergovernmental Memorandum of Understanding (IGMoU), aimed to provide reliable and economical electricity to consumers in SADC Member States, in line with sustainable use of natural and environmental resources. The initiative developed from the realisation of varying strengths and weaknesses in individual power sectors in Southern African countries. These weaknesses and strengths include disparities in resources, production and consumption, which are evident in the region as well as technical and human resource capacities. SAPP comprises 12 of the 13 Member States of SADC and nine of these are operating members (Table 1). Since its inception, the grouping has been evolving from emphasis on policy and planning cooperation and resource sharing, to include competitive power trade. Electricity trade in 1999 in SAPP was valued at over US\$150 million, making electricity an increasingly important commodity in the region.

Country	Utility	Installed Capacity MW
Angola	Empressa Nacional de Electricidade (ENE)	742
Botswana	Botswana Power Corporation (BPC)	132
Lesotho	Lesotho Electricity Corporation (LEC)	72
Malawi	Electricity Supply Corporation of Malawi (ESCOM)	305
Mozambique	Electricidade de Mozambique (EDM)	307
Namibia	Namibian Power (NamPower)	393
South Africa	Eskom	42,011
Swaziland	Swaziland Electricity Board (SEB)	51
Tanzania	Tanzania Electricity Company Limited (TANESCO)	591
Democratic Republic of Congo (DRC)	Société National d'Electricité (SNEL)	2,442
Zambia	Zambia Electricity Supply Corporation Limited (ZESCO)	1,632
Zimbabwe	Zimbabwe Electricity Supply Authority	1,990

Table 1: SAPP Member Countries, Utilities and their Current Installed Capacities in Megawatts (MW)

SAPP is based on a range of institutional agreements and protocols that support the IGMoU signed in 1995. These agreements include the Inter-Utility Memorandum of Understanding, the Agreement between Operating Members and the Operating Guidelines, which govern the operations of the pool. There is also the SADC Energy Protocol, the SADC Dispute Resolution Tribunal responsible for dispute resolution, the SADC Ministers Council, responsible for resolving major policy issues and the Technical and Administration Unit, responsible for the secretariat and related services.

The pool has the potential for producing up to 142 Gigawatts (GW) (Elmissiry, 2000) of electricity and the potential consumer base of over 4 million consumers, including distributing companies and individual customers.

The first section of this chapter reviews the benefits of SAPP and how these benefits are likely to accrue to SAPP members. The second section reviews the development of various power institutions and their linkages to SAPP. It also discusses development such as the ongoing power sector reforms and western power corridor known as Westcor and their implications on integration in the power sector. The challenges that SAPP faces with respect to integration are discussed in the third section of the chapter. Finally, the chapter outlines the likely scenario of SAPP.

Benefits of SAPP

SADC Member States stand to benefit from integration through economic efficiency, supply security and in terms of environmental benefits. The improvement of these areas would have economically wide spill over benefits for the region. The integration of the Southern African power sector would enable the exploiting the economies of scale, reducing the costs of meeting peak demand for interconnected countries and losses resulting from excess capacity which can be sold to countries with capacity deficits.

Electricity importers in particular stand to benefit by deferring investments for new generation capacity and lowering costs of spinning or operational reserves as well as reducing costs of planning and investments into new individual generating capacity by spreading their associated costs and risks. In addition, regional power pooling benefits importers by avoiding losses of unmet energy demand due to low capacity. A power study conducted between 1990 and 1992 showed estimated savings of up to 20% over 1995 to 2010, through integrated power sector development, compared to individual country power sector development (O'Leary et al, 1998).

For exporting countries, benefits include lowering costs of spinning reserves and obtaining revenue from excess power which may have been an expense as well as tapping into a readily available market (of importers). One country that stands to reap such benefits is Zambia, which found itself with excess capacity following the closure of most of its mining sector. The region as a whole also stands to benefit from optimising electricity infrastructure. For example, it may be cheaper to import electricity from a source in one

country to a boarder district in another as compared to transmitting it from a centrally located power plant within the (importing) country. In addition, there may be non-coincident peak times, making it cheaper to use complimentary load profiles to plan systems rather than to invest in new generating plants. Seasonal differences may also reduce costs of generation due to alternating demands, thus further optimising power supply infrastructure. Power sector integration also has the potential for providing investors with a wider and more economically justifiable market base, thus attracting much needed investment to the sector.

The diversity of supply resources in the region adds to the benefits of pooling by allowing diversity in electricity generation. This enhances supply reliability, for example, by enabling countries that depend on hydro-resources to import coal generated electricity in times of drought or floods. An example of this is Zimbabwe, which benefited from imports in the late 1990s after droughts reduced its capacity to meet internal power demands. Zimbabwe imported power from non-hydro resources including South Africa.

The trading of electricity supply will enable trading of emissions from polluting fuels such as coal or oil with environmentally benign generation such as hydropower and natural gas. This is especially important in view of current debate on climate change and the role that energy production plays in global warming. Countries in the region that are highly dependent on fossil fuels can then benefit from supply exchanges and gain joint benefits from carbon trade agreements. South Africa in particular stands to benefit as it is reliant on coal, which is a major polluting fuel. Therefore, when South Africa conforms to the Kyoto protocol, its imports from cleaner resources in the region will assist in offsetting the emissions by South Africa.

Institutional Arrangements and Related Developments

Increasing integration and co-operation in the power sector has led to the development as well as revamping of a range of institutions and agreements. The mandates and development of these institutions has implications for the development of SAPP, depending on whether and how they support, counteract or duplicate the functions of SAPP and its related institutional arrangements. The following subsections briefly discuss the power sector related institutions in SADC as well as continent-wide power sector institutions with close interactions with SAPP.

The Union of Producers, Conveyors and Distributors of Electrical Energy in Africa (UPDEA)

UPDEA traces its origins back to 1970 when it was formed to promote the development of the African power industry through cooperation in production, transmission and distribution and sharing of experiences. In June 2002, the grouping refocused its mandate to include promoting access to electricity in Africa through a continent wide Integrated Strategic Electricity Planning (ISEP) programme. Other objectives of UPDEA include promoting

and facilitating integration and regional power pooling and interconnection, as well as being a voice of African public institutions at international level, through co-operation agreements with initiatives such as the African Energy Commission (AFREC) and the New Partnership for Africa's Development (NEPAD). The grouping intends to put in place a commission for the standardisation of electrical technology and promote Africa-specific electrical materials and technologies. It will further help in coordinating the identification and resolving of common problems experienced by its members and to provide a centre for data collection, analysis and strategy formulation for the African power sector. Membership to UPDEA is open to institutions and individuals with interests in the objectives of the union.

UPDEA is not explicitly linked to SAPP although their efforts to improve the capacity of the African power sector does affect SAPP. So far, SAPP has a good working relationship with UPDEA.

Power Institute of Eastern and Southern Africa (PIESA)

The Power Institute of Eastern and Southern Africa (PIESA), established in 1998 aimed at coordinating information, technology and resource sharing. These include technical and engineering support, applied research and standardisation in the Eastern and Southern African power sector. The institute brings together members from various institutions interested in the African power sector, including academics, researchers and utility personnel as well as government officials. Once again, although not explicitly linked to SAPP, PIESA has a good working relationship with SAPP and SAPP utility members have benefited from PIESA training. There seems to be no duplication of functions between PIESA and SAPP since PIESA is more inclined towards capacity building in the power sector of the Eastern and Southern African region.

African Forum of Utility Regulators (AFUR)

A high level workshop on utility regulation in Africa initiated the African Forum of Utility Regulators (AFUR). The workshop was held with the support of the World Bank in Nairobi, Kenya in September 2000. The main objective of AFUR is to enhance effective and autonomous regulation of the energy, telecommunications and the water and sanitation sectors in Africa, as part of efforts to support economic growth and social development. The forum aims at achieving this goal by facilitating information sharing, exchange of experiences and lessons and supporting capacity building.

AFUR formally established in 2002 with membership open to regulatory agencies, individuals and organisations that are mandated to ensure regulation of services in African countries. Like most utility membership organisations, there is no explicit linkage between SAPP and AFUR.

Revenue Protection Association of African Utilities (RPAAU)

Formed in 2000 at a stakeholders' meeting in Uganda, to assist African countries in curbing non-technical losses (losses relating to theft or fraud), the Revenue Protection Association of African Utilities (RPAAU) models

itself on the work and principles of the South African Revenue Protection Association (SARPA), which was established to reduce non-technical losses in South African utilities.

In 2001, at its second annual general meeting, the members of RPAAU decided to divide the association into four regional affiliates namely RPA-Southern African Utilities (RPA-SAU), RPA-Northern African Utilities (RPANAU), RPA-Eastern African Utilities (RPA-EAU) and RPA-Western African Utilities (RPA-WAU). RPAAU is affiliated to the International Utility Revenue Protection Association and efforts are still underway to finalise the constitution of RPAAU. Although a utility organisation, RPAAU is not explicitly linked to SAPP and an interview with a high ranking SAPP member revealed that he was not aware of the existence of the organisation. This questions the co-ordination between SAPP and some membership-based utility organisations and raises questions of possibilities of overlaps and duplication of functions. One may for example, question whether there is no duplication between the functions AFUR and RPAAU.

Regional Electricity Regulators Association (RERA)

The Regional Electricity Regulators Association (RERA) dates back to 1998 when a regulators' meeting in Johannesburg, South Africa articulated the need for the sharing of regulatory experiences and expertise in SADC. In 2002, RERA was officially launched with three main objectives that include; ensuring capacity building, information sharing at national and regional levels and skills development through training; facilitating formulation of electricity supply industry (ESI) policy, legislation and regulations; and promoting regional regulatory co-operation. Membership to RERA is open to the ESI regulatory bodies in SADC countries. So far, SAPP officials have reported a particularly useful relationship between SAPP's coordinating centre in Harare, Zimbabwe and RERA. The birth of RERA is especially useful and timely due to the transition that SAPP has been undergoing (from a co-operative pool to a competitive pool) which will require more sophisticated and co-ordinated regulatory frameworks. It is also useful in ensuring that experiences emerging out of ongoing power sector reforms in the region are shared and that regulatory capacity is robust.

Westcor

Perhaps one of the most interesting recent developments SAPP that may have a bearing on SAPP with respect to its evolution towards regional integration is the development of the Inga dam and the birth of the Western Power Corridor (Westcor). Inga Dam may possibly have the biggest hydroelectric power potential in the world, with a hydro potential of 39,000MW. Although the development of Inga started in the 1970s with Inga 1 and continued with Inga 2 in the 1980s (Table 2), these only tapped a small fraction of the Inga's potential and the development of Inga 3 aims at tapping more of its potential. The development of the dam is of special importance to the SAPP members as it is estimated that regional capacity will run out in 2007, whilst South Africa, SAPP's biggest power consumer will run out of peak power the same year (Mbuere, 2004).

Site name	Year developed	Capacity developed (MW)
Inga 1	1972	351
Inga 2	1982	1,424
Inga 3	On-going	3,500

Table 2: Development of Inga through the Decades

Source: Adapted from Mbuere, 2004

The need to develop Inga 3 has led to the birth of WESTCOR, which aims to transmit power from Inga 3 to South Africa via Angola, Namibia and Botswana. A joint venture company, WESTCOR, although under the auspices of SAPP, is financing this development. The five national utilities of the DRC, Angola, Namibia, Botswana and South Africa equally own WESTCOR. As start up, the five national utilities contributed USD100,000 each and so each of the five national utilities have a 20% equity stake in WESTCOR (Musaba, 2004). International investors and NEPAD are also expected to provide support. Up to 3,000MW is expected to be generated and transported through the Western Corridor, with South Africa consuming 2,000MW, whilst the other four countries will share the remaining 1,000 MW according to their needs and capabilities (Mbuere, 2004). The development of the Inga station, converter stations and termination points is expected to costs over US\$ 5 billion (AFREPREN, 2003).

Some of the attractiveness of the development of Inga includes the fact that there is a ready market for its power and its power is regarded as environmentally benign because it can be developed as a run of the river hydro power as opposed to building a dam and therefore Inga qualifies for carbon trading. A number of questions however arise from its development. One important question that arises with respect to integration is the issue whether the development of WESTCOR will not undermine the integration of smaller and arguably less powerful nations such as Malawi and Tanzania within SAPP. As stated earlier, a few countries within SAPP, namely South Africa, Namibia and Botswana have well performing utilities and can finance the development of infrastructure with little or no foreign aid input. Thus within SAPP, there seems to be two camps, one of the weaker nations such as Lesotho, Malawi and Tanzania and the other of the more capable nations that now also form WESTCOR. This arrangement seems to have a potential for the strong SAPP countries to concentrate more on their agenda, rather than the broader SAPP agenda, thereby leaving the other SAPP members as a minor part of the integration picture. This may leave the “weaker” unable to actively and meaningfully hold integration together, leaving them more as spectators rather than participants.

Country /Utility	Maximum Demand MW	Sales GWh	Sales Growth %	Generation Sent Out GWh	Net Imports GWh	Net Exports GWh	Revenue US\$ Million	Rate of Return %	Net Income USD Million
Angola /ENE	317	1542	14.1	1,993	11.16	-	38	n/a	n/a
Botswana/BPC	393	2150	10	936	1,606.00	-	110.9	7.6	45.3
Lesotho/LEC	90	316	-3.6	429	8	38	18.9	-0.06	-3.8
Malawi /ESCOM	227	970	4	1,177	N/A	N/A	5,319	1	2,218
Mozambique/EDM	273	1,099	4.1	261	1,042	245,6	76,2	0.0224	62,083
Namibia/ NamPower	371	2,246	5.1	1,421	1,045.0	-	112	1.21	11
South Africa/ Eskom	31,928	196,980	4.8	210,218	8,194	9,977	4,782.00	10.58	487
Swaziland/SEB	171.5	831.6	13	991.2	868.2	-	46.33	3	5.8
Tanzania/ TANESCO	506	2,625	1	3365	53	-	n/a	n/a	n/a
DRC /SNEL	991	4,381	0.4	5,907	-	1,350.00	45.3	n/a	n/a
Zambia/ZESCO	1,255	7,852	4.9	8,466	-	206	149.14	2	16.9
Zimbabwe/ZESA	2,007	10,561	1.02	8,799	3,138	-	175	-23.7	-110

Table 3: SAPP member technical and financial characteristics in 2004

Source: SAPP Annual Report, 2003

Energy Sector Reforms

Traditionally, most countries, including SADC countries have had State-owned public monopolies dominating the power sector; generating, supplying and distributing electricity as vertically integrated utilities. Minor variations existed in Namibia and South Africa, where regions and municipalities were also bulk buyers of electricity, which they distributed to consumers at various agreed tariffs.

In the mid-1990s, Southern African countries, mostly upon advice from the World Bank instituted power sector reforms (PSR) in an effort to reduce economic, technical and human resource inefficiencies. The aim is to achieve improved efficiency through rationalising electricity pricing, introducing competition, removing unsustainable subsidies and restructuring individual power sectors.

As part of the PSR process, countries in SADC have reviewed their legal and regulatory frameworks (LRF) to allow private participation, as one option for attracting investment and introducing competition. While for most countries PSRs are ongoing, the model that is emerging is that of a single buyer model in the short to medium term, with the actual structure varying from one country to another. Under the single buyer model, various generators compete to sell their capacity to a distributor, who pays wheeling charges to a transmitting entity for the use of the transmitting infrastructure.

Within the context of integration, PSR offer countries opportunities to synchronise their LRFs to incorporate the objectives and specific needs of an integrated power pool. However, an analysis of Electricity Acts of SAPP Member States shows that little attention has been paid to SAPP needs and objectives. A number of countries, including Malawi and Namibia, have paid perfunctory attention to taking on board the objectives of SAPP. Understandably, this has been due to the cautious approach taken by most countries and most likely, the question of sovereignty. Whilst SAPP officials feel that South African hegemony is not an issue of concern among Member States, there seems to be some reservation among other utilities members of the impact that South Africa's capabilities and hegemony can have on the region's utilities. This is pronounced in the view that there seems to be reluctance from South Africa to open up its market.

Challenges of the Integrating SAPP

Access to Affordable Electricity and Electricity Pricing

Over 70% of the region's population does not have access to electricity and there are wide disparities in access to electricity. For example, up to 67% of South Africans have access to electricity (Karekezi, 2003) while only 6% of Malawians have access to electricity (Potani, 2002) and in Lesotho, about 4% of the population has electricity. For most governments, efforts to improve access to electricity have incorporated the use of subsidies in electricity prices. This entails pricing electricity below costs of supply in

efforts to yield social gains and make electricity affordable to poorer sections of society. In terms of regional trade, the existence of subsidies, which vary from country to country, result in unequal pricing and can lead to distorted trade. Although, analysis of subsidies in most SADC countries has shown that subsidies are captured by the non-poor (Dube, 2003), pricing electricity at cost-plus levels may make integration less attractive and may further prevent the poor from gaining access to electricity. On the other hand, if subsidies are not well designed, utilities may find it more attractive to sell electricity to neighbouring countries that are prepared to buy the electricity at cost-plus prices, thus in-country resources may benefit more affluent communities outside the country. There is therefore need for integration efforts in SAPP to look at the issue of pricing and ensure that benefits of electricity and integration are balanced for various stakeholders.

Financing

Electricity demand in SADC is set to increase at an annual rate of between 4% and 5% (Elmissiry, 2000) for the next few years. Increasing demand and the large proportion of persons without access to electricity mean that major investments, in both infrastructure and human resource capacity development will be required in the next few years. In addition, power plant and support infrastructure in the region is aging and finances are needed to rehabilitate the existing infrastructure. The World Bank estimates that new projects amounting to US\$15 billion will be required by 2006 and only about 7% of this has been secured while the Bank and other multilateral agencies, which traditionally fund investments in the power sector in the region, can only provide 7%. The possibility of self-financing is estimated to cover 27% (mostly from the better performing utilities of BPC, Eskom and NamPower) and so 59% will have to be sourced mainly from private investors. Meanwhile, private financing is unattractive in SADC due to high costs of contracting and bidding estimated at 10% compared to the world average 3% to 5% (Masawi, 1999) as well as weak domestic capital markets and poor currency convertibility. Furthermore, the dependence of financing from external agencies, especially donors, has been problematic due to conditions that are not always in line with the countries' sustainable development agendas. Ranganathan (1998) echoes this when he writes about what he calls the misnomer of aid in power sector development;

"In many other cases where loans are a must for the implementation of projects, the direction on investment is distorted by the donor countries to suit their supply capabilities, rather than follow the least cost path of power development in the recipient country" (Ranganathan 1998).

Now facing depleting external sources and decreasing trends in investment FDI in Africa, the region may have to make concessions that divert from the needs of integration. Although the region can mobilise internal resources, rising poverty and an increasingly regressive macro-economic environment mean their competing demands for finances.

The challenge is then for the region to develop a legal and regulatory framework that provides incentives for attracting investors in the African power sector. Once again, answers must be found as to who decides and how to set adequate incentives for investors. Furthermore, incentives in the power sector often entail tax rebates or tax holidays and policy makers in power sectors will have to justify the opportunity costs and convince revenue services that foregoing these sources of government finances will yield greater economy-wide benefits.

It is also important that poorly performing utilities and less capable utilities, particularly those outside WESTCOR and the eastern corridor are assisted to ensure more meaningful participation for them. This will ensure that integration benefits not only accrue to SAPP “bigwigs” but to the entire regions, thereby making the initiative strong and sustainable.

Technical and Human Resource Capacity

Poor technical, planning and general human resources capacity has been a historical challenge in SADC. Failure to formulate and analyse comprehensive policy has led to poor performance in the sector. Technical and financial performance has also been poor. Non-technical losses are estimated at an average of 35% compared to a world average 2%, while technical losses stand at an average of 15% compared to a world average of 3% -5% (Massawi, 1999).

The state of flux that the electricity sector of the region is experiencing in terms of power sector reforms and regional integration, compounds technical and human resources capacity problem because it introduces a new and more complex level of operations. Furthermore, for the integration to be sustainable, technical integrity is vital. It is therefore important that utilities ensure better performance of their systems to make them attractive for trade. This is particularly true to the “low capacity” countries, which are also the ones participating at a low level. To help improve system integrity, there is need for developing capacity for planning, maintenance coordination, standards development and regulation. Regional bodies such as PIESA and RERA can play a crucial role in improving the human resource capacity and are therefore a step in the right direction.

Technical know-how in commercial operations of power utility is another challenge since public utilities have traditionally operated on a non-commercial basis and individual utilities and energy sectors do not have a culture of commercial operations.

Governance and Regulation

Country specific power sector reforms and power sector integration are running in parallel and both require robust governance and regulatory mechanisms. As a new phenomenon, power sector regulators are rarely sufficiently equipped to govern their designated sectors and despite efforts towards autonomous regulation, most LRF display weaknesses that have made them vulnerable to political interference. In addition, regulatory

mechanisms have developed independently in SADC and do differ. Whilst in some cases, regulatory differences are justified by differing conditions within which they are operational, in other cases, the LRFs do not take full consideration of the implications of integration. This, in other countries, has been shown to create possibilities of gaming, thereby undermining members' willingness to participate in the pool (O'Leary et al, 1998).

Insufficient regulation that is not synchronised to account for individual power sector reforms as well as integration may then provide incentives for stakeholders to "capture" the regulator and gain unfair advantages. Regulatory capture occurs when the regulator becomes an advocate of the agencies it is supposed to regulate whether the government or the power production companies or even special interest groups such as the environmental groups. In the case of regional integration, a fourth possibility of regulatory capture is one where a country with market power in the power pool or with more skills capacity manipulates the system for its own benefit. This is a real threat in SADC due to the wide disparities in capacity. For example, Eskom of South Africa is considered among the top ten utilities in the world whilst the majority of the SAPP are the worst performing utilities in the world. Inability to institute robust regulation can therefore pave way for countries such as South Africa to play the market to their advantage.

Corruption and Political interference

The power sector has historically been a lucrative revenue generator for governments, which provided incentive for corruption and political interference, a factor that has initiated the institution of PSR. Yet, despite PSR, the power sector in Africa remains largely controlled by political elements. A fear of the negative implications of PSR, which is often equated to privatisation and related to structural adjustment programs, as well as a misunderstanding of the role of the regulator, further create powerful motivation for continued political interference in the power sector. This undermines the more important objectives of regional integration.

Credibility of energy governance systems will also play a crucial role in attracting FDI, crucial for building a credible and functional power pool. Lack of a history of independent regulation in the power sector means regulatory performance is often assessed by proxy. The likely proxy indicator for assessing the credibility of the new governance structures is the government itself. Unfortunately, most governments in the region have a history of a lack of credibility in adhering to legal requirements, a reputation that extends to various sectors. Politically, even though many countries have changed their governments to democratic leadership, the new leadership is either too new or unstable to be trusted. In addition, precedent regimes tend to have an influence on current regimes. The challenge is previous for the region is to develop governance systems, policing and enforcing mechanisms and practices that ensure credibility. The LRF should also clearly support the creation of credible institutions and send the appropriate signals to the investor community through adherence to the regime.

Outlook

The SAPP is probably one of the most encouraging regional integration initiatives in SADC. This is exemplified by the fact that it includes all Member States (albeit others are non-operating members), it has experienced steady growth since its inception and its gradual progress from a co-operative pool to a competitive pool are signs of its steady maturity. The transition from a co-operative to a competitive pool is however an important crossroad that can effectively make or break this regional integration initiative.

The economic growth and political stability in SAPP countries will be key factors in the outlook of SAPP in the medium to long-term future. Over the past years, most SAPP countries have experienced steady albeit slow economic growth and this can be expected to continue for the next ten years. The economically progressive countries include Botswana, Mozambique, South Africa, Namibia, Angola, Tanzania and the DRC (Table 2). The economic growth of these countries and the vast resource potential of the DRC will mean that they will be the most active participants in the pool. The amalgamation of these five countries into WESTCOR will further strengthen their position. Interestingly, whilst the shutting down of mines on Zambia has contributed to the increased participation of Zambia as an exporter, the economic and political situation in Zimbabwe (which has also negatively affected the mining and manufacturing sector) has left Zimbabwe unable to participate more effectively since it was mainly an importer. In February, 2004, for example, Eskom of South Africa and Hydro-Cabora Bassa of Mozambique refused to renew contracts with Zimbabwe Electricity Supply Authority (ZESA) which failed to honour a number of supply agreements due to financial constraints (EIA, 2004). Exports to Zimbabwe, which imports about 35% of its electricity requirements have therefore decreased. This will negatively affect the country's active participation. Zimbabwe's position in SAPP will however be highly dependent on the country's ability to effectively sort out its political and subsequently, its economic situation. Countries such as Lesotho and Swaziland will continue to participate mainly as importers and their strong linkages with South Africa will mean that their involvement in SAPP will partly be determined by South Africa's growth and participation, both of which are likely to remain positive for some time. A Regressive economic environment in Malawi will mean that Malawi's participation, as an operating member, who has often been postponed, may not occur in the short term. Thus in the short term, Malawi is unlikely to maximise benefits of integration.

Another important factor in sustaining the SAPP integration initiative is the ability to invest in new infrastructure and rehabilitation of old infrastructure. Once again, investments in power development are likely to be steady but uneven, with South Africa and the DRC experiencing the highest levels of investment in power development. Due to lack of adequate and timely investments, infrastructure in the poorer countries of Malawi, Zambia, Tanzania, Swaziland and Lesotho, their active participation will be hindered.

It may therefore be envisioned that SAPP will grow on three groupings within it, with the first grouping comprising the countries with relatively aggressive economic growth and technical and resource capabilities. These countries are South Africa, Botswana, the DRC, Angola and Namibia and form WESTCOR. Ironically, these comparatively more capable countries will realise the most benefits from the integration initiative. The second grouping of countries will be those with moderate economic growth or those with excess supply due to other economic dynamics. These countries comprise Zambia, Tanzania and Mozambique. Most of the participation and benefits to these countries will come from exports. The last set of countries will include Lesotho, Swaziland, Zimbabwe and Malawi. These countries are likely to experience the least benefits from the integration. Whilst the limited benefits in Zimbabwe are more an issue of economic and political woes experienced by the country, for Lesotho, Swaziland and Malawi's, inability to realise more benefits from SAPP is more an issue of human, technical and financial resource capacities constraints.

There will be continued dependence on foreign donors, particularly the World Bank and this will continue to impact on the agenda of the individual donor dependent counties and consequently, on SAPP's agenda. Demand for more reliable and economically efficient electricity will however continue to grow as the region's population continues to grow. Furthermore, SADC will face challenges in developing and retaining much needed human resource capacity, in view of HIV/AIDS, which continues to ravage the productive human resources in the region., thus affecting its quality policy making and technical capacity.

SAPP will therefore continue to grow at a slow but the richer countries with financial, technical and human resource capacity as well as more robust power markets resulting from vigorous economies will reap steady pace and the benefits. It is therefore crucial for SAPP to ensure that the integration initiative remains strong by ensuring that countries that experience the least benefits are assisted in improving their position in SAPP and that the development of WESTCOR does not result into a stronger power pool within a larger but weaker power pool. It also likely that the geographical scope of SAPP will increase since some non-SADC countries; including Uganda and Kenya have applied for SAPP membership. Also, with the opening up of the power sector in most countries, independent power producers may in future be allowed membership in SAPP, thereby broadening its (political) scope and presenting new challenges in integrating public-oriented entities and purely private entities.

YEAR	HISTORIC				FORECAST						
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
ANGOLA	250	291	330	342	427	468	846	871	898	924	952
BOTSWANA	285	337	362	393	402	426	452	479	507	534	562
DRC	895	929	991	994	1,027	1,063	1,070	1,100	1,138	1,172	1,207
LESOTHO	85	88	89	90	100	107	115	125	130	136	142
MALAWI	205	212	236	261	277	294	311	330	350	371	394
MOZAMBIQUE	231	234	250	258	273	292	313	334	358	383	410
NAMIBIA	320	335	362	371	507	596	670	681	692	703	713
SOUTH AFRICA	29,188	30,599	31,621	31,928	33,547	34,553	35,590	36,657	37,757	38,890	40,057
SWAZILAND	154	159	160	172	174	180	185	191	196	202	208
TANZANIA	426	465	474	506	570	606	654	700	747	786	873
ZAMBIA	1,085	1,087	1,118	1,255	1,316	1,350	1,374	1,399	1,426	1,499	1,529
ZIMBABWE	1,986	2,013	2,028	2,007	2,219	2,320	2,387	2,447	2,506	2,567	2,624
TOTAL INTERCONNECTED	34,229	35,781	36,981	37,468	39,565	40,887	42,155	43,413	44,710	46,085	47,452
TOTAL SAPP	35,110	36,749	38,021	38,577	40,839	42,255	43,966	45,314	46,705	48,166	49,671

Table 4: Annual Maximum Demand, MW

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Civil Society and the SADC Security Agenda

Gina van Schalkwyk and Jakkie Cilliers¹

Introduction

It is difficult to monitor 'regional integration in SADC'. The wheel often turns very slowly and the many significant structural and organisational changes in the last few years give the impression that the goalposts keep on moving. Therefore this chapter will not only trace developments in the peace and security architecture in SADC over the last year in a linear manner, but asks whether there is a role for civil society in support of the SADC security agenda from an institutional and evolutionary perspective. In the process, SADC's own protocols; stated norms and objectives; pronouncements by governments and their officials; and SADC's various institutions, are used as yardsticks. In particular, the chapter will assess whether the SADC Organ has made progress during 2003 in fostering transparency in matters of politics, defence and security.

Necessarily the paper starts with a general overview of developments in the peace and security architecture of SADC over the last year, including adoption of the Strategic Indicative Plan for the Organ (SIPO) and the Mutual Defence Pact.

Background and Recent Developments in SADC's Security Infrastructure

From SADCC to SADC to Restructuring

Following the cataclysmic international and regional events of the late 1980s and early 1990s that led to the liberation of Namibia and South Africa and the end of the war in Mozambique, the countries of Southern Africa recognised the opportunity to move from mere functional co-ordination/co-operation to a regional community. This was based on the realisation that regional integration was a virtual sine qua non for economic growth and prosperity. The Southern African Development Co-ordination Conference (SADCC) was transformed into the Southern African Development Community (SADC) – a formal legal entity based on a Treaty and various protocols.

It was a time of less than cautious optimism where both regional and international actors believed it possible to create the common institutions, procedures, interests, customs, norms and values that would define a society of states, and to do so in a very short space of time.

Realising, in the mid- to late 1990s that the decentralised institutions and structures of the SADCC, which were retained in the new SADC, were not adequate for the creation of a strong and effective regional community,

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heads of states undertook to restructure the organisation and centralise institution-building in Gaborone, Botswana (see SADC, 2000: Report on the Review of Operations).

From Co-ordination to Community – Institutionalising the Politico-Security Dimensions

To establish an effective regional society/community, southern Africa needs to go beyond the simple harmonisation of policies and programmes and create a climate of confidence and trust (Landsberg, 2002: 8). There was (and, arguably, still is!) a clear need for a mechanism or institution to operationalise the commitment of states in the SADC Treaty² to

promote common political values, systems and other shared values which are transmitted through institutions which are democratic, legitimate and effective; consolidate, defend and maintain democracy, peace and security and stability; ... combat HIV/AIDS or other deadly and communicable diseases; ... and mainstream gender in the process of community building.³

Resolving the impasse around the SADC Organ for Politics, Defence and Security (the regional institution tasked to deal with the areas of politics, diplomacy, international relations, peace and security) was imperative in this regard. At least it would serve as an indication that, at the political level, there is some agreement amongst the region's political elite on issues of politics, governance and security. Such agreement is necessary for further integration not only politically, but also economically and socially. To go beyond cooperation to integration even in these spheres implies the concession of some sovereignty and decision-making power by individual states and requires significant trust in counterparts and other stakeholders.

The Organ was established in 1996 to replace the, by then defunct, Front Line States (FLS) which co-ordinated the military response to Apartheid South Africa's destabilisation campaign in the sub-region. Still lacking an instrument to define the value basis and general norms for its operation, and customs, the Organ soon fell into an impasse. This was only resolved after the 2001 Blantyre Summit and the signing of the Protocol on Politics, Defence and Security Co-operation⁴ that placed the Organ firmly within SADC proper⁵. While it would retain its own leadership troika⁶, it would refer all decisions to the SADC Summit and co-ordinate its activities with the other four directorates at the SADC Secretariat in Gaborone. The provision of secretariat services by Gaborone⁷ would ensure continuity of Organ

²All references to the 'SADC Treaty' in this paper refer to the Consolidated Text of the Treaty of the Southern African Development Community, As Amended, 2001

³SADC Treaty, Art 5

⁴Hereafter referred to as 'The Protocol'.

⁵SADC Treaty, Art 9

⁶Art. 10A(1) and (2)

⁷In terms of the SADC Treaty Art 14(1)(b), the SADC Secretariat located in Gaborone, Botswana, is responsible for the "implementation of decisions of the ... Organ on Politics, Defence and Security Co-operation, Troika of the Organ on Politics, Defence and Security Co-operation ..." and, Article 10A (6) must provide "Secretariat services to the Organ". See also Article 9 of the Protocol on Politics, Defence and Security.

activities and alignment with SADC's broader development agenda. That is the theory.

A number of significant developments took place in the last year, notably the adoption of a Mutual Defence Pact (MDP) and the completion of the Strategic Indicative Plan for the Organ (SIPO). Progress in institutional development of the Organ also deserves comment. In subsequent sections, we explore how these three developments reflect on, and what the implications are for, the involvement of civil society in creating a peaceful and stable sub-regional community.

The Mutual Defence Pact

In August 2003, SADC Member States signed a Mutual Defence Pact to

...facilitate the interaction, joint operations, collective response within the capacities of each Member State in SADC as well as building a strong foundation for one of the pillars of the defence and security of the African continent. (Ramsamy, 2003)

Others⁸ have extensively analysed the significance of the Pact and it would suffice to say that while it represents a tangible move towards the creation of a security community, it contains inherent contradictions and remains untested as an instrument capable of spurring collective action against both external and internal threats. It remains, essentially, a compromise, and reaffirms the principle of undefined 'collective action' in the event of armed attacks on Member States, rather than being a mutual defence pact with automated defence obligations. In the process, it appears more aimed at propping up desperate and beleaguered dictators against 'internal' threats (reflecting its Zimbabwean origins) or defence of vacuous states such as the Democratic Republic of Congo against military incursion from non-SADC countries.

