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# African Integration Schemes: A Case Study of the Southern African Development Community

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# AFRICAN INTEGRATION SCHEMES: A CASE STUDY OF THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

Muna Ndulo\*

## I. INTRODUCTION

Regional economic integration as a strategy for achieving greater economic development and growth is currently being implemented in many parts of the world. There has been increased debate as to its relevance and efficacy in the efforts to attain meaningful development in Africa, particularly, in the wake of the phenomenon of globalization and the increased marginalization of Africa in world trade.

We will therefore analyze regional integration in the context of a case study of one of Africa's more promising integration schemes- the Southern African Development Community (SADC). We will look at the benefits of and obstacles to integration in Africa before examining the SADC approach to Southern African economic integration. Countries in Southern Africa, comprising: Angola, Botswana, Congo (Kinshasa), Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe are grouped together in the Southern African Development Community (SADC) with the objective of developing closer economic, political and social ties among themselves and eventually establishing an economic community. The Community was established by the 1992 Treaty of the Southern African Development Community.<sup>1</sup> The Treaty after citing the objectives in the "Southern African Toward Economic Liberation" – a Declaration by the Governments of Independent States of Southern Africa

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<sup>1</sup> *Treaty of Southern African Development Community, Windhoek, August, 1992*. The Treaty was established following "Southern African Toward Economic Liberation" – a Declaration by the Governments of Independent States of Southern Africa made at Lusaka, 1 April, 1980, established SADC.

made at Lusaka, 1 April, 1980, established SADC. The Treaty sets out the Organization's objectives, including areas of cooperation, the Organization's institutions and the modalities for the achievement of its goals.

## II. INTEGRATION SCHEMES AND ECONOMIC DEVELOPMENT

### (a) Background to African Integration Efforts

The concept of African economic cooperation has a long history beginning with the African and Malagasy Organization of Economic Cooperation (OAMCE) established in September 1961 and the CASABLANCA Group established in January 1961 and later the formation of the Organization of African Unity (OAU) in 1963.<sup>2</sup> Regional economic integration is generally seen by many African development economists as a vehicle for enhancing the economic and social development of African countries.<sup>3</sup> The 1980 Lagos Plan of Action underlined Africa's objective of attaining a more self-sufficient and more economically integrated continent by the year 2000 through, inter-alia, the accelerated process of regional economic integration.<sup>4</sup> Two stages mark the historic development of the definition and preparation of the Lagos Plan of Action: 1963 to 1973 and 1973 to 1980. The first was characterized by the search for legitimacy in the economic competence of the OAU. The second, on the contrary, was marked by an awareness of the inadequacy

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<sup>2</sup> AMR Ramolefe and AJGM Sanders, "The Structural Pattern of African Regionalism", *Comparative and International Law Journal for Southern Africa*, 1971, p. 155.

<sup>3</sup> See, generally, *Sub-Saharan Africa: From Crisis to Sustainable Growth*, World Bank Report (1989); "African Alternative Framework to Structural Adjustment Programs for Social-Economic Recovery and Transformation (AAF-SAF)", *United Nations Economic Commission for Africa* (E/CA/CM.15/6/Rev.3); Pierre-Clasver, "Development Strategies-Lessons from Experience", African Leadership Forum, (Ota, Nigeria) 1988 and Olayiwola Abegunrin, *Economic Dependence and Regional Cooperation in Southern Africa: SADC and South Africa in Confrontation*, 1989.

<sup>4</sup> The Lagos Plan of Action was adopted in 1980 and its central theme was regional integration. It called for the establishment of the African Economic Community by the year 2000. See, Organization of African Unity Lagos Plan of Action for the Implementation of the Monrovia Strategy for the Economic Development of Africa (Lagos, April 1981). The SADC Treaty in its preamble states that, the Southern States, in establishing SADC took into account the Lagos Plan of Action and the Final Act of Lagos of April 1980, and the Treaty establishing the African Economic Community at Abuja, concluded on 3 June, 1991.

of aid, technical assistance and international strategies for development and worse still “ineffectiveness of the measures adopted during the past decade to combat underdevelopment and the inability of the international community to create conditions favorable for the development of Africa.”<sup>5</sup>

### **(b) Arguments for Economic Integration**

The idea of regional integration is reinforced by the relatively successful experience of integration among European states in the European Union and other promising integration schemes such as the North American Free Trade Agreement (NAFTA). Development experiences and achievements in these integrated schemes have demonstrated that economic cooperation can be an important and potentially effective means for facilitating social and economic development.<sup>6</sup> In a common market, the concept of a “domestic market” is redefined to imply the integrated individual member state’s national markets. This larger “domestic market” greatly enhances the growth of small scale and medium scale enterprises.<sup>7</sup> The growing need for economic cooperation in Africa arises from both external and internal circumstances. Internally, there is increased realization of the Unviability of many African economies due to the smallness, uneven and untapped resources, the small size nature of African markets, and distortions in the pattern of economic activity which impede development based purely on a national scale approach. Only two Sub-Saharan African countries-South Africa and Nigeria- can be said to be sufficiently large markets to make multinationals feel they must be represented there. For the rest of the region, market size is a crucial constraint. Study after study of motives underlying foot loose foreign investment projects (projects not tied to specific locations as the case of energy, mining, and tourism) emphasize market size and growth rates along with the availability of skills and infrastructure as major factors in investment decisions. Externally, the increasing and irreversible movement towards the globalization of the world economy creates the necessary impetus for economic integration in that it raises the question of how does Africa effectively participate and protect its interests in the global economy.<sup>8</sup>

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<sup>5</sup> Organization of African Unity, *The African Economic Community: Destiny of a Continent*, OAU, Addis Ababa, (undated).