The SIPO⁹

Following the first meeting of the Ministerial Committee of the SADC Organ in 2001 in Luanda, SADC Ministers for Defence, Security and Foreign Affairs recommended that a task team be appointed to draft a Strategic Indicative Plan for the Organ (SIPO). This plan was completed in 2003 and adopted by the SADC Heads of State and Government at their annual meeting in Dar es Salaam, Tanzania in August 2003. The SIPO was, however, only officially launched and made public by the Prime Minister of Lesotho, Hon Pakalitha Mosisili, as outgoing Chairperson of the Organ, at the SADC Summit meeting in August 2004.

The SIPO provides guidelines for the implementation of the SADC Protocol on Politics, Defence and Security for the next five years in four main sections: Political; Defence; State Security; and Public Security.

⁸Hammerstad (2003 & 2004), Swart & Du Plessis (2004), Solomon & Ngubane (2003), Solomon (2003), De Coning.

⁹All references to the SIPO in this paper refer to the third draft of the SIPO.

Apart from setting out strategies and activities for the attainment of objectives set out in the Protocol, the SIPO suggests the establishment of a Department for Politics, Defence and Security within the SADC Secretariat in Gaborone. A Chief Director¹⁰ reporting directly to the Executive Secretary will head the department and it will comprise the following sub-divisions:

- A Directorate for Politics and Diplomacy;
- A Directorate for Defence and Security; and
- A Strategic Analysis Unit, also responsible for the Situation Room.¹¹

In recognition of the challenges facing smaller and less well-resourced countries such as Lesotho, Malawi and Swaziland, the SIPO also provides for the establishment of an Office of the Chairperson, consisting of two assistants to be drawn from nationals of the country chairing the Organ, with the added note that "[T]his Office may be funded by the Organ."¹²

According to Prega Ramsamy (2003), the SADC Secretariat is currently "rationalising the cross-cutting areas between RISDP and SIPO in order to maximise the synergies of the two strategic plans."

However, even now that the SIPO has been approved by the SADC Summit, it will take several years for SADC to develop the institutional capacity to meaningfully pursue the objectives contained therein. The challenge of operationalising the SIPO is compounded by the speed of developments at the continental level – in particular with regard to the Peace and Security Council and African Standby Force.

Institutional Development

On 2 February 2004, Zimbabwe ratified the Protocol on Politics, Defence and Security Co-operation, which entered into force 30 days later, having been ratified by the required two thirds of the SADC Member States.¹³

According to Article 10(A)(6) and 14(1)(b) of the SADC Treaty and Article 9 of the Protocol on Politics, Defence and Security Co-operation, the SADC Secretariat should provide secretariat services to the Organ. This point is reiterated in the SIPO (above). In reality, the Chair of the Organ still endures most of the responsibility for providing technical and operational support for the Organ and responsibility for implementation remains scattered around the region. At HQ in Gaborone, political affairs are dealt with by two solitary individuals who have been eagerly anticipating the arrival of further support staff mandated by the 2003 meetings of the Organ's Ministerial Committee and SADC Heads of State.

¹⁰A single Chief Director, currently Mr Themba Mhlongo, is responsible for the other four directorates at the Secretariat

¹¹SIPO, par 8.3.1

¹²SIPO, par 8.1.2

¹³The withdrawal of Seychelles from SADC, with effect from July/August 2004, will have no effect on the real implication (9 signatures) of the 'two-thirds requirement' for SADC legal instruments to enter into force. Angola, the DRC, Seychelles, Swaziland and Zambia are still to ratify the Protocol.

In fact, the entire SADC has been in a state of limbo since the restructuring process started in 2001. Now that the RISDP and the Job Evaluations¹⁴ have been completed, recruitment is expected to commence at any moment. But in all likelihood, the delays may be the result of political, rather than mere organisational, factors. According to Stahl (2002),

(w)ith the Organ for Politics, Defence and Security now fully integrated into the SADC structure, the Secretariat could, in principle, play a significant role in contributing to peace and stability in the region. However, it remains to be seen what role Member States will actually allow the secretariat to play in practice. It could well be that the Secretariat will be given a purely administrative role with respect to the Organ, in which case the Organ's incorporation into the SADC structure may turn out not to be much more than a formality. Also, in cases of intra-regional conflicts, on which Member States take different positions, it is difficult to see how the Secretariat could possibly take an independent view or role, given the SADC's tradition of unanimous decision making in Council and Summit. It would seem that only time will tell whether the Organ for Politics, Defence and Security can make a real difference to the stability in the Region and what meaningful role Member States will be willing to give the Secretariat in this respect.

A final significant institutional development was that the meeting of the Ministerial Committee of the Organ in August 2003 revisited the decision to create sub-committees on 'Politics and Governance' and on 'Diplomacy' within the hitherto weak Interstate Politics and Diplomacy Committee (the ISPDC) and decided to merge these into a single sub-committee. The sub-committee on Politics and Governance is expected to have its inaugural meeting in 2004. It will comprise officials from Ministries of Foreign Affairs, the Offices of the Heads of State and also Justice, Local Government and Anti-Corruption Units.

The ISPDC will focus on preventive diplomacy, conflict management, and early warning practices – all essential but thus far neglected aspects of peace and security – as opposed to the 'hard' security focus of the Interstate Defence and Security Committee. Nothing could be more indicative of the subsequent focus of SADC than the fact that the ISPDC, which was created in 2001, has only had two meetings in comparison to the 24 meetings¹⁵ of the ISDSC.

¹⁴See van Schalkwyk (2003) for a more detailed discussion on the restructuring process.

¹⁵The ISDSC held its 24th meeting in Maseru, Lesotho in July 2003. The third and 25th meetings of the ISPDC and ISDSC respectively are expected to take place in June 2004.

Early Warning Officials meeting	March	Botswana
Public Security Subcommittee meeting	April	Botswana
Small Arms Committee	April	Zimbabwe
Seminar on the Landmine Ban Treaty, 'the Ottawa Convention'	April	SA
Seminar on SADC Defence Cooperation	May	SA
Defence and Security Sub-Committee Meeting	May	Angola (tbc)
Meeting of the Civil and Military Aviation on the SADC Open Skies	May	Angola
Sub-committee on Politics, and Governance ¹⁷	May	Botswana
Inter-State Defence and Security (ISDSC)	June	Zambia
Inter-State Defence and Security (ISDSC)	June	Lesotho
Ministerial Committee of the Organ	July	SA
Ordinary Summit	8-17 August	Mauritius
No further meetings mentioned until the end of 2004		

Table 2: Meetings of the Peace and Security Organs of SADC¹⁶

Musical Chairs or Leadership?

After holding the sceptre for over two years, Mozambique finally relinquished the Chairmanship of the Organ to Lesotho at the 2003 SADC Summit in Dar es Salaam. South Africa was elected as Deputy (and therefore incoming) Chair¹⁸.

Eight months into its chairmanship, Lesotho has achieved little more than to issue a declaration of the support of SADC leaders for Zimbabwe's President Mugabe and a rejection of sanctions against that country (albeit through the South African Department of Foreign Affairs).

Mozambique still holds considerable sway, and from the wings, South Africa has reportedly already produced a proposal for the composition of the SADC Standby Brigade in support of the African Standby Force and established a Situation Room for the SADC Early Warning System.

In stark contrast to the period between 1996 and 2001 where the two blocks within SADC (the one concerned with a more militaristic approach to security and the other, the 'doves') were pitted directly against each other in the Organ, the Organ troika now consists exclusively of moderates. This presents a number of interesting questions:

- What role will South Africa play? Will its leadership of the SADC Organ allow it to push its continental agenda and could this serve to kick-start SADC defence and security cooperation? Or will South Africa continue to be distracted by continental ambitions

¹⁶According to the SADC Web Site www.sadc.int. Access: 30 April 2004.

¹⁷This will be the sub-committee's inaugural meeting.

¹⁸Article 9A of the SADC Treaty.

and pay scant attention to the development of SADC's peace and security institutions?

- How much success will the Organ troika have in determining the agenda for the Organ (which by implication requires the approval of all SADC states at the Summit level) along more 'peaceful' lines? Or will they suffer from a lack of legitimacy and subsequent obstruction by the militaristic block leading to further delays in the implementation of the Protocol and the SIPO?
- Who will the incoming Chairman of the Organ be?

The SADC Security Debate – From 'Traditional Security' to 'Human Security'

The general evolution of the security debate and its interpretation in the SADC security architecture is eloquently laid out by Anne Hammerstad in the previous issue of the Yearbook (Hammerstad, 2003) and clearly conceptualised by Ngubane (2004). The importance of this discussion derives from the fact that security integration can "take widely different paths depending on how 'security' is understood", and it is briefly summarised here.

The traditional concept of security emphasises the *security of the state* as a sovereign entity in a hostile environment. It emphasises the territorial integrity and political sovereignty of the state and advocates military responses to external and internal factors that may threaten the stability of the regime.

A second approach includes a broader range of potential threats that include environmental or economic factors and issues such as culture and identity. The focus is on the *security of peoples*. Although this approach acknowledges a broader range of potential sources of insecurity, it does not consider these factors a threat in themselves until they trigger politico-military conflict.

It is the third approach to security that is most favoured by proponents of civil society involvement in peace and security issues. This approach has the *individual* as primary referent of security and, in addition to the security spheres mentioned above considers a broad range of potential threats ranging from economic insecurity to food and health insecurity, human rights issues and security in the workplace and in public spaces. The problem with this approach is "its all-encompassing nature. There is a danger of labelling every social, economic or political problem a 'security threat' and thus of robbing the concept of security of its element of urgency, importance and priority" (Hammerstad, 2003: 143). Within SADC, too broad a definition of 'human security' may render the existence of the Organ (in addition to SADC proper) obsolete.

An excessive focus on individual/human security may also obscure the importance of the security of people/the community. This is particularly relevant in SADC where issues of inequality, marginalisation and identity have historical significance and remain central today.

This realisation that security threats may emerge from non-military sources in SADC is not novel. Already in 1992 when SADC adopted the Declaration and Treaty establishing the organisation, the objectives set out in the common agenda spoke of an interface between development, peace, security and governance (Landsberg, 2002: 9).

According to Laurie Nathan: "SADC's 1993 Framework and Strategy document, prepared by the SADC Secretariat, called for the forging of common political values based on democratic norms, the creation of a 'non-militaristic security order' and the establishment of mechanisms of conflict avoidance, management and resolution. The document highlighted the need to address non-military sources of conflict and threats to human security, such as underdevelopment and abuse of human rights. The proposed strategies and mechanisms include a forum for mediation and arbitration....many states did not support this anti-militarist agenda, however." (Nathan, 2004)

However, as in much of the rest of the world, the realist approach to defining security still holds sway in the SADC region. Many SADC states have young and weak democracies where territorial and political sovereignty is not necessarily seen as a given. While Angola is still struggling to reassert control over its territory, the government of the Democratic Republic of the Congo is still actively defending its legitimacy and control over much of its vast area. Even in the region's powerhouse, South Africa, the ANC government is grappling with the legacy of the Apartheid era and asserting its political power over the country's institutions. It is possible to argue that it is difficult to give away something one does not have, and it would also be a departure from the norm of state-development that emphasises the establishment of control over all the coercive power of the state by the government as a first and necessary step in state consolidation (Nugbane, 2004).

If one accepts that a number of countries in southern Africa still struggle to exert control over their territory, one has gone a long way in understanding some of the regional dynamics in the security debate. Yet, not all SADC states pursue this objective in the same way. In terms of external threats, SADC has long been split along the lines of a politico-military approach to security (the block is lead by Zimbabwe and Angola), and a view that favours non-violent and diplomatic means (led by South Africa and Botswana). Regimes have also adopted different approaches to dealing with internal challenges to their legitimacy and existence. Compare the violent and repressive tactics of Zimbabwe, Angola, Malawi and the DRC with the consolidation of democratic systems in Botswana, South Africa and Mozambique.

It is unrealistic to expect that SADC (or any other state-based organisation for that matter) will adopt a pure 'human security' approach to security. Yet, the Protocol and the SIPO acknowledges security threats that emanate from sources other than those contained in the realist approach to security. The security concept has been broadened to include: good governance, peace, globalisation, development, social justice and the creation of equal opportunities and HIV/AIDS.

Continuous low-level conflict in the DRC
 Political instability – Zimbabwe & Swaziland in particular
 Secessionist movements – Angola/Cabinda & Namibia/Caprivi
 Zimbabwe's declining political and economic situation
 Inequality and poverty
 The Land Question (most significant in Zimbabwe, South Africa, Namibia and Angola)
 Conflict Management with an emphasis on peace-building
 Cross-border crime (stock theft)
 Trans-national Organised Crime, such as illegal arms trafficking and minerals smuggling, illegal trafficking of humans and illegal border crossing; drug trafficking; motor vehicle theft; and money laundering.
 Customs fraud
 Refugee movements and internally displaced persons
 Drug abuse
 Rape, abuse and violence against women and children
 Landmines and illicit (small) arms
 Good governance and elections
 Natural disasters
 Food insecurity
 Poaching & illicit trade in Fauna and Flora
 Terrorism
 Globalisation
 HIV/AIDS
 Loss of productive human resources (the so-called brain-drain)

Box 1: SADC security challenges¹⁹

Considering this brief and incomplete characterisation of the security debate in the region, we can see that none of the approaches to security can be applied exclusively. Yet, Hammerstad (2003: 140) warns that:

...the broad nature of its principles and goals (and the fact that it does not define security, but oscillates between promoting traditional and wider security goals without clarifying the relationship or hierarchy between the two) makes it not immediately obvious in which direction (it) will point the Organ...different ways in which it can be interpreted.

A useful way of conceptualising the debate and arriving at a mechanism for prioritising security issues within the Organ might be an acceptance that regime security can be ensured through non-military means (a case of 'state security *through* human security'). While not undisputed, democratic systems create this space for addressing competing demands for access to socio-economic and political power in a non-violent manner²⁰.

¹⁹For a more exhaustive discussion on the security threats facing the SADC region see Ngubane (2004).

²⁰The authors recognise the need for regional mechanisms to protect citizens against abuses by the state, but this issue falls outside of the scope of this paper.

In practical terms, the statist and military concept of security appears to dominate the Organ's activities²¹. This does not need to be the case in the future and this is where civil society could make its most important contribution.

What Role Then, for Civil Society²²?

The past decade in Africa has witnessed an opening up of political processes, from the local level all the way to the continental body, the African Union (AU). Civil society organisations (CSOs) played a crucial role in this democratic renewal in the aftermath of the Cold War. African human rights groups, labour movements, religious bodies, activists and academics have been at the forefront of demands for greater probity and accountability of governments. Transformation of the OAU into the African Union (AU) aims to change the organisation from a multilateral forum for African leaders – elected and unelected – towards genuine partnership with all segments of society and a sense of ownership by the African people.

The transformation of the Organisation of African Unity (OAU) to the African Union (AU) and the adoption of the New Partnership for Africa's Development (NEPAD) have raised expectations of renewed commitment by African Heads of State to better governance and enhanced human security for the continent. Most of these commitments, to human rights, democracy, peace and security, have been chronicled before in the protocols, declarations and decisions of the OAU from 1963-2002 as well as those at sub-regional level. What have been lacking are not the paper commitments by African leaders to these principles, but their actual implementation.

One of the most significant differences between the OAU/AU/SADC commitments and those of NEPAD is that the new initiatives make provision for monitoring mechanisms and review of implementation of decisions through the NEPAD peer review mechanism.

Building on this momentum, non-governmental organisations (NGOs) in the SADC region have an opportunity to draw on the continent-wide process of translating the African Union's principle of greater civil society engagement into an institutional reality.

Addressing the assembly of the CIVICUS World Assembly²³ in Gaborone in March 2004, SADC's Executive Secretary emphasised that

...the Southern African Development Community (SADC)...underscores the critical role of civil society and other stakeholders in its integration agenda...Clearly the challenges facing humanity in creating a just and secure

²¹See, amongst others, Hammerstad (2003), Landsberg (2002), Solomon & Ngubane (2003), Solomon (2004)

²²According to Molutsi (2003), "civil society in Southern Africa is made up of organisations of professions; academic and research institutes; and labour, youth, women's peasants', communal, social, cultural, urban neighbourhood, development, environmental, civil and human rights groups that build identities and platforms in respect of collective claims and civic actions." A broader definition would also include the media, NGOs, religious groups, traditional ethnic groups, business organisations and employers' organisations. See also Isaksen (2002) for a detailed review of civil society in southern Africa.

²³CIVICUS is a world alliance for citizen participation in global issues (see www.civics.org).

global order are daunting, but through joining forces and forging strategic partnerships we can make a huge difference and overcome the obstacles to the realisation of our cherished vision of a better and inclusive future. In this regard, we shall count on the resilience, rich experience and tested solidarity of Civil Society. (Ramsamy, 2004)

Legal Spaces: The SADC Treaty and the Protocol on Politics, Defence and Security

Already “at its meeting in Johannesburg in August 1995, the SADC Council of Ministers directed all SADC institutions to ensure full participation of NGOs in the activities of the organisation, and ensure that NGOs attend all SADC meetings except council and summit” (Phorano, 2002).

In chapter 7, Article 23, the revised SADC Treaty reiterates the importance of partnerships with civil society:

1. In pursuance of the objectives of this treaty, SADC shall seek to involve fully the peoples of the region and non-governmental organisations in the process of regional integration.
2. SADC shall cooperate and support the initiatives of the peoples of the region and non-governmental organisations contributing to the objectives of this treaty in the areas of cooperation in order to foster closer relations among communities, associations and peoples of the region.

As an institution of SADC²⁴, the Organ for Politics, Defence and Security Co-operation is bound by the commitments contained in Article 23 of the SADC Treaty.

Article 16A of the Revised SADC Treaty reflects a decision by the Extraordinary SADC Summit of March 2001 to establish SADC National Committees (SNCs) in each Member State. Consisting of ‘key stakeholders’, SNCs are to coordinate respective Member States’ national interests relating to SADC as policy inputs; coordinate and oversee the implementation of SADC programmes; and provide inputs into the development of the RISDP (and by implication, the SIPO). The Treaty (Article 16A.13) defines key stakeholders as:

- a) government;
- b) private sector;
- c) civil society;
- d) non-governmental organisations; and
- e) workers and employers organisations.

²⁴According to Article 9 of the SADC Treaty.

Article 10 of the Protocol on Politics, Defence and Security deals with co-operation with non-State parties and international organisations.

1. In recognition of the fact that political, defence and security matters transcend national and regional boundaries, co-operation agreement on these matters between State Parties and non-State Parties, and between State Parties and organisations, other than SADC, shall be accepted provided that such agreements shall not:
 - a. Be inconsistent with the objectives and other provisions of the Treaty and this Protocol;
 - b. Impose obligations upon a State Party that is not a party to such co-operation agreement, and
 - c. Impede a State Party from fulfilling its obligations under the Treaty and this Protocol.
2. Any agreement between the Organ and a non-State Party, or between the Organ and an international organisation, shall be subject to approval by the Summit.

Operational Spaces I: The SIPO

The SIPO (Political Sector) includes, amongst others, the following explicit objectives and activities that relate to civil society involvement:

Objective 2: To promote political co-operation among Member States and the evolution of common political values and institutions. Relevant Strategies/Activities include the following:

- Promote public debates and awareness activities around SADC and its achievements; and
- Convene seminars to establish a forum of the region's research and academic institutions on foreign policy.

Objective 3: To prevent, contain and resolve inter and intra-state conflict by peaceful means. Relevant Strategies/Activities include the following:

- Encourage the contribution of civil society in conflict prevention, management and resolution.

Objective 4: To promote the development of democratic institutions and practices by State Parties and encourage the observance of universal human rights.

Operational Spaces II: The SADC Council of NGOs

The SADC Council of NGOs (SADC-CNGO) is a regional body of NGOs that was officially endorsed in 1998 at a workshop in Gaborone where the Botswana Council of NGOs (BOCONGO) was elected as interim secretariat and the executive committee was formed (Phorano, 2002).

In January 2001, the SADC-CNGO presented a proposed Memorandum of Understanding (MOU) with the SADC Secretariat, pursuant to Article 23 of the SADC Treaty, to SADC House in order to gain official recognition from SADC. According to Phorano (2002), "(t)he MOU provides a framework, which will enable NGOs in the SADC region to cooperate and collaborate with the initiation and implementation of the development programs (sic) for the well-being and progress of the peoples of Southern Africa."

After protracted negotiations and national consultations on the MOU, it was finally signed by the SADC Secretariat only in December 2003. Expressing his frustration at being "held ransom" by the requirement for an MOU despite the mandate contained in Article 23 of the Treaty, Phorano (2002) wonders whether it will be possible for civil society to deal with SADC at regional level while at state level relationship between states and civil society remains polarised? He notes that many countries in the region do not have NGO policies or laws²⁵.

Against this backdrop, a positive reading of the Protocol and the SIPO (read alongside the SADC Treaty and the RISDP) implies that SADC *does* accept the role of civil society in addressing security issues, even if it is not based on a definitive human security approach to security. This represents a shift from the realist approach to security, where the state is the mainstay and sole provider of security for its citizens, and applies to the realms of state, public and human security.

What follows is a crude exposition of some of the roles that civil society organisations can play in terms of regional security (in accordance with the norms and objectives set out in the Protocol and the SIPO). Some practical examples are given in the second column.

Legitimising the State	<ul style="list-style-type: none"> The media, research organisations and traditional groups, in particular, can play an important role in legitimising the state through accepting the authority of the state and endorsing its right to rule by acknowledging that it won that right through free and fair elections.
The development of democratic institutions and practices by state parties	<ul style="list-style-type: none"> Various CSOs can play an important role in inculcating democratic values and norms amongst citizens of the state Religious organisations and other can conduct election monitoring
Conflict Management	<ul style="list-style-type: none"> Community-based groups can play an important conflict resolution role at the local level. Research organisations and other NGOs can provide valuable training on aspects such as human rights and rule of law for forces involved in peacekeeping operations.

Table 2: State Security

²⁵In Angola and Zimbabwe, laws that further restrict the activities of civil society have been passed in the last year.

Conflict Prevention	<ul style="list-style-type: none"> Academic and research organisations, the media, and other civil society groups can assist in the establishment of a SADC Early Warning System to identify potential conflict before it erupts violently and/or escalates.
Governance	<ul style="list-style-type: none"> NGOs, community-based organisations and local activist groups: lobbying and the channelling of demands Research Delivery Monitoring
Foreign Policy	<ul style="list-style-type: none"> Research, monitoring, etc.
Promote a community-based approach to domestic security	<ul style="list-style-type: none"> Community-based organisations, traditional organisations, youth, women's ethnic and other groups: channelling of demands Community-based organisations, NGOs, local groups: policy-development and implementation
Public Security	
Governance Issues – Corruption	<ul style="list-style-type: none"> The media: naming & shaming Professional organisations, the media, research institutes: whistle-blowing Various organisations: research and advocacy Religious and other groups: Standard-setting and the development of common values and norms
Policing – fight against cross-border crime	<ul style="list-style-type: none"> Research Professional organisations, for example farmers unions, can undertake to mark livestock.
Human Security	
Human Rights	<ul style="list-style-type: none"> Research The media and research institutes: naming and shaming Professional associations, community and issue-based organisations and NGOs: Legal assistance and other resources to seek legal recourse. These organisations can also play an important role in counselling. Religious groups can play an important reconciliatory role.
Humanitarian assistance	<ul style="list-style-type: none"> Research to identify priorities Implementation & delivery Local knowledge To avoid politicisation of aid
Governance – delivery	<ul style="list-style-type: none"> Channelling of demands Implementation and monitoring
Disaster management	<ul style="list-style-type: none"> Local knowledge Evacuation & care Consolation Rebuilding/reconstruction

Development	<ul style="list-style-type: none"> • The private sector and labour can assist the government in creating an investment-friendly environment. • Local NGOs and Community based organisations are well placed to identify developmental priorities and have played an important role in devising creative and sustainable policy options.
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Table 2: State Security

In broader terms there are a number of other roles that civil society organisations can play in support of SADC's security agenda:

3. Monitoring of adherence to international protocols, treaties and norms
4. Civil society can assist in the building of common and effective norms, values, procedures, and institutions - preconditions for making the region more democratic, peaceful and secure.
5. Channelling of funds into SADC. Chapter 7 of the Draft SIPO's recommendations – Organ's programmes and activities will, as a matter of principle, be funded through assessed contributions from Member State and augmented by other contributions from external sources. At its last meeting (in Dar es Salaam in 2003), the Ministerial Committee of the Organ resolved to seek summit approval for the Secretariat to solicit funds from external sources for the implementation of the programmes and activities under SIPO particularly in areas such as peace support and humanitarian operations; combating organised crime; refugee management and capacity-building activities in the areas of preventive diplomacy, peace and security.

In terms of direct support to the SADC Organ for Politics, Defence and Security, and in particular, the Chair of the Organ, civil society can support the development of a collaborative security community through:

- a. Research, facilitation and policy development to support and inform the policy areas that are prioritised by the Organ Chair on an annual basis;
- b. Building regional collaboration and confidence through annual regional meetings on defence, security, conflict prevention and crime issues;
- c. Encouraging public debate and input into the activities of the Organ so that policy is linked to actual local demands and conditions;
- d. Related desk and field research, publications and dissemination work.

There are roles for civil society at the local and national level and also at the regional level. These are interdependent in the achievement of peace and security in the sub-region. It is exactly the fluidity and creativity with which these voluntary associations of individuals address various societal problems that bestow on them the power to make a difference.

However, Molutsi (2003) warns that: "Although civil society can operate as a critical complement to the market and democracy as a mean for development", it is not the panacea to SADC's problems. In fact, the realisation of the objectives contained in the SADC Treaty, in particular the promotion of common political values and systems, will require the strengthening of CSOs – and of governments - and in particular the building of the capacity of NGOs working on peace and security issues.

Putting Theory Into Practice: Towards Greater Openness?

We have shown that, theoretically, SADC *does* create spaces for civil society involvement in support of the SADC security agenda and we have proven that there is a variety of roles for civil society in this regard. So, what does the track record look like thus far? Did we see greater openness and transparency in the workings of SADC's security architecture over the past year, and have we seen civil society embracing the opportunities it has been granted? To seek an answer to this question, this section will focus on a few selected issues and developments in 2003/4.

Although a number of regional organisations, such as the *SADC Council of NGOs (SADC-CNGO)*, the *Association of SADC Chambers of Commerce and Industry (ASCCI)*, the *Southern African Trade Union Co-Ordination Council (SATUCC)*, *Women in Business*, the *SADC Banking Association*, *Electoral Commissions Forum of SADC Countries* and the *SADC Lawyers Association* have been established, many of these remain weak and their capacity to participate and make input is often limited (Isaksen & Tjonneland, 2001)

Participation at the regional level is formalised through either accreditation, memoranda of understanding or memoranda of association. But as the case of the SADC-CNGO (discussed above) proves, these processes have been cumbersome and slow.

Consultative Processes

According to the 'Guidelines for internal consultations on the RISDP' (and by extension also the SIPO), drafted by the SADC Secretariat, the objective of such consultations were "(t)o extend the debate on the RISDP to a wide range of government departments, NGOs, civil society, private sector, academic and research institutions and any other relevant stakeholder²⁶". Member States were supposed to immediately distribute consultation documents to key stakeholders to allow them sufficient time to read and analyse such materials.

²⁶Other relevant stakeholders include parliament, trade unions and relevant professional associations.

Although the Guidelines also call for a (written) report on the consultations from each Member State, the requirements of the report, as set out in the guidelines, do not expect Member States to submit a declaration or indication of exactly *who* was actually consulted. While Secretariat officials were to attend the meetings to give technical assistance (explain draft), they had no mandate to assess whether consultations are in line with guidelines and involve sufficient non-State actors/all stakeholders.

Because of national dynamics, the haphazard way in which the RISDP development process evolved and the fact that many SADC National Committees (SNCs) were not yet properly established, broad consultations on the RISDP were limited and uneven across countries. With regard to the SIPO, consultations were said to be even more limited and in some countries even relevant government departments were excluded from the process²⁷.

Yet, as SADC's Executive Secretary, Prega Ramsamy (2003) again emphasised in his annual review of the organisation and the region:

The implementation of this plan (SIPO) will also require the participation of not only regional civil society, but also our co-operating partners. SIPO is not a plan for SADC alone. It is indeed a Southern Africa's contribution to strengthening peace, political stability and security of Africa and the World at large.

Rhetoric has, however, not been matched by action, demonstrated by a brief review of SADC's approach to information sharing and the practice with the SADC National Committees.

Information Sharing

SADC's overly cautious approach to information sharing has caused much chagrin amongst civil society. The communiqués issued after meetings remain superficial accounts of what was really discussed and until the recent establishment of the SADC web site were only available to a select few.

Before the establishment of the SADC web site two years ago it was even difficult to get hold of public documents such as SADC Protocols and Annual Reports. The recently upgraded web site with its Portuguese and French portals (while incomplete) has improved access to SADC-related information substantially and encouragingly. Notable, to date, is the absence of any substantial information on political and security issues.

Despite a decision by the SADC Summit in Dar es Salaam, in 2003, that the restriction on minutes of the SADC Council and Summit meetings will be lifted after two years, no old minutes are yet available for public scrutiny. Time will tell whether this decision will be implemented at the

²⁷The task force consisted the Troika of SADC and that of the Organ at the time of the Extra-Ordinary Summit Meeting in Blantyre in 2002.

SADC Secretariat and whether access will extend beyond the library on the second floor at the Gaborone building – an obvious obstacle to many civil society organisations!

While there were many references in this section to the SADC Secretariat, it would not be fair to blame them for the lack of transparency and openness in terms of information on SADC meetings and decisions. They lack the political and operational capacity to take independent decisions and are kept under tight reign by their political masters – reflecting upon the institutional sway that the hardliners have within SADC. Thus the SIPO, which was adopted by the August 2003 SADC Summit in Dar es Salaam remains shrouded in secrecy. The RISDP is available in full (although not in final form²⁸) on the SADC web site, and hard copies of the RISDP were also prepared for the launch thereof at the March 2004 Council of Ministers meeting in Arusha, Tanzania.

SADC National Committees²⁹

While it may appear that SADC commits itself to civil society inputs at the regional level, the current political and operational weakness of the Secretariat and the preponderance of national interests imply that meaningful civil society engagement for the time being remains relegated to the national level in those countries where governments allow such engagement (Landsberg, 2002).

At first glance, SADC National Committees (SNCs) appear to hold prospects of greater public participation in regional affairs, even if, initially, it is limited to more organised and elite NGOs.

As the mainstay of civil society involvement in SADC affairs, it is discouraging to note that as yet few states have fully established SADC National Committees. Even where they exist they are riddled by questions of legitimacy related to the selection of stakeholders, plagued by a lack of resources and capacity and marginalised in the greater scheme of things because the lines of communication and lines of authority between the national committees and the Secretariat and other structures are not clearly identified (Isaksen & Tjonneland, 2001).

While SADC National Committees may provide valuable opportunities for civil society engagement in SADC security affairs, it is a far from ideal scenario. Other difficulties associated with this model of cooperation reside in the uneven standards of democratic governance among SADC member states and the variations in the strength of national civil society organisations. In many countries, NGO-government relations remain characterised by mutual suspicion and in some, operate under severe restrictions. Governments feel threatened by robust and active civil

²⁸It is tempting to think that the move by the Southern African Regional Poverty Network (SARPN) to publish the RISDP in full on its web site (even before it was adopted) forced SADC's hand.

²⁹SADC National Committees are to be established in accordance with Article 16A of the SADC Treaty.

society organisations and CSOs often see themselves as an extension of government or in opposition to government rather than as a complement to government.

The exact composition of SNCs is the prerogative of governments, as is the appointment of 'stakeholders'³⁰. While guidelines for the establishment of SNCs exists, the SADC Secretariat has no power to compel Member States to stick to the guidelines. The annual reports submitted to the Secretariat by Member States on the status of their SNCs are often late, incomplete and come in different shapes and sizes. The Secretariat has no mandate or capacity to carry out an independent audit to verify the information contained in reports and make provision for capacity building where it may be required.

In addition to these general constraints on civil society involvement at the national level, SNCs do not explicitly provide for deliberations issues that fall under the Organ – peace and security issues are left to the line departments within each SADC Member State³¹. According to Isaksen & Tjonneland (2001) "(g)overnments in some countries consider these issues too sensitive while others are receptive to a possible inclusion." They further note that the role of parliament and parliamentary oversight are not addressed in the SADC documents discussing national committees.

However, the SIPO clearly lists among its objectives: civil society engagement in conflict resolution, public awareness-raising on security issues and establishment of a forum of academic and research institutions to deliberate on foreign policy matters. Therefore, NGOs would appear to have a case for formal inclusion in the institutional framework of the SADC Organ, similar to their inclusion within the National Committee structure. They would need to prepare the ground for this inclusion with concerted efforts to build confidence with the line departments working in these politically sensitive areas, such as safety and security, policing, justice, prisons, defence, intelligence and foreign affairs.

Rhetorical commitments aside, few NGOs have been able to effectively engage in areas of peace and security, and even then not through SADC but indirectly through structures such as the Southern African Police Chiefs Cooperation Organisation (SARPCCO) which has a tenuous and contested relationship with the Organ, or through support and engagement with the country that chairs the SADC Organ.

³⁰According to a study carried out by Isaksen (2001/2), "some may envisage little more than an interdepartmental working group, while others seem to prepare for major national consultations and workshops". See also Phorane (2002).

³¹The Secretariat Guidelines do suggest the creation of a sub-committee to deal with Political Stability, but as noted, these guidelines are not binding or enforceable.

Participation

The participation of civil society organisations in SADC meetings has been ad hoc and limited. No established procedures for accreditation exist and invitations are often issued to civil society groups based on personal relations and/or through individual governments rather than based on objective criteria. Civil society remains excluded from Council and Summit meetings.

Since SADC expects civil society to play an important part in the implementation of its policies (see Ramsamy, 2003 and 2004), it is worrisome to note its exclusion from policy-making. Ownership is an important principle in effective implementation and without involvement in the development of said policies, it will be more difficult to convince civil society partners of the importance of their role in supporting the implementation of decisions.

Why Has There Been so Little Interaction?

Moving towards a conclusion, we briefly list only four additional reasons for the absence of meaningful SADC/civil society interaction on peace and security matters. The most important is, of course, the mutual suspicion and hostility, which has been discussed earlier.

'SADC Fatigue'

After twelve years and less progress than hoped for, both the international community and domestic stakeholders appear to be suffering from 'SADC fatigue'. Even donors offering substantial support - such as the European Community - have been unsuccessful in establishing a working relationship on peace and security issues for a variety of reasons, most notably the lack of the institutionalisation of the Organ within the SADC secretariat and the drawn-out processes associated with the reorganisation of SADC and the establishment of the Organ.

SADC's record of achievements and performance has been patchy and observers can be excused for having a slightly pessimistic view of its immediate future – despite the flurry of donor interest created by the finalisation of the SIPO and the role that SADC could play within the continental security architecture. Put into perspective alongside other regional organisations, SADC is not doing too badly, but its rhetoric is seldom matched by action, mired as it is in bureaucracy and competing Member State value systems.

Civil Society Weakness

Molutsi (2003) addresses the question as to why Southern African civil society seems to have only emerged recently and has had so little impact on the continent's development, conflict management and democracy promotion. He identifies two major reasons. First is the fact that civil society in Africa had been suppressed, manipulated, divided, and incorporated by the authoritarian state for many years. "This weakened and derailed it from

its independent work” (Molutsi, 2003: 162). The second explanation derives from the fact that for many years, bilateral donors preferred channelling funding to civil society through the state to avoid being accused of interference. This allowed the state to control the agenda of civil society.

However, the blame cannot be laid only at the door of external forces. Civil society itself is wracked by conflict, intolerance and democratic deficit. In addition, many groups are under-resourced and lack sufficient managerial skills and experience. The particularities of leadership and role of individuals have also played an important role in defining the sustainability and success of civil society organisations³².

State weakness

Weak and undemocratic states historically follow a narrow and militaristic approach to security. When the governing elite feels insecure or threatened, they close off access and seek refuge in tight control over NGOs that seek engagement on matters perceived to lie exclusively within the state purview. Moreover, weak states with poorly functioning bureaucracies do not have the means to engage, provide information or debate – matched by weak NGOs who are incapable of sustained engagement on policy matters beyond occasional angry bursts of rhetoric.

Institutional Weaknesses – Restructuring and Internal Politics

On its side the SADC secretariat remains extremely cautious of engagement – often being accused of giving NGOs the run-around, seeking any excuse possible not to engage or commit to any action that could open them up to accusations of using the space ostensibly provided by Summit decisions, legally binding documents and the SIPO. While the SADC Secretariat may argue that it has a mandate to engage with civil society, in practice it avoids any but the most non-threatening and token relationships. The result is that donors, CSOs and other organisations such as SARPCCO usurp the role of the Secretariat, finding alternative routes to engage and move regional peace and security matters forward.

Conclusion

On paper, SADC has recognised the importance of civil society engagement in all its activities, including the realm of conflict prevention. The SADC Treaty identifies civil society and NGOs as ‘key stakeholders’ in the implementation of the Treaty and commits itself to “co-operate” with and “support” civil society. Amendments to the SADC Treaty restructuring the organisation included a place for civil society, and more specifically, NGO engagement within the SADC structures. Adopted in August 2003, the SIPO lists among its objectives: civil society engagement in conflict resolution, public awareness-raising on security issues and establishment of a forum of academic and research institutions to deliberate on foreign

³²In addition to Molutsi (2003), see also SADC Barometer Issue 3 (www.wits.ac.za/saiia) and in particular the editorial ‘Unlikely Bedfellows’ for further discussions of some of the problems faced by civil society in Southern Africa

policy matters. In reality, however, security remains the most sensitive area of SADC deliberations and one which Southern African leaders seem determined to keep behind closed doors.

Overall, civil society has largely been excluded from involvement in SADC's security agenda. There have been a number of isolated examples of participation, but these have largely been confined to South Africa and to a select few organisations. The difficulties derive from both internal and external factors and can probably best be described as structural. It will take a lot for SADC to 'suddenly' open up and allow civil society to participate in its security agenda. Not least because of lingering suspicion of civil society and the inherent weakness of these institutions in the region.

South Africa's Chairmanship of SADC may turn the tables in a positive way, but this may have negative effects for regional civil society and may further widen the gap (perceived and real) between ordinary citizens in the country and in the rest of SADC.

Civil society can at best hope to play a significant role in the implementation of policies related to security in the region, and even then, their role will be marginal and their influence limited. The spaces for greater civil society engagement are slowly opening up, but to be able to maximise these it is important that the linkages between civil society organisations in the region be strengthened and that there is a transfer of skills and experience without an erosion of the independence of any single organisation or country.

The most important role that civil society has to play is the inculcation of common norms, values and beliefs amongst the people of the region. A strong commitment to non-violent means of resolving societal conflict will render the militaristic inclinations of the region's leaders redundant and forms the basis of sustainable peace and stability.

As long as SADC institutions remain dominated by top-level, politicised decision-making, the practical imperatives for co-operation and co-ordination are likely to remain overlooked. Unlike ECOWAS and its Executive Secretary, who are empowered and utilise their political mandate, the same does not hold for SADC.

Although it is clear that there is a role for civil society and that this is legally entrenched in SADC documents, public statements, and the like, there are no enforcement mechanisms and it is largely left to individual Member States to carry out consultations. Because of weakness of Secretariat and their lack of a clear political and operational mandate, they are not able to channel and consult. We leave the concluding words to Landsberg (Landsberg, 2002: 17, citing Molutsi):

"All of this shows that NGOs and CSOs in Southern Africa will need to be proactive and engage not only the SADC but also play a democratisation role within countries instead of just complaining about their perceived or real marginalisation. They will need to start using whatever political space is available in their own countries to push the envelope of democratisation in the region. In short, civil society needs to organise itself more efficiently on a sub-regional basis to better enable it to engage the SADC on sub-regional issues. Doing so will allow domestic issues to be handled by

individual CSO organisations, while the regional body could engage with the SADC and ensure that the interests of civil society are articulated and perused at that level. A unified effort will also ensure the more efficient use of scarce civil society resources, and provide opportunities for sharing skills and personnel.

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The African Union Organs and the African Peer Review Mechanism: Implications for Regional Integration in the Context of Continental Structures

Ayesha Kajee

Introduction

More than two years have elapsed since the birth of the new-look African Union (AU), during which time several of the major organs mandated by the AU have come into existence, and various others are due to be inaugurated in the near future. The AU also embraced as its developmental framework, the New Partnership for Africa's Development (NEPAD), launched in October 2001.

While the ideal of a politically and economically integrated continent isn't new, the energy created by the genesis of the AU and its organs has rekindled optimism for an African renaissance. Significantly, the voluntary African Peer Review Mechanism (APRM) has been introduced as a vehicle for improving governance standards and holding corrupt governments to account. The first four countries are to undergo review during 2004.

The past decade has also seen regional integration structures progress from theoretical talk-shops to practical implementation in many spheres. Institutions that were originally created primarily for economic reasons have expanded their scope to include political and security considerations (and, as in the case of SADC, vice versa).

This paper briefly explores the relationship between regional structures such as SADC and the continental union, looking at how established regional organs and substructures can dovetail (or not), with the corresponding continental ones, many of which are newly formed. It seeks to determine the potential for synergy and complementarity between these organs and to examine whether structures are being duplicated.

Since the APRM is perhaps the single most innovative initiative of the AU, the paper attempts an analysis of the APRM as a tool that could have significant impacts on regional integration and regional development and explores the potential for regional structures such as SADC to become actively involved in the peer review process.

Ultimately, the paper attempts to answer the question of whether the AU's (and especially NEPAD's) laudable but lofty aims can, in part, be operationalised via regional bodies.

Continental Integration: Marginalisation or Collective Power?

Analysts offer various reasons for Africa's socio-economic decline over the last fifty years, ranging from colonial legacies and globalisation to corrupt leadership and ongoing conflict (Amuwo 2002; Chabal 2002; Taylor 2003).

Notwithstanding this, a key question is whether "continentalisation" in the envisaged AU context will further marginalise already embattled poor regions and create regional hegemonies, or whether it could be used (particularly via regional bodies) to give collective bargaining power to previously voiceless states and regions?

Proponents of pan-Africanism point to the economic and political power wielded by the United States of America (USA) and the European Union (EU), and argue that Africans must pool resources and act as a federation to make measurable impacts in the global arena. Sustainable socio-economic development in any African state, they contend, cannot occur in isolation, because Africa's peoples have common colonial legacies and shared cultures in addition to contiguous borders.

Already, united action by African states has resulted in some small victories, notably in the trade arena. The collective dispute action against first-world cotton subsidies by the West African cotton-producing states in the World Trade Organisation (WTO) is a significant example of collective influence.

Conversely, critics of African integration maintain that the net overall effect will be increased marginalisation of the poorest countries and domination of poor states by those of their neighbours that have achieved some growth. This scenario could prolong conflicts currently plaguing the continent and could possibly foment increased violence.

The penetration of various South African companies into other states in Africa is an oft-cited example. At the NEPAD Agriculture Conference in December 2003, for example, there were claims that South African supermarkets have had a negative impact on small-scale farmers and small businesses in some countries. South African gem mining companies operating in Africa have also come under fire for failing to benefit the local populations since most of the beneficiation (cutting and polishing) is done outside the country where the gems are sourced (Kajee and Gruz, 2003:4)

There are also concerns in the agriculture and textiles sectors that trade liberalisation could cause key sectors of certain African economies to collapse. There has been substantial progress by regional economic communities (RECs) such as SADC towards phased economic integration, with special provisos for sensitive commodities. RECs are familiar with regional concerns and have a critical role in maintaining these phased integration frameworks and harmonising them with continental plans.

The AU acknowledges this and seeks to "co-ordinate and harmonise policies between existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union" (AU, 2002:Article 3, Objective I).

However, significant practical barriers to integration exist, at both regional and continental levels. These include the infrastructure gaps and lack of standardisation in various sectors. For example, the establishment of regional and continental rail transport corridors are stymied by the discrepancies in the gauge systems of Tanzania, Uganda and Kenya (which are all built to 1000mm or metre gauge) and the rest of SADC countries, where they are built to Cape gauge of 1067 mm (SAIIA, 2003: 10). Limited transport and ICT infrastructure and poor maintenance of existing infrastructure are additional impediments, some of which NEPAD has prioritised in its project plans. Political barriers include onerous visa and customs controls that restrict the movement of labour and goods.

Continental Political Structures and their Regional Counterparts

Significant economic integration must occur in tandem with political integration. Indeed, integration is intrinsically a political process, predicated upon substantial political unity and the concomitant ceding of some sovereignty. The issue of sovereignty has been a sensitive one in Africa, often impeding moves towards political convergence.

The AU's Constitutive Act of 2002 specifically mandated the formation of nine separate organs and provided for the establishment of others at the discretion of the AU Assembly. Currently about 20 organs have been established, of which most are as yet loosely defined. These include the AU Commission; the Pan African Parliament (PAP); the Peace and Security Council (PSC); the Court of Justice; the Court for Human and People's Rights; and the Investment and Central Banks. There are also various sectoral commissions and committees.

Various regional initiatives such as customs unions and free trade zones have long-range implications for continental integration. While the AU is far from forming an integrated monetary zone, for example, the long-term implications of the recent launch of a common monetary area in West Africa, must be a factor for consideration by the AU Banks and other organs.

Establishment of the various AU organs, and especially NEPAD's APRM, signifies a willingness to relinquish some sovereignty in pursuit of the continental public good. However, the AU Commission (2004:4) notes that fostering political will to achieve integration remains a major challenge and "requires that member states delegate power and progressively transfer sovereignty at both sub-regional and continental levels".

The AU structures often have regional counterparts with similar functions: the SADC Parliamentary Forum and the East African Legislative Assembly may be regarded as the regional equivalents of the PAP, while the SADC Organ on Politics, Defence and Security (OPDS) is potentially the best-developed regional counterpart of the PSC.

The challenge here is to align existing regional structures with continental ones, avoiding unnecessary duplication of bureaucracies and ensuring constant, unambiguous communication between them.

The regional structures and the AU both recognise this need for alignment. According to Isaksen (2002:46), the RECs “form building blocks for the future continental economic community”. He notes that, in 2001, SADC Foreign Ministers acknowledged the linkage between NEPAD and SADC’s Regional Indicative Strategic Development Plan (RISDP). “...the RISDP and the SADC restructuring process should take NEPAD into account, and where appropriate, SADC and NEPAD programmes should be harmonised.” (Isaksen, 2002:46). Similarly, the AU Commission aims to “ensure that the momentum of continental integration is irreversible by promoting regional cooperation” via “strengthening of institutional linkages between the AU and the RECs” and “adoption of common policies in specific areas” (AU Commission, 2004:15).

While much has been written about economic integration, there has been limited consideration of the structures and organs that will potentially facilitate political integration. It therefore behoves us to examine some of these.

Parliamentary and Judicial Structures: Regional and Continental Implications

The PAP, inaugurated in March 2004, is in its infancy. By contrast, the SADC Parliamentary Forum and the East and West African Legislative Assemblies are longer established and may offer significant lessons.

The newly established African Court for Human and Peoples’ Rights (ACHPR) and the African Court of Justice, will face the challenges of upholding the rule of law and implementing justice on the continent. A key consideration is the divide between national and multinational legal and judicial systems. The bid to host the PAP in Libya, a country whose national government is not democratically elected, highlights the nature of this challenge.

Currently, members of the PAP are seconded by their national parliaments, in a similar manner to the SADC PF, although there are plans for the PAP to have some form of elected representation in the future.

In this event, there may be value in seconding the same elected PAP MP to also serve in the relevant regional parliament, with a view to synchronising regional policy with continental initiatives.

The PAP presently operates in a purely advisory capacity. Political integration in the long-term will necessitate greater legislative power for the PAP and the regional legislatures. In the past, member states have ignored the recommendations made by regional parliaments.

Although the AU undertakes to “promote and protect human and peoples’ rights in accordance with the African Charter on Human and Peoples’ Rights and other relevant human rights instruments” (AU, 2002: Objective 3) and has ratified various treaties and protocols on rights issues, corruption and democracy; the domestic legislation in many member states deviates

from the continental pledges. There has been little attempt by national parliaments to align domestic legislation with continental or international instruments. Even in nations where domestic legislation corresponds with the continental protocols, failure to uphold the law is common. Often, military regimes or other forms of state-sanctioned repression hamper implementation of the law and abet miscarriage of justice.

Until the power to enact and enforce legislation on issues that impact on all Africans is ceded to the PAP and other relevant bodies, abuse of basic human rights will continue unchecked in some areas. The differentiation of scope and focus between national, regional and continental legislatures is a crucial consideration and should be prioritised by the PAP in its formative stages. Clarity regarding the limits of national sovereignty, and the precedence of regional and continental law, where appropriate, is necessary. The role and reach of supra-national judicial structures and of other monitoring and enforcement mechanisms should be elucidated.

Another tricky area where RECs can play a role is the incorporation of traditional legal and justice systems into the continental one. The potential value of traditional measures was highlighted by Rwanda's 'gacaca' system, which used the community-based "grass courts" to bring justice to genocide victims in a situation where the formal system had collapsed (since most legal professionals were dead). Apart from alleviating pressure on the overcrowded prison system, regional reconciliation was enhanced as refugees returned from neighbouring countries and cross-border ties were resumed.

Peace and Security Structures: The Relationship between the PSC and the SADC Organ on Politics, Defence and Security

Despite the ongoing restructuring within SADC, it is fair to say that the SADC OPDS has made some progress towards regional security integration, particularly in a strictly military sense. Its Inter-State Defence and Security sub-Committee (ISDSC), which deals with military and intelligence cooperation, is staffed by defence officials from member countries and has been a well-functioning body since the late 1990s. (Hammerstad, 2003: 149). Since the PSC will operate an African Standby Force which will essentially be operationalised through five sub-regional standby brigades (Wannenbergh and Kajee, 2003: 10), there is considerable potential for synergy between the OPDS and the PSC, which should be exploited to prevent duplication. The OPDS could also contribute in an advisory capacity for PSC operations in other regions.

Two crucial issues are: how to manage the relationship between the PSC and regional structures in a complementary manner rather than an antagonistic one so that resources are optimally used and can regional military brigades provide non-partisan intervention in the context of ethnic and political loyalties? These questions are likely to remain unanswered until the PSC becomes operational and grapples with the realities of peacekeeping in Africa. The recent move by the AU to send peacekeepers to Darfur in Sudan will provide a litmus test of the PSC's efficacy.

From a softer, human security viewpoint, the OPDS's Inter-State Politics and Diplomacy sub-Committee (ISPDC), is not yet fully operational and has significant overlaps with other directorates. As more human security-related issues come under the ISPDC's auspices, it may also contribute value to other AU organs. The issue of refugees and displaced persons, for example, now falls under the ISPDC and may have relevance for the ACHPR and the Commission as well as the PSC. Hammerstad (2003: 152) recommends that the ISPDC adopt a limited but high-priority human security agenda that is manageable.

While Landsberg (2002: 19) recognises the synergies between SADC's priorities and those of NEPAD and the AU in the peace and security sector, he identifies the harmonisation of priorities as the crucial challenge. He further argues that the SADC OPDS should play a key role in the APRM at regional level, since its two substructures - the ISDSC and the ISPDC - are "well-placed to adapt APRM to SADC conditions and dynamics" (Landsberg, 2002: 20). Conversely, Hammerstad (2003: 152) views the PSC and APRM as potential obstacles to the OPSD, arguing that it is in danger of being overshadowed by the AU initiatives.

The African Peer Review Mechanism: Implications for Regional Bodies

In March 2003, a small group of African leaders made a groundbreaking decision when they agreed to "open their books" and allow their governments to be scrutinised by their peers via the APRM. Since then, a total of twenty three countries have acceded to peer review, and several others have indicated that they will join the APRM in the near future.

In contrast with the old Organisation of African Unity (OAU) which prioritised state sovereignty and allowed for very little intervention in the governance of member states, the AU's Constitutive Act made specific provisions for intervention in member states for security purposes (Article 5) and provided for sanctions against any "member state that fails to comply with the decisions and policies of the Union." (AU 2002, Article 23).

At the time, this was seen as a positive move away from blind respect for sovereignty towards a situation where the union would intervene in countries that disregarded universal principles of good governance and democracy. The APRM was expected to be the mechanism through which the AU would be given "teeth" to act in such situations. However, the decision to make the APRM a voluntary mechanism without explicit penalties or sanctions is widely regarded to have considerably weakened the initiative.

Furthermore, late in 2002, conflicting statements from the South African presidency and foreign affairs ministry seemed to indicate that the APRM would focus on economic governance and leave the political governance, democracy and human rights issues to the African Union, were viewed by many as an attempt to appease those African leaders who would be inclined to reject APRM on the basis of their poor records in the democracy

and human rights arenas. Such a move that would have significantly diluted the scope and impact of peer review, since political governance affects the economic climate and vice versa. In the face of widespread criticism, a statement that APRM would incorporate political governance (with the proviso that this aspect of APRM would be carried out by relevant AU organs such as the ACHPR and PAP as soon as they were operationalised), subsequently clarified the issue. Accountability for aspects of peer review such as human rights and elections has thus been shifted from NEPAD to AU organs that are in their infancy and are currently perceived as lacking the power to effect changes in these areas.

Poor governance in one nation-state inevitably impacts on its neighbours, with major economic and political consequences for the region. In recent years, this has been amply illustrated by the regional impact of the Zimbabwe crisis in Southern Africa (Isaksen, 2002: 29–32) and the Liberian and Ivorian ones in West Africa. Regional destabilisation and insecurity, decreased regional investment and cross-border migration are indirect effects of governance abuse in one or more countries. It thus behoves regional structures to become actively involved in the APRM, supporting the review process where possible and using it as a tool to drive the development agenda of the RECs. Indeed, SADC's Regional Indicative Strategic Development Plan (RISDP), formally launched in March 2004, specifically embraces NEPAD as a credible and relevant continental framework and positions the RISDP as the vehicle for achieving NEPAD's aims within SADC member states. Peer review is potentially the single NEPAD initiative that could accelerate regional development through compliance. REC's and their organs can leverage their knowledge and constituency base to play an important role in this regard.

APRM Structures and Organisation

The heads of state of the APRM countries comprise the APR Forum, the highest-level structure at the continental level, which is where the actual "peer pressure" will ultimately be exerted. The APR Forum has appointed a panel of seven eminent persons – Africans of high stature and integrity from the various regions of the continent – tasked with overseeing the process and ensuring its credibility. Ms Marie Angelique Savane of Senegal is the current chairperson of the panel. The continental APRM Secretariat in South Africa is responsible for coordination and implementation of the review process.

At the national level, each APRM country must establish an APRM focal point (preferably at ministerial level or higher), to facilitate access to the head of state and relevant ministries that will participate in the review (APR Forum 2004: 6). As recommended by the eminent persons to the APR Forum, the country must also set up a national coordinating mechanism, including all the key government and civil society stakeholders that should be part of the review (APR Forum 2004: 6). The exact nature of the national focal points and coordinating mechanism varies from one country to

another, depending on each country's resources and geo-political makeup. Ghana, for example, has a dedicated Ministry for NEPAD, via which these structures are established. Kenya, on the other hand, established a semi-autonomous national NEPAD Secretariat, which is currently setting up the APR structures.

Regional structures have been slow to grasp the opportunities offered by involvement in NEPAD and peer review. Both NEPAD and APRM have been widely perceived as initiatives driven by executive levels of government, with little or no formal involvement of parliaments and government departments (World Bank Institute, 2004). Since many regional organs are resourced via secondments from government departments and the legislatures of the member states, ownership of NEPAD initiatives at regional level has been weak. East African countries took the lead last year, when they mandated the Kenya NEPAD Secretariat to serve as the Regional Secretariat for East Africa.

As several southern African countries have agreed to be peer reviewed, and others have indicated that they are considering participation, SADC could play a valuable coordinating role at the regional level. Several committees and structures that already exist within SADC and other RECs could feed valuable information into the four core areas of the APRM (political governance and democracy, economic governance, corporate governance and socio-economic development). Since APRM has been widely mooted as an all-African initiative, it is envisaged that peer review will be funded primarily via a contribution of \$100,000 from each country that accedes to being reviewed, but thus far several countries have failed to meet this obligation due to resource constraints. Furthermore, various analysts have estimated that this figure will be insufficient to adequately assess the governance situation in the depth that is specified by the APRM documents, with Herbert (2003:10) suggesting that a proper analysis would require this amount to be quadrupled.

According to Landsberg (2002: 20) "one way of enhancing the (peer review) mechanism would be to devolve it down to the regional level. Thus the SADC should play a role in the peer review process, and its political and diplomatic structures in particular should play a key role." As yet, no institutional links exist. In areas where SADC has existing capacity, it could share human and technical resources with the APR, perhaps even offering some staff as members of the review teams and providing an infrastructural node from where review teams for countries in the region could operate. Utilising existing capacity within the RECs for APRM could significantly decrease the financial constraints on the peer review process.

The Review Process – What role for Regional Structures?

The APRM comprises five phases. In the initial step, the country to be reviewed establishes its APR Focal Point and National Mechanism, completes a self-assessment questionnaire and develops a draft plan of action. In parallel to this, the continental APRM secretariat (with the help of various partner institutions) collects background documentation on the

country and identifies the major governance challenges facing the country, compiling a "Big Issues Paper". If further in-depth analysis is required, the secretariat will undertake technical assessments on these big issues.

The second phase is the country review visit, where a review team, headed by one of the eminent persons and including experts in each of the four areas of peer review, visits the country and conducts a series of interviews and investigations in order to assess the governance climate within the country.

Next, the team compiles its country report and shares this with the government of the review country. Significantly, the government cannot change or edit the report, but its comments are attached as an appendix to the report.

Fourth, the eminent persons review the report and make recommendations to the APR Forum. Fellow leaders in the Forum discuss with the head of the review country how they can support the review country to implement its action plan in the period until the next review.

Lastly, the report is made public and is tabled in various AU structures such as the Pan African Parliament.

As mentioned, Regional bodies have the potential to make meaningful contributions at various phases in the process. Reports and surveys undertaken by the RECs in a review country or region should be submitted as background documentation to the continental secretariat (SADC election observer missions, trade integration reports, etcetera). Regional structures can offer technical expertise, where relevant, to the review country as it undertakes its self-assessment, and to the APR Secretariat if technical analyses are conducted.

For countries where the political or economic situation has widespread regional effects, organs of the RECs can highlight areas of concern by making formal written and oral submissions to the APR Secretariat, to the eminent persons and to the country review team at various stages in the review process. In the case of SADC, for example, the parliamentary forum's Standing Committee on Regional Integration could make a submission on the bureaucratic or legal barriers in the review country that hamper intra-regional trade and discourage investment. Similarly, the Gender Advisory Team and Election Observer Missions can provide in-depth and up-to-date knowledge of the country's situation regarding gender rights and the freedom and fairness of elections respectively.

The regional structures can play a crucial role in maintaining the integrity of the APRM, as they can focus attention on areas of concern that the review country might otherwise be inclined to conceal. In addition, regional structures can be key players in ensuring that the recommendations emanating from the review are indeed being implemented in the inter-review phase. The issues that are likely to emerge from peer review, such as curbing corruption in all sectors and improving delivery of basic services, are already on the agenda of many regional organs. The RECs can use the peer review as a catalyst for change in these spheres, thereby accelerating regional development. However, the latest (2004) SADC Summit in

Mauritius did issue new guidelines on free elections but did not provide links with the APRM.

Using Regional Bodies to Implement Continental Plans: Potential Advantages and Limitations

The advantages are clear: regional bodies have the opportunity to mobilise resources from the continent and use these to drive the regional development agenda and to promote stability and investment in the region. But the disadvantages are also manifest: the potential for unnecessary and inefficient duplication of structures and bureaucracies is huge. The AU needs to carefully audit existing regional structures, assessing their organisational capacity and efficiency levels, before incorporating them as feeder mechanisms for the continental organs. This presupposes additional resourcing where necessary and streamlining in cases of inefficient resource use.

Management and communication are key issues in realising the AU Commission's vision (2004: 8) that RECS will transform into comprehensive Regional Integration Communities (RICs), responsible for political, social and economic integration at regional level. RECs will eventually "evolve from intergovernmental organisations to a Confederation and later, Federation" (AU Commission, 2004:15). Poor communication is already evident within the continental NEPAD and APRM secretariats, with extreme difficulty encountered during recent efforts to access basic information. Managers of AU organs need to acknowledge the shortcomings regarding communication and take concerted action to rectify this.

According to the AU Commission (2004:16) "Regional institutions will play an increasingly vital role in the debate on (harmonising) regional policies", particularly macro-economic policies and social programmes. Indeed, the commission anticipates the emergence of regional and continental citizenships as a result. Whether this vision can be realised depends largely on the degree of citizen ownership of regional and continental initiatives, in particular the African Peer Review Mechanism.

While it is regrettable that responsibility for the political aspects of peer review have been handed to AU institutions (eg. The PAP) that are relatively new and perceived as being ineffectual for the time being, this opens up space for longer-lived REC organs to play a meaningful role in the APRM and to use this to accelerate regional integration initiatives. While peer review per se does not aim at enhancing integration, increased regional integration could be a significant offshoot of the APRM process. Regional bodies have unprecedented opportunities to develop mutually advantageous relationships with continental ones, as the various continental organs and mechanisms come on-line. A missed opportunity could mean that the regional structures wither in the shadow of the continental imperatives, which are perceived as more "glamorous" and are thus often better resourced. On the other hand, an opportunity grasped may be the conduit for developmental progress in a given sphere of activity within the region, and may channel human, technical and financial resources to the region that could simultaneously accelerate regional integration plans such as SADC's RISDP.

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The African Union and NEPAD: Reviewing the progress towards New Partnerships

Willie Breytenbach

Introduction

At the time of the transformation of the Organisation of African Unity (OAU) into the African Union (AU), the New Partnership for Africa's Development (NEPAD) was conceived. It is a programme of action from within Africa, owned by members of the African Union, aimed at African development, specifically the reduction of poverty. This plan has some major ingredients: a new partnership between African governments and the international community; an African pledge to uphold standards of good governance; the meeting of specific pre-conditions such as peace and security and the promotion of regional integration in Africa (Mulikitha, 2003:51-53). More specifically, it proposed African good governance in exchange for G8 support which adopted the G8 Action Plan in 2002. Mills (2004:8) writes that good governance should never be treated as a tradable commodity which seemed to be implied by this Plan. African leaders should be promoting good governance regardless of the response of the developed world.

Where are these ideas coming from and are there any implications for integration? African unity is an ideal of Pan-Africanism whereas market integration dates from 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; and Maloka, 2002), and culminated in the OAU's adoption in July 2001 of the NEPAD, and the replacement of the OAU by the African Union in Durban on July 9th, 2002. At that time (June 2002), NEPAD leadership met with G8 leadership in Canada soliciting G8 support in exchange for African compliance with good governance criteria, including free elections and respect for human rights. The G8 response, as reflected in the Action Plan, was "rhetorically positive" (Samasuwo, 2004:1).

Before that, an important dimension was added with the adoption in Kampala of a vision of security co-operation in 1991, and resuscitated in 1999 by General Olusegun Obasanjo, president of Nigeria. This had linked security, stability and regional co-operation in a comprehensive fashion (Cilliers 2002(a):98). In this way, the Conference on Security, Stability, Development and Co-operation for Africa (CSSDCA) came into being. In 1999, Obasanjo, submitted this document to the OAU Summit in Algiers, which one-year later, adopted the Solemn Declaration on the CSSDCA in Lomé in 2000. It was then decided to implement this within the framework of the OAU, which had a Mechanism for Security Co-operation since 1993.

This is now replaced by the AU's Peace and Security Council (PSC), which will also take the African Standby Force on board. Funding and capacity

may remain big issues. The PSC is based on the Protocol Relating to the Establishment of the PSC of the AU of July 2002, and ratified on 25 May 2004. It establishes a Continental Early Warning System and an African Standby Force linked to sub-regional organisations (Solomon & Swart, 2004:13). The significance for NEPAD is that the attainment of peace and security on the continent is one of the most important self-defined pre-conditions for NEPAD's success. Strangely, neither the Constitutive Act of the African Union (2001) nor the NEPAD document as adopted in Abuja (in October 2001), referred to either the CSSDCA or the Peace and Security Council. Later amendments rectified this position. It is also fair to say that the PSC is a NEPAD and not an African Union initiative. However, at the time of the foregoing Lusaka Summit (July 2001) when the Constitutive Act was adopted by the OAU, it had decided to incorporate the old OAU Central Organ/Mechanism for Conflict Prevention, Management and Resolution, into the African Union under the mandate of the aforementioned protocol.

The events of 2001 and 2002 led to a broadening of the unity visions of the AU/NEPAD's predecessors. The old OAU was an intergovernmental organisation: now the new institutions are supranational and also more in numbers. This implies a theoretical loss of state sovereignty. NEPAD also added a set of good governance criteria: politically and economically, which are supposed to be managed by the NEPAD Peer Review Mechanism accountable to the African Union and NEPAD respectively. This kind of oversight was never part of the old structures.

The market integration vision that dates since the Lagos Plan of Action was also broadened and deepened, in this case to bring the private sectors of Africa, as well as of the industrialised North, as new partners into Africa. The main purpose of this partnership was to mobilise resources for Africa's development, specifically, the reduction of the continent's poverty by half in 2015 (it is claimed that 45% of Africans live in poverty). NEPAD analysts assume that this could be achieved by annual growth rates of 7%, which would require new resources equal to 12% of Gross Domestic Product and which translates into US\$64 billion (article 147 of NEPAD) from the G8 countries annually or more than triple current levels (CFR 2004: 8): this amount would derive from investment, aid, debt relief and market access as will be explained in greater detail below.

There are remarkable similarities between NEPAD's economic goals and those set out by the United Nation's Millennium Development Goals (MDG) adopted by 187 nations in 2000. This document also sets out poverty reduction as its first big goal. But this document does not deal with peer review or partnerships in particular, which make NEPAD unique.

This article will review the progress made so far. Are the partnerships working? There is an apparent link because "failure to convince both African States and the West of NEPAD's significance could cause the idea to fail" (Van der Westhuizen, 2003:370). And finally, what are the implications for integration?

The Road to NEPAD

The political issues of continental unity manifested in demands for decolonisation, and the promotion of unity through the institutions of the OAU (1963-2002). Until the mid-1970s there was a 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 – integration plans were subsequently made. This culminated in the creation 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 sixteen years later, 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. For example, the Southern African Coordinating Conference (SADCC) was formed in 1980, followed by the Preferential Trade Area for Eastern and Southern Africa (FTA) in 1981 and the North African Maghreb Area in 1989. Implementation was rather slow. 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). At the time this was very much a United Nations initiative. It might also have been inspired by the examples of co-operation and integration in Europe, such as the Treaty of Rome in 1957 that envisaged functionalist market integration followed by neo-functionalist supranationalism and the Euro-Union.

Then there was a shift from purely economic to security considerations as well (Clapham, 2001:61-63). Security became regional, while economic development became global. In West Africa, ECOWAS established a Ceasefire Monitoring Group (ECOMOG), to bring peace and order in Liberia (Ero, 1999). Similar processes took place in Southern Africa by the mid 1990s. Although the OAU was not the prime originator of these initiatives (the World Bank initiated many of them), it fully endorsed them at least rhetorically. The OAU's mechanism referred to above, was then created in 1993. It is in this context that the CSSDCA was born, followed by the AU protocol on the PSC, as implemented in 2004.

After Lagos (1980) and Abuja (1991), a new generation of post-liberation African leaders (the earlier Pan-Africanists were socialists) realised that unity at all costs meant not much more than Kwame Nkrumah's “seeking the political kingdom”: this was necessary, but not sufficient from a developmental point of view. External partnerships globally, as well as stability and markets domestically (Clapham 2001), became the missing links.

Although inspired by the integration ideals of Europe after the war, Africa also had an existing political imperative: Pan-Africanism (Geiss 1974). Kwame Nkrumah was Africa's main theorist on Pan-Africanism and an arch anti-imperialist and anti-capitalist. He pleaded for a “United States of Africa”

(with him as president), 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 become 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.

The year 1963 was also the year the OAU was founded and 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 at that stage, the founding act – the OAU Charter of 1963, also contained a contradiction that would fundamentally undermine Nkrumah’s vision ever since. This is the dual stipulation in Article II of the OAU Charter that the OAU will not only promote supranational unity (never realised under the OAU) but also defend the sovereignty and territorial integrity of independent states. It therefore disallowed intervention in the domestic affairs of African dictatorships. The retention of sovereignty thus made it an intergovernmental body (Meyns, 2002:61) stopping short of supranationalism. Although NEPAD envisaged something compatible with softer boundaries and easier intervention in the domestic affairs of governments guilty of bad governance, Article 4(g) confirms the principle of non-interference. But Article 4(h) and 23(2) make intervention possible under some conditions. However, an amendment to this Article restricted intervention to “serious threats of legitimate order”, and said nothing about misconduct (Cilliers & Sturman, 2002:29). Originally, the NEPAD peer review mechanism was envisaged to do the same. The subsequent rulings about the voluntary and non-punitive nature of this institution make this an unlikely possibility.