<sup>6</sup> “Cooperation versus Integration: The Prospects of the Southern African Development Coordinating Conference (SADC)” – Occasional Papers of the German Development Institute (GN) No. 77.

<sup>7</sup> R. Bhala and K. Kennedy, *World Trade*, 1998, p.159.

<sup>8</sup> See, *Summary Report of the Secretary-General on Economic Cooperation and Integration in Africa*: “Towards the Establishment of the African Economic Community”: OAU Document AHG/I62 (XXV).

Clearly this can only be done by creating competitive African economies through economic growth and development.<sup>9</sup>

Development economists argue that regional cooperation can help to promote, on a more complementary and sustained basis, the development of the economies of the member countries of an economic community.<sup>10</sup> This may emerge as a result of the reinforcement of the existing regional infrastructure, the development of a more efficient system of payments, greater access to credit, a greater awareness of each others' products and economic agents operating in the different countries that comprise the community. Above all, member economies may be developed through growing technical cooperation and a greater development and integration of the productive sectors of the countries involved. Market integration will also hasten the creation of a common market. This will also result in forward and backward linkages in major sectors such as agriculture, industry, energy, environment, transport and communications and human resources development, thereby enabling the attainment of economies of scale. The SADC experiment is important for Africa, for if it succeeds it may raise hopes for Africa and lessen the perception that Africa is an economic basket case.

### **(c) SADC's Approach to Integration**

In recognition of the lack of production in Africa, SADC's approach to integration is not based on the orthodox trade liberalization strategies alone. Rather, its strategy is based and places the development of infrastructure and production on a level as important as the elimination of tariffs. SADC, from its inception, has maintained that the reduction or even the elimination of tariffs to trade does not always yield increased trade, in the absence of tradable goods. In its view, the greatest single barrier to trade in Africa is lack of production and infrastructure; hence the focus on cooperation in several areas of production and investment in its programmes.<sup>11</sup> In pursuit of this

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<sup>9</sup> Susan Rice, "US and Africa", speech to the African Studies Association, Columbus, Ohio, November, 14, 1997. See also Jozef M. Van Brabant, *Economic Integration Among Developing Countries: Towards a New Paradigm*, in *Economic Cooperation and Regional Integration in Africa*, ed. By Naceur Bouername, 1996, p.31.

<sup>10</sup> Rose Mtengeti-Migiro, *Institutional Arrangements for Economic Integration in Eastern and Southern Africa: a Study of SADCC and the PTA with Experiences from the EEC*, 1992; See also Lagos Plan of Action, (1980) and Olayiwola Abegunrin, *Economic Dependence and Regional Cooperation in Southern Africa: SADCC and South Africa in Confrontation*, supra, Chapters 1 and 2.

<sup>11</sup> The Economist Intelligence Unit, "SADCC in the 1990s: Development on the Front Line", Special Report, No. I158, (1989).

strategy, SADC has embarked on a number of projects which are designed to increase production and improve the region's infrastructure. For example, the first phase of SADC's program to rehabilitate the Beira corridor—the railway, road, and pipeline from Mutare, Zimbabwe, to the port of Beira in Mozambique is nearing completion. The Beira corridor group, based in Harare, Zimbabwe, comprises private companies formed to facilitate investment and development along the Beira corridor and in the surrounding regions. Other transportation corridors being built or rehabilitated are the Nacala line from Malawi to Nacala, Mozambique; the Limpopo line from Zimbabwe to Maputo, Mozambique; the Northern corridor from Zambia to Dar es Salaam, Tanzania; the Caprivi Strip Corridor from Windhoek, Namibia to Ndola, Zambia; and the Maputo corridor from Mpumalanga, South Africa to Maputo, Mozambique. Furthermore, in the area of tourism, a regional body to oversee the development of tourism has been established. An example of such cooperation is the Okavango Upper Zambezi International Tourism Spatial Development Initiative (OUZITSD). This project seeks to establish a Southern African wildlife sanctuary in the wetlands of the Zambezi and Okavango deltas involving Namibia, Zambia, Zimbabwe, and Botswana. The initiative seeks to jointly develop game parks in Angola, Namibia, Botswana, Zambia and Zimbabwe.<sup>12</sup>

SADC has been active in other areas of cooperation as well. It has concluded protocols on water and education, training and the promotion of culture. The protocol provides a policy framework that allows the SADC region to progressively move towards equivalence, harmonization and standardization of member states' educational and training systems.<sup>13</sup> It has also agreed in principle to a scheme to speed up the extradition of fugitives and offenders within the region. Currently, SADC countries are discussing a prisoners exchange scheme which would allow convicts to serve sentences in their own countries.<sup>14</sup> SADC has created a SADC security organization known as the SADC Security Organ which encompasses a regional mechanism for the settlement of regional conflicts.<sup>15</sup> The principal task of the agency is to prevent, manage and resolve political conflicts within the fourteen member countries by peaceful settlement of disputes through negotiation, mediation and arbitration.

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<sup>12</sup> "Cooperation in Southern Africa Enters New Era", *Xinhua General Overseas News Agency*, December 18, 1997.

<sup>13</sup> The Educational Protocol was adopted at the 1997 SADC Annual Summit, held in Blantyre, Malawi.

<sup>14</sup> *Xinhua General News Agency*, April 29, 1998.