NEPAD is perhaps more closely related to the concept of an African Renaissance than to Nkrumah’s visions. Thabo Mbeki is widely credited as the mobiliser behind this concept. 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 (just as some critics claim that NEPAD is driven by the South African government for the sake of South African business, despite the claims to being an African initiative).

In hindsight it seems as if it was an idea whose time had come (Speio-Garbrah, 2001), because acceptance was quick. For example, KY Amoako, the executive secretary of the UN Economic Commission for Africa (UNECA, 1999) responded with a positive endorsement. Not unexpectedly, the European Union also supported the Renaissance concept (Mouradien, 2001). Eventually it led to the drawing up of several blueprints by African leaders and institutions. Mbeki’s Millennium African Renaissance Plan (MAP) was directly linked to this idea, whereas Senegalese President Wade’s Omega Plan focused on infrastructure and Nigerian President

Obasanjo's resuscitated CSSDCA. MAP and Omega were combined in July 2001 after the OAU ordered their merger in February 2001 and called it the New African Initiative (NAI).

After extensive consultations with the World Bank and the IMF, transnational corporations and the G8 (Miller, 2004:23), the name was changed to NEPAD. Then in October 2001, NEPAD was officially launched in Abuja, Nigeria with the interim secretariat located in South Africa. This is significant in the light of South Africa's perceived domination of NEPAD.

It was decided that NEPAD should be an integral part of the African Union. This was confirmed in Durban with its inauguration. This also implied that the AU's secretariat, the Commission, should take charge of the administrative management of NEPAD. But even before NEPAD's adoption by the African Union, an interim secretariat was established at the Development Bank of Southern Africa situated at Halfway House in South Africa. Meanwhile, the issue of chairperson of the Commission in Addis Ababa came to the fore. Business interests were apparently not satisfied with the former OAU Secretary General (Omara Essy) continuing in this role. This delayed the setting up of the AU Commission. Only in July 2003, Mr Alpha Konare, former President of Mali, was appointed. But by now, more speculation surfaced implying that NEPAD might be removed from the jurisdiction of AU Commission, and be managed by an autonomous legal entity to be located in South Africa (TWN-Africa Report, 2004:30). The implication is that new roles may be envisaged for the Industrial Development Corporation and Development Bank of Southern Africa, both of which are South African institutions. As it is, the NEPAD Business Group (see later) is dominated by mostly South African companies (DBSA, 2003:40), which reinforces the suspicion that NEPAD has already been captured by South African capital in its quest to dominate business in Africa (Miller, 2004:21).

As mentioned, NEPAD was the product of African visions shaped by African leadership, as well as Western financial institutions. Specific pre-conditions were stipulated that may be seen as similar to structural adjustment requirements often imposed by the West on highly indebted or poorly governed developing countries. In the case of NEPAD, the preconditions fall into three major categories: peace and security; political and corporate good governance and regional integration. The G8 Action Plan (of 2002) refers to the first two categories, and almost nothing to integration. As mentioned before Africa/NEPAD will be rewarded for "good governance" through mainly partnerships with the West, e.g. debt relief, development assistance, better market access and more foreign investment. Ian Taylor (personal conversation, May 2004), points out that very little, if anything has been said about capital outflow for which a number of corrupt, rich African politicians have been responsible in the past. Taylor points out that some of the same leaders have curiously endorsed NEPAD which made him wonder what it means when countries such as Angola buy into NEPAD, even into the peer review process, when it is generally known that oil revenue corruption exists on a massive scale in that country. Many issues, therefore, remain unanswered.

The Issue of Peer Review

The African Peer Review Mechanism (APRM) is of crucial significance in the context of good governance. It was not part of either the African Union or NEPAD documentation in 2001 or 2002. But Van der Westhuizen (2003: 373) states that the APRM emerged in response to a financing request in late 2000 by UNECA. Why it suddenly re-emerged in early 2002 could have been an attempt to allay Western concerns about the electoral crises and dropping standards of good governance in Zimbabwe (Ankomah, 2002). On the other hand, however, Mbeki and Obasanjo sold the idea about peer accountability to the West from the beginning but without being written into documentation before 2002.

In this respect, the Abuja Meeting of the OAU Heads of State and the NEPAD Steering Committee on 26 March 2002, was a watershed. It then took note, with approval, that the African Union would have a Commissioner for Democracy, Human Rights and Good Governance. It was the Zimbabwe election crisis of March 2002 that gave urgency to the Abuja ideas about peer review that was proposed by UNECA sometime earlier. The G8 were generally dissatisfied with African responses to the view that the elections were neither fair, nor free, or legitimate. It was in this context that 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). Then followed the Dakar Meeting of the NEPAD Steering Committee on 15-17 April 2002 which confirmed the idea that an African Union Unit would oversee NEPAD's African Peer Review Mechanism. This provided for an elaborative set of voluntary signing up processes, progress reports and review mechanisms. It also provided for self-assessment mechanisms that could be submitted appropriately to the African Union.

It was also indicated that it would co-operate with UNECA in this respect. Then the NEPAD Heads of State Implementation Committee met in June 2002 and approved a Declaration on Democracy, Political, Economic and Corporate Governance, which alluded to the APRM. In September 2002, UNECA produced a paper on the core indicators for tracking progress on three issues: political governance, institutional efficiency and economic and corporate governance (Turok, 2003:2). Both the political/human rights and the economic/corporate governance legs have since been separated, although these will be supervised by the same Panel of Eminent Persons – a seven member "Panel of the Wise", appointed by the AU in May 2003. Dr Graca Machel (Mozambique) and Dr Chris Stals (SA) are two of the members. It has been noted by Ian Taylor (personal communication, May 2004) that this Panel need not (but could) consult with civil society in African states.

In February 2004, 17 AU members met in Rwanda, and decided that peer review, now mandated by the Declaration on Democracy, Political, Economic and Corporate Governance, agreed to by the AU inaugural meeting in 2002 would be launched in April 2004, reviewing 19 states by March 2006. These included Ghana, Mauritius, Nigeria, Angola, Senegal and South Africa (out of 53 AU members, or only 35% bought in, implying that 65% remains outside). But when the PSC was established and the African Standby Force was launched in Addis Ababa in June 2004, four

more states (i.e. 23 out of 53, or 42%) bought in. With the exception of Sierra Leone, all the others are from the SADC region, namely Lesotho, Malawi, Angola, and Tanzania, who together with South Africa, Mozambique and Mauritius, brought the SADC total to 7 out of 14 (or 50%). This suggests an emergence of more compliance within the region. However, neither SADC nor its politics, defence and security organ were tasked to play any role in peer review.

The original idea was that the APRM would be able to intervene where bad governance took place. But a compromise, which may be seen as a capitulation, was eventually agreed upon by the end of 2002. The peer review (APRM) will now develop along two main streams: the Panel of the Wise will do the investigations, however, political and human rights will not be reviewed by NEPAD, but by institutions of the AU such as the Pan-African Parliament and the Commission for Human Rights; and economic and corporate governance – also to be investigated by the Panel, will fall under NEPAD. As mentioned, UNECA and the African Development Bank will assist in this process (Cilliers, 2003:2 & 13).

Also, the Memorandum of Understanding on the APRM made it clear that participation would not be obligatory, but voluntary. Sovereignty would therefore still be maintained intact. Moreover, the Panel cannot recommend penalties to the APRM (Stals, 2004:10). It is revealing that Botswana and Tunisia, two of Africa's better performers have not yet acceded to this process. Botswana spokesmen state openly that while it supported NEPAD, it sees little value in the peer review process as its reputation is good enough to serve its international commitments.

The Future of NEPAD: Other Issues

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 identified eleven Initiatives for which eight Draft Codes were recommended in Abuja in March 2002. The Durban Summit approved them all.

The eleven Initiatives are: (i) peace and security, (ii) democracy and political governance; (iii) economic and corporate governance including more efficient African banking as preconditions; the priority sectors are: (iv) human resources development, (v) upgrading infrastructure, (vi) diversification of agricultural production and exports, (vii) the environment and culture, (viii) science and technology, (ix) capital flows and debt relief, (x) creating market access – especially for African agriculture; and (xi) finally, a new global partnership in the realisation of these objectives.

The NEPAD documentation made a calculation of how big the annual investment, aid, debt reduction and market access package mobilised from foreign sources ought to be, to reduce Africa's poverty by half in 2015. The calculated figure is \$64 billion per annum as mentioned before. The West in general, or the G8 in particular, never agreed to this figure. Pledges also fall far short (Samasuwo, 2004:1-4). But in exchange for outside support Africa

undertook to produce stable environments and adhere to good governance. Partnership will therefore depend on good governance. This is AU/NEPAD's first big challenge: the problem of delivery, or rather non-delivery of good governance (Mills & Hughes, 2003). The Zimbabwean issue may have been the litmus test for NEPAD as indicated previously. The outbreak of new hostilities in the Ivory Coast, Nigeria, Liberia and Darfur in Sudan as well as ongoing conflicts in the DR Congo and the Central African Republic are problematical. However, the improved prospects for peace in Angola, Sierra Leone and the ending of the war between Ethiopia and Eritrea are positive trends. Equally positive is the election outcome in 2002 in Kenya where the authoritarian regime of Arap Moi came to an end.

While the aid, debt and market access debates have long been continuing, they tend to bypass NEPAD fora. For example, the Bretton Woods institutions and the G8 governments have announced plans to relieve the debts of heavily indebted poor countries. The UN's Millennium Development Goals as well as the Organisation for Economic Co-operation and Development (OECD) deal with issues related to official development assistance, and market access is dealt with within the structures of the World Trade Organisation, e.g. the Doha development round and recently in Geneva where India, Brazil and South Africa increasingly spoke out for developing nations (DBSA 2003:21-34).

Investment initiatives are the only ones increasingly African. But then it is not too difficult to see why Western, Chinese and Malaysian companies would invest in the African oil industry. Outside the oil sector it is mainly South African companies and state-owned enterprises such as Eskom Enterprises that are aggressively expanding into Africa. The corporate world has its own interests. The point is: "NEPAD projects" have so far had a very little life of their own. G8 moneys (falling short of promises) are for institutional reform, debt relief, increased aid and the promotion of peace and security. There is therefore no central fund at present, one that NEPAD would be able to spend. Moreover, all the moneys are tied to existing sources, usually through donor conditionalities.

In the past these have been imposed by the World Bank, the IMF and the donor community. In this context it first surfaced 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 that by introducing the word "partnership", the way was paved for a joint African/G8 document in which more conditionality was introduced. He comments that the conditionalities are less publicised (but implicit in good governance), and may redirect finances to projects that are primarily of importance to foreign direct investors rather than Africans in the rest of Africa.

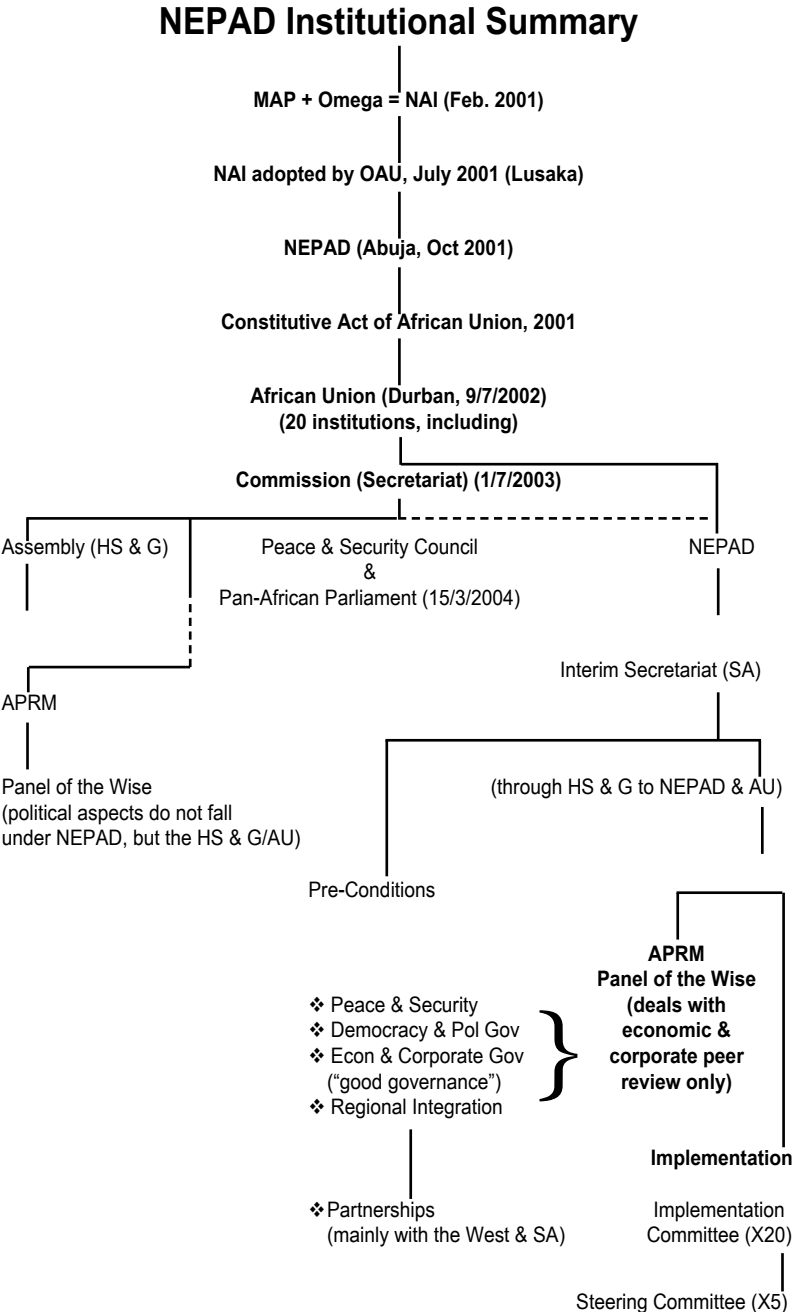


Figure 1: NEPAD Institutional Summary

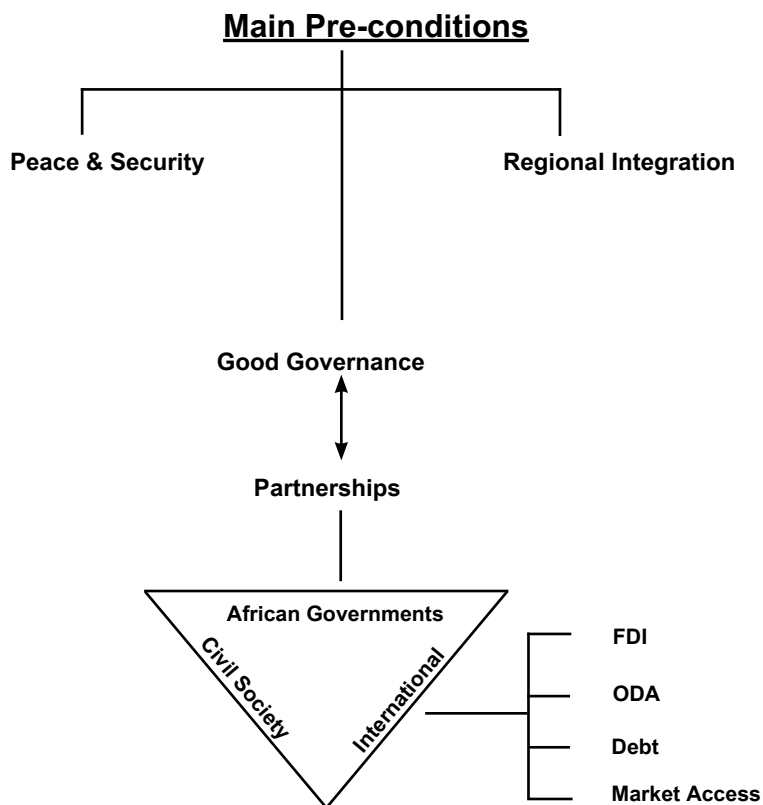


Figure 2: NEPAD Preconditions and Partnerships

Then there is the question of membership. All AU member states are potentially participants in the NEPAD process. But as mentioned, membership is voluntary. States such as Libya (invited to join the Implementation and Steering Committees) or Zimbabwe will have the right to stay out voluntarily. It will also be interesting to see whether Libya, the driving force behind the African Union (before the Sirte Declaration of 1999), a participating member in the enlarged Implementation and Steering Committees (Katzenellenbogen, 2002), but opposed to NEPAD, will benefit from NEPAD projects. The answer is probably not, because Libya has now abandoned terrorism and spoke out against weapons of mass destruction which should bring it bilateral rewards from G8 countries. Gaddafi might now care less about NEPAD than in the past. His restored bilateral access to Western markets for Libyan oil might overrule his recent enthusiasm for Africa.

The partnership role of private capital is another contentious issue. For this purpose a NEPAD Business Group has been established, and it represents over 350 companies, mostly from South Africa, but also from about a dozen other countries, plus the EU and the US (DBSA, 2003:40). They act as intermediaries between NEPAD and specific companies, who might be interested in specific projects. But the lack of project specifics as referred to above has been hampering progress. Also, with the NEPAD Business Group dominated by South African business, the question might be asked whether NEPAD has become the economic policy tool of South Africa's foreign policy in Africa. In such a case, the perception may arise in Africa that NEPAD has become a vehicle for South African economic domination of Africa. Another trend can also be observed, and that is that there is a bigger number of trading and services companies investing in Africa pre-dating NEPAD (e.g., Stanbic Africa, MNet, DSTV, MTN, Vodacom, Nedbank, Alexander Forbes, PriceWaterhouseCoopers, Dimension Data, SABMiller and Liberty) than companies investing in infrastructure or manufacturing. Dot Keet (2003:43) makes the point that NEPAD is not only being driven by the South African government, but also serves specific economic interests within South Africa. This is only to be expected as South African companies are arguably the most competitive on the continent.

The movement of South African capital and entrepreneurship in mainly the retail, financial and services sectors beg two questions: is integration taking place in line with past plans such as Lagos, Abuja and NEPAD; and in whose interests? The infrastructural work done, for example, by Eskom Enterprises is certainly in line with these visions. But the rest is perhaps more likely to integrate African markets into the South African one, instead of the other way around. The problem with this is that unequal trade takes place and production, job creation, export earnings, for example, are not stimulated. It is rather a case of the consumption of South African goods and services and exports in Africa. To be sure, African market integration into South African export markets takes place faster than North/South integration in Africa, or the integration of Africa's five regions, into a single continental entity.

Conclusion

The AU and NEPAD became official African institutions in 2002. Since then, the following were implemented: the Commission, the Pan-African Parliament, enough ratifications for the implementation of the Peace and Security Council, and the African Peer Review Mechanism with its Panel of Eminent Persons / Panel of the Wise. Regional bodies played almost no role in all of this. At the time of writing 23 member states voluntarily offered to be peer reviewed beginning with Ghana. Half of SADC are members of the APRM, making SADC the most peer review friendly region in Africa. The non-participating SADC states include Swaziland, Namibia, the DRC and Zimbabwe. As long as they remain outside the rules that imply convergence, integration will be unfinished business, and peer review meaningless, if desired outcomes cannot be imposed.

NEPAD also has a NEPAD Business Group under the chairmanship of Reuel Khoza, Chairman of ESKOM. During the May 2004 meeting of the World Economic Forum in Maputo this group expressed their frustration with NEPAD's slow review system, and threatened to invent its own review system side-tracking the APRM. The slow pace of project implementation was also criticised and the secretariat refused to take responsibility for this. Referring to the UN's Millennium Development Goals which are almost identical to those of NEPAD, Jeffrey Sachs (2004) commented that although Africa's plans are on the table, the financing is not. Part of the problem is that the APRM was split and that the political aspects of good governance were taken away from NEPAD and been allocated to the AU away from NEPAD and its Western partners where clout might have resided. But now the outside world (for example, the G8 nations) seems to have other priorities: Iraq, oil, the Middle East, even North Korea, and partnership with China. For Africa, to recapture the imagination of civil society and/or Western partners, the rumours about NEPAD separating itself from the AU might be one blessing in disguise. The crux here, is peer review.

Meanwhile South African penetration of Africa continues, and other NEPAD-type of issues, such as official development assistance (ODA), negotiated with the United Nations, debt relief, negotiated with the OECD nations, and market access, negotiated by India, Brazil, South Africa and China, have all by-passed Africa because they are negotiated elsewhere. On the security front, however, progress has been made with the PSC and the African resolve to solve its own problems. Here, the African Union has stepped in. The AU must not only promote peace and security, it must also promote democracy and development: and regional organisations such as SADC must redirect themselves to become relevant in this process. Why does it not offer to assist in peer review?

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The new Southern African Customs Union Agreement (SACUA): Challenges and Prospects

Colin McCarthy

Introduction

The Southern African Customs Union (SACU, with Botswana, Lesotho, Namibia, South Africa and Swaziland as Member States) is for a number of reasons an interesting case in the African experience with regional integration arrangements. First, it is rather unexpected to find the oldest and most effectively operating customs union in the world in Sub-Saharan Africa, a region that “has the largest number of regional groupings in the world”, but also “the largest number of ineffective or dormant arrangements” (De la Torre & Kelly, 1992: 25). Second, SACU owes its origin and longevity to its colonial history, which in the end combined disparate but interdependent economies into a necessary integration arrangement. The SACU experience has been unique and impossible to replicate. Third, the inequality in economic size and level of development that exists between the Member States and the ways this has and could be dealt with are an interesting case study of a phenomenon that characterises many integration arrangements. Fourth, related to its unique history and longevity is the fact that SACU has survived its colonial origin and specifically the experience of African states being in a customs union with apartheid South Africa.

But perhaps most instructive is SACU's adaptation of its governing arrangements to accommodate new circumstances. The 1969 Agreement replaced the 1910 Agreement in reaction to the independence of Botswana, Lesotho and Swaziland. Both the 1910 and 1969 Agreements have on a number of occasions been amended. The new SACUA (hereafter referred to as SACUA2002), signed by the heads of the Member States in October 2002, can in turn be seen as a fundamental change to provide for a new approach in lieu of democratisation in South Africa. Having a democratic South Africa in the customs union has totally changed the perceptions of and expectations for the role of the largest economy in the operation and management of SACU.

SACUA2002 has important implications for the operation of the customs union and for the economic development of its members and the wider region. The new agreement differs in fundamental ways from the current (1969) agreement (hereafter referred to as SACUA1969), especially with respect to revenue distribution and the management of the customs union. As far as the latter is concerned, for the first time a formal dispute settlement body and designated SACU institutions are provided for that will take decisions on the basis of consensus, with majority-voting only in the case of

dispute settlement. A conspicuous feature of the new revenue distribution formula is that, in contrast to the current system that guarantees Botswana, Lesotho, Namibia, and Swaziland (BLNS) a minimum revenue rate of 17 per cent, the size of the revenue pool will now be an important variable for all SACU Member States.

A perusal of SACUA2002 makes it clear that many unanswered questions remain on the interpretation and implementation of the Agreement, which gives it the appearance of a framework agreement. The detail of answers to many questions will be provided in a series of side agreements, appended as annexes, which will give more content to the framework. Annex A on revenue distribution has been adopted by all SACU member states. At the time of writing two draft annexes on institutional arrangements, namely B on National Bodies and C on the Tariff Board, exist. These two represent proposals by South Africa, which have not been adopted by BLNS and are likely to change in the process of negotiation. However, this paper accepts the annexes as a reasonable starting point and incorporates them in the discussion

Acceptable criteria or guidelines are required for an appraisal of SACUA2002, specifically to answer the central question that this paper addresses: will the Agreement, once implemented, succeed? Success in this respect is meant to encompass an appreciation by Member States that they are all benefiting equitably from membership and that the economic welfare of members, individually and collectively, is served by being part of SACU.

To answer the question, guidance first is sought in the likelihood of SACUA2002 solving the problems that members have been experiencing under the current regime. The premise is that SACUA2002 will have to address these problems if the customs union is to survive and prosper. If unsuccessful in this respect, the implementation of the new agreement will represent a false dawn for the new agreement. However, the perceived problems cannot be considered without having regard for the objectives of SACU, as set out in the articles of the Agreement and in its preamble.

The paper has an underlying theme that is derived from a view on the principal goal of regional integration arrangements, especially where developing countries are involved. A regional integration arrangement must encourage and facilitate economic growth and development to an extent and in a way that is not possible without such an arrangement. This means that participating countries must all derive growth and development benefits from the arrangement *per se*. However, while all member economies must proceed along an upward growth path, this path must be one of economic convergence. The growth process, in other words, must lead to greater equality between Member States with respect to the measures of economic welfare and development. In the case of SACU this would mean that the income convergence that manifested itself until 1980 (see Hartzenberg, 2003: 176-177) should be resumed.

SACU Objectives and Current and Past Problems¹

SACUA1969, which came into operation on 1 March 1970, in its preamble presents the maintenance of free trade behind a common external tariff as an objective. However, it was envisaged that free trade within the common customs area would be managed in a way that will “ensure the continued economic development of the customs area as a whole, and to ensure in particular that these arrangements encourage the development of the less advanced members of the customs union and the diversification of their economies, and afford to all parties equitable benefits arising from trade among themselves and with other countries” (Republic of South, 1969: 1). Asymmetry in development was anticipated, with industrial development concentrating in the high-growth metropolitan areas of South Africa because of the forces associated with the economies of agglomeration.

The need to deal with the inequality between Member States is also captured in the preamble to SACUA2002, with the contracting governments declaring themselves “mindful of the different levels of economic development of the Member States...” but also reflecting the new environment of global economic integration with its emphasis on multilateral trade liberalisation by placing this economic development within the context of “...the need for their integration into the global economy” (SACU Agreement, 2002). Reading the preamble together with the objectives of the Agreement, listed in Article 2, three important distinguishing elements can be added to the identification of global economic integration that sets SACUA2002 apart from SACUA1969:

- The creation of effective democratic institutions, including provision for dispute settlement;
- The provision of common institutions to be accompanied by the adoption of common policies and strategies; and
- The recognition of “the importance of tariffs as instruments for the implementation of industrial development policy” (Southern African Customs Union Agreement, 2002: Preamble).

The identification of the tariff's importance as an instrument of industrial policy may at first sight not appear all that important. What is significant is the absence of any explicit recognition of the tariff as a source of revenue. For the smaller customs union members, Lesotho and Swaziland in particular, the revenue generated by the customs union agreement has always been an important, if not overriding, consideration, while for South Africa the tariff is foremost an instrument of trade and industrial policy. Given the emphasis that the smaller SACU Member States have always placed on revenue, the recognition given upfront to the role of the tariff in industrial policy, without mentioning the revenue effect, seems to be an important point of departure.

¹Later parts of this section draw on McCarthy (2003).

Since SACUA1969 came into operation, it has been contentious and the subject of much, often heated debate and at times threats of unilateral withdrawal from the customs union were made. By and large the arguments presented in an extensive literature on the topic contended that the smaller Member States (Botswana, Lesotho and Swaziland with Namibia having joined at independence in 1990, collectively referred to as BLNS) were not receiving an equitable share of the benefits generated by the customs union and that South Africa, by far the largest and most developed of the Member States, has been receiving the lion's share. However, there was also a strong South African perception that the opposite applied. As alluded to earlier, these problems need to be addressed if the customs union is to survive and prosper, and as will become clear, some of the objectives and consequently some of the provisions of SACUA2002 have been identified as required to solve the problems. But what are these problems?

SACUA1969 and the operation of the customs union, it is argued, are flawed in important respects. These problems can be grouped into two categories. First, there are those that can be regarded as fundamental, being inherent to the structure of the customs union. Second, there are problems of a more operational nature, like time lags in the distribution of customs union revenue and important customs procedures and control measures. But the crucial question in appraising the new SACUA would be to ask whether the fundamental problems are likely to be addressed adequately. In this regard a number of issues can be identified.

First, under the current agreement the SACU common external tariff is the South African tariff, managed by South African authorities, primarily in the interest of the South African economy. The same applies to excise duties. Article 5.1 of SACUA1969 requires South Africa to give "the other contracting parties adequate opportunity for consultations before imposing, amending or abrogating any customs duty..." (Republic of South Africa, 1969). However, consent of the other parties is not required, while article 5.2 also obviates the need for consultations where interim measures are implemented to protect an industry, pending a full investigation by the South African authorities. South Africa can in practice change tariff levels unilaterally. Consequently, BLNS have little say in their trade policy and in the levying of duties that contribute a major part of their revenue. In short, SACU's governance is not democratic; it is characterised by an absence of equality in the management of the customs union.

Managing the tariff level under the current regime of one-sidedness becomes very delicate, considering, as a second problem, the different perspectives that exist on the role of the tariff. South Africa regards the tariff as an instrument of trade and industrial policy and has since 1994 been committed to a lowering of the tariff, whether multilaterally within the WTO system or within the framework of preferential trading arrangements. BLNS, however, have a different view of the common tariff, derived from it being the major contributor to government revenue, a consideration regarded as negligible in South Africa.

A third problem concerns the mechanisms that exist to address the drawback for BLNS of being part of a common customs area with a much larger and more developed economy. SACUA1969 contains special provisions to encourage industrial growth in the smaller SACU members who, in their adopted development strategies, have demonstrated that diversifying growth through industrialisation is the chosen development approach. The 1969 Agreement provides for exemption from the single customs union tariff and the free flow of goods in the common customs area by allowing the smaller Member States to protect industries designated as infant industries (article 6) or as of special interest to their economies (article 7).

But the most important measure to compensate for inequality is the revenue-sharing formula used to calculate revenue shares for the BLNS countries, with South Africa's share determined as the residual. The formula contains a multiplier that enhances BLNS revenue receipts by a nominal 42 per cent, but with a revenue rate (the rate of revenue earned on imports and excisable consumption) stabilised around a target level of 20 per cent, within a band of 17 per cent at the lowest end and 23 per cent as the maximum. This means that BLNS have a guaranteed minimum revenue rate of 17 per cent on import values and excisable consumption and production. The adequacy of the compensation built into the revenue distribution formula and the effectiveness of the special provisions to encourage BLNS infant industries have been questioned by BLNS.

But problems with SACUA1969 do not only arise from a BLNS point of view. A fourth problem is a South African view that SACU can become an overly expensive fiscal exercise. This problem is perceived to be aggravated by the inclusion of excise duties in the revenue pool and a stabilised revenue rate that has produced an effective multiplier far in excess of the formula's 42 per cent. It can be envisaged that the constraint on the growth in customs revenue associated with multilateral and preferential trade liberalisation, on the one hand, and the guaranteed revenue rate of at least 17 per cent for the fast-growing BLNS on the other, can raise the revenue transfer to BLNS to a level that eventually could exceed the size of the pool. Hypothetically, South Africa would then have to supplement revenue from other sources since there is no stipulation in SACUA1969 that the residual that remains for South Africa must be a positive sum. It should also be noted that the current mechanism that determines South Africa's share of revenue as the residual, means that only South Africa is affected by the size of the pool and the impact that trade liberalisation has on it.

Finally, although it never featured prominently in the debate on the operation of SACU, the post-Uruguay deregulation of South African agriculture and the replacement of quantitative import control with tariff protection represent a challenge to SACU relations. BLNS have interpreted the SACUA as giving them the right to close their borders for certain products, mainly from South Africa. The current situation is that South Africa has abolished marketing control in agriculture while BLNS still regulates agricultural marketing, falling back on their interpretation of SACUA to control imports from South Africa on the basis of domestic supply conditions.

These problems and the history of SACU as an arrangement that until 1994 had to deal pragmatically with a situation of small but politically independent African states being locked into an integrated economy with apartheid South Africa, impel reflection on the causes of SACU's longevity. How does one explain the survival of SACU as an integration arrangement, while so many others have failed? This seems to be an important question whose answer deserves some consideration in any appraisal of SACUA2002 as a framework for the future development of the customs union. The answer to the question might be found in two prominent reasons for the failure of regional integration arrangements. The first is the existence of economic asymmetries and consequently the unequal distribution of the benefits of integration, and the second is the reluctance of member states to sacrifice control over economic policy, i.e. policy sovereignty, to a supra-national regional body (McCarthy, 1999).

In the case of SACUA1969 an explicit mechanism exists to compensate for economic asymmetry, with the dominating economic member willing to bear the cost of such an arrangement. This has to be taken into account, even if the adequacy of the compensation is in dispute. Part of the compensation has been for the loss of policy independence for BLNS. Leaving the affairs of SACU for South Africa to manage effectively serves as a substitute for designated SACU institutions that would have been required to act on behalf of the Member States in the common interest of the customs union. Managing SACU's affairs in this way has evolved historically and is deeply imbedded in the colonial experience of the region and in the subservient position of BLNS. Clearly, this arrangement could not be durable in the long run, especially where the "long run" has brought about a democratic South Africa with whom BLNS could, without hesitation and qualification, associate politically.

Achieving SACU Objectives

Considering the objectives accepted for SACU and the problems experienced with SACUA1969, a number of questions can be asked with respect to the customs union arrangement as a source of revenue, the management of the common external tariff and consequently the need to have a common industrial policy, and the operation and management of the institutions that will have to run the affairs of the customs union. As will become clear, many issues are connected; for example, using the tariff as an instrument of industrial policy has implications for the revenue generated by the tariff and has to be managed by SACU institutions in a way that satisfies the expectations of Member States.

In addressing the three issues of revenue distribution, industrial policy and institutional arrangements the paper has a narrower focus than the overview of SACU2002 that Trudi Hartzenberg (2003) contributed to Volume 3 of the Yearbook, on which this paper builds.

Revenue

Earlier, mention was made of the absence of any reference to the generation of revenue or the maintenance of the import tariff as a source of revenue, that is, apart from the need "to facilitate the equitable sharing of revenue arising from customs, excise and additional duties levied by Member States.." (SACU Agreement, 2002, Article 2 (g)). Recognising the importance of equity in the distribution of revenue is obviously not the same as to acknowledge the importance of trade taxes, the import tariff in particular, as a source of government revenue for developing countries. Developing countries, especially those in the low income group, often have poor and narrow tax bases. Direct personal and corporate taxes provide little revenue in these economies, which forces them to revert to indirect taxes, and in this category the import tariff is relatively easy to administer and also less transparent than other forms of indirect taxes such as a value added tax.

This explains the relatively large contribution of international trade taxes to revenue in African countries. According to data published by the International Monetary Fund, taxes on international trade and transactions contributed on average 30.3 percent of total revenue in 28 African countries, compared to an average of less than 1 percent for 24 industrial countries² (International Monetary Fund, 2002: 4). In the group of African countries the shares of trade taxes in total revenue are 2.92 percent for South Africa, 12.36 percent for Botswana, 47.67 percent for Lesotho, 37.05 percent for Namibia and 51.94 percent for Swaziland. The correlation of these contributions with the level of development and per capita income of the SACU Member States is conspicuous. It should be noted that Botswana's revenue position, compared to that of Lesotho, Namibia and Swaziland is considerably improved by the large contribution of nontax revenue generated by the diamond mines, which is substantially larger than tax revenue (International Monetary Fund, 2002: 67). If the contribution of trade taxes to tax revenue is considered, the following picture emerges for the SACU Member States (based on averages for the two most recent years): Botswana, 37.5 percent; Lesotho, 63.5 percent; Namibia, 37.3 percent; South Africa, 2.8 percent; and Swaziland, 53.2 percent (International Monetary Fund, 2002: 67, 252, 297, 391, 406).

In SACU, the relative size of the contribution of customs union revenue accruals to government revenue reflects the importance of a guaranteed minimum revenue rate in a dispensation that renders the size the revenue pool irrelevant for BLNS. Under the new agreement all members, including South Africa, will share revenue on the basis of a common formula. Excise revenue, contrary to conventional customs union practice and initial expectations, will be kept within the revenue distribution mechanism but

²The members of the European Union are included in the list of industrial countries. In the case of the EU, however, the respective countries are allocated no revenue from trade taxes. These taxes go into the coffers of the Commission to fund expenditure.

distributed separately and on the basis of different criteria. The difficulty to administer separate excise regimes in a region with porous borders has led to the decision to keep excise in the common revenue pool.

SACUA 2002 determines (Article 34.2) that revenue will only be allocated to Member States after the budgeted cost of financing the SACU institutions (the Secretariat, the Tariff Board and the Tribunal, to discussed below) has been deducted proportionately from the gross amounts collected and paid into the pool. Allocations will then be made from the pool to the five Member States in three components - customs, excise and development components.

The *customs component* recognises the importance of customs revenue for BLNS and its distribution has been designed to benefit the smaller SACU members, with pooled customs revenue to be distributed according to each country's share in total intra-SACU imports. A member's percentage share in the customs pool for a specific financial year will be equal to the member's CIF (cost, insurance and freight) value of goods imported from all other SACU members, less re-exports, as a percentage of the total CIF value of intra-SACU imports, less re-exports. BLNS import relatively more from South Africa than the other way round; hence, the BLNS shares will be relatively high compared to that of South Africa. During 1998/99 South Africa's imports from BLNS came to R7520 million while total intra-SACU imports amounted to R36 706 million. On this basis the new formula would have allocated South Africa 20.5 percent of the revenue pool to which South Africa would have contributed about 80 percent. On a similar basis Botswana would have received 26.6 percent, Lesotho 13.4 percent, Namibia 24.9 percent and Swaziland 14.6 percent (World Trade Organization, 2003: 11).

The distribution of the customs component reveals a number of issues and possible future problems. It is clear that the architects of SACU2002 have recognised the dependence of the smaller SACU members on customs union revenue and consequently agreed on a revenue sharing formula that would provide BLNS with revenue protection. Linking revenue distribution to intra-SACU imports, bearing in mind South Africa's large trade surplus with BLNS, is also presented as compensating BLNS for the cost-raising and polarisation disadvantages of being in a customs union with South Africa (Ngwenya, 2002: 28).

But the future looks less bright with respect to customs revenue if cognisance is taken of the determinants of this revenue component, that is, the tariff level and the volume of imports and its composition. As far as the tariff level is concern, reference has earlier been made to the need expressed in SACUA2002 to integrate the Member States into the global economy. This and the active policy of multilateral and bilateral trade liberalisation pursued by South Africa, which is apparently taking the initiative in SACU efforts in this regard, imply the lowering of tariffs in years to come. The impact on revenue of the lowering of MFN rates through multilateral trade liberalisation is reinforced by preferential trading arrangements, such

as the SADC free trade agreement, but more importantly, the free trade agreement concluded between South Africa and the European Union, South Africa and SACU's most important trading partner. Furthermore, free trade agreements are in the process of being negotiated between SACU and the USA and MERCOSUR respectively, with talk of initiatives to negotiate agreements with India and China. To this must be added the negative impact on customs revenue of the increasing use made of tariff rebates as an instrument of industrial policy.

Clearly, as the MFN rates fall and tariffs are progressively lowered and eventually removed as free trade arrangements are phased in, the size of the customs pool will shrink. Since customs revenue is the product of tariff levels and the f.o.b. value of imports (as well as the volume, when specific duties are taken into consideration) the impact of lower tariffs on customs revenue will partially depend on growth in imports and, in the absence of a single (uniform) tariff, on the distribution of the tariff across tariff lines. Since imports are mainly driven by income growth it is not totally unrealistic to envisage that robust economic growth could at least moderate the impact of a fall in tariffs on customs revenue. Nevertheless, the future for customs as a source of revenue is not rosy. In fact, "SACU members acknowledge that in order to promote long-term economic growth, they need to move towards sources of income other than the SACU revenue pool, and advance their fiscal reform process" (World Trade Organization, 2003: 10).

It falls outside the scope of this paper to discuss fiscal reform, but one observation would in context seem appropriate. In view of the earlier remarks on the nature of the tax base and its implications for the ability to raise tax, it is important to note that the development of a diversified economy and the encouragement of economic growth and development is a prerequisite for broadening the range of tax revenue sources. Inasmuch as SACU is seen as an arrangement that must facilitate the economic development and growth of its member states, the effective operation of the customs union in itself represents a move in the direction of fiscal reform. This implies that the use of the tariff as an instrument for the implementation of industrial development policy, as envisaged in SACUA2002 and propagated by South Africa, indirectly becomes an instrument in broadening the tax base.

Finally, it must be noted that the new formula for the distribution of customs revenue will have to be computed on the basis of the trade data that Member States will be expected to submit to the SACU Secretariat at least six months before the beginning of any financial year (Annex A, 1.b). Should this not be possible, the share of the Member State concerned will be calculated on the basis of the intra-SACU export data of the other Member States.

The capacity issue will be discussed below, but at this point it may be meaningful to note that the distribution of the customs component will require capacity and technical skills in the collection of trade data of a high standard. Because of the intra-SACU nature of the formula, import shares

will be subject to control through conciliation. Procedures and skills that currently are not available in SACU customs administration will have to be developed if the system is to work effectively.³

The *excise revenue component* of the revenue allocation will consist of the total duties levied and collected on goods produced in the common customs area, after subtraction of the amount that goes toward the funding of the SACU institutions plus a further deduction to fund the development component of revenue allocations has been subtracted. Since the initial provision is to allocate 15 percent of excise revenue to the development component, the maximum amount available for distribution under this heading is 85 percent of the excise pool. Of this a Member State will receive a percentage share equal to the ratio of its GDP in a specific year to the total SACU GDP during that year. On the basis of GDP values for 1998, South Africa would be allocated 92.8 percent of the available excise component, thus producing a share of 79 percent (92.8 percent times 0.85). Botswana would receive 3.0 percent, Lesotho 0.5 percent, Namibia 1.8 percent and Swaziland 0.8 percent (World Trade Organisation, 2003: 11).

South African authorities regard excise duties, in contrast to customs duties, as an important source of revenue. It is a progressive tax, or linked to the consumption of "sin goods" (tobacco and alcoholic beverages), and an appropriate instrument to raise tax revenue to finance much needed social expenditure. While accepting that for practical (administrative and control) reasons excise duties had to stay in the revenue pool, South Africa's negotiating stance probably was to protect this source for its own fiscal purposes. Under the current dispensation the large spill over into the coffers of BLNS makes it an unproductive domestic tax from a South African point of view.

The *development component* of the revenue allocation is officially said to give Lesotho, Namibia and Swaziland, the Member States most dependent on SACU revenue, some protection against the decline in the real value of the revenue pool brought about by bilateral and multilateral trade liberalisation and South Africa's increasing use of tariff rebates (Ngwenya, 2003: 29). The development component will perform a top-up function; the initial 15 percent share is subject to review and could be adjusted should the customs union revenue share received by any country, including South Africa, fall significantly.

Since this component aims to facilitate development in a customs union of unequals, the logical approach was to fashion its distribution in a way that would favour the economically lesser-developed Member States. In calculating the development component payable to Member States, the per

³In a communication with a researcher, Derek Hudson relates the anecdote of a problem at the Trade Statistics Unit of Botswana's Central Statistics Office, who implemented a software package that in interface with a software package of Customs caused a failure in the system (Hougaard, 2004: 49).

capita GDP of Member States will serve as a strategic variable in a formula that is structured to benefit marginally the least developed SACU states. If a Member State's GDP per capita equals the mean GDP per capita of all Member States, this member state will be allocated 20 per cent (one fifth) of the development fund. Member States with GDP per capita below the group's mean will receive more than 20 per cent and members with a GDP per capita above the group's mean will be allocated less than 20 per cent of the development fund. However, it was agreed to deflate the per capita GDP deviation from the SACU average by a factor of 10, thus ensuring revenue stability for all Member States. The introduction of the deflator brings allocations of the development to nearly 20 percent of the development component for all Member States. On the basis of 1998 GDP data it has been estimated that Botswana and South Africa would each receive 19 percent, Namibia 20 percent, Swaziland 21 percent and Lesotho 22 percent (Kirk & Stern, 2003: 10).

The inclusion of South Africa in the revenue distribution formula has important ramifications. Removing the guaranteed revenue rate for BLNS will not only render the size of the revenue pool relevant for all Member States but will also make it easier for SACU membership to be expanded. Article 6 determines that new members may join the customs union following a unanimous decision by the Council to this effect. Removing the residual factor for South Africa's revenue share and constructing each member's share on the basis of proportionality, albeit weighted in favour of BLNS in the case of customs revenue, will make membership expansion financially less onerous for South Africa than a guaranteed minimum revenue rate. Interest in joining SACU is known to exist, with Mozambique apparently being a serious and interested contender. Such expansion will set in motion new dynamics in the process of regional integration in southern Africa since it will create the phenomenon of a growing inner core of deeper integration within SADC.

Common Industrial Policy

Part Eight of SACUA2002, under the heading "Common Policies", provides for industrial development policy (Article 28), agricultural policy (Article 39), competition policy (Article 40) and unfair trade practices (Article 41). In the case of industrial development the Agreement requires the development of *common* policies, whereas for agriculture and competition the key word is *co-operation* in policy formulation. Article 41 on unfair trade practices (one would presume, dumping in each others' markets) is the only article in Part Eight that explicitly provides for policies and measures to be annexed to the Agreement. The emphasis in this paper falls on industrial development policy because the efforts of Member States in this respect will in the end determine the success of achieving an equitable distribution of economic activity with the SACU area.

Managing a common external tariff as an instrument of industrial policy as a matter of course implies that SACU Member States will have to accept a

common industrial policy of some kind. As has been emphasised earlier, under SACUA1969 the common external tariff that applies is that of South Africa who manages the tariff in the first place to meet its industrial development needs. Since the common customs area is characterised by an unequal distribution of economic development an obvious objective of the common industrial policy will be to bring about a more even distribution of economic activity. Regional economic development policy is a common feature of all national economies that experience regional inequality. These policies are known to be difficult to implement effectively and are often controversial. Extending regional development to fit into an industrial policy that has to be applied within a regional arrangement of independent, sovereign countries is bound to be a more difficult and contentious exercise.

At the outset it should be noted that the revenue distribution mechanism, discussed above, recognises the unequal development of the Member States. This features indirectly in the way that the customs component is distributed on the basis of import shares in intra-SACU trade and in linking the distribution of the development component - funded by a 15 percent levy on an excise duty pool of which significantly more than 85 percent is generated on excisable production and consumption in South Africa - to per capita GDP. However, the development component only represents a marginally larger contribution for "below-average" than for "above-average" Member States and is absorbed in the current revenue of Member States. The component is not a source of dedicated funding for development projects in lesser developed states along the lines found in the European Union. According to Kirk and Stern: "Any form of explicit compensation, such as the establishment of a development fund, was rejected by the smaller Member States" (2003: 14). This position can perhaps be explained by the view that the development component is to serve a top-up function with respect to revenue accruals.

The provisions of SACUA2002 that specifically cater for economic development, in the context of existing inequalities, are found in the exceptions to the general rule of free trade within SACU and, by implication, in the provision for a common industrial policy. The 2002 Agreement follows the 1969 Agreement in providing for the protection of BLNS infant industries. Article 26 determines that BLNS "may as a temporary measure levy additional duties on goods imported into its area to meet competition from other producers or manufacturers in the Common Customs Area..." To qualify as an infant an industry may not have been established for more than eight years in a Member State, which means that existing industries can be classified as "infants" as long as they are not older than eight years. Protection is not to last for more than eight years.

This measure could assist the development of small domestic industries, but an important constraint is that the individual BLNS markets are too small to allow the development of viable industries as part of an extensive import-substituting strategy. However, even in small markets certain

industries that produce non-durable and semi-durable consumer goods (processed food, clothing and furniture, for example) can achieve significant scale advantages and could benefit from protection against South African producers in particular. This protection could also serve an incubator function, allowing domestic industries to develop capacity that will permit entry into export markets, that is, producing for the rest of SACU (mainly South Africa) and further afield.

As noted earlier an important requirement of a common external tariff that serves as an instrument of industrial policy is to agree on a common industrial policy. Article 38 of SACUA2002 deals with industrial development policy. Article 38.1 recognises “the importance of balanced industrial development of the Common Customs Area as an important objective for economic development” and Article 38.2 continues that in pursuance of this objective the Member States “agree to develop common policies and strategies with respect to industrial development”. It is clear that the responsibility to develop common policies rests with the individual Member States, with the implicit understanding that current policies will remain in place pending the development of and agreement on a common policy. It can also be concluded that a provision for common policies to achieve the balanced industrial development of the common customs area, has economic converge in mind.

At this stage no annex exists that explains what the concept of “common industrial policies”, and specifically *industrial policy*, is understood to mean. In the literature and in the perceptions of policy makers the only common ground would be found in the notion that industrial policy encompasses selective intervention by government to allocate resources to more productive use in the industrial sectors of the economy. However, beyond this, views can differ substantially to vary from the development of dedicated infrastructure and technological development, i.e. soft targeting, to the other extreme of hard targeting where incentives are used to encourage the growth of selected sub-sectors of industry, the so-called winning industries.⁴ Furthermore, it is not clear how the common industrial policy will emerge. Given the diverse nature of the SACU member economies it can be envisaged that the process to develop common policies will be difficult and a strain on the relevant institutional apparatus. It can be envisaged that in the end the primary thrust of such a policy will be regional industrial development. And to complicate matters even further, consideration has to be given to the fact that industrial policy can employ a wider range of measures than those used in trade policy. For example, a co-ordinated tax policy within SACU could serve as an instrument of regional industrial development to encourage investment in BLNS vis-à-vis South Africa.

⁴For example, Ha-Joon Chang, who has published widely on industrial policy, leaves readers in no doubt that he prefers the narrow definition, “which defines targeting (mainly, but not exclusively, at the sectoral level) as the ‘core’ of industrial policy”, to the exclusion “from the realm of industrial policy those ‘general’ policies such as a pro-investment macroeconomic policy, general support for R&D, or human resource development.” (Chang, 1997: 3).

Nevertheless, if all Member States agree to develop common industrial development policies the end result will be a SACU policy that will specifically aim to bring about balanced industrial development within the common customs area. This can hardly be interpreted in any other way than that the industrial policy should contain a regional component to benefit the economically less developed Member States, BLNS, vis-à-vis South Africa. To be so specific on balanced development (Article 38.1) as an objective of industrial policy requires distinct policy measures to affect the location of industrial activity. As indicated above, the development component built into the revenue distribution mechanism does not provide for a development fund that can be accessed to finance special development projects in the lesser-developed Member States.

Implementing a policy to achieve *balanced* industrial development in the SACU area will not be an easy task. World wide, experience in market economies has demonstrated that the implementation of regional industrial development policies in a national context is fraught with difficulties. To counter the cost benefits associated with agglomeration economies (economic benefits arising from a cumulative process of economic concentration) and a developed infrastructure, as well as the non-quantifiable considerations that favour location and growth in concentrated markets of established metropolitan areas, is costly in terms of scarce public resources and often not justifiable if weighed up against the outcome. Also, regional development policies are difficult exercises in political economies that are complicated by the diverse preferences of interest groups. In SACU, regional industrial development policy will have to focus on the geographic location of economic activity across international frontiers within an integrated region of five sovereign countries, of which one contributes more than 90 percent of the regional GDP. To reach consensus on such a policy and to implement it will be extremely difficult and pose severe problems for the responsible institutions. These problems could be aggravated by the absence of a common agricultural policy, bearing in mind the substantial linkages between agricultural and industrial production.

But a second issue could prove to be even more sensitive and difficult. A common industrial policy could politically be very sensitive since the Member States do not share a common labour market policy. Since the labour markets of SACU members are not integrated, which means that there is not a free flow of labour within the customs union, South Africa through more stringent labour market regulations can maintain substantially higher wage levels, regardless of the fact that un- and underemployment in South Africa is severe and not less so than in BLNS. The absolute poverty associated with large-scale unemployment is as important a challenge, with all its social and political ramifications, in South Africa as in BLNS. In fact, it might be an even more serious political challenge in South Africa where government is continuously assessed on the post-apartheid progress made in addressing the large welfare gap. Within this context, BLNS feature as

economies that have a comparative advantage in lesser-skilled labour-intensive industries, which is the outcome of the regulation of the South African labour market. Recalling the Heckscher-Ohlin model, the South African case represents a classic example where market intervention creates distortions in factor prices and utilisation.

In terms of centre-periphery model of the new economic geography, firms can benefit by locating in the periphery if this provides them with a lower labour cost differential (measured as unit labour cost to provide for differences in labour productivity) that exceeds the transport cost to the core markets. Petersson points to this possible development in his application of Krugman's core-periphery model to the development of Lesotho. Should transport and other transactions costs decline in the process of closer integration, the benefit of being close to the major markets in South Africa will decline. This will allow Lesotho (and the other smaller SACU Member States, we may add) the opportunity to "offer potential producers the advantages of lower wages, which, in turn, may require restrictions on labour movements to maintain wage differentials" (Petersson, 1998: 263).

Given significantly higher wage levels in South Africa it can be expected that BLNS will emphasise their labour market advantages in attracting investment to produce for the SACU and other markets. Since labour is a relatively abundant factor of production in South Africa and in BLNS, the comparative cost advantage for BLNS vis-à-vis South Africa would arise from the more stringently regulated labour market in South Africa. To maintain the labour cost differential, restrictions on labour movements, i.e. the segregation of SACU labour markets, will be required. Should lower labour costs in BLNS remain a focal point in designing a common industrial policy for the region, and it is difficult to envisage that BLNS can be refused this cost advantage, the acceptance of a common industrial policy that seeks regional balance will require the absence of common labour market policies.

However, South African trade unions are likely to be very sensitive to potential job losses because of cross-border investment by South African firms in BLNS. Hence, the scene will be set for regional confrontation that will severely test the consensus-based decision-making procedures of SACU institutions, described below, and to efforts by South African trade unions to bring about a common labour market policy modelled on that of South Africa.

A third issue, alluded to earlier, is the fact that a common industrial policy for developing countries characterised by the many linkages between agriculture and manufacturing through the agro-processing industry, becomes a complicated affair in the absence of a common agricultural policy. While SACU2002 provides for a common industrial policy, Article 39 only provides for an agreement to "co-operate on agricultural policies in order to ensure the co-ordinated development of the agricultural sector

within the Common Customs Area". This is rather vague and has clearly been formulated to allow BLNS the opportunity to maintain and implement marketing arrangements and to intervene in the import of processed and unprocessed agricultural goods.⁵

A final issue on a common industrial policy that deserves to be mentioned (which is also relevant in the consideration of SACU institutions) is the situation that South Africa will find itself in having to sacrifice some sovereignty over its trade and industrial policy. Under SACUA1969 this sacrifice, which is characteristic of all customs unions and common markets, is restricted to BLNS, for which they are financially compensated, albeit not to the extent they would prefer. Under SACUA2002 the country that produces more than 90 percent of the SACU GDP and who faces the need to address the development of a substantially different economy, will have to make this sacrifice. It is virtually inevitable that strains in SACU relations will develop that will put the dedication of Member States to the customs union to the test.

SACU Institutions

SACUA2002 provides for a number of SACU institutions. The democratisation of a customs union characterised by the dominance of a single Member State, South Africa, must inevitably give BLNS a greater say in the operation of the customs union and in the decisions taken on behalf of all SACU members. The outcome of this objective is Articles 8 to 13 that provide for the following SACU bodies: a *Council of Ministers*, the supreme decision making body of the customs union; a *Customs Union Commission*, consisting of the most senior government officials of the Member States; a *Secretariat*, a permanent body with headquarters in Windhoek that is responsible for the day-to-day administration of SACU; a *Tariff Board*, a body of experts that will make recommendations to the Council on the level and changes of customs and trade remedies; Technical Liaison Committees that will advise the Commission in its work; and an *ad hoc Tribunal* for the settlement of disputes. In addition to these SACU bodies, Annexes B on National Bodies and C on the Tariff Board make it abundantly clear that the operation of customs union affairs will crucially depend on the *National Bodies* of the Member States, provided for in Article 14.

This is an impressive array of institutions and it could be tempting to regard it as over ambitious for a customs union of developing countries with total production that is significantly less than that of Finland, a relatively small economy within the European Union. But it would also be possible to argue that the equitable management of a customs union of unequal members,

⁵In this respect the author in a personal communication with an official of the South African Department of Agriculture was quoted the example of Botswana that regulates the importation of fresh vegetables from South Africa (bought at the Johannesburg fresh produce market) on the basis of the domestic supply by Botswana farmers. It is also known that BLNS and South Africa differ on import policies for products such as wheat flour (to protect domestic millers), milk and milk powder.

and a history of undemocratic governance, require an ambitious range of institutions to manage its affairs.

What some observers would regard as a surprising outcome of the negotiations is the “degree of democracy” provided for in the decision taking at meetings of the SACU bodies. The view has been expressed that the “need to institutionalise and democratise SACU is much less controversial” than decisions on new revenue distribution arrangements (Gibb, 1997: 83). Undoubtedly, consensus existed on the need to democratise SACU, but to give content to the consensus must have been difficult since it required that the interests of disparate Member States be reconciled in an institutional arrangement that will address the development requirements of South Africa and those of the much smaller BLNS. In view of such considerations it is not remarkable that Gibb could observe that “it is hard to envisage a situation where Lesotho has the same voting rights as South Africa”, and consequently he envisaged a “form of proportional and/or qualified majority voting” (Gibb, 1997: 83).

The principle of decision taking by simple majority vote was not accepted. Article 17 determines that the decisions of the SACU institutions shall be made by consensus. The exception is the Tribunal, composed of three members that shall decide by majority vote. It can be surmised that South Africa would have found a simple majority vote unacceptable since this would have allowed BLNS to dominate the management of the customs union in their interest. With a democratic style of governance as an absolute imperative this left decisions by consensus as the only alternative, since a qualified voting system in favour of South Africa would keep the latter in a position of domination. However, taking decisions on the basis of consensus means that each member effectively has a veto power and by exercising this power can force the process of decision making into dispute settlement.

Bearing in mind that the principal function of customs union operations is the management of the common external tariff, the structure of institutions agreed for SACU places the focus on three as decision-taking bodies, namely the national body of each Member State, the Tariff Board and the Council of Ministers. National bodies are expected to do the investigations into tariff amendments, after having received an application to this effect or on its own initiative (*Draft Annex C*, 10.2 & 10.3) and to submit the outcome in a report containing its recommendations to the Tariff Board through the Secretariat. These investigations are not likely to be undertaken in isolation from other National Bodies; a National Body should report its intention to launch an investigation to the Secretariat who then has to inform all Members and National Bodies accordingly. *Draft Annex B* (4.e) proposes that the latter be given two weeks in which to respond by declaring an interest in the investigation. Reports to the Tariff Board should be prepared in a format and contain information agreed on by Members and the Tariff Board (*Draft Annex B*, 4.e). Having received a report, the Tariff Board will evaluate it in accordance with guidelines and policies determined by

the Council of Ministers and submit its recommendations to Council for approval.

Close consideration of the institutional framework indicates that certain problems can be anticipated. The first problem is that to ensure effective operation skilled capacity will be required in all the Member States. With the exception of South Africa, these skills do not exist in the SACU Member States. Obviously, these capacities can be developed but this takes time and is costly. It would appear that this problem is anticipated with the provision in *Draft Annex B* that each Member State shall grant its National Body the authority to “(e)ngage with an institution of SACU, or the National Body of one or more of the Member States in co-operative activities of customs tariff related investigations, research, publication, education, staff development and training...” (*Draft Annex B*, 6.a). It does not take much imagination to interpret this provision as an expectation that the International Trade Administration Commission (ITAC), which under SACUA1969 operates as the SACU customs board and will be the South African National Body under SACUA2002, will be playing an important role in building the capacities in the other Member States.

On the topic of capacity it should also be noted that the skills are not only required in the day-to-day management of the common external tariff and in its amendment. SACU is increasingly called on to participate in negotiations, as a customs union, on bilateral and multilateral trade agreements. These negotiations are already posing a strain on the capacities of the smaller Member States, which will be increased further by the need to share effectively in the management of a multi-layered institutional structure. Rob Davies has expressed this problem in the following words: “Resources are effectively pooled on trade negotiations. However, jointly managing SACU will pose new demands on the smaller countries. They have not been so concerned with issues like trade remedies....but now will have to apply their minds to them” (Quoted in Hougaard, 2004: 50).

The second major problem is the time-consuming process that tariff amendments will be exposed to by the multi-layered process of decision taking. This process can be envisaged by taking the hypothetical case of an industry applying for a tariff amendment. The National Body will receive the application and will proceed with the investigation after having notified the Tariff Board through the SACU Secretariat. The next step is the evaluation by the Tariff Board of the National Body report, followed by the Council's decision on the Board's recommendations. In *Draft Annex C*, it is proposed that the Board meet at least once a month (*Draft Annex C*, 8.2) and the Council at least once a quarter in a financial year (Article 8.9). It is likely that the Board could, if required, meet more frequently, but it is not equally likely that the Council will increase the frequency of its meetings. Add to this whole process the possibility of a lack of consensus at Board and Council meetings, and it becomes clear that tariff amendments, including trade remedy investigations, will become a cumbersome and time-consuming affair. Applications for tariff changes and those for trade remedy protection

in particular, are often quite urgent, with the added complication in anti-dumping investigations of having time limits determined by an international agreement. Hence, time duration and the lack of capacity to participate effectively in SACU operations could provide industry with a constraint in operating efficiently in the dynamic international trading environment.

A third problem relates to the need for consensus in decision-taking under circumstances where South Africa and BLNS come to the policy-making table with different perspectives, derived from the significant differences between the economies of BLNS and South Africa. The Agreement stipulates that the Council of Ministers will formulate policy mandates, procedures and guidelines for the SACU institutions but this does not remove the fact that their respective policy perspectives will inform the decisions and views of participants.

Two examples can prove relevant. First, in decisions on tariff changes the South African view will be informed by an emphasis on the tariff as an instrument of trade and industrial policy, whereas BLNS will emphasise the role of the tariff as a source of revenue. The latter view will be reinforced by the change in the revenue distribution mechanism that will now render the size of the revenue pool important. The second example relates to anti-dumping investigations. Because of the small size of their markets and the small size of their industries in the total SACU market it can be expected that very few industries domiciled in BLNS will pass the industry standing criterion of the Anti-Dumping Agreement. Anti-Dumping investigations will mostly be initiated on the basis of petitions by South African firms. These investigations and the decisions taken, in accordance with the Anti-Dumping Agreement, are strongly guided by the injury that the domestic producer of like products suffers because of dumping in the SACU market. But this injury is not weighed against the benefits that consumers and industry purchasers derive from the lower prices of dumped goods, which could be the perspective that BLNS will bring to the table. Although anti-dumping investigations proceed on the basis of objective criteria, judgement calls do come into play when decisions are taken and it is in this regard that BLNS may have a different view from that of South Africa who will take injury suffered by industry as the only guideline.

Conclusions

Regional integration behind a common external tariff is a complicated exercise, which becomes even more difficult if consideration has to be given to large differences in the level of economic development of the Member States and in the size of their economies. Add to this a long history of development that has been characterised by unique political features, shades of dependency and an administrative structure that has left the management of the customs union, including the common external tariff, in the hands of one of the Member States, and the situation becomes even more entangled.

In assessing the new SACU Agreement, this paper, with its emphasis on three objectives (the fair distribution of revenue, the adoption of a common industrial policy to address the uneven economic development within SACU and the institutions to be created to manage the affairs of SACU in a spirit of democratisation) has set itself a modest goal. In assessing the future prospects of SACUA2002 as an effective operational agreement, cognisance has to be taken of the fact that the Agreement as such is little more than a framework document that will have to be given more explicit content through a whole series of side agreements.

On the issue of revenue distribution explicit details on the operation of the Agreement are clear. However, attention has been drawn to the importance to improve the ability to capture accurate trade statistics. Two revenue issues mean two further conclusions may be noted. The first concerns the size of the customs contribution to the revenue pool, which is bound to decline as trade liberalisation proceeds. We have noted the importance of SACU revenue for Lesotho, Swaziland and Namibia in particular, in contrast to South Africa, which focuses on the tariff as an instrument of trade and industrial policy in a policy environment of trade liberalisation, and Botswana which has adequate alternative sources of revenue. It is possible that the smaller SACU members may not succeed in diversifying their tax base, which in turn raises the real possibility that efforts to increase the share of excise revenue allocated to the development component will become substantial.

The second revenue issue to be noted as a conclusion is derived from the new distribution mechanism that will include South Africa in the formula, thereby removing the current position of accepting the residual in a stabilised formula that guarantees BLNS a minimum revenue rate of 17 percent. Expanding SACU membership on the basis of this formula could sooner find South Africa in the position of having to supplement the revenue pool through transfers from other revenue sources, which would be an untenable position for the South African fiscus. With the revenue distribution formula of SACU2002 this eventuality is removed and South Africa will be more susceptible to an expansion of SACU membership.

For developing countries, industrial development and economic convergence, regionally and globally, remain important goals. The question whether SACU2002 will be better placed to encourage balanced industrial development is difficult to answer, partly because it is not at clear what the SACU members understand under "common industrial policies". It is possible to envisage that major problems will arise from reconciling South Africa's development objectives with those of BLNS. South Africa is a relatively industrialised, medium-sized middle income country with a population that represents 87 percent of the SACU population. The country contributes 92 percent of the SACU gross product and 88 percent of merchandise exports. BLNS, by contrast, are small economies with a comparatively underdeveloped manufacturing capacity. South African policy makers are clearly intent on developing the South African economy

as an outward-looking competitive entity in the global economy, a goal that has also been accepted for SACU, with an import tariff to be managed not by South Africa but by SACU institutions. To fit BLNS into this broader picture within the framework of a common industrial policy, which will need to emphasise economic convergence, will be a daunting task. A policy of regional industrial development seems to be required, but will be difficult to devise and implement in a region where all economies, including South Africa, face severe problems of unemployment and absolute poverty.

The difficult issues that face SACU will be managed by a layered set of institutions that will take consensus-based decisions. To make these institutions work effectively will require capacities that currently do not exist in the smaller Member States under conditions where the failure of only one state to participate effectively can prove highly detrimental to the smooth operation of the customs union. The old saying of the chain being as strong as its weakest link comes to mind in this regard. But even if capacities do exist the process of decision-taking through different layers of institutions will be time-consuming and cumbersome and not in the interest of fast footwork in the dynamic world of international trade relations.

All things considered, only an eternal optimist out of touch with the real world will anticipate a smooth transition to a new dispensation and the relatively untroubled operation of the customs union under SACUA2002. However, SACU is an important regional integration arrangement. Running SACU effectively under the new Agreement will be difficult, but its successes and failures will impact strongly on the economic development of all its members and may even be more valuable in providing guidance on regional integration in Africa. Developing common understandings on important, often interrelated, issues such as the role of the tariff, trade remedies, sectoral policies (industry, agriculture and services), regional development within the common customs area, and competition policy will be required timeously to ensure the effective operation of SACU.

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New SACU Institutions: Prospects for Regional Integration

Gerhard Erasmus

Introduction

This paper is about the institutions of the new Southern African Customs Union (SACU). The new SACU Agreement entered into force on 15 July 2004 and creates a number of institutions, tasked with the responsibility of establishing a new democratic regional order and promoting the integration of the Member States into the global economy. The Preamble and the Agreement speak of a new foundation and orientation for SACU and, in the words of the Preamble, an organisation now with the potential “*to cater for the needs of a customs union in the 21st century.*” SACU should also be aligned with current developments in international trade relations.

For a region with serious development challenges, different levels of development in the Member States and a wide-spread lack of capacity, this amounts to a formidable challenge.

What are the current developments in international trade relations with respect to an organisation such as SACU? And what is new about the SACU of 2002? In order to answer these questions one should start with the changes brought about by the new Agreement and determine how it differs from the previous Agreement of 1969. At first glance the changes seem quite sweeping, but can they meet the challenges ahead?

The Preamble to the 2002 Agreement states that the Agreement of 1969 could not cater for SACU's needs any longer. The new Agreement creates a new regime; it is not a continuation of the previous one.¹ The former arrangement had very few institutions² and its main functions related to the management of the Common Revenue Pool and the common external tariff. Now there is a different work plan and agenda directed at contemporary international trends and challenges and a more suitable instrument for enhancing the interests of the Members.

Regional integration agreements are a topical issue. There is a generally held view that, from a global economic perspective, the multilateral trading system provides the best opportunities for liberalising trade. The multilateral system is based on the MFN principle and aims to prevent discrimination between the parties. On the other hand there is also a strong school of thought supporting the merits of regional, preferential trade arrangements that, if constructed in an appropriate manner, could assist quite directly in the development of poor countries.

¹Except insofar as the transitional provisions in Article 50 determine otherwise.

²Only the Commission and four Technical Liaison Committees

When the same countries, as is the case with the SACU Member States, simultaneously subscribe to multilateral as well as regional trade arrangements a number of difficulties may arise and the danger of trade diversion is also to be recognised. Article XXIV of the General Agreement on Tariffs and Trade (GATT) is the legal and theoretical answer with respect to how to accommodate regional trade arrangements (which create a preferential dispensation for the members only) with the most favoured nation (MFN) principle of the World Trade Organisation (WTO). It provides that free trade areas and customs unions can be GATT compatible if the trade barriers after integration do not rise on average; all tariffs and other barriers are removed on substantially all intra-regional trade within a reasonable period of time; and that such agreements are notified to the WTO Council. If these requirements are met it is expected that regional trade arrangements may become building blocks for further trade liberalisation within the multilateral framework of the WTO. Regional trade arrangements of a particular kind may also undermine the commitment to the multilateral system and its disciplines. A fine line is to be drawn in order to avoid such dangers.