<sup>15</sup> The Security Agency was established at the 1997 SADC Annual Summit, *ibid.*

### III. THE HISTORY AND BACKGROUND OF SADC

#### (a) The Formation of SADC

As discussed earlier, the Southern African Development Community was established in pursuant to a declaration made by Heads of State or Governments of Southern Africa at Windhoek, in August 1992.<sup>16</sup> The declaration was entitled “Towards a Southern African Community”.<sup>17</sup> In it, the signatories, affirmed their countries’ commitment to establish a development community in Southern Africa. The idea developed out of an earlier Southern African organization created by the Front Line States – Southern African Development Coordinating Conference (SADCC).<sup>18</sup> This earlier organization grew out of a response to South Africa’s proposal for the formation of a Constellation of Southern African States (CONSAS) in 1979. As part of what was termed the policy of total onslaught designed to deal with the threat posed by liberation forces to apartheid South Africa’s survival, South Africa proposed the formation in Southern Africa of an economic forum which would spearhead economic development in the region. The idea was, without doubt, an attempt by South Africa to contain the rising opposition to the repugnant system of apartheid by seeking the cooperation of Southern African states in ensuring South Africa’s military and economic domination of the region. The proposal, however, was rejected by South Africa’s black-ruled neighbors.<sup>19</sup> Instead, South Africa’s efforts inspired the surrounding black ruled states to seek ways and means to counter South Africa’s efforts and its domination of the region.

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<sup>16</sup> *Treaty of the Southern African Development Community (Windhoek)* August, 1992.

<sup>17</sup> “Towards a Southern African Development Community” – Declaration made by Heads of State or Government of Southern Africa, Windhoek, August, 1992.

<sup>18</sup> SADCC’s formation had been a subject of serious discussion since 1978, and was promoted particularly by the late Botswana President, Sir Seretse Khama. It grew as an economic extension of the Front line States (Angola, Botswana, Mozambique, Tanzania, Zambia and Zimbabwe). See, Economist Intelligence Unit, *SADCC in the 1990s*, supra; see also, Rose Mtengeti-Migiro, *Institutional Arrangements for Economic Integration in Eastern and Southern Africa: A Study of SADCC and PTA with Experiences from the EEC*, supra, Chapter 2; and also Margaret Lee, *SADCC the Political Economy of Development in Southern Africa*, 1989, Chapter, 1.

<sup>19</sup> Margaret Lee, *ibid*, p. 3 and See also Douglas Anglin, “Economic Liberation and Regional Cooperation in Southern Africa: SADCC and PTA”, *International Organizations*, vol.37 no. 4, 1983 and R. Davis and D. O’Meara, “Total Strategy in Southern Africa: An Analysis of South African Regional Policy Since 1978”, *Journal of Southern African Studies*, Vol. 11, No.2, 1985.

In July 1979, Southern African states agreed on a policy of regional cooperation to counter South Africa's machinations. This agreement, led to the signing of the Lusaka Declaration on Economic Liberation on 1 April, 1980.<sup>20</sup> At the same meeting, the states also agreed to form SADCC.<sup>21</sup> The objectives of SADCC were to break South Africa's economic domination of its neighbors and to simultaneously create conditions for sustainable economic development within Southern Africa. It must be remembered that during this period, South Africa used its economic and military muscle to destabilize those countries in the region that were playing host to, and supporting, liberation movements. At a summit meeting in Arusha, Tanzania, in 1991, the Member states of SADCC stated the principal objectives of the organization in the following terms:

The gradual reduction of economic dependence particularly, but not only, on the Republic of South Africa; forging of links to create genuine and equitable regional integration; the mobilization of resources to promote the implementation of national interstate and regional policies; and concerted action to secure international cooperation within the framework of their strategy for economic liberation.<sup>22</sup>

#### **(b) Legal Status of SADC**

SADC is established as an international organization with legal personality with the capacity and power to enter into contracts, acquire, own or dispose of movable or immovable property and to sue and be sued.<sup>23</sup> In the territory of each member state, SADC has such legal capacity as is necessary for the proper exercise of its functions.<sup>24</sup> The Community may also hire staff, run offices, maintain relations with member states and third states, as well as enter into agreements with such states. SADC's legal personality, however, is

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<sup>20</sup> See, Economist Intelligence Unit "SADCC in the 1990s: Development on the Front Line", *supra*; see also, "Southern Africa: Towards Economic Liberation": A Declaration by the Governments of Independent States of Southern Africa Made at Lusaka on the 1st of April, 1980 and Memorandum of Understanding of the Institutions of the Southern African Development Coordination Conference, Harare, 20 July, 1981 as amended (in Article 111, para. 2) in Gaborone on 22 July, 1982.

<sup>21</sup> *Ibid.* The founding members of SADCC were: Angola; Botswana; Lesotho, Malawi; Mozambique; Swaziland; Zambia and Zimbabwe. Namibia joined at independence in 1989.

<sup>22</sup> SADCC Annual Meeting, Arusha, Tanzania, 1991.

<sup>23</sup> SADC Treaty, Article 3 (1)

<sup>24</sup> SADC Treaty, Article 3 (2)

limited by the SADC treaty in that it must act within the purposes and functions of SADC as specified or implied in the documents constituting SADC.<sup>25</sup> Initially, SADCC operated with a small secretariat and for most of its early existence was run on an informal basis. It did not have a large staff. It remained this way and operated without a formal treaty until its transformation into SADC in 1992.

### (c) Early Successes of SADCC

Within the context of its objectives – to counter South African influence – SADCC had major successes such as the rehabilitation of the railway line from Zimbabwe to Beira in Mozambique; the upgrading of the port of Beira for handling and ferrying cargo and merchandise to and from Zimbabwe and Malawi; the improvement of telecommunications in the region,<sup>26</sup> and cooperation in power generation and distribution.<sup>27</sup> SADCC also improved air and satellite links amongst its members.<sup>28</sup> It further established a number of regional research institutes in the fields of agriculture and transport. For example, in 1992-1993, it successfully coordinated the importation and procurement of grain into the region during a period of severe drought.<sup>29</sup> The structure established in this process has now developed into an early warning system on the food situation in the region thereby enabling governments to plan ahead for forecast food shortages.