There is a dramatic increase in the number of regional trade arrangements. Since 1948 about 200 regional trade agreements have been notified to the GATT or WTO and many new ones are at present being negotiated³. SACU itself is involved in such negotiations.⁴ To some extent this development stems from the realisation that multilateral trade negotiations within the framework of the Doha Development Round will take a considerable time to complete. The fact that the USA is now an active supporter of Free Trade Agreements (FTAs) amounts to another policy shift, which seems to be inspired by security, trade policy and real political considerations. The European Union (EU) has always supported such arrangements and even in Asia several new preferential trade agreements have been negotiated.

Other factors that may explain this increase in the popularity of regional integration agreements are the demise of central planning, the new US attitude to international relations, globalisation and the pressures it creates, foreign policy considerations and domino effects as a result of a fear to be excluded.⁵ The institutions created by regional trade agreements can influence intra-regional integration quite directly. In the case of SACU there is little evidence yet as to what exactly the direction and nature of such developments will be. The region is characterised by the dominance of the South African economy and a long history of more than a hundred years of co-operation in a particular kind of custom union that has existed since colonial days. SACU has not known supra-nationality up till now. One of the aspects to be investigated is whether some degree of supra-nationality

³Hoekman and Kostecki *The Political Economy of the World Trading System*, 2nd Ed. Oxford University Press 2001 at 346.

⁴FTA's with the USA, EFTA and Mercosur are being negotiated. Further ones with India and China are mooted.

⁵Hoekman and Kostecki at 348.

has been provided for in the new Agreement; and what the potential is for effective common policies and actions through the new SACU institutions. The Agreement does not mention supra-nationality, nor does it expressly call for deeper intra-SACU integration. One of the aims of this paper is to determine whether deeper integration is implicit and whether it can be expected.

The decision to negotiate a new SACU Agreement was adopted in 1994 and the negotiations took eight years to complete. One of the deficiencies recognised by the Member States of SACU then and offered as a justification for the new Agreement was the fact that the 1969 SACU was *"hampered by a lack of common policies and common institutions."*⁶ In other words, real integration was not possible. There are further explanations for the adoption of the new SACU Agreement. The broader international and political picture should not be ignored. South Africa became a democracy in 1994 with the demise of apartheid rule. That created the conditions to accept South Africa as a member of SADC and to allow it to become a constructive regional partner. At the same time the broader international picture changed fundamentally with the demise of communism. The adoption and entry into force of the WTO Agreement on 1 January 1995 adds another important factor and the SACU Agreement mentions "the results of Uruguay Round of Multilateral Trade Negotiations on global trade liberalisation" as part of the reason for adopting a new Agreement.

Will we indeed see substantive common policies now being developed and implemented through the new SACU institutions? What are their powers in this regard and what will the Governments of the Member States be required to do in order to give effect to such policies? Is there sufficient recognition of the global and regional challenges to be met?

Why a New SACU Agreement?

The Preamble of the new Agreement mentions the inadequacy of the 1969 arrangement, the lack of common policies and common institutions and the results of the Uruguay Round as justifications for adopting the new Agreement. It also states that there should be an alignment with "current developments in international trade." The new Agreement is clearly inspired by a desire for common and "democratic institutions".

Democracy in international organisations is a *sui generis* concept. It cannot be equated with democracy within nation states, bolstered by the legitimating effect of regular, free and fair elections. Democracy in international organisations where governments represent nation states mainly refers to decision making processes and procedures. It has to do with the equal influence of the Member States on policy making and protection against domination by the stronger States. If supra-national decision making and formal dispute resolution mechanisms are available,

⁶See the Preamble of the new SACU Agreement

the “democratic” effect may even be greater. This particular aspect will be discussed below when the powers of the Council of Ministers will be mentioned, but it seems safe to point out that the dominant position of South Africa and its discretionary powers were part of the desire for “democracy within the institutions of SACU”.

Democratic institutions in international organisations should be linked to related rule of law concepts such as formal dispute settlement and a rules-based approach in general. Democracy in international organizations, just like in national dispensations, is not only about voting; it is also about respect for the rule of law and ‘constitutionalism,’ as well as the availability of remedies in instances where the law is of violated.

Article 2 of the new Agreement deals with SACU’s new objectives and reads as follows:

- (a) To facilitate the cross-border movement of goods between the territories of the Member States;*
- (b) To create effective, transparent and democratic institutions which will ensure equitable trade benefits to Member States;*
- (c) To promote conditions of fair competition in the Common Customs Area;*
- (d) To substantially increase investment opportunities in the Common Customs Area;*
- (e) To enhance the economic development, diversification, industrialisation and competitiveness of Members States;*
- (f) To promote the integration of Member States into the global economy through enhanced trade and investment;*
- (g) To facilitate the equitable sharing of revenue arising from customs, excise and additional duties levied by Member States; and*
- (h) To facilitate the development of common policies and strategies.*

The agreement does not indicate exactly how these objectives and values will be achieved other than to create certain institutions and to add a list, in Part Eight of the Agreement, of new common policies to be developed. The general impression is that the new institutions should play a vital role in this regard.

Is the new SACU a “democratic” organisation? Decisions by its institutions “shall be made by consensus”.⁷ This amounts to a veto for Member States, including South Africa. The Council of Ministers is the highest decision-making body and up till now there has been very little evidence of a pattern

⁷Article 17.

of decision-making that can be analysed to determine trends. SACU has only five members and that should facilitate consensus. However, their interests are divergent and uneven.

Of more significance is the practical impact of the decision-making model on the development of common policies; in particular the policies required in terms of Article 31(2): *"Member States shall establish a common negotiating mechanism in accordance with the terms of reference to be determined by the Councilfor the purpose of undertaking negotiations with third parties"*

The two most important operational challenges facing SACU is probably the adoption of the intra-regional policies of Part Eight of the agreement and negotiating new trade agreements (mostly in the form of FTAs) to integrate their economics into the global economy. These negotiations will in themselves generate further pressure for the development of common policies. Up till now South Africa is leading the negotiations with the USA and the European Free Trade Association. The same applies with respect to Mercosur. There are obvious capacity reasons for South Africa's role, but this will have to be sanctioned by Council decisions that also plan for capacity development in the other governments and for terms of reference that address the specific needs of the other members.

The SACU Agreement covers a rather limited range of disciplines; trade in goods, agriculture, transport and the management of the Common Revenue Pool. The new SACU wants to expand and promote the active integration of Member States into the global economy, enhance trade and investment; while at the same time still emphasising the importance of revenue sharing from customs, excise and additional duties levied by Member States. It would be unwise to ignore the specific features of SACU and the fact that some of the Member States (e.g. Lesotho) are least developed and still very directly dependent on the revenue generated and made available through the Common Revenue Pool. That is why the Part Eight Policies are so important. They provide for the possibility to implement industrial and trade policies that could enhance development and generate alternative sources of revenue. States such as Lesotho cannot remain dependent on the dwindling revenue of the Common Revenue Pool in a world of increasing trade liberalization and the concomitant decline of revenue from tariffs. SACU is a regional organisation with very disparate needs and features. Its institutional dimension is the avenue and instrumentality for attaining many of its objectives.

Is SACU a Rules-Based Organisation?

The institutions of a rules-based organisation function in a particular manner. Provision is made for formal dispute resolution, certainty of rules and predictability. Veto rights are not compatible with a rules-based regime. The new Agreement suggests a particular approach to the rule of law and there is an expectation that a rules-based system provides better outcomes

in the light of the stated objectives. That proper legal codes can indeed address problems related to market functioning is generally accepted. Competition and fair trade are obvious examples and a dispute resolution mechanism may add quite considerably to certainty and predictability. All such developments will, if coupled with transparency and the availability of essential information, lead to the facilitation and improvement of the trade environment, the generation of more certainty for the private sector and declining costs. It is very important however then to remember that such lofty objectives depend quite directly on adequate domestic and regional capacity, expertise and enforceable legal rules. This immediately highlights one of the problems with respect to SACU; namely the skew distribution of technical capacity and institutional skills. South Africa is for example the only SACU member with domestic institutions and legislation that incorporates the SACU Agreement into domestic law.⁸

One of the strongest indications that SACU aims to be a rules-based arrangement can be found in the fact that a tribunal is provided for, with the power to settle “any dispute regarding the interpretation or application of this agreement, or any dispute arising there-under at the request of the Council...”⁹

Jurisdictional and *locus standi* issues are not explained in Article 13 and will have to be clarified when the rules of procedure are adopted.¹⁰ There is at least a clear undertaking now that the law of SACU should be respected and that an independent forum will interpret, apply and develop the law of SACU. The objective behind this rather novel approach is provided in the Preamble; “a dispute settlement mechanism will provide a mutually acceptable solution to problems that may arise between Member States”. This may bode well; for the democratic aspirations as well as the promotion of integration.

The New Policies of Part Eight of the Agreement

The new SACU Agreement provides for the adoption of additional policies and disciplines to supplement the existing arrangement; leading to further integration within the organisation. Part Eight of the Agreement lists industrial development, agriculture, competition and unfair trade practices as areas requiring new common SACU policies. Article 38 of the Agreement deals with industrial development policy and states that “*Member States agree to develop common policies and strategies with respect to industrial development*”. In the area of competition the same objective is stated and Member States “*shall co-operate with each other with respect to the enforcement of competition laws and regulations.*” In the case of unfair trade practices the new Council shall, “*on the advice of the Commission,*

⁸The International Trade Administration Act of 2002 provides for the incorporation of the SACU Agreement and has created the International Trade Administration Commission (ITAC) which is responsible for trade remedies and related trade matters.

⁹Article 41.

¹⁰Article 13(8)

develop policies and instruments to address unfair trade practices between Member States. These policies and measures shall be annexed to this Agreement.”¹¹

These are the really important issues from which it will be possible to distil evidence that SACU is indeed moving forward towards meaningful integration. The adoption of common policies and strategies in these areas can move SACU beyond its old programme of managing the Common Revenue Pool and the common external tariff.

In the absence of such developments the dominance of the South African economy will continue and the ideal of a common external trade policy will remain elusive. That introduces another important aspect; internal reform and the development of common policies are directly linked to the development of common negotiating strategies for the conclusion of new trade agreements with third parties. Many of these negotiations are being conducted or are about to start.¹² They will introduce many new challenges. Article 31 (2) is SACU's theoretical answer and the Council of Ministers will have to adopt “a common negotiating mechanism” for trade negotiations with third parties. The terms of reference for such a negotiating mechanism will also have to contain policy decisions; which the Member States will have to decide on.

SACU is somewhat overwhelmed by the number and spectrum of its current trade negotiations. How to integrate the various implications of TFAs with the USA, China and Mercosur? What will be the consequences of accepting reciprocity? How to handle the many legal consequences and the demands for achieving Article XXIV GATT compatibility?

In June 2004 the USA/Morocco FTA entered into force. It consists of 22 chapters and includes all the “new generation” issues such as services, investment, competition, intellectual property, the environment, labour, dispute resolution etc. How will SACU cope with such an outcome, seeing that the USA adopts a fairly consistent template when negotiating FTAs if its own legal instrument essentially covers only trade in goods? For the remainder it deals with the management of the Common Revenue Pool and puts some emphasis on agriculture, transport and customs. It does not deal at all with services, investment, intellectual property or competition. It is obvious that a comprehensive intra-SACU expansion of its legal codes will be required in order to enhance its own agenda and to cope with the “challenges of the 21st century.”

SACU's Institutional Dimension

The new SACU Agreement depends directly on its new institutions in order to move away from the previous dispensation and to establish a new regime. Unfortunately the goals and means for achieving this objective are not

¹¹Article 41.

¹²The FTA with the USA was supposed to be finalised by the end of 2004. This will not happen. The EFTA negotiations have been going on for some time; with Mercosur they have recently been “re-started” and with China and India they are yet to begin.

always clearly spelled out. There is some hesitancy as to what is required, in particular, to empower the new SACU institutions to develop codes which will apply in a uniform fashion to all the Member States. It may be true that the five member countries are at different levels of development and that their domestic capacities are quite divergent, but it is not impossible to start with common agreements that take such differences into account. There may be an even greater danger in allowing the Member Governments to pursue their own agendas. This may lead to even greater diversification and fragmentation.

The importance of the institutional dimension for promoting integration within regional organisations has to be emphasised. The new SACU is about trade reform and policy development. In order to do so successfully, institutions have to be aligned with the underlying objectives. Dani Rodrik has observed that *“trade reform as institutional reform helps clarify the criteria by which trade reform should be evaluated.”* My main argument is that the relevant criterion is not openness to trade, neither consistency with existing WTO rules. The yardstick that matters is the degree to which trade reform contributes to the construction of a high-quality institutional environment at home.

Proper institutions are a pre-requisite for development and integration into the global economy. They will allow for the domestic and regional mechanisms to develop policies suitable to local needs. They should enjoy the necessary capacity and function in a particular manner. The SACU Agreement lists, as one of its objectives in Article 2, *“the creation of effective, transparent and democratic institutions which will ensure equitable trade benefits to Member States.”* The qualities of openness and transparency should also apply at home; including effective remedies under constitutional and administrative law. This particular element is not mentioned in the Agreement and is not uniformly available in the Member States. The development of a proper value system, promoting both national and regional institutions and legal systems should be recognised as a pre-requisite for the democratic order that SACU purports to be. This insight is missing; democratic regional institutions require democracy and the rule of law on national level in order to present artificiality on the supra-state level.

SACU's institutions are about economic development and integration. Rodrik's arguments about the role of institutions are directed primarily at national institutions. Developing counties are not isolated islands and in the case of Southern African and SACU they have a long history of co-operation and sharing certain institutions that they have inherited from colonial times, such as the common law tradition and the same approaches to public administration and the fact that the common external tariff of SACU has been in place for a very long time. SACU's future success will quite directly depend on the capacity and capabilities of its own institutions as well as those of the Member States.

Article 7 of the Agreement list the new SACU institutions. They are the

Council of Ministers, the Customs Unions Commission, the Secretariat, the Tariff Board, the Technical Liaison Committees and the Ad Hoc Tribunal.

SACU itself is also a legal persona with the necessary capacity to act as an international organisation and to enter into domestic contracts, to acquire, own and dispose of movable and immovable property, and to sue and be sued.¹³ SACU enjoys legal personality both under public, international and within the legal dispensations of the Member States.

Rodrik, quoting other sources, observes that it is useful to think of institutions as “a set of humanly devised behavioural rules that govern and shape the interaction of human beings, in part by helping them to form expectations of what other people will do.” From a legal perspective this description will use the terms “certainty” and “predictability” when it comes to the expectations as to how institutions will act and what rules will determine their behaviour. In this sense institutions are also about the question as to whether a rules-based dispensation is in place.

Well-functioning market economics are “imbedded” in a set of non-market institutions and without such other institutions markets cannot perform adequately. Rodrik lists five types of market supporting institutions in particular; namely property rights, regulatory institutions, institutions for macro economic stabilisation, institutions for social insurance and institutions of conflict management.¹⁴

Are the SACU institutions of the same kind, or is there still too much emphasis on the sovereignty of the Member States? SACU still has a long way to travel on the road towards deeper integration and the present Agreement is only a starting point. The new SACU is a young organisation and the really serious debates about its institutions and their powers are yet to start. Such a debate will do well to make a sober analysis of the challenges ahead and what the role of institutions in SACU should be. It will also require a serious commitment and a proper strategy to the development of the capacity of all SACU and national institutions. The capacity building requirement is not sufficiently emphasised. It is only expressly mentioned in Article 14(3) where it is stated that SACU “will assist Member States with the establishment of common procedures and technical capacity to ensure effective, efficient and transparent functioning of National Bodies”. This effort will also have to entail a general legal reform strategy on national levels. The domestic systems in most of the Member States are not yet geared to the implementation of the new SACU Agreement. This state of affairs is a legacy of the past; the previous dispensation did not require them to be actively involved and South Africa took responsibility for the management of the Revenue Pool and largely for that of the common external tariff too.

¹³Article 4

¹⁴*Op cit at 4.*

The new Secretariat could also play an important capacity-building role. This is a permanent body and is responsible for the day-to-day administration of the Organisation and in that sense resembles typical Secretariats of international organisations. It has a wide range of responsibilities; from the dissemination of information, keeping of minutes of meetings of the various institutions, to serving as the depositary of all records and keeping records of all transactions into and out of the Common Revenue Pool. It also has to take responsibility for the implementation of all decisions of the Council and the Commission. It also has some important support and research functions. In terms of Article 10 it must, for example, “*assist in the harmonisation of national policies and strategies of the Member States insofar as they relate to SACU*” and “*shall co-ordinate and assist in the negotiating of trade agreement with third parties.*”

This is a daunting list of responsibilities but at least indicates the implications and requirements with respect to the type of organisation that SACU wants to be. The Secretariat will have to be properly staffed and will only be able to deliver if given the necessary capacity, financial support and commitment by the Member States.

The integration model that SACU has opted for is one that depends quite directly on the institutional dimension. Regional integration is a complicated process and depends to a large extent on what specific provisions provide and how they are implemented. That process will be influenced by the availability of capacity and legal instruments on the national and regional level. In the case of SACU this will require a clear policy and a specific capacity building programme, not only to promote regional integration but also to integrate the Member States into the institutions and *modus operandi* of the new SACU.

What Type of Integration for SACU?

Introduction

As a customs union SACU's fundamental premise is to promote free trade in goods among the Member States and to manage and adhere to a common external tariff. The common external tariff is obviously not a static feature; tariff rates will continue to fall as trade liberalization on multilateral and regional levels continues. The customs union is an instrument for furthering economic integration and increasing the welfare of the region by removing barriers to trade and further to facilitate the adoption of common tariffs and trade policies. In the new Agreement, there are no provisions on trade in services, intellectual property, competition or other disciplines typically found when deeper regional integration is pursued by organisations of this kind. The Agreement recognises this fact and provides for new common policies and new annexes to be developed. The common policies foreseen by the Agreement and in particular those mentioned in Part Eight, provide the mechanism for new disciplines and further integration.

Although the Agreement does not expressly provide for the promotion of

intra-SACU integration it is clearly implied. It might even be said that one of the specific objectives mentioned in Article 2, namely the promotion of *“the integration of Member States into the global economy through enhanced trade and investment”* must by necessity be linked to intra-SACU integration and the development of common codes and policies.

Integration through Common Policies and Common Institutions

The new SACU Agreement is a relatively flexible framework for enhancing economic integration between the Member States. The new approach emphasises the role of common institutions and within that context, the development of common policies, the harmonisation of national laws and measures, and even the adoption of new annexes which will form an integral part of the Agreement. The obligations with respect to the various areas are not of the same kind and in certain instances the Member States retain larger degrees of sovereignty. It remains indeed possible that differences in implementation may arise and that various national authorities may disagree with each other. The danger of fragmentation is still present. It is, however, possible to refer all such problems to the new Council of Ministers which will be able to propose solutions; albeit it that those decisions of the Council are taken on the basis of consensus.

The SACU Member States are on different levels of economic development and in some instances suffer from a severe lack of institutional capacity. This will not only hamper the implementation of the Agreement but will require specific remedial action and capacity-building within the States. This is in particular true of the manner in which the National Bodies will have to function and co-operate with the Tariff Board.

The SACU Agreement does not contain one single set of obligations as to how Member States should use domestic trade policies to achieve particular objectives. In certain areas they are allowed to adopt their own national legislation with respect to SACU objectives, while in others there must be common policies or even annexes. It is not clear exactly how common policies will be developed and adopted. In terms of Article 2 the objective of the Agreement is to *“facilitate the development of common policies and strategies”*.

The nature of the “obligations” undertaken in terms of Part Eight, requires scrutiny. In the case of industrial development the only real commitment is to *“agree to develop common policies and strategies”* In the case of agriculture the obligation is to *“agree to co-operate on agricultural policies in order to ensure the co-ordinated development of the agricultural Sector within the Common Customs Area.”* With respect to competition policy the Member States *“shall co-operate with each other with respect to the enforcement of competition laws and regulations.”* In the latter instance, the commitment is stated in somewhat stronger terms (note the word shall) but the co-operation is still limited to the enforcement of their different national competition laws and regulations. Only in the case of unfair trade practices, provided for in Article 41, the Council is tasked with the development of joint policies and instruments to address unfair trade practices between the

Member States. These policies and measures shall then be annexed to the Agreement.

There are clear differences with respect to the type of obligations undertaken in Part Eight of the Agreement. It is only in the case of unfair trade practices that a common SACU legal code, to be annexed to the Agreement, is foreseen. In the other three instances the co-operation will either involve only common policies and strategies or co-operation with respect to national laws and regulations. The nature of an annex has to be explained. In terms of Article 42 of the Agreement the Council *“may develop such annexes as may be necessary to facilitate the implementation of this Agreement. All such annexes shall form an integral part of this Agreement”*. It is clear that in the case of annexes, binding legal codes for SACU as a whole are foreseen and that they will have the same force as the Agreement.

In those instances where Member States retain a large degree of national autonomy they will still be obliged to respect the non-discrimination principle which is mentioned in a number of the provisions. To the extent that SACU negotiates new free trade agreements and participates as a single entity in multilateral fora, the member governments will have to develop joint policies and negotiating positions. This may become of particular importance with respect to areas such as trade in services, intellectual property matters, investment and other areas typically dealt within, for example, in the free trade agreements that the United States of America concludes and which are quite comprehensive and constitute rules-based arrangements in their own right.

It should also be pointed out that some of the new institutions of SACU requires specific *“policy mandates”* from the Council of Ministers in order to perform as SACU institutions. An example of this kind can be found in Article 11(3) which deals with the Tariff Board. It states:

“The terms of reference, policy mandates, procedures and regulations of the Tariff Board shall be determined by the Council in accordance with Article 8”.

The Council is the supreme decision-making authority in SACU and has considerable powers with respect to the development of policy mandates. It is stated that the Council shall be responsible for the overall policy direction and functioning of SACU institutions, including the formulation of policy mandates, procedures and guidelines for the SACU institutions.¹⁵

Article 31 will generate considerable pressure to develop common trade policies and negotiating strategies. As a general rule no Member State may negotiate or enter into new preferential trade agreements with third parties or amend existing agreements without the consent of the other Member States.¹⁶

¹⁵Article 8 (2).

¹⁶Article 31 (3).

Of particular importance is Article 31(2). It reads:

"Member States shall establish a common negotiating mechanism in accordance with the terms of reference to be determined by the Council in accordance with paragraphs 2 and 7 of Article 8 for the purpose of undertaking negotiations with third parties."

The Agreement has established those SACU institutions mentioned in Article 7. It is possible to create new ones. Article 8(8) provides that the Council *"shall have the authority to create additional technical liaison committees and other additional institutions and to determine and alter their terms of reference."* This may turn out to be quite an important provision that could add considerably to the growth potential and flexibility of SACU. What it is not quite clear is the legal implications that may result from decisions of this kind taken by the Council. It may result in amendments of the Agreement or at least serious changes in the formal structure or nature of SACU and may require approval by national parliaments. The amendment clause of the Agreement,¹⁷ grants the power to the Council to consider and decide on formal amendments. Amendments of this Agreement *"shall be adopted by a decision of the Council"*. No provision is made for approval by national parliaments and this particular problem may need revisiting.

Article 14 of the Agreement contains an important provision with respect to the institutional dimension of the SACU integration model. *It provides for "specialised, independent and dedicated National Bodies...entrusted with receiving requests for tariff changes and other related SACU issues"*. These bodies will then carry out the preliminary investigations and will recommend tariff changes to the Tariff Board. The Tariff Board will not be able to function unless such national bodies are in place. At present only South Africa has such an institution, the International Trade Administration Commission (ITAC). Very deliberate efforts at institutional development and capacity building within all the Member States will be required to put these National Bodies *"and possible new ones decided upon by the Council in future"*, in place. Article 14 is indeed the only provision that expressly provides for capacity building. *"SACU will assist Member States with the establishment of common procedures and technical capacity to ensure effective, efficient and transparent functioning of National Bodies."*¹⁸ It is also important to emphasise that the national bodies *"shall adhere to similar procedures in all Member States."* The achievement of this obligation could add considerably to joint practices and will have further integrating effects.

Implementation of Policies

One of the positive outcomes of integration is the elimination of uncertainty. It may be stated, with some qualification, that the more advanced the model and the greater the extent of supra-nationality, the bigger the advantages

¹⁷Article 43.

¹⁸Article 14 (3).

with respect to certainty regarding implementation of rules and policies. If different national bodies are responsible for the implementation of policies and rules, the danger of diverging practices increases. This is an even bigger danger when policies are not decided or adopted within one single entity, resulting in the same rules and policies for each and every Member State or sector. The SACU Agreement endeavours to address this problem through Article 8(6). *“The Council shall oversee the implementation of the policies of SACU.”*

The qualification that one could add to this provision is that it is possible to draw a distinction between **SACU** policies and **national policies** impacting on SACU matters. It should also be recalled that decisions in the Council are taken on the basis of consensus.¹⁹ The Commission also has a function in this regard and must *“ensure the implementation of decisions of the Council”* as well as taking responsibility for the implementation of the Agreement.²⁰ The members of the Commission come from the rank of senior officials at the level of Permanent Secretaries, Directors-General, Principal Secretaries or other officials of equivalent rank.²¹

The powers of the Council of Ministers to direct the activities of other institutions are considerable. It has the authority to determine and alter the terms of reference of the Technical Liaison Committees;²² refer disputes to the Tribunal;²³ decide on the extent of the right of Member States to prohibit or restrict the importation or exportation of goods from elsewhere in the Customs Union;²⁴ impose terms and conditions considered appropriate with respect to the protection of infant industries;²⁵ determine the terms of reference of the common negotiating mechanism when trade negotiations with third parties are undertaken;²⁶ deal with trade data disputes;²⁷ adopt amendments to the Agreement²⁸ and decide on payments of adjustments under the transitional provision with respect to the 1969 Revenue Sharing Formula.²⁹

The manner in which trade remedies will be implemented in SACU can also promote co-operation and further integration. The Tariff Board receives requests for trade remedies from the National Bodies. It will consider them and then recommend to the Council the appropriate level and changes of customs and implementation of antidumping, countervailing and safeguard duties.³⁰

²⁰Article 9 (3 and 4).

²¹Article 9 (1).

²²Article 12 (2).

²³Article 13

²⁴Article 25 (1)

²⁵Article 26 (2)

²⁶Article 31 (2).

²⁷Article 36

²⁸Article 43.

²⁹Article 50

³⁰Article 11 (2)

Harmonisation of Laws, Measures and Policies

The Secretariat is responsible for the harmonisation of all policies and strategies of Member States insofar as they relate to SACU.³¹ Exactly how this is to be achieved is not clear, but will require a considerable capacity within the Secretariat and a duty on Member States to communicate policies and strategies to the Secretary. This may turn out to be one of the most important provisions with respect to future integration and harmonisation. The obligation of the Secretariat is to “assist” in the harmonisation of national policies and strategies and presumably this will include an element of pro-active co-ordination and capacity building. It should be possible for the Secretariat to take remedial action and to respond when it becomes clear that fragmentation, rather than harmonisation, is developing within SACU or with respect to a particular Member State.

National Laws and National Measures

In several areas the Agreement foresees that Member States will continue to apply their national legislation. The Agreement shall, for example, not *“be deemed to suspend or supersede the provisions of any law within any part of the Common Customs Area which prohibits or restricts the importation or exportation of goods.”*³² Member States have reserved the right to apply SPS measures *“in accordance with their national SPS laws and international standards.”*³³ In the case of technical barriers to trade the Member States shall apply “product standards and technical regulations in accordance with the WTO Agreement on Technical Barriers to Trade. In this regard they shall *“strive to harmonise product standards and technical regulations within the Common Customs Area.”*³⁴

In certain areas the freedom of the Member States to apply their own legislation is qualified by an obligation to apply similar legislation to ensure that the provisions of the Agreement are harmoniously applied within their territories. In the case of customs and excise duties it is stated that the Member States shall apply similarly legislation³⁵ and with respect to customs co-operation they must ensure that the provisions of the Agreement are effectively and harmoniously applied.³⁶ They shall also take such measures as are necessary to facilitate the simplification and harmonisation of trade documentation and procedures.³⁷

³¹Article 10 (4)

³²Article 25 (2)

³³Article 30 (2)

³⁴Article 28.

³⁵Article 22.

³⁶Article 23.

³⁷Article 23.

Non-discrimination and Dispute Resolution

The non-discrimination principal is implied within the basic functioning of SACU; there cannot be discrimination between the products of the Members of a customs union. In Article 24 the non-discrimination obligation is mentioned expressly in the context of freedom of transit and in Article 27 the same is done with respect to rail and road transport. The regulations under marketing of agricultural products must also be applied in a non-discriminatory fashion.³⁸

The fact that SACU will have a formal dispute resolution mechanism through the Tribunal will also add to the development of a single jurisprudence for SACU and will, if actively used, contribute to integration when the same interpretation is given to the provisions of the Agreement. In its present formulation Article 13 is not clear at all with respect to who will have standing before the Tribunal and what exactly its jurisdiction will be. Presumably these questions will be cleared up when the Tribunal determines its own future rules of procedure.³⁹ The Council will have the power to refer disputes to the Tribunal and in this context the veto should not be applicable. If disputes cannot reach the Tribunal because of the inability of the Council to reach consensus it will very seriously undermine the rules-based nature of SACU. Apparently provision is also made for advisory opinions by the Tribunal. In Article 13(4) it is stated that the Tribunal shall “at the request of the Council, consider any issue and furnish the Council with its recommendations.”

The Agreement also provides, in Article 36, for trade data disputes and when such disputes arise they shall first be referred to customs and excise authorities of the Member States for resolution. Should they not resolve the dispute within thirty days or such longer period as agreed upon by the Member States involved, then the matter shall be referred to the Council. Exactly how the Council will deal with it is not explained. Article 15 is of a general nature and deals with consultations. It provides that any difference or dispute arising out of this Agreement “*which does not directly affect the interest of all Member States*”, may from the subject of direct consultation between the affected parties. If they fail to find a solution, the matter shall be reported to the Commission. The exact meaning of this provision is not clear but it cannot mean that a “*serious dispute*” about the interpretation and application of the Agreement cannot arise between two Member States and be referred to the Tribunal for a decision.

Article 41 deals with unfair trade practices and is the only provision with an express indication that a new annex will be developed and added to the Agreement. If this annex is to be effective it will have to provide for a dispute resolution mechanism. Who will exercise that jurisdiction? If it is to be handled by the Tribunal it will, by necessity, require that private entities and firms enjoy standing before the Tribunal. If a more specialised forum is decided upon for the purpose of adjudicating disputes on unfair trade practices, then it will ideally have to be a supra-national SACU institution with jurisdiction over all unfair trade practices within the common customs area.

³⁸Article 29.

³⁹Article 13 (8)

Conclusion

This Article has argued that the new SACU Agreement adopts a particular approach towards the promotion of intra-regional integration and integration into the global economy. That model depends quite directly on the new institutions and their powers.

The new SACU Agreement is essentially a framework arrangement that allows for certain developments to take place. It starts with the same disciplines found in the old 1969 SACU Agreement which dealt essentially with trade in goods. The new Agreement, however, adds a number of important institutions. In many ways it is a new organization. Whether there is significant improvement and promotion of intra-regional integration depends quite directly on how the new institutions will be used by the Member States and how they will utilize the space for independent action created by the Agreement. There are still signs that a large degree of sovereignty is retained by the Member States. The Council of Ministers is essentially a forum where national governments will decide, on the basis of consensus, what SACU will become and how it will develop.

If the common policies provided for in Part Eight of the Agreement are in fact adopted and contain serious commitments and clear goals with respect to common action and strategies, the cause of integration will be enhanced. However, the four areas mentioned in Part Eight are not perceived to be of equal significance or requiring in the same obligations. It is only with respect to unfair trade practices that it is for example stated that a new annex is to be adopted. It is only through the instrumentality of an annex, forming part of the Agreement itself, that binding obligations will ensue. In the other three areas the commitments undertaken by the Member States are less clear and the Member States only promised to agree to develop common policies or to co-operate with each other when they enforce their national laws. No time frames are set. There is no clear and final commitment to supra-nationality and uniform obligations in these areas.

The Council of Ministers will play a vital role. It is the highest decision-making body and has the power to create additional institutions. It can decide on policy guidelines and a common negotiating mechanism when it comes to negotiating new trade agreements with third parties. The functioning of the Council is premised the formal equality of the Member States. This is how "democracy" within SACU apparently is to be achieved. This notion of democracy needs further development and should include more emphasis on transparency, accountability, respect for the SACU Agreement as the organization's "constitution" and the availability of remedies in case of violations. Respect for "the rule of law" within the SACU institutions and the Member States should be fostered. The Tribunal can play a vital role in developing the jurisprudence of SACU along such lines.

The substantive decisions of the Council will provide an important indication of the commitment of the Member States to further integration and the adoption of substantive common policies. The fact that decisions in the Council will be taken on the basis of consensus may constitute an important

political obstacle and the behaviour of South Africa in this regard will be of particular significance. SACU will face particular challenges in this regard; it is composed of one dominant economy (South Africa), alongside four small States at different levels of development. Lesotho is a poor least developed country.

In many technical areas such as product standards, SPS measures and technical barriers to trade the Member States have undertaken to harmonise their national laws and measures. Who will monitor these developments? The Secretariat may play an important role, but it will again depend on the initiatives of the Commission, the Technical Liaison Committees and the Council as to whether real harmonisation will in fact take place. Again the absence of time frames should be noted.

One of the most important new institutions is the Tribunal. Its future powers and functions will depend directly on the further refinements that have to be added to Article 13. It will develop its own rules of procedure and this will provide an opportunity to address some of the lacunae still in the Agreement. If the Tribunal turns out to be a true adjudicating body it can make a very significant contribution to the process of further integration and the development of the jurisprudence of a rules-based dispensation in SACU.

The new SACU Agreement is a flexible instrument and contains considerable potential for enhancing economic integration between the Member States. Its institutions are mandated, in certain areas, to promote the adoption of common policies and to take decisions on behalf of Member countries. These decisions will in several instances have to find application within the Member States. The recommendations of the Tariff Board concerning trade remedies, for example, will have to be confirmed as final decisions by the Council and then will have to be implemented within Member States. The status of such decisions within the national legal dispensations of the Members has not been clarified. The SACU Agreement itself has been ratified by all the members and during that process they adhered to and gave effect to their national Constitutions. Legal rules will have to be developed within SACU and the Member States as to the effect of decisions by SACU institutions within national jurisdictions and their impact on national legislation. It is typical of regional organisations with this type of authority to formally provide for consistency in implementation and effect within national dispensations. These are the consequences of integration and the legal effects within national dispensations will have to be studied and additional legal codes will probably be required in order to ensure consistency, effectiveness and harmonious implementation.

Regional integration is often only a starting point that sets into motion further consequences and the need for refinement and elaboration. Hopefully SACU's institutions will develop in such a manner that they will indeed, in the words of the Preamble, *"cater for the needs of a customs union in the 21st century."*

The Implementation of the SADC Protocol on Education and Training

Karola Hahn

Introduction

Higher education is a key sector of the upcoming knowledge economies. This sector is increasingly internationalising and globalising. The internationalisation of higher education is a multidimensional process of fundamental relevance for the academic, political, economic and social development of the countries in the region. A regionally focused form of internationalisation is slowly emerging in the Southern African Development Community (SADC).

The paper will focus on the following thematic strands: a) The changing global context of HE and the positioning of SADC in this context, b) The content of the SADC Protocol on Education and Training (HE related articles), c) Theoretical reflections on the regional integration of higher education in SADC, d) The status quo of its implementation, e) The identification of fostering and impeding factors for its implementation and f) The development of possible scenarios and the role of South Africa in the process of regional integration.

Despite the relevance of the process, only limited higher education research has been done on the topic so far.

The Changing Global Context of Higher Education

The internationalisation and regional integration of higher education and research are processes that are taking place in a globally changing context. Australian forecasts predict a massive increase in the demand of international higher education globally of about 7,2 Mio. students up to the year 2025. Two thirds of the demand for international education will come from ten countries alone, most of them Asian (Böhm et al. 2002). The British Council forecasts a doubling of the international student numbers in the UK by 2020 (British Council 2003). Germany is projecting 250,000 international students by the year 2010, which corresponds to approximately 40% of the entire South African student population - just to illustrate the scope of the predicted international student mobility, (DAAD, 2004). Demographic developments, through the decline of birth rates in Europe, will add another dynamic dimension to these flows.

As many countries will not be able to meet the demand for higher education and research training, either quantitatively or qualitatively, the demand will be met by countries that have the required capacities. African universities will most probably play a marginal role as hosts for international students, while the major higher education 'provider' in the United States, in Europe – in particular the United Kingdom and Germany – as well as in the Asian region or the Pacific Area (i.e. Australia) are pro-actively developing

strategies to meet this global demand. Some of them have explicit brain gain or study export strategies.

The worldwide increasing demand of well-educated future 'knowledge workers' contributes to the emergence of a global market for educational 'products', an increase of transnational education through new information and communication technologies and to the commercialisation and commodification of education as a transnationally tradable service. The inclusion of higher education into the catalogue of the General Agreement of Trade in Services (GATS) is symptomatic for these 'market' developments. The increasing privatisation of higher education, also on the African continent, is another feature of the emerging global higher education market, (Thaver, 2003). Quality assurance and 'consumer protection' have become most pressing demands in the jungle of programmes, degrees, modes of delivery and the increasing number of higher education 'provider'.

These future developments in international student mobility will put enormous pressure on African higher education with regard to 'market share'. The competition for resources (i.e. from international donors) and the competition in international attractiveness for cooperation and mobility as well as the 'positioning' on the HE market will get tougher. If taken as a separate country, only South Africa alone seems to have the potential to play a role in this competitive environment of the global higher education market. But its role might primarily remain limited to the African market of higher education. It may also become the internationally most attractive higher education provider in Africa. An analysis of the South African student statistics reveals, that this is already the case for the SADC region.

Another challenge, that is not directly sector-related at first glance, will evolve through the planned establishment of a SADC Free Trade Area. This envisaged encompassing trade liberalisation is supposed to guarantee a reduction of poverty, social development and economic growth through integration into the world economy. It will need an enormous input in capacity building in the region at quick pace. This input can only be provided when the higher education sector and its stakeholders will cooperate more closely together regionally in the education and training of its citizens.

The academisation of the professions in the globalised knowledge industries and the rising need for knowledge and technology transfer into the economic sector will become central challenges for the higher education institutions and research institutes in the region (Cloete et al. 2002). The performance and relevance of 'services' of these two types of institutions will be largely decisive for the social and economic development in the SADC region.

Regional Integration of Higher Education in SADC

Single countries, and in particular developing countries, have only limited potential to cope - either quantitatively or qualitatively - with the internal and external challenges of the higher education sector, e.g. the massive demand for higher education or the education and training in highly specialised and cost-intensive science fields. Thus regional cooperation

and integration are widely seen to be the appropriate strategies to cope with the challenges. This cooperation could guarantee a synergetic higher education sector that is responsive to the social, economic and political needs of the region. The pooling of scarce resources, collaborative capacity building, the joint development of strength and relevance can also help to reposition the region globally. Regionalisation is generally regarded as an adequate response towards globalisation.

This regionally focused form of internationalisation or 'regionalisation of higher education' implies a multidimensional process of reform and innovation on all system levels of the sector. It generally means the development of structural compatibilities of programmes and degrees, the harmonisation of national laws and regulations, the formulation of common standards and procedures e.g. in quality assurance and access, relevant curricula and coordinated development of institutional profiles and programmes. Apart from the cooperation component it implies a mobility and exchange of a critical mass of students and scholars that contributes to the creation of a common regional cultural identity on the one hand and regionally relevant knowledge and competencies on the other hand.

Regionalisation of higher education is normally coupled with more comprehensive regional political, economic and social integration processes. The most prominent examples for regionalisation of higher education are the initiatives of the European Community (i.e. ERASMUS programme) and the Bologna-Process that currently involves 33 signatory countries. The creation of a European Area of Higher Education and Research is among the top priorities of all the nations involved. But also within the Southern African Development Community (SADC), we find efforts to internationalise the higher education sector regionally.

In 1997, the SADC Member States agreed to promote regional co-operation and integration on the education sector. The process of regional integration is spearheaded and guided by the SADC Protocol of Education and Training. The Protocol is part of the general SADC Treaty. Articles 7 and 8 of this Protocol explicitly refer to the sector of higher education and training, and research and development. Articles 9 and 10 also partly touch on the higher education sector (Life-long learning and Training, Publishing and Library Resources).

The Protocol was signed in 1997 by the 12 SADC member countries (Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe). After ratification by nine countries, namely Botswana, Lesotho, Malawi, Mauritius, Namibia, South Africa, Swaziland, Tanzania and Zimbabwe, it entered into force in the year 2000. By 2004, the Protocol has been ratified by all member countries except Angola, DR Congo and Seychelles.¹ After ratification it provided the legal framework for cooperation in the broad field of education

¹The Seychelles withdraw from SADC membership by 2004

and training. The ratification requires its full implementation in the SADC Member States.

The meta-goal of the Protocol is to improve the standard and quality of higher education and research by promoting co-operation and creating intra-regional synergies in different areas. All activities are targeted to progressively achieve a regional convergence, equivalence, harmonisation and standardisation of the sector. It was agreed to cooperate in the following fields:

- Improving political, legal and structural frame conditions for cooperation
- Sharing information, experiences, costs and resources
- Facilitation of student and staff mobility
- Curricular cooperation on undergraduate and postgraduate level (the latter increasingly internationalised)
- Research cooperation
- Establishment of Centres of Excellence
- Development of Centres of Specialisation

The time frame foreseen to realise these objectives is 20 years.

Theoretical Reflections

Looking at the process of regional integration of higher education in SADC from a theoretical point of view, we can systematise the phenomenon in the following ways: Systematisation by thematic strands, by system levels, by policy fields and by dimensions. It becomes evident that the process of regional integration of higher education in SADC contributes to the complexity of the sector (Hahn 2004). This increasingly complex process can be identified as a process of change.

Change through regional integration of higher education in SADC can take place on all system levels i.e. regional, national and institutional level. It can also have effects on the global level, if the integrated regional HE sector is perceived by extra-regional actors as a single regional actor or if common external policies are formulated. It can also reach down to the disciplinary level with regard to a 'regionalisation' of the curricula, the integration of a regional dimension and SADC relevant content into the programmes.

The major thematic strands are teaching and learning, research and development, governance and management, policy and planning.

The multidimensional character of the issues touched by regional integration of higher education is also leading to a growing complexity. We can identify at least four categories of issues, all of them cross-cutting all system levels. These core dimensions of the process are: the academic, the institutional and the political dimension as well as the social dimension.

The academic dimension encompasses teaching and learning as well as research and development. The institutional dimension includes aspects

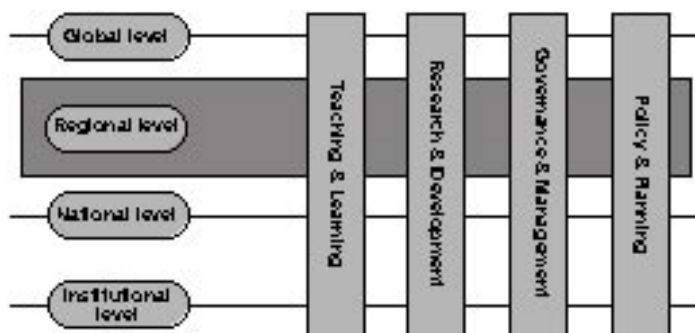


Figure 1: Regional Integration Higher Education and Research in SADC

of policy, planning management and governance at universities and the political dimension covers aspects of policy, planning and governance of the entire HE sector. The social dimension of the regional integration process cuts across all other dimensions and thematic strands as well as all levels of policy making. It comprises issues like equity, gender, poverty, access, AIDS and disabilities.

Another cross-cutting dimension is the economic (and funding) dimension of regional integration of higher education. This dimension has not yet been developed to its full potential in the SADC region. It needs more attention

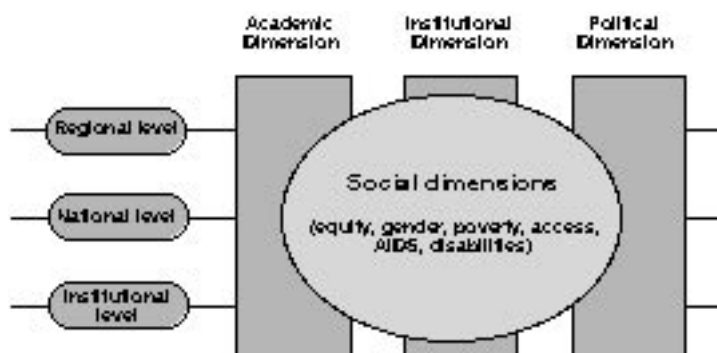


Figure 2: Dimensions of Regional Integration of Higher Education

from the political actors as well as from stakeholders of the economic sector, in particular if regional integration of higher education shall be effective as an instrument to foster the regional integration of the economic sector.

Arising complexity is also evident with regard to the policy fields concerned through the regional integration of higher education. Other policy fields increasingly intersect higher education. These intersections often have a system level crossing dimension. Policy fields concerned are Finances, Trade and Industry, Labour, Politics of Structure, Home Affairs, International Relations and Foreign Cultural Relations.

The Implementation of the SADC Protocol on Education and Training

Three separate events may now allow one to critically review the implementation of the mentioned Protocol:

- The ratification of the Protocol serving as a legal framework for the signatory countries;
- The restructuring of SADC with the sub-ordination of the issue of HE and research to the Directorate of Social and Human Development and Special Programmes (SHDSP);
- The formation of a potential reform-driving regional intermediary actor, the informal network of SADC Vice-Chancellors that will be institutionalised as a regional VCs' Association.

Up to now the implementation of the Protocol is progressing slowly. A huge number of collaborative activities are still taking place bilaterally without explicit SADC frame of reference.

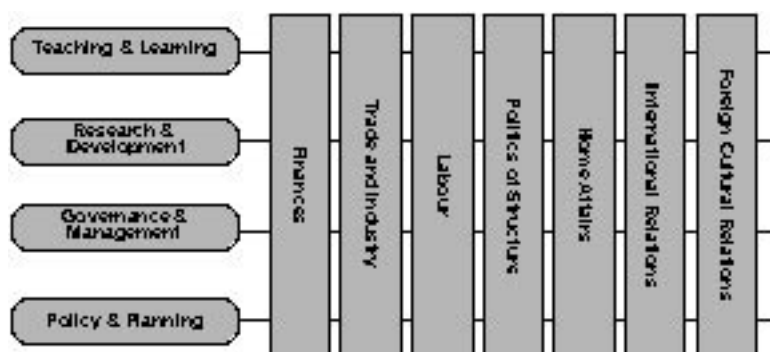


Figure 3: Higher Education Policy

But several first steps have been taken since the signing of the Protocol. The main areas of activities were the creation of an infrastructure for the sector integration, the creation of networks and dialogue platforms for the sharing of information and experiences, the implementation of capacity building programmes, the conceptualisation of mobility programmes, the linking-up to continental and global initiatives as well as the conceptualisation of a regional qualification framework.

Infrastructure

According to the decentralised sector approach of SADC, the SADC Protocol on Education and Training was attributed to the Human Resources Development Sector. The higher education sector was managed by the SADC Human Resources Development Sector Coordinating Unit in Mbabane, Swaziland. Relevant organs to coordinate the HRD sector were

established according to Article 11, namely a Committee of Ministers from the field of education, a Committee of Senior Officials from the Member States as well as the Secretariat comprising a Director and appointed or seconded staff. Several Technical Committees made up by experts of the Member States have been installed. Their task is to promote, prepare and guide the implementation of the Protocol. The Technical Committee on Higher Education and Training and Research and Development was only established in 2002, five years after the signing of the Protocol.²

The SADC Human Resources Development Sector Coordinating Unit and the Technical Committees elaborated strategic five year plans. The implementation of the strategic plan of the Technical Committee on Higher Education and Training and Research and Development was interrupted by the restructuring process of the organisational structures of SADC. All Technical Committees were dissolved and it nearly came to a stand still of activities. Only those programmes were continued that already were at an advanced stage and functioned well.

The decentralised sectoral approach of regional integration is now changed into a more centralised approach. With the restructuring of SADC organisational structures, the sector of education has been submitted to the Directorate of Social and Human Development and Special Programmes (SHDSP). The sector of science and technology, although highly interconnected with the higher education sector, will be coordinated by the Department of Strategic Planning, Gender and Policy Harmonisation headed by the Chief Director at the SADC Secretariat. Both organs are located in Gaborone, Botswana.

Capacity building

The major instruments to foster the implementation of the SADC Protocol on Education and Training are the different programmes for capacity building of key actors. A central programme for human resource development and capacity building is the 'SADC Initiative in Education Policy Development Planning and Management' aimed at sustainable education development. One of the first instruments was the creation of the Education Policy Support Initiative (EPSI) implemented in 2000. EPSI operates in the areas of training programmes, policy capacity building fora, joint policy activities and research, networking and information dissemination. Within the EPSI, three SADC centres specialising in Education Policy, Planning and Management have been identified within universities of member countries (University of Dar Es Salaam, Universidade Pedagógica, University of Witwatersrand). The aim of these Centres of Specialisation is to deliver

²Other higher education related Technical Committees were those on Intermediate Education and Training, on Life-long Education and Training, on Certification and Accreditation and Scholarships and Training Awards as well as on Distance Education. At a later point another Technical Committee on Special Needs Education has been installed. The Technical Committee on the Training Fund was constituted by the Technical Committee on Scholarships and Training Awards, already established in 1995.

training programmes within the areas of education policy review and sector analysis, financial planning and management, management of education delivery, monitoring and evaluation of policy implementation as well as information management. Target groups of the EPSI training programmes are mainly senior Ministry officials (mainly education planning practitioners), but also representatives of non-governmental education agencies as well as higher education institutions' managers. Until 2004, a substantial number of experts have participated at the EPSI training programmes. EPSI is one of the few projects that were continued during the restructuring process.

Another initiative was the implementation of a Policy Capacity Building Forum on 'Managing Change in Education' to facilitate policy dialogue and information exchange in the region. A further successful initiative was the establishment of a regional Centre of Specialisation for Public Sector Administration and Management (CESPAM). CESPAM is run by the University of Botswana and offers a Masters programme in Public Sector Administration and Management as well as short-term executive development programmes for middle level managers and administrators in the public, private and para-statal sectors (some of them from higher education), (SADC HRD Sector Annual Progress Report 2001-2002, 25-26).

Another parallel initiative that is aimed at regional capacity building is the so-called Zambezi Forum on Higher Education (ZFHE) sponsored by the World Bank. The objectives of this forum are to bring together stakeholders of the higher education sector, mainly in Southern Africa. The forum is supposed to enhance the capacity of higher education in Africa and to transform its institutions in order to maximise their contributions to local and global innovation. Planned activities are the formation of a network of relevant actors, financial support for activities and capacity building for innovation, improvement of communication to enable collaboration and institutional governance that ensures an efficient use of resources and a high quality of outputs. The Zambezi Forum on Higher Education will regularly host meetings of policy makers of the SADC region.

The Formation of a Regional Universities' Association (RUA)

An initiative that was not directly steered as top-down SADC policy, but as a regional bottom-up initiative by stakeholders of the sector, is the creation of a regional Vice-Chancellors' Association and a Regional Universities Association.

The formation of a SADC Vice-Chancellors' Association is welcomed by the SADC Executive Secretary, Prega Ramsamy. It is considered as an important initiative that complements the work of the SADC Offices and the work of the national Ministries concerned. The SADC Vice-Chancellors' Association is supposed to function as a think tank and vehicle in the implementation of higher education related articles of the SADC Protocol on Education and Training.

Up to now four consultative workshops or meetings of the SADC Vice-Chancellors have taken place in Windhoek (2002), Mauritius (2003), Cape Town (2003) and Lusaka (2004). In 2002 some Vice-Chancellors of SADC universities met for a first consultative meeting, with a backdrop of different meetings of the Working Group on Higher Education (WGHE), Association for the Development of Education in Africa (ADEA) as well as the African Association of Universities (AAU) aiming to address specific sector related problems in sub-regional groups. SADC was considered as one of the sub-regional groups. The first follow up meeting of the SADC Sub-Committee was chaired by Peter Katjavivi, founding Vice-Chancellor of the University of Namibia. He widened the perspective and initiated the foundation of an institutionalised SADC Vice-Chancellors' Association, namely a Regional University Association, that shall become a central actor in the higher education policy formulation within the SADC region and the implementation of the Protocol on Education and Training.

In the first meeting it was agreed to work upon the role of universities with regard to HIV/AIDS, the creation of an online educational research journal as well as tracer studies on past university studies. However issues of operationalisation and implementation of the SADC Protocol on Education were not touched directly at that point but it was agreed upon to consider the implementation of the SADC Protocol as priority for the next follow-up meetings, (UNAM & Otaala 2000, 1-2). In the following meetings the priority issues of the implementation of the SADC Protocol on Education and Training were identified and first steps of its operationalisation discussed.

The institutionalisation of the informal network as SADC Vice-Chancellors' Association was decided and concrete steps were prepared. A Technical Committee was appointed to oversee the preparatory work for the establishment of the Association. The preparatory work has been coordinated by the South African University Vice-Chancellors' Association (SAUVCA). In May 2004, at the most recent consultative workshop in Zambia, a draft report has been presented that identifies the objectives and the modus operandi of the Regional University Association. One of the issues discussed was the integration of the Zambezi Forum on Higher Education into this Association. The official launch of the envisaged Association is planned for November 2004.

It is expected that this new intermediary actor, involving experts and stakeholders from the 'grass root' level of the main key institutions for higher education and research, namely the universities, will effect a push in the regional integration process of the sector.

Mobility of Students and Teaching Staff

Roughly estimated, some 789,000 students were enrolled in SADC higher education institutions in 1999/2000, (UNESCO INSTITUTE OF STATISTICS 2004). South Africa has, with more than 600,000 students, 36 state institutions and

around 80 private higher education institutions, the largest higher education system of the region, hosting more than 75% of all students within SADC.³

In the past years, student and staff mobility increased substantially within the region. But the mobility is generally not realised in form of an organised mobility or exchange but rather as a one-way, 'south flow' of so-called 'free-mover'. This mobility pattern can be identified as a vertical mobility towards South Africa, some may even call it a brain drain. More than 5% of the students enrolled in South African higher education institutions are students from other SADC member countries. The quota codified in the SADC Protocol for 2020 has thus already been reached in 2002. The highest ratio of SADC students in South Africa originates from Zimbabwe, Botswana and Namibia.

Country of Origin	Enrolments
Angola	679
Botswana	6.037
Congo (DR)	296
Lesotho	3.383
Malawi	357
Mauritius	1.627
Mozambique	581
Namibia	5.389
Seychelles	4
Swaziland	1.621
Tanzania	206
Zambia	2.445
Zimbabwe	9.099
Total SADC Students in South Africa	31.724
South Africa	628.473
Percentage of SADC students in South Africa	5,04 %

Table 1: SADC Students Enrolled at South African Universities and Technikons 2002
Source: Department of Education, Pretoria 2003 (Preliminary Statistics)

³The number of 36 State higher education institutions refers to the time before the restructuring of the higher education landscape in 2003. The number of private higher education institutions in South Africa is changing constantly. 80 private higher education institutions were registered in May 2004, 5 were provisionally registered, 7 have been granted an extension of its provisional registration (<http://education.pwv.gov.za/content/documents/419.pdf>).

There are no SADC statistics on permanent or temporary teaching staff by nationality or on teaching staff exchange. According to the South African higher education statistics there seems to be an international attractiveness for 'free movers' (teaching and research), seeking academic employment at South African Universities. In the year 2000 a total of 164 academics from SADC were employed at South African public universities and technikons. This flow could be interpreted as vertical academic staff mobility. However the ratio of SADC academics remains quite marginal (0,4%) in relation to the 36,184 South Africans and the 832 Europeans employed as teaching and research staff, (Pillay et al. 2003, 33-34).

Accreditation, Academic Recognition and Quality Assurance

In 1995, a Technical Committee on Certification and Accreditation was established with the purpose to develop and recommend policy guidelines, instruments, structures and procedures that should facilitate equating, harmonising and eventual standardisation of accreditation and certification of qualification, (SADC Technical Committee on Accreditation and Certification 2001, 3). Priority was set on the development and facilitation of National Qualification Frameworks within the Member States as well as on the development of a Regional Qualification Framework (RQF). A first draft of the RQF is accomplished by 2004 but not yet publicly available.

Some SADC Vice-Chancellors discussed the establishment of a regional Quality Assurance Centre and the creation of a Regional Accreditation Board as instruments to facilitate the implementation of the SADC Protocol, (Otaala 2002,12). The lack of resources and the lack of political commitment will most probably not contribute to the realisation of these ideas.

Closely linked to the issue of academic recognition is the issue of credit transfer in case of transnational mobility. This topic has not really been touched so far, as it was assumed that credit transfer is more a bilateral matter between individual institutions than of the entire sector.

A regional system for credit transfer thus would have the potential to really link different strands of the regional integration policy on the sector. It could establish an integrative part of the mobility schemes, of the study programmes and degree structures and serve as basis for equivalence agreements. It could even be a link between the life long learning, the recognition of prior learning and university studies. The heterogeneity of the SADC higher education sector presents a huge challenge in respect to regional schemes of quality assurance, academic recognition and credit transfer.

Harmonisation of Study and Degree Structures

The harmonisation of the study and degree structures is one of the long-term goals of the regional integration process in higher education. There is a striking heterogeneity of study and degree structures between the systems and also within the different national systems.

In 2001, the Technical Committee on Accreditation and Certification carried out an assessment of the existing structures, degrees and qualifications offered by universities and colleges within the region to get an overview of the status quo and identify regional incompatibilities. A first stocktaking of existing structures of the educational systems and qualification frameworks revealed major disparities in the education structures of SADC countries (SADC Technical Committee on Accreditation and Certification 2001). Disparities were identified - especially from junior secondary education onwards,

- in the entry requirements to Universities,
- in the minimum length of universities studies and
- in the large institutional spectrum of responsibilities for accreditation and certification (ibd.).

What seems to be a common feature at least of those countries with Anglo-Saxon tradition and in Mozambique is the two tier structure in higher education, under-graduate and post-graduate. Some of the systems only provide courses on under-graduate level (often leading to a Bachelor's degree) or below (Certificate or Diploma), only few have a developed post-graduate sector providing Master's and PhD or doctoral degrees. The length of study varies broadly, even within some countries. The creation of structural convergence in order to facilitate intra-regional mobility, will be one of the major challenges for the regional integration of the SADC higher education sector.

Curricular Cooperation

One of the central issues in the SADC Protocol on Education and Training is the curricular cooperation in undergraduate and postgraduate studies (i.e. joint design, development, production and use of learning and teaching materials, joint or integrated programmes, joint teaching, exchange of students and teachers within collaborative programmes). Particularly in cost intensive educative programmes such as Medicine, Veterinary Medicine, Dentistry, Engineering, Technology, Chemistry, Physics and other Natural Sciences. we find a number of cross-border collaborations mostly on the advanced study level (Master or PhD). Most of the curricular cooperations are still bilateral collaborations between individual universities based on specific agreements or partnership arrangements (e.g. the collaboration of the University of Namibia with different South African universities in the field of engineering and medicine). These cooperations generally do not have an explicit reference to the SADC Protocol or formal SADC structures, they are mere institutional partnerships.

According to some experts there are more curricular co-operations with universities overseas than within the region. As in the other issues, there is no central database of the collaborative programmes offered in the region. An assessment of all the programmes in a central database and an identification of best practice examples could help to identify the regional needs and potentials.

Research Cooperation

The fostering of research cooperation is one of the central issues of the SADC Protocol. However, there is no overview available at SADC level over the developments in this field. It even seems as if SADC does not have any visible influence on research cooperation in practice. Research cooperation is a sensitive field with regard to political steering. It normally follows the routes of personal interests of researchers or institutional profiles and priorities or research institutes or units. As research is increasingly taking place in a highly competitive environment it rather follows the laws of quality and funding opportunities than those of political programmes. Only substantial funding through the SADC Secretariat or other funding agencies could stimulate a stronger inclination for research cooperation within the region.

The establishment of regional research-based Centres of Excellence is quite a controversial objective of the Protocol. National interests and competitive advantages of already existing Centres of Excellence do not support the realisation of this goal on a broader scale. The new trend in SADC is now to debate on networks or nodes of excellence to avoid too many paralysing debates and national sensitivities.

Most of the existing research networks go beyond SADC boundaries and are neither stimulated or coordinated by SADC nor explicitly embedded in SADC policies. Prominent examples are the University Science, Humanities and Engineering Partnership in Africa (USHEPiA) or the 'IDYLE network', a cooperative research partnership of South African, Namibian and French partners, working on renewable resources in the Benguela ecosystem.

International Linkages

As regional integration of higher education is part of a more encompassing multi-level process, the linking up to the international and global level is of fundamental importance. To enhance the implementation of the SADC Protocol on Education and Training and to guarantee its sustainability, a number of initiatives have been started to link the diverse discussions and activities to different developments and initiatives on African and international level. Inter-linkages and discussion platforms have been established with the UNESCO, the World Bank, the Association for the Development of Education in Africa (ADEA), the African Association of Universities (AAU) as well as with the NEPAD process.

A Multitude of Impeding and a Few Fostering Factors

As already mentioned, the implementation of the SADC Protocol on Education and Training, namely of the Articles 7 (higher education and training) and 8 (research and development) is progressing at a slow pace. A variety of reasons can be identified for its slow implementation, as well as a few fostering factors.

Many of the impeding factors for the slow implementation of the Protocol are not predominantly sector specific. The central hindering factor is the

lack of finances and with it the lack of human resources. This led to a weak and fragile implementation support-structure on all system levels. Only a very small team of SADC officials were supposed to guide and coordinate the process. On national level hardly any new posts have been created to coordinate and implement changes in the participating countries. No intermediary agency offered guidance and support to the higher education institutions.

Another negative effect of scarce financial resources are the under-funded integration instruments: the mobility grant schemes designed for students and teaching staff and the missing seed funding to push national reforms. Innovation and the exchange of a critical mass of students and teachers needs more financial input.

The main sector-specific impeding factor is the extreme heterogeneity of the higher education systems with regard to size, quality, capacity and resources, structures, cultures and traditions. This heterogeneity seems to make regional integration of higher education a sheer dream. The uneven distribution of capacity in the region does not only refer to the higher education institutions themselves but also to the level of policy making and sector coordination. SADC encompasses a broad range of governance models of higher education: some countries have a differentiated system with a variety of governmental and intermediary actors and complex decision-making processes. Some represent only a 'one university, one polytechnic and one Ministry of Education' higher education system.

A further central impeding factor for the implementation of the SADC Protocol is the inconsistency of policies. We find this inconsistency, or discontinuity of policy on the SADC level as well as on the national level of the signatory countries.

An inconsistency of policy is visible with regard to the Regional Indicative Strategic Development Plan (RISDP). RISDP is aimed at providing the SADC Member States 'with a coherent and comprehensive development agenda on social and economic policies over the next fifteen years' (SADC 2004, 7). However, it reveals little coherence and continuity with regard to Human Resource Development policies in general and higher education and training (Art. 7) and research and development (Art. 8) in particular (as part of the human resource development policies). Higher education is a widely neglected issue in this plan, whereas sector crossing social aspects as well science and technology seem to play a major role. The prioritisation with an over-emphasis on science and technology is matching the new 'Zeitgeist' that is emerging globally with the overarching economic rationale aimed at a 'globalisation mainstreaming' at quick pace (Hahn 2004). The fact is ignored that science and technology do not flourish in empty spaces. The backbone of science, technology and innovation is a sound education system, especially with regard to higher education, post-graduate and research training.

Inconsistency of policy on the national level we find with regard to immigration policies, the policy of visa and residence for international

students, work permits for teaching staff and scholars. The missing link between the policies of regional integration and those of Home Affairs and Labour seems to be one of the major practical barriers to regional mobility. Thus the objective of the Protocol to reduce mobility barriers has not been reached so far.

Directly linked to the inconsistency of policy we find a lack of operationalisation and concreteness of the topics and measures derived which can be regarded as a fundamental weakness for a successful implementation of the Protocol.

Another major deficiency for the implementation process is the lack of systematically generated, centrally stored and analysed data on higher education and research. There is no regional database on higher education and research institutions (profiles, missions, programmes), students (enrolments, graduation rates, nationality, mobility), teaching staff (number, academic profile, qualifications, nationality, mobility), curricula (profiles, degrees, cooperation), research (thematic fields, cooperation), academic recognition (agreements, procedures) and international partnerships (institutional, faculty or thematic agreements).

The most recent UNESCO world education digest reveals a very weak and inconsistent data basis for the SADC region, (UNESCO UIS 2004). Only South Africa seems to have elaborated higher education and research statistics. To analyse and monitor progresses made in regional integration and to formulate policies, it is essential to know what is the starting point of the developments. The elaboration of a systematic data generation and centralised database seems to be one of the most urgent needs for a successful implementation of the SADC Protocol on Education and Training.

The SADC Protocol on Education and Training has primarily been the expression of governmental consultations with only few involvement of relevant actors and stakeholders of the sector. It can thus be interpreted as a mere top-down initiative that now struggles with the appropriate support by those who are key actors for its successful implementation: the university leadership, intermediary agencies and coordinating bodies (e.g. Vice-Chancellors' Associations, Quality Assurance Agencies). The creation of a SADC Vice-Chancellors' Association in 2004 could enhance the feeling of ownership significantly.

Two factors will help to implement the SADC Protocol on Education and Training: First of all it is the need to cooperate regionally and to pool scarce resources. The second driving factor is the existing 'spirit of partnership'. Activities and interactions are guided by the principles of mutual assistance and solidarity supported by a strong affinity of relevant stakeholders, not only on governmental level but also on the level of the intermediary organisations and the universities themselves. This emotional and social dimension will most probably strengthen the cooperative regional ties.

Possible Scenarios and the Role of South Africa

The major pattern evolving in the regional integration of the higher education sector is that of a limited and asymmetric regional integration of the SADC sector of higher education and research. It is not likely that all the above mentioned deficiencies and hindering factors will lead to a fully integrated SADC area of higher education and research, as for example in Europe. This main scenario may have different sub-variants.

As South Africa plays a central role in the integration process of the SADC higher education sector, we will almost certainly see a South Africanisation of the entire sector in the region. The South Africanisation will become manifest with regard to standard and agenda setting in the following areas: academic standards in teaching and research, quality assurance and accreditation, topics discussed on the sector, priorities set and policies formulated, governance models, innovations etc. Its expertise in higher education and research as well as in the governance and management of higher education and science might help South Africa to expand its local hegemony into an ever-growing regional leadership where South Africa will serve as frame of reference for policy and planning on all system levels of other SADC countries. However, a South Africanisation of the SADC HE sector as a 'politically steered or targeted process' is probably not in the interest of either the SADC member countries nor of South Africa herself. It just may turn out as a social reality.

Different sub-variants of the main scenario are possible. South Africa may form the heart of a Southern African core network together with some of the countries in the region. These may be countries where strong cooperative links already exist and where common interests and mutual benefits are identified for the future. To enhance efficiency in cooperation, the core network could consist out of bilateral and multilateral initiatives outside the official political arena of SADC. Communication could be effected in informal, thematic networks of governmental actors, intermediary bodies, higher education institutions and their leaders, or even more formally within consortia of universities, that may be created.

The evolution of an integrative core network around the Southern African Customs Union (SACU) is the most likely. This core network could consist of the SACU Member States South Africa, Namibia, Botswana, Lesotho and Swaziland – and in the near future perhaps also Mozambique that aspires to SACU membership. In fact, the longstanding close collaborative relationships between Swaziland, Botswana and Lesotho and the close cooperation between Namibia and South Africa after Namibian independence and South African democratisation could be regarded as the two integration poles of a sub-SADC higher education sector. A SACU-based multilateral cooperation in thematic networks could form the avant-garde of regional integration in higher education. A fruitful model could be the alignment of curricula and research cooperation to SACU-relevant topics and competencies.

To a certain extent a regional disintegration in higher education is also

probable through the linking up and integration of South Africa into the global scientific community and cooperation networks while leaving the rest of the SADC countries behind. The different national capacities and with it the pace of sectoral developments, innovation and reform might lead to a widening gap between South Africa and the other SADC Member States. This disintegrative development through asymmetric global integration is more likely to happen, the slower the regional integration process proceeds. The often predicted 'globalisation Apartheid' (Moja 2003) would be the effect.

However, the political steerability of the process of regional integration of the higher education sector through governmental and SADC actors remains limited. Apart from the non-sector related or global sectoral developments that shape the process significantly, the political top-down steerability of cooperation on the grass-root level - the institutional, disciplinary or thematic level - remains marginal. This might change, if the Vice-Chancellors of the universities and the directors of research institutes take over a leadership role in the process. The regionalisation and internationalisation of higher education and research depend widely on the motivation and commitment of individual academics and the institutional leadership that normally do not follow political programmes but rather academic laws as well as personal and emotional preferences and institutional strategies.