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<sup>25</sup> For a discussion of this see, M.A. Ajomo, "International Legal Status of the African Economic Community (AEC)", International Conference on the African Economic Community (AEC) Treaty, Abuja, Nigeria, 27-30 January, 1992.

<sup>26</sup> See, *Implementing the SADCC Program of Action: A Joint Study by the SADCC Secretariat and OECD Development Center of Structures and Procedures in Development Cooperation*, Gaborone/Paris, 1988; *Cooperation Between Electricity Utilities in the SADCC Region; Proceedings of the Seminar*, Harare, 12-16, December 1984, SADCC Energy Sector.

<sup>27</sup> See, "Electricity in the SADCC Region, Status and Future Projects on Regional Cooperation", *Proceedings of a Workshop held in Mbabane, 6-9, March, 1988*.

<sup>28</sup> *Telecommunications: 10 Year Development Plan*, summary SADCC, Maputo, 1987. See, "Transport and Communications, Rehabilitation, Harmonization and Modernization in The SADCC African States", Working Paper presented to a Joint Conference Sponsored by the International Transport Federation, the Friedreich Egbert Foundation and SADCC Transport Trade Unions, Harare, 23-27, September, 1985.

<sup>29</sup> *Regional Seed Production and Supply Project, Record of the Meetings of the SADCC Technical Experts to Review the Draft Report*, Julius Dakle, Zimbabwe, 11-15, April 1988; *Country Profiles SADCC Food Security Sector*, Harare, 1988; SATUCC, Gaborone, 1985 *Regional Cooperation in Shipping, Phase A, Final Report, Project 301*, by ISTE, University of Trieste, Italy, SADCC, Maputo, 1986.

**(d) The Transformation of SADCC to SADC**

By 1992, however, it had become apparent that apartheid would soon end in South Africa. Members of SADCC reviewed the future of the organization in order to position it for a new role in a Southern Africa with a non-racial democratic South Africa. As earlier pointed out, in August 1992, the SADCC states adopted a declaration entitled "Towards a Southern African Development Community" in which they agreed to form an economic community of Southern African States.<sup>30</sup> At the same meeting, the SADCC Member states, adopted a treaty establishing the Southern African Development Community (SADC). The treaty changed the name of the organization from Southern African Development Coordinating Conference to Southern African Development Community and its mission also changed from that of reducing dependence on South Africa to one of creating an economic community in Southern Africa.<sup>31</sup> South Africa joined SADC in August 1994. Mauritius became its 12th member in August 1995. In 1997 Congo (Kishasha) and Seychelles were admitted as the 13<sup>th</sup> and 14<sup>th</sup> members respectively. The admission of any state to the membership of SADC is effected by a unanimous decision of all SADC member states at a SADC summit. There is some reference to the requirement that aspiring member states should be democratic. The admission, however, of the Democratic Republic of the Congo into SADC in 1997 suggests that this policy is not uniformly applied.

The SADC region contains a population of about 170 million with a combined gross national product of \$170 billion. It is rich in agriculture, mineral and energy resources. Rivers such as the Zambezi, Linyanti, Okavango, Kwando and Orange, across which numerous dams including the Kariba, Kunene and Cabora Bassa were built and have enormous potential for hydro-electric power generation. In addition there are numerous natural lakes such as Malawi and Mweru. These largely untapped water supplies could also be used for irrigation and agricultural production to meet the demands of regional and export markets. In order to create viable agro-industries, for which enormous potential exists, advanced technology and better agricultural and water resource management are necessary. Abundant reserves of diamonds, gold, coal, iron ore, copper, lead, bauxite, nickel, and many other minerals

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<sup>30</sup> The Treaty of the Southern African Development Community, August, 1992, Article 1. Article 3, states that SADC shall be an international organization, and shall have legal personality with capacity and power to enter into contract, acquire, own or dispose of movable or immovable property and to sue and be sued.

<sup>31</sup> *Ibid*, Article 5.

are a source of much of the region's employment and generate considerable foreign currency earnings.<sup>32</sup> Finally, the region is well connected by rail and road networks, an important asset in economic development.

While SADC has tremendous potential for economic development, because of a lack of requisite technology, coupled with under capitalization in the region, its resources remain largely untapped. As a result, Southern Africa remains beset by a range of critical problems. There is chronic underdevelopment with the attendant poverty, illiteracy, malnutrition and inadequate provision of social services for the people of the region. Efforts to address these problems are inhibited by balance of payments deficits, an acute debt crisis affecting most of its members except for Botswana; Mauritius; and South Africa, and by an unfavorable international economic climate.<sup>33</sup> There is also a great need for coordination in the attraction of foreign investment and technology to harness the resources of the region. Moreover, there is need for regional coordination on matters of development to maximize economic benefits to SADC member countries. The SADC framework of cooperation must make concerted efforts to exploit its natural resources for self-reliance and sustained economic development. Successful regional integration will engender a major re-orientation of economic activities and the establishment of institutions to promote regional trade and investment.

Initially, SADC was composed of countries with different economic orientations and political ideologies which would have made cooperation much more difficult. A number of countries in the region followed the socialist model while others adopted the capitalist model.<sup>34</sup> With the heralded demise of the Cold War, the situation has drastically changed. All SADC Member states embrace the free market system and welcome the role of private investment in the development of their economies, and all but two have held democratic elections or are committed to democratic governance.

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<sup>32</sup> See, Margaret Lee, "SADCC The Political Economy of Development in Southern Africa", *supra*. See also Haarlov, J., "Regional Cooperation in Southern Africa, Central Elements of the SADCC Venture", *CDR Research Report No. 14, Copenhagen 1988* and UNIDO, *Investors Guide to SADCC Countries*, Vienna, 1986.

<sup>33</sup> Minnie Venter (ed.), *Prospects for Progress: Critical Choices for Southern Africa*, 1994, p.1.

<sup>34</sup> Margaret Lee, *supra*, Chapter 3. The East African Community is said to have collapsed in part because of differing economic policies, Rose Mtengeti-Migiyo, *supra*, p. 31.

#### IV. GOALS AND OBJECTIVES OF SADC

##### **(a) Creation of a Free Trade Area**

The objectives of SADC, as stated in Article 5 (I) of the SADC treaty, are to: (a) achieve development and economic growth, alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa and support the socially disadvantaged through regional integration; (b) evolve common political values, systems and institutions; c) promote and defend peace and security; (d) promote self-sustaining development on the basis of collective self-reliance, and the interdependence of member states; (e) achieve complementarity between national and regional strategies and programs; (f) promote and maximize productive employment and utilization of resources of the region; (g) achieve sustainable utilization of natural resources and effective protection of the environment; and (h) strengthen and consolidate the long standing historical, social and cultural affinities and links among the peoples of the region.<sup>35</sup>

The strategies for achieving these goals are set out in Article 5 (2). SADC is to: (a) harmonize political and socio-economic policies and plans of member states; (b) encourage the people of the region and their institutions to take initiatives to develop economic, social and cultural ties across the region, and to participate fully in the implementation of the programs and objectives of SADC; c) create appropriate institutions and mechanisms for the mobilization of requisite resources for the implementation of programs and operations of SADC and its institutions; (d) develop policies aimed at the progressive elimination of obstacles to the free movement of capital and labor, goods and services and of peoples of the region generally among member states; (e) promote the development of human resources; (f) promote the development, transfer and mastery of technology; (g) improve economic management and performance through regional cooperation; (h) promote the coordination and harmonization of international relations of member states; and secure international understanding, cooperation and support, and mobilize the inflow of public and private resources into the region.<sup>36</sup>

To give the treaty practical effect, provision is made for states to negotiate a series of protocols which spell out the objectives and scope of, and institutional mechanisms, for cooperation and integration in designated areas. On approval, the protocols become an integral part of the SADC

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<sup>35</sup> Treaty of the Southern African Development Community, *supra*.

<sup>36</sup> *Ibid*.

treaty.<sup>37</sup> Member states undertake to adopt adequate measures to promote the achievement of the objectives of SADC, and agree to refrain from taking any measures likely to jeopardize the substance of its principles, the achievement of its objectives and the implementation of the provisions of the SADC treaty. Member states are also required to accord the treaty the force of national law. This provision, in itself, however, is not sufficient to make the Treaty applicable in a domestic jurisdiction. Member states would have to pass implementing legislation to achieve this result. The situation in states where national constitutions make treaties, once entered into by the state, applicable in the domestic jurisdiction, might be different. Among SADC states that situation prevails only in South Africa under its new constitution.<sup>38</sup>

### **(b) Political, Social, and Cultural Cooperation**

As can be seen from its objectives, SADC is to be a customs union seeking to establish free trade within its internal market and is intended to develop into an economically and politically integrated community. Central to this objective is the lifting of internal tariffs and non-tariff barriers, free movement of persons and capital, establishment of common transport and communications policies, and standardization of trade practices in order to enhance a faster rate of economic development. In the European Union, for example, there were two characteristics of the common market program which were instrumental in ensuring that the objective of a common market was reached and which should be of relevance to the SADC case. The first characteristic was the reduction of tariffs on an "across the board" basis. This principle meant that tariffs were to be reduced, not through a commodity by commodity, approach but on one of all goods at once approach. This approach ensured that the elimination of internal barriers was taken out of the hands of the negotiators. Also by being formulated in an *ex parte* fashion the program came into effect automatically. The second characteristic was that there was a time table according to which customs duties and quota restrictions or measures of equivalent effect were to be eliminated. It was perceived that a timetable, laid in advance and agreed to by all parties, would be necessary to guarantee that the economic integration process was not unduly disrupted.<sup>39</sup> This strategy indeed paid off when the Community managed to remove tariff and quota restrictions ahead of the originally envisaged schedule.

The freedom of establishment and the freedom to supply services are an important aspect of economic integration. They cover the right of non-wage

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<sup>37</sup> *Ibid*, article 22.

<sup>38</sup> *Ibid*, article 6. See, the South African Constitution, adopted in May 1996.

<sup>39</sup> Rose Mtengeti-Migiro, *supra*, p. 21.

earners (the self employed) to establish companies or firms and the freedom to offer services. For individuals, the right of establishment implies the right to take up and pursue activities as a self-employed person in another country. The right to provide services extends to citizens of member countries who are established in a country other than that of the individual for whom the services are intended. The SADC treaty recognizes the importance of this right to economic integration by categorically prohibiting discrimination between nationals of member states and asking member states to take measures that abolish all restrictions on the freedom of establishment.<sup>40</sup> The freedom of movement of capital is complementary to that of movement of goods, persons and services, but it has a special connection with the right of establishment. It would be useless if a person should only have the right to set up an economic activity in a member country but were denied the right to transfer capital to that country to enable that person to acquire the necessary premises and operational facilities required for the activity.

It can be seen, from the areas of cooperation outlined in the Treaty, that SADC is not simply a trading organization or a mechanism restricted to the promotion of cooperation in trade and production based on the creation of a common market. In addition to the integration of national markets and cooperation in production, states joining the Community undertake to cooperate with each other in certain functional areas as well e.g. social, political, diplomatic, sports and regional security.<sup>41</sup> The Member states intend to strengthen and consolidate the long standing historical, social and cultural affinities and links among the peoples of the region and to harmonize political and social policies among member states. The SADC states have many traditional links: the countries in the region all recently emerged from colonial oppression, most of them after bitter and protracted liberation wars; they assisted each other in the liberation wars; and the indigenous ethnic groups in many of the SADC states overlap or have common historical origins.<sup>42</sup> The SADC strategy of encompassing non economic matters among its areas of cooperation is a realization that successful integration invariably has to be anchored on the twin foundations of economic and political integration.

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<sup>40</sup> Treaty of the Southern African Development Community, *supra*, Article 6, and 5 (2) (d).

<sup>41</sup> *Ibid*, article, 5 (1) (a), (b), (h) and (5) (2) (b).

<sup>42</sup> See, R. Hall, *Zambia*, 1965, p.5.

## V. SADC INSTITUTIONS AND STRUCTURES

### (a) Policy Making Organs

The treaty establishes six institutions for the implementation of community goals. These are: the Summit of the Heads of State or Government; the Council of Ministers; Commissions; the Standing Committee of Officials; the Secretariat and the Tribunal.<sup>43</sup> The Summit is the supreme policy making body and is responsible for the overall policy direction and control of the functions of SADC. It adopts the legal instruments for the implementation of the provisions of the treaty.<sup>44</sup> The decisions of the Summit are by consensus. The Council of Ministers oversees the function and development of SADC and the implementation of the SADC policies and programs. It advises the Summit on matters of overall policy and the development of SADC, approves policies, strategies and work programs of SADC.<sup>45</sup> The Commissions provided for in the treaty, when constituted, are to guide and coordinate cooperation and integration policies and programs in designated areas.<sup>46</sup> The Commissions are composed of experts responsible for planning and developing strategies within each of the SADC sectors. Commissions are created by the Council of Ministers. They are responsible for running each sector or sub-sector. The real functioning units of SADC are the Standing Committees of Officials.<sup>47</sup> They consist of one permanent secretary or an official of equivalent rank from each member state, preferably from a ministry responsible for economic planning or finance. The Standing Committees make recommendations to the Council of Ministers, and the Council in turn makes recommendations to the Summit. They function more or less as a technical advisory committee to the Council of Ministers.

The last major institution of SADC is the Tribunal. It is established by Article 16 of the treaty. Among its tasks, is to ensure adherence to and the proper interpretation of the provisions of the treaty and to hear disputes in relation to it. Its composition, powers, functions, and procedures are to be prescribed by a protocol. For an article governing an institution of such great significance, this article is unsatisfactory and needs to be clarified. Article 16 (5), for instance, states that the Tribunal's decisions are binding on member states. This is somewhat confusing as article 16(4), on the other hand,

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<sup>43</sup> Treaty of The Southern African Development Community, *supra*, article, 9.

<sup>44</sup> *Ibid*, Article 10.

<sup>45</sup> *Ibid*, Article 11.

<sup>46</sup> *Ibid*, Article 12.

<sup>47</sup> *Ibid*, Article 13.

states that "the tribunal shall give advisory opinions on such matters as the Summit or the Council may refer to it." The relationship between these two articles is not clarified. It is not clear which decisions are binding and who can bring actions before the Tribunal. Such an important matter as who has standing before the Tribunal should not have been left to inference or to a subsequent protocol. It might therefore be wise to amend the treaty to clarify this matter.

SADC operates on the basis of a highly decentralized structure. Sectoral programs, based on areas of cooperation, are coordinated by a specific member state as may be decided by the Summit. The current allocation of responsibilities to individual countries are as follows: Angola-energy; Botswana-livestock production and disease control; Lesotho-soil and water conservation and land utilization; Malawi-fisheries, forestry and wild life; Mauritius-tourism; Mozambique-transport and communications; Swaziland-manpower development; Tanzania -industry; Zambia-mining; Zimbabwe-food security and overall coordination; and South Africa-trade and investment.<sup>48</sup> Once SADC has assigned the coordination of a particular sector to a country, the sector-coordinating country designates a relevant ministry in its government to undertake the work. The ministry sets up a sector coordinating unit for that purpose. Each host country is required to service its unit in terms of competent manpower, provision of office space and meeting running costs. In this way, the administrative burden of coordination, is shared without the creation of large formal institutions. SADC operates largely through committee meetings comprising officials of member states' relevant ministries and technical experts, all of whom may take part in the sector task force. Policies, programs, possible regional projects are all discussed in these meetings and information shared. Thereafter, representations are made to the Council of Ministers, which finally decides which projects should be included in the SADC regional pool. On the other hand, the sector-based commissions act as technical advisors to member states and on the other they act as links between member states and cooperating partners. This structure and the method of operation seems to have thus far worked well. Nevertheless,

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<sup>48</sup> See, Haalov, "Regional Co-operation in Southern Africa, Central Elements of SADCC Venture", *supra*. And also Wolfgang Zehender, "Cooperation Versus Integration: The Prospects of the Southern African Development Coordinating Conference (SADCC)", *Occasional Papers of the German Institute, (GN) No. 77*. There have been additions since the admission of South Africa and Mauritius. Others argue that this approach to organization weakens SADC as it relegates the running of SADC affairs to increasingly fragile state structures.

this seemingly organizational strength of SADC at this stage of its development, might have to be adjusted in the future as the work load of the organization increases. Clearly, there will be need to establish institutions that can administer the burden of work that is bound to be generated by the process of integration as SADC makes headway in its goals.

**(b) A Comparison of SADC and EU Approaches**

The approach in SADC can be contrasted with that of the European Union. The European Union countries did not sign the EU treaty simply to create mutual obligations governed by the law of nations. Rather, they limited their sovereign rights by transferring them to institutions over which they had no direct control.<sup>49</sup> Furthermore, it was not only member governments which were bound by the new rights and obligations, but also their citizens who became subjects of the Community. They thus created a “supranational” body as opposed to an international body of law and institutions which stood above individual member states. In contrast, the SADC treaty does not create supranational organs. For instance, SADC organs do not have power to legislate or issue directives binding on member states. As such, implementation of the relevant objectives, depends entirely on individual member states.<sup>50</sup> It is arguable that SADC is being conscious in this area as it does not believe it can get agreement to such delegation of power just yet. In many ways, SADC’s approach is appropriate to the circumstances of Southern Africa. At SADC’s level of development, it is more productive to focus on somewhat narrower targets than on attempting to integrate entire economies in a declaratory manner. The ambitious nature of many integration schemes in the past has been the precise reason for their failure. The EU could afford to take the approach they did as the EU member countries had already attained extremely high levels of trade integration before the formal start of the European Economic Community in 1958. Furthermore, the disparity in per capita incomes and levels of development and industrialization was not too huge. This provided considerable room for the emergence of intra-industry specialization, which has been the most dynamic force in the expansion of global commerce since the 1950s. Nevertheless, if SADC institutions are to be effective and the community goals achieved, SADC will have to gradually move towards supranational institutions.

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<sup>49</sup> Rose Mtengeti-Migiro, *supra*, p. 20.

<sup>50</sup> Treaty of the Southern African Development Community, *supra*, Article 6.

## VI. SADC'S STRATEGIES FOR ACHIEVING A COMMON MARKET

### **(a) Elimination of Tariff Barriers with in SADC**

As observed earlier, SADC proposes to achieve a free trade area by the elimination of tariffs between member countries.<sup>51</sup> To this end, at its annual meeting in 1996, SADC adopted a protocol on trade.<sup>52</sup> The objectives of the trade protocol are to liberalize intra-regional trade in goods and services; ensure efficient production within SADC which reflects the current and dynamic comparative advantages of its members; contribute towards the improvement of the climate for domestic, cross border and foreign investment; and enhance the economic development, diversification and industrialization of the region.<sup>53</sup> The protocol envisages the elimination of tariffs within eight years of its entry into force.<sup>54</sup> The processes and modalities for the elimination of the tariffs are to be determined by a committee of ministers responsible for trade.<sup>55</sup> Member states which consider that they may be or have been adversely affected by the removal of tariff and non tariff barriers to trade may, upon application to a Committee of Ministers of Trade, be granted a grace period to afford them additional time for the elimination of tariffs. The protocol envisages the existence of different common tariffs for different products. The actual method of eliminating barriers to intra-SADC trade, and the criteria of listing products for special consideration, is yet to be negotiated in the context of the SADC's Negotiating Forum(TNF). However, once adopted, the process and modalities for eliminating barriers to intra-SADC trade will be deemed to form an integral part of the trade protocol.<sup>56</sup>

The Trade Protocol in Article 4 provides for the phased reduction and eventual elimination of import duties on goods originating from member states. The key to qualifying for preferential treatment under the Trade Protocol are the rules of origin. These are yet to be adopted. They are currently under negotiation within SADC. Rules of origin are designed to ensure that preferential trade benefits accrue directly to a regional scheme's member states and not to non-member states. Usually, such rules insist that only goods originating from member countries qualify for preferential treatment.

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51 Article 2, Protocol on Trade in the Southern African Development Community (SADC).

52 Ibid, article 2.

53 Ibid, article 3 (1) (b).

54 Ibid.

55 Ibid., article 3 (1).

56 Ibid., Article 3 (1) (c).

For example, NAFTA's rules of origin provide that goods originate in the territory of NAFTA under the following circumstances: (1) the good is wholly obtained or produced in North America. Article 415 defines such goods as products of farm, forest, or fisheries within the territory of one of more of the parties. In the case of fish on the high seas, it covers fish caught by vessels carrying a flag of one of the NAFTA parties.<sup>57</sup> This approach is preferable to that of looking at the ownership of the corporation providing the goods. That kind of approach would defeat policies aimed at attracting foreign investment to a region.

In SADC the process of eliminating tariffs is to be accompanied by an industrialization strategy to improve the competitiveness of member states products. Pursuant to the objective of eliminating import duties, member states may not raise import duties beyond those in existence at the time of entry into force of the Trade Protocol. This provision does not affect the charging of fees for services rendered by member states to traders. Article 5 provides that member states shall not apply any export duties on goods for export to member states. This does not prevent member states from applying export duties necessary to prevent erosion of any prohibitions or restrictions which apply to exports outside the community, provided that no less favorable treatment is granted to member states than to third countries. In Article 6 member states commit themselves to the elimination of non tariff barriers. Except where this is provided for under the protocol, member states are prohibited from applying any new quantitative restrictions on imports and exports, and are required to phase out existing restrictions on goods originating in other member states. They may apply for a quota system only where such a quota system is more favorable than that applied under the protocol.<sup>58</sup>

There are a number of exceptions to the application of these prohibitions. The exceptions are similar to the ones usually found in most free trade agreements including measures necessary to: (1) protect public morals or to maintain public order; (2) protect human, animal or plant life or health; (3) secure compliance with laws and regulations which are consistent with the provisions of the WTO; (4) protect intellectual property rights, or prevent deceptive trade practices; (5) the transfer of gold, silver, precious and semi-precious stones, including precious and strategic metals; (6) imposed for the

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<sup>57</sup> See, NAFTA Treaty, Article 401. For an overview of NAFTA's legal obligations, operations, and impact, see, generally North American Free Trade Agreement, Statement of Administrative Action, H.R.Doc.No. 159, 103d cong., 1st sess. (1993).

<sup>58</sup> *Ibid.*, Article 7.

protection of national treasures of artistic, historic or archaeological value; (7) prevent or relieve critical shortages of foodstuffs in any exporting member state; (8) the conservation of exhaustible natural resources and the environment; and (8) ensure compliance with existing obligations under international agreements.<sup>59</sup> Security measures are also excepted provided that the member state instituting such measures notifies the trade committee of any such measures. The protocol provides for national treatment.<sup>60</sup> Member states are required to accord immediately and unconditionally, to goods traded within the community the same treatment to goods produced nationally and to those produced in other member states in respect of all laws, regulations and requirements, affecting their internal sales, offering for sale, purchase, transportation, distribution or use. In addition to removing the tariff based obstacles to free trade, the protocol in Article 6 requires member states to take measures to eliminate non tariff barriers to trade. Member states also promise cooperation in a number of areas including: (1) customs matters; (2) simplification and harmonization of trade documentation and procedures; (3) freedom of transit within the community. Member states promise to base their sanitary and phytosanitary measures on international standards, guidelines and recommendations, so as to harmonize such measures for agricultural and livestock production in the region. These measures are to be harmonized in accordance with WTO Agreement on Application of Sanitary and Phytosanitary Measures.<sup>61</sup>

#### **(b) Technical Barriers to Trade**

With respect to standards and technical regulations on trade, member states are required to use relevant international standards as the basis for their measures. If an international standard is used, then it presumably does not constitute an unnecessary obstacle to trade. The problem is that there are already national standards in existence in these countries, and it is necessary to ensure that these are not an obstacle to trade. SADC member states are prohibited from granting subsidies which have the effect of distorting or threatening to distort competition in the region. Member states are, however, allowed to take countervailing measures on a product of another member state to offset the effect of subsidies imposed by the other member state. Market safeguarding measures are allowed provided that a member state has determined that the product attracting such measures is being imported to its

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<sup>59</sup> *Ibid.*, Article 9.

<sup>60</sup> *Ibid.*, Article 11.

<sup>61</sup> *Ibid.*, Article 16.

territory in such increased quantities, absolute or relative to domestic productions, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products. These measures, however, have to be in accordance with WTO rules.<sup>62</sup>

The provisions relating to standards and technical regulations could have been more strictly structured. They should clearly discourage the use of standards and technical specifications as such measures can be major obstacles to trade. For example the provisions relating to standards in NAFTA are couched in language which is easier to litigate and thereby discourages abuse. Article 904 of NAFTA establishes four basic rights and obligations of each NAFTA party: (1) the right to adopt standards-related measures; (2) the right to establish a level of protection that the party deems appropriate; (3) the obligation to refrain from discriminatory treatment with respect to standards; and (4) the obligation to refrain from creating or using standards-related measures as an unnecessary obstacle to trade. In addition, parties to NAFTA are required to demonstrate that the purpose of their standards is to achieve a legitimate objective, defined to include safety, the protection of human, animal, and plant life and health, and environmental protection. NAFTA does not harmonize the parties product standards. Instead, NAFTA member states are directed to make their standards-related measures and conformity assessment procedures compatible to the greatest extent.<sup>63</sup>

Subject to WTO provisions, SADC member states are allowed to take temporary measures to protect infant industries in their jurisdictions. The Community realizes the need to encourage foreign investment to the community as a whole. Under Article 22 of the protocol member states are required to adopt policies and measures to promote an open cross-border investment regime within the Community as a way of enhancing economic development, diversification and industrialization. Member states are also required to implement WTO regulations with respect to trade in services and intellectual property rights. They are to accord one another the most favored national treatment and must not enter into agreements with third parties that conflict with the SADC protocol.<sup>64</sup> It is important that SADC recognizes the importance of joint efforts to attract investment to the region. Individually, many of the SADC countries do not have the necessary conditions to attract substantial inflows of foreign investment. In many of the countries, markets are simply too small, skills too scarce, infrastructure inadequate and investment

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<sup>62</sup> *Ibid.*, Article, 17.

<sup>63</sup> R. Bhala and K. Kennedy, *supra*. P. 175.

<sup>64</sup> *Ibid.*, Article 24.

opportunities too limited. The picture changes dramatically when an investor is assured access to the regional market.

**(c) Difficulties within a program of the Elimination of Tariffs**

The reduction of tariffs in any free trade arrangement is not an easy task. In the case of SADC, a number of problems have to be confronted. First, there is the fact that five members of SADC belong to the Southern African Customs Union (SACU). SACU members belong to a free trade area with common external tariffs. There will have to be an agreed formula on how SADC and SACU tariffs are to be harmonized with the view to have one level of tariffs for the whole community. In the long term the existence of SACU is inconsistent with that of SADC. Some countries would be applying tariff reduction rates to already low national tariff rates, leading to inequitable revenue losses and making exports to countries with higher national rates less competitive. The application of tariff reduction programs at different stages by different countries can create complex arrangements and undermine the overall integrative effect of the elimination of tariffs. There are also some tricky areas, for example, sugar is produced by a number of SADC countries. International trade in sugar is not free but regulated by protocols and market access arrangements. Further individual countries may be tempted to raise rather than lower tariffs for domestic reasons. In addition to all this is the fact that trade taxes still amount to some 40% of fiscal revenue in an average African country.<sup>65</sup> This fact makes countries reluctant to reduce tariffs