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Developing Indicators for Regional Integration in Southern Africa

Dirk Hansohm

Introduction

Regional integration (RI) is seen by many policy makers all over the world as an important policy instrument. This is in particular true for developing countries. The interest in RI has risen lately. Notably the European Union (EU) has elevated RI to a key pillar of its development cooperation. This makes it important to measure the progress in RI. However, as the meaning of RI remains elusive, as there are many understandings of RI, there is not yet any accepted system of monitoring it. This article aims to contribute to the development of systems of RI monitoring by looking at the Southern African region. The Monitoring Regional Integration in Southern Africa Initiative, on which this Yearbook is based (Hansohm et.al. 2001, 2002, 2003), has set out to develop quantitative indicators to measure progress of RI. However, in face of the complexity of such a venture and the scarcity of data, the approach was changed to a mainly qualitative approach. However, perhaps the time has come, as the interest in monitoring RI has surged world-wide, to revisit this theme again.

Section 2 reviews briefly the 'new regionalism' and the new interest in RI, while section 3 looks briefly at ways to monitor RI. Section 4 looks at what has been done until now in the area of monitoring the RI in Southern Africa. Section 5 starts, based on the preceding discussion, to develop a system of RI indicators for the Southern African region.

The New Interest in Regional Integration

Regional integration has long been seen as a major instrument for economic progress world-wide and has been studied widely, both in general terms as well as with respect to developing countries (e.g. Tinbergen 1954, Balassa 1961, El Agra 1999). While the interest in RI had been part of the development discourse since -the Second World War, there is a new wave of interest in regions in the development process since the 1990s. The questions 'Why do countries form regions?' and 'How do they affect their members, those excluded, and the international system?' are back on the agenda (Page 2000). This can be understood on the background of wide-ranging changes on the international, regional and national level. On the global level, the multilateral trading system has been extended (to new issues such as competition, intellectual property rights, non-tariff barriers, subsidies, investment) and strengthened following the establishment of the World Trade Organisation (WTO). On the national level, governments changed the way they intervene and regulate. On the regional level, we see rising intra-regional trade, more formal regional organisations, and evolving other forms of co-operation.

The international structure is becoming more diverse with a mix of countries and groups at various stages or degrees of integration. Both regionalisation and globalisation are evolving in parallel. Many economists see RI as contradicting and undermining global integration, as a second-best solution that is at best a 'stumbling bloc' on the way to that first-best situation. Often multilateral rules are by-passed when new protections are built into regional designs. However, others see RI more positively, as complementing global integration, as being a stepping stone to global integration, or as helping to reduce possible negative consequences of globalisation.

Although many share the view that the world tends to be carved up into regions, this cannot be taken for granted. While the benefits of global integration are questioned by many presently - the stalled talks on multilateral trade negotiations are an indication - so is the progress of RI. Furthermore, the depth of RI varies widely. On one extreme, the integration of the EU has grown very far, the EU now speaking as one unit in international trade negotiations and using one currency in much of Europe. Nevertheless, the integration process of the EU as it is planned is far from completed and how far it will actually go is uncertain. As the discussions and divisions on the EU constitution show, deep economic and political RI is not at all certain. More importantly, this vision of deep RI is not the one pursued by other regional blocs who see RI more as an open process. At the other end, Africa's progress in RI has not reached far. One can argue that the political and social conditions for RI seem no easier to meet than those for global integration (Page, 2000).

The 'new regionalism' takes a comprehensive view of RI, going beyond economics to refer to politics, security, culture and diplomacy as well. Furthermore, it goes beyond the focus of government and looks at other actors such as business and the civil society as well, complementing the 'top-down' with the 'bottom-up' perspective. The new regionalism can also be described as more spontaneous, and as open and thus compatible with an interdependent world economy. Regions are also emerging phenomena, less defined - they cannot be defined in a very precise way (e.g. Hettne, 2000).

The new regionalism is more dynamic, as it is also driven by the private sector. On the negative side, this implies a danger of polarisation and the locking-in of inequality. This provides a legitimisation for state intervention (Oden, 1999, 2000).

Although the advocates of RI and the general public see RI as positive, this cannot be taken for granted. Empirically the questions whether RI has positive or negative results for economic growth, how this growth is distributed, how poverty is affected, and others are not conclusively answered. The concept of 'new regionalism' has not been discussed in the Southern African region.

Monitoring of Regional Integration

As argued above, the importance of RI is rising, while there is little data on its benefits or otherwise. It is, however, arguably especially important for developing countries to know about the effects, as they face the challenges of catching up with the industrialised world. The importance is enhanced by the attention the EU gives to RI - it intends to link the flow of aid to the success of RI initiatives. Monitoring RI is also important in order to allow assessing the success of different models of RI.

With this background, it is astonishing that the systematic monitoring of regional integration is only an emerging field of study. Many questions are open (see de Lombaerde, 2003a for an overview). There is not as yet an accepted way of monitoring RI. In particular the institutional dimension of integration has been little studied in a systematic way. The European Union appears to be most advanced in developing instruments for monitoring integration (e.g. Council of Europe, 1997). Other regional and international bodies as the Inter-American Development Bank (IADB) and World Bank are also considering or developing tools to monitor RI.

The Centre for Regional Integration Studies (CRIS) of the United Nations is spearheading the development of systematic monitoring of the process of RI. De Lombaerde (2002a) proposes the development of a global system of indicators of global integration (SIRI). He discusses the criteria of good indicators in general and various dimensions of indicators.

Referring to economic indicators, Anderson (1991: 48-51) provides criteria for good and bad indicators. As negative criteria he suggests:

1. Indicators should not carry with them an automatic evaluation (they should limit themselves to description of reality).
2. Indicators need not necessarily be linked to a policy instrument (again they should limit themselves to description of reality).
3. Indicators do not have to be new.
4. Indicators should not be based on particular theories of economic, human and social development.

He lists the following seven positive criteria for selection of indicators:

1. Indicators or the information they are calculated from should be already available or else able to be made available easily and cheaply.
2. Indicators should be relatively easy to understand.
3. Indicators must be about something measurable.
4. Indicators should measure something believed to be important or significant in its own right.
5. There should preferably only be a short time-lag between the state of affairs referred to and the indicators becoming available.
6. Preferably the indicators should be based on information which can be used to compare different areas, groups etc.
7. Preferably the indicators should be internationally comparable.

Key points of de Lombaerde's discussion of RI indicators are:

1. The distinction between traditional indicators (permitting a direct comparison between regions on their score on a particular variable) and benchmark type indicators (comparing first the performance of each region with its own objectives);
2. An indicators system can be conceived as an ordered presentation of the values of the selected relevant variables (allowing comparison of regions), but without explicit weights for the variables; alternatively, the system can be designed in function of the calculation of aggregate indicators per country/region/sector. This simplifies reading, but involves weighting and aggregations procedures that are to some degree arbitrary.
3. Quantitative data can be supplemented by qualitative assessment. This may make abstract data (in particular aggregate indices) more understandable. However, qualitative assessments are more difficult to implement in international and intercultural contexts.
4. Indicator systems can confine themselves to descriptive measurements of observable variables or combine them with analytical information and estimates. The second option is again richer, but faces the problems of non-standardised methods of analysis concerning data collection and complexity of interpretation.
5. Other problems relate to the availability, generation, frequency, sustainability, and manageability of data.
6. A core issue for designing a RI indicator system is the underlying concept of integration (however, note that this appears to contradict the advice of Anderson – see above negative criterion 4).
7. A quantitative approach will not be able to capture the fact that integration processes are not linear and continuous, but characterised by 'significant qualitative steps, breakpoints, accelerations or crises' that should be addressed. Evaluations of the 'before-after' type are regarded as useful.
8. An indicator should be sufficiently flexible.
9. Formal (based on formal agreements and discourses) and informal or 'real' integration need to be distinguished.
10. Actors other than governments on different levels, e.g. the sub-national level, need to be recognised.
11. Positive and negative integration (Tinbergen 1954) should be distinguished.
12. An open and flexible theoretical framework is necessary to be widely applicable.
13. It is important to involve the users of RI indicators in their development.

Approaches to Monitoring Regional Integration in Southern Africa

In Africa, the United Nations Economic Commission of Africa (ECA) is planning annual reports on integration in Africa (ECA 2002). It proposes African integration indicators and African integration indices (constructed from the former). These are based on data assembled for 8 sectoral clusters: trade and market integration, monetary, fiscal and financial integration, transport, communications, industry, energy, food and agriculture, and human development and labour markets. A composite integration index is calculated as weighted average of clusters.

Probably the most comprehensive and rigorous study of evaluating RI in Sub-Saharan Africa is the 4-volume study on 'Regional integration and trade liberalisation in sub Saharan Africa' sponsored by the African Economic Research Consortium (AERC) in the late 1990s (Oyejide et al. 1997-99). This study is limited to economic aspects and concentrates on trade as the principal field of integration. The study discusses the methodological problems of measuring economic integration and its effects. One of these is the lack of a counterfactual to the actual developments, another the difficulties of disentangling the impact of policies of integration and liberalisation from that of other economic reform policies. A third complication relates to the issue of timing, while another concerns appropriate performance indicators (Collier, Greenaway and Gunning, 1997). The study finds that trade expansion in Southern Africa has been slow, and intra-group trade has increased modestly, if at all. In addition, it states that policy co-ordination in SADC has been negligible.

In the Southern African region, there are several noteworthy activities. One is the *SADC Regional Human Development Report*, issued for the years 1998 and 2000 (UNDP/SADC/SAPES 1998 and 2000). While the first report on 1998 focused on the interface between governance and human development, the second published in 2001 deals with regional integration. A statistical measure has been developed: the SADC Integration Index (SII). This index measures the level of intra-SADC activities in the goods, capital, and labour markets. The measure ranges from 0 (no integration) to 1 (full integration), and constitutes a start to the quantitative and therefore comparative measuring of the state of integration. However, the value of the indicator is qualified by the highly deficient data situation and by the arbitrary nature of the definitions of full integration. Furthermore, the indicator does not yet allow a comparison over time. The series was discontinued.

There are a number of other institutions and initiatives that aim to monitor aspects of RI and SADC (see Isaksen 2002 for an overview). These include:

- The Southern Africa Research and Documentation Centre (SARDC). This runs, among others, a regional economic development and integration programme and publishes various publication series.

- The SADC Electoral Support Network producing among others the Election Chronicle. This network has SARDC as one of its members.
- The Electoral Institute of Southern Africa, another strong NGO in this network.
- The Institute of Global Dialogue a South African foreign policy think tank. The Institute published the so far most comprehensive overview of SADC.
- The Institute for Security Studies in Pretoria follows matters of security and security policy and publishes among others the African Security Review.
- The South African Institute of International Affairs hosted a number of conferences dealing with various aspects of monitoring regional integration and recently published the SADC Barometer.

In conclusion, there is no comprehensive and systematic approach as yet to monitoring RI.

Although the possibility of a quantitative approach to monitoring RI in the Southern African region has been dismissed in 2000, recent developments suggest reconsidering this. On the one hand, the recently accelerated dynamics of RI both in SACU and in SADC create a more significant demand for quantifiable indicators both from the institutions and the donor side (notably EU). Secondly, the availability of data has improved due to recent developments in the information and communication technologies.

A Proposal for Monitoring Regional Integration in Southern Africa

The review above of both general and specifically regional issues suggests the following points as a basis for the development of a system of RI indicators:

- Quantitative indicators should be combined with qualitative indicators. The belief that only quantitative data are 'objective' is too narrow. Objectivity is relative and will be established through openness.
- So as to be useful, the indicator system should be developed with involvement of stakeholders.
- In the first place, the indicator system should be of use to regional bodies, in particular SADC. This means that the indicators should take the plans of the RI bodies as benchmarks.
- At the same time, RI monitoring experiences from other regions should be looked at to benefit from. A second type of indicators allowing comparison to other regions also needs to be utilised.

The following areas are important to be looked at:

- The production of and subscription to relevant treaties, memoranda of understanding (e.g. on macroeconomic convergence, co-operation on taxation), strategic documents, creation of institutions etc.).
- The implementation of these and obstacles: adherence to agreed principles and actions, functioning of created institutions, tendencies of bureaucratisation. While policy makers are very keen to sign new RI agreements, there is often not enough commitment to carry through this process. Commitment has to do with incentives (to apply limited resources to implementation) and perceptions (of commitment).
- The relationship to domestic policies is important. At some stage, RI does imply a loss of sovereignty - a transfer of sovereignty to the regional level. This may result in the loss of a comparative advantage. Potential benefits are traded in against potential losses. In this context, time horizons play a role. While benefits often need time to materialise, losses may result immediately.
- Financing of SADC: sufficiency for present and planned activities, dependence on donors, distribution of membership fees.
- Relation to continental and other regional initiatives, especially the African Union (AU) and NEPAD, but also to SACU, CMA and COMESA: the progress or otherwise of other inter-state initiatives in which Members States of SADC are participating may strengthen SADC (SADC as a stepping stone to African integration, SACU as a building block for deeper integration within SADC), but it may also direct scarce human and financial resources away from SADC.
- Relation to the private sector and civil society (including trade unions, churches, media, NGOs, etc.): the degree of their knowledge of and participation in the process of regional integration as well as the real and perceived impacts the process will have on civil society.
- Effects of regional integration on economic and human development: the promise and test of the success of regional integration is convergence of SADC with the richer world ('catching up'), but also of the poorer countries within SADC with the richer members.
- Cost and benefits of the process of regional integration and the perceptions of these on countries and various interest groups. This is believed to be a key driving force for the speed and sustainability of regional integration. An interesting aspect in this context is investment location decisions.

The following box gives an overview of categories, sub-categories, indicators, and data.

Category	Sub-category	Indicator
Institutionalisation	Formal framework of RI	No. and content of agreements & commitments
		Relation to various RI agreements
		Relation to/consistency with domestic policy framework
	Existing organisations	No. of institutions
		Involvement of parliament
Implementation	Adherence to commitments	Commitments are met
	Finance	Sufficiency
		Contributions by government, donors, other (absolute, %)
	Institutional implementation capacity	Institution building
		HR level
	Conceptual development	Conceptual awareness
	Monitoring and evaluation	Existence of M&E, feed-back channels
	Policy coordination	Necessity of regional dimension
		Delegation to national or sub-national levels
		Existence of mech. To counter unequal effects of RI
		Social safety nets
Relation to domestic actors	Private sector, labour, NGOs, interest groups	Perceived effects on economic and social indicators
		Knowledge, perceptions
		Participation
		Market pressure for RI?
Effects	Structural factors	Proximity
		Structural complementarities, asymmetries
		Historical patterns of co-operation, integration and conflict
		Policy framework: labour market, social security net, fiscal policy, degree of distortions
		Factor endowments

	Economic	Growth
		Employment
		Fiscal
		Social indicators: education, health
		Structural change: diversification, comp. Adv.
	Convergence in region, global	Income level
		Inflation, interest rates, currency
		Budget deficit/GDP public debt/GDP
		Price convergence
	Regional and global interaction	Regional & international trade barriers
		Volume & structure of international and reg. trade
		Financial flows, FDI, equalisation of prices & returns
		Migration
		Information flows
		Infrastructure
		R&D cooperation in region
		Cross-border mergers & acquisitions
	Distributional	Between countries
		Within countries
	Policy convergence	Arrangements on common policies and policy co-ordination
		Gradualism, exemptions and differential treatments
	RI, regional awareness, coherence, trust	Regional Awareness & identity
		Trust between nations (gov., business, civil society)
		Interaction of pol. agencies
		Interaction of civil society
		Regional Cohesion
		Policy cooperation
		Reg. rules & standards

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Conclusion: Progress towards Integration in Southern Africa in 2003-2004

***Dirk Hansohm, Willie Breytenbach,
Trudi Hartzenberg and Colin McCarthy***

The articles of this book assess economic, political and institutional dimensions of integration in Southern Africa, from different points of view. The conclusion reviews these analyses and discusses their results in light of the overall progress made in regional integration.

Economic Integration

Economic integration has more than one dimension. A conspicuous element is the institutional element, that is, the conclusion of formal agreements on arrangements among countries that have as their principal aim the integration of markets through the removal of barriers to the intraregional flow of goods, labour and capital. A second element is the outcome of integration. This refers to the growth in intraregional trade and factor flows, as well as economic convergence within the integration area. African economic integration efforts have the reputation of being very active when it comes to the institutional element but rather lacking when it comes to growth in intraregional trade and in progressing with convergence.

In Southern African the institutional element is also a prominent feature with a monetary integration arrangement in place, namely, the Common Monetary Agreement, with bilateral agreements between South Africa each of the following countries; Lesotho, Namibia and Swaziland. Three trade integration arrangements, that is, SACU as a customs union, and SADC and COMESA overlap with some countries belonging to more than one arrangement. A very important development this year has been the implementation of the new SACU Agreement which was concluded in 2002. This Agreement replaced the 1969 Agreement and introduced a number of fundamental changes with respect to the distribution of customs revenue and the management of SACU affairs. A primary concern of the new arrangement is to democratise the way in which SACU is managed, as opposed to the dominating position that South Africa played in managing customs union affairs under the 1969 Agreement.

The SADC Trade Protocol, which launched the process of developing a free trade area, came into effect on 1 September 2000. It aims to achieve zero tariffs on all intraregional imports by 2012. Encumbered by the back loading of tariff reductions it is not surprising that the first four years of liberalisation has produced little in the way of more intraregional trade. The growth that can be observed in this regard is primarily associated with the growth of South African exports to the rest of the region. The mercantilist trade pattern, characterised by the large difference between South Africa's

exports to the region and her imports from the region, also within SACU, remains a prominent feature of regional trade. Although there is, in terms of economic logic, no reason why intraregional trade must be balanced, the extent and persistence of the trade flow gap in favour of South Africa reflects the large differences in economic development and diversification within the region on the one hand and on the other a lack of willingness on the part of South Africa to be less restrictive about protecting her sensitive industries against competition from elsewhere in the region where competitive advantages do exist.

In order to be sustainable economic integration needs to create a situation of all participating countries being winners. A country that does not perceive benefits from the integration arrangement is unlikely to remain within the arrangement. Furthermore, although all members must gain it has become accepted that the poorer and less developed members of an integration arrangement should benefit more than the more developed and economically better off member states. This refers to the economic convergence that is expected of economic integration with member states converging in terms of per capita income. In integration arrangements consisting of developing countries, as we have in Southern Africa, it is important that all member states should grow, but inequalities among member states will require some members to grow faster than others. The large trade gap in South Africa's favour, at least in part, reflects the fact that economic convergence is by and large not taking place in the region. The challenge this poses is to devise strategies that will allow growth and development to be distributed more equally within the region. Significant elements of this nature exist in the SACU Agreement but with the exception of the asymmetry built into the SADC Trade Protocol, little of this nature exists for SADC.

Recent figures on economic performance (see chapter 2 and appendix) show a mixed picture. Although some of the poorer countries have grown faster recently (e.g. Angola, Mozambique, Tanzania), others have not (Congo, Malawi, Zambia, Zimbabwe). Thus, there is no consistent picture of economic convergence. As importantly, regional integration is expected to help participating countries to grow faster. Although the per capita economic growth in SADC (2.3%) was higher in 2001-2001 than the world average (0.8%), the difference falls far short of a rate that would enable the region to catch up with the rich countries in any foreseeable time frame.

Other non-monetary indicators, notably on health and education, are useful to consider in order to get a picture on economic progress. The human development index (HDI; looking at income, health, education) shows a quite mixed picture. While slightly more than half of the Southern African countries show higher HDI in 2002 than in 2001, over the longer term (2002 compared to 1995) only two (Mauritius and Mozambique) have higher HDI values. The largest economy, South Africa, exhibits consistently sliding figures.

Literacy rates are, however, increasing in almost all countries (the only exception is Lesotho). This contrasts with the alarming consistent decrease in life expectancies, caused by the HIV/AIDS epidemic. Only Mauritius and the Seychelles do not follow this trend. It may be a sign of hope that the 2002 figures are slightly higher than in the year before in Botswana, Madagascar, Namibia and South Africa. But in any case, the figures on economic development in the Southern African region give rise to concern.

Political Integration

The agenda for political integration and security co-operation has always been very closely linked in the case of SADC. The institutions for security co-operation operate within the SADC political framework. In both cases, 'regional integration' proceeded rather slowly. For example, after much delay, the SADC Mutual Defence Pact was signed in August 2003 while the Strategic Indicative Plan for the (Security) Organ was recommended in 2001 and only launched in August 2004. This is the case despite quite rapid movement at the continental level where the African Union as well as the New Partnership for Africa's Development (NEPAD) were launched in 2002, followed by the inauguration of the Pan-African Parliament in March 2004, the African Peer Review Mechanism, also in March 2004, and the Peace and Security Council in May 2004. During this time, there was almost no further integration politically in SADC, except for abovementioned security structures. One integrationist trend, however, was that more than half of those members of the African Union that signed on for the peer review process are in fact members of SADC, making SADC the most peer review aligned region on the continent. As such, it should serve as a positive indicator about regional convergence in the direction of good governance. Yet in 2003 (the year under review) SADC institutions remained quiet about human rights and good governance issues in Zimbabwe, as well as 'Third Term Movements' elsewhere in the region.

Meanwhile, political freedom continues to become stronger in the region as a whole. Both over the short (2003 compared to 2002) and the long term (2003 compared to 1990) the region has become freer, as measured by the Freedom House indicator. However, the average masks large country differences. Some of the large countries continue to be classified as 'not free' (Angola, Congo, Zimbabwe).

Another important indicator for development is the level of corruption. International studies show that it is inversely related to economic growth. In Southern Africa, corruption is perceived to have become worse over the years. Only this year (2004) shows a slight improvement as compared to the year before. Again, the average masks large country differences. But it is encouraging that in 8 of 12 countries the corruption is perceived to be less in 2004, only in 2 it has increased.

Institutional Integration

Potentially very significant institutional developments have taken place during the past year in the southern African region to support regional integration. The new SACU Agreement entered into force on 15 July 2004. In this volume two papers focus on SACU developments and their implications for regional integration, and a third paper reviews developments in the African Union and NEPAD. NEPAD's objectives go beyond continental integration. It makes security, regional integration and good governance requirements for development through the range of partnerships for African development. Specifically, NEPAD aims to encourage external funding, in particular foreign direct investment, for African development.

Thus far, NEPAD remains vague as regards implementation; except to indicate that regional organisations will assist in the implementation of NEPAD projects. A single implementation agency with executive capacity does not exist, although the NEPAD interim secretariat in South Africa and the new AU Commission in Addis Ababa seem to be sharing the co-ordination function. The Commission (appointed in July 2003) is supposed to play this role in future. However some stakeholders are still of the opinion that NEPAD should become more independent of the AU. A critical feature of NEPAD is the peer review mechanism which provides for voluntary intervention in the domestic affairs of states that do not meet standards of good governance. Penalties, however, cannot be imposed. It was proposed by the AU/NEPAD that the political dimensions of the peer review mechanism eventually be managed by the AU (for example, the Pan-African Parliament) while the UN Economic Commission for Africa as well as the African Development Bank will assist NEPAD and the Panel of the Wise with economic peer review. With political aspects relegated to the AU (which still has a number of unelected governments and a larger number of African governments hostile to NEPAD), the independence of arguably the most innovative aspect of NEPAD might be compromised.

McCarthy's paper focuses on three objectives of the new SACU Agreement, the fair distribution of revenue, the development of a common industrial policy to address the uneven economic development within SACU and the institutions to be created to manage the affairs of SACU in a more democratic manner.

As regards revenue, the impact of trade liberalisation on the size of the revenue pool is important. Given the importance of this source of revenue especially for Lesotho, Namibia and Swaziland, and their limited capacity to diversify their tax base, may lead to efforts on the part of these countries to increase the share of excise revenue allocated to the development component. In addition, South Africa is now included in the revenue sharing formula, instead of recipient of the residual. This could mean, that if SACU expands, South Africa could find itself having to supplement the revenue pool from other sources of revenue. This would not be acceptable to South Africa.

The new Agreement requires that members develop a 'common industrial policy.' Given the enormous diversity in levels of development and industrial configuration, it is not clear what the understanding of such a common policy is. For sustainable regional development and further integration of the member countries, this needs to be carefully considered. New thinking about industrial policy, its scope and instruments is required to promote regional integration.

New institutions are to be established to enable member states to take consensus-based decisions. While the development of these institutions provides for a democratisation of decision making processes in SACU, a prerequisite to give effect to this democratisation, is capacity in member states. Without capacity to participate effectively in these decision making institutions, governance of the customs union cannot be expected to proceed smoothly.

The paper by Erasmus provides a complementary analysis of the implications of the implementation of the new SACU Agreement, from a legal perspective. He argues that the new Agreement is a flexible instrument that can potentially play an important role in enhancing economic integration among Member States. The SACU Tribunal, perhaps one of the most important new institutions, can make an important contribution to the development of the jurisprudence of a rules-based system in SACU.

The Council of Ministers is premised on the formal equality of the Member States, and as the highest decision making body in SACU, can decide on policy guidelines and a common negotiating mechanism for the negotiation of trade agreements with third parties. Negotiating agreements with third parties requires balancing the interests of the Member States; a complex challenge given their diversity in levels of development and economic size. Botswana, Lesotho, Namibia and Swaziland have recently begun negotiations (in a coalition with Angola, Mozambique and Tanzania) with the European Union to conclude an Economic Partnership Agreement (EPA). Given that South Africa has already concluded a Trade and Development Cooperation Agreement (TDCA) with the EU, and that South Africa is a member of SACU, the BLNS are de facto covered by the TDCA. This poses interesting legal and institutional challenges for the BLNS in the EPA negotiations.

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Some Comparative data on Southern Africa

Country	1995	1999	2000	2001	2002	Trend (2001-2002)	Trend (1995-2002)
Angola	-	0.422	0.403	0.377	0.381	Positive	-
Botswana	0.621	0.577	0.572	0.614	0.589	Negative	Negative
DR Congo	0.505	0.502	0.431	0.363	0.365	Positive	Negative
Lesotho	0.569	0.541	0.535	0.51	0.493	Negative	Negative
Madagascar		0.462	0.469	0.468	0.469	Positive	-
Malawi	0.401	0.397	0.4	0.387	0.469	Positive	Positive
Mauritius	0.745	0.765	0.772	0.779	0.388	Negative	Negative
Mozambique	0.313	0.323	0.322	0.356	0.785	Positive	Positive
Namibia	0.624	0.601	0.61	0.627	0.354	Negative	Negative
Seychelles	-	-	0.811	0.84	0.607	Negative	-
South Africa	0.722	0.702	0.695	0.684	0.666	Negative	Negative
Swaziland	0.615	0.583	0.577	0.547	0.519	Negative	Negative
Tanzania	0.427	0.436	0.44	0.4	0.853	Positive	Positive
Zambia	0.431	0.427	0.433	0.386	0.407	Positive	Negative
Zimbabwe	0.563	0.554	0.551	0.496	0.389	Negative	Negative
Southern Africa	0.452	0.508	0.490	0.461	0.426	Negative	Negative

Human Development Index trends 1995-2002

Source: <http://hdr.undp.org>

Some Comparative data on Southern Africa

Country	GDP per capita (PPP US\$)				Life Expectancy				Illiteracy rate			
	1999	2000	2001	2002	1997	2000	2001	2002	1997	2000	2001	2002
Angola	3,179	2,187	2,040	2,130	46.5	46.6	46.6	40.1	-	-	58	58
Botswana	6,872	7,184	7,820	8,170	47.3	39	38.5	41.4	25.5	22.8	21.9	21.1
DR Congo	801	-	680	650	46.7	45.6	45.5	41.4	42.6	38.6	37.3	37.3
Lesotho	1,854	2,031	2,420	2,420	48.4	44	43.3	36.3	18.1	16.6	16.1	18.6
Madagas.	799		830	740	57.5	-	53	53.4	53		32.7	32.7
Malawi	586	615	570	580	40.7	38.8	38.2	37.8	42.4	39.9	39	38.2
Mauritius	9,107	10,017	9,860	10,810	70.4	71.7	72.1	71.9	16.8	15.5	15.2	15.7
Mozamb.	861	854	1,140	1,050	45.5	42.4	41.7	38.5	59.4	56	54.8	53.5
Namibia	5,468	6,431	7,120	6,210	55.6	47.2	44.3	45.3	20.1	18	17.3	16.7
Seychel.	-	12,503	17,030	10,070	71.4	72.3	72.6	48.8	-	-	9.0	14
S.Africa	8,908	9,401	11,290	4,550	54.7	47.8	47.1	35.7	15.9	14.8	14.4	19.1
Swaziland	3,987	4,492	4,330	18,232	57.6	45.4	44.6	72.7	22.6	20.4	19.7	8.1
Tanzania	501	523	520	580	47.9	44.4	43.7	43.5	28.5	25	24	22.9
Zambia	756	780	780	840	43.1	38	37.5	32.7	24.7	21.8	21	20.1
Zimbabwe	2,876	2,635	2,280	2,400	44.5	39.9	39.4	33.9	13.7	11.3	10.7	10.0
Southern Africa	2,822	2,687	3,247	2,027	48.9	45.3	44.9	39	31.35	28.68	30.20	30.58

Socioeconomic Development trends 1997-2002

Source: <http://hdr.undp.org>

Some Comparative data on Southern Africa

Country	1990	1995	2000	2001	2002	2003	Trend (2002-2003)	Trend (1990-2003)
Angola	7.7	7.7	6.6	6.6	6.6	6.5	Negative	Negative
Botswana	1.2	2.3	2.2	2.2	2.2	2.2	Constant	Positive
DRC	6.6	7.6	7.6	7.6	6.6	6.6	Constant	Constant
Lesotho	6.6	4.4	4.4	4.4	4.4	2.3	Negative	Negative
Madagascar		2.4	2.4	2.4	2.4	3.4	Positive	-
Malawi	6.7	2.3	3.3	3.3	4.3	4.4	Positive	Negative
Mauritius	2.2	1.2	1.2	1.2	1.2	1.2	Constant	Negative
Mozambique	6.7	3.5	3.4	3.4	3.4	3.4	Constant	Negative
Namibia	4.3	2.3	2.3	2.3	2.3	2.3	Constant	Negative
Seychelles	6.6	3.4	3.3	3.3	3.3	3.3	Constant	Negative
South Africa	6.5	2.3	1.2	1.2	1.2	1.2	Constant	Negative
Swaziland	6.5	6.5	6.5	6.5	6.5	6.5	Constant	Constant
Tanzania	6.6	6.6	4.4	4.4	4.4	4.3	Negative	Negative
Zambia	6.5	3.4	5.4	5.4	5.4	4.4	Negative	Negative
Zimbabwe	6.4	5.5	6.5	6.5	6.6	6.6	Constant	Positive
Southern Africa	6.1	4.9	4.5	4.5	4.3	4.4	Positive	Negative

Development of Political Freedom 1990-2003

Source: www.FreedomHouse.org

Some Comparative data on Southern Africa

<i>Country</i>	1998	1999	2000	2001	2002	2003	Trend (2002-2003)	Trend (1998-2003)
Angola	-	-	1.7	-	1.7	1.8	+	n/a
Botswana	6.1	6.1	6	6	6.4	5.7	-	-
DR Congo						2.2	n/a	n/a
Madagascar					1.7	2.6	n/a	n/a
Malawi	4.1	4.1	4.1	3.2	6.9	2.8	-	-
Mauritius	5	4.9	4.7	4.5	4.5	4.4	-	-
Mozambique	-	3.5	2.2	-	-	2.7	n/a	n/a
Namibia	5.3	5.3	5.4	5.4	5.7	4.7	-	-
South Africa	5.2	5.0	5	4.8	4.8	4.4	-	-
Tanzania	1.9	1.9	2.5	2.2	2.7	2.5	-	+
Zambia	3.5	3.5	3.4	2.6	2.6	2.5	-	+
Zimbabwe	4.2	4.1	3	2.9	2.7	2.3	-	-
Southern Africa	2.1	2.5	2.4	1.9	2.4	2.9	+	+
Finland	9.6	98	10	9.9	9.7	9.7	0	+
USA	7.5	7.5	7.8	7.6	7.7	7.5	-	0
Germany	7.9	8	7.6	7.4	7.3	7.7	+	-
Kenya	2.5	2	2.1	2	2.2	1.9	-	-
Cameroon	1.4	1.5	2	2	2.2	1.8	-	+
Nigeria	1.9	1.6	1.2	1	1.6	1.4	-	-

Development of the Corruption Perception Index (CPI) 1998-2003

Source: www.transparency.org

Some Comparative data on Southern Africa

	Protocols entered into force		All protocols	
	No. of signed protocols	No. of protocols ratified	No. of signed protocols	No. of protocols ratified
Angola	17	5	26	5
Botswana	19	13	29	21
DR Congo	4	0	13	0
Lesotho	19	13	30	20
Malawi	19	11	30	18
Mauritius	16	10	27	18
Mozamb.	17	12	25	18
Namibia	19	13	29	19
Seychel.	7	0	18	0
S.Africa	17	10	28	14
Swaziland	18	10	29	10
Tanzania	19	12	30	16
Zambia	16	11	24	12
Zimbabwe	19	11	30	11

Status of Signing and ratification of SADC Treaty, Protocols, Amendments, Charter and Memoranda of understanding as of May 2003.

Source: www.sadc.int

Interesting Website Links on Southern Africa

African Development Bank Group:

www.afdb.org

African Union:

www.africa-union.org

CIA World Factbook:

www.cia.gov/cia/publications/factbook/geos/

COMESA Bankers' Association:

www.comesabankers.org

Committee of Central Bank Governors in SADC:

www.sadcbankers.org

Common Market for Eastern and Southern Africa (COMESA):

www.comesa.int

Development Bank South Africa (DBSA):

www.dbsa.org

Freedom House:

www.FreedomHouse.org

Institute for Global Dialogue:

www.igd.org.za

Institute for Security Studies:

www.iss.co.za/

New Partnership for Africa's Development:

www.nepad.org

SADC Food Security Programme:

www.sadc-fanr.org.zw

SADC Trade, Industry and Investment Report:

www.sadcreview.com

South African Institute of International Affairs:

www.wits.ac.za/saiia

Southern Africa Trade Research Network:

www.tips.org.za/satrn/

Southern African Development Community (SADC):

www.sadc.int

Southern African Poverty Research Network:

www.sarpn.org.za

Trade and Development Studies Centre (Harare, Zimbabwe):

www.tradescentre.org.zw

Trade and Industry Policy Secretariat:

www.tips.org.za

Trade Law Center for Southern Africa:

www.tralac.org

Transparency International:

www.transparency.org

United Nations Statistics Division:

unstats.un.org/unsd/

World Bank, World Development Indicators Online:

www.worldbank.org/data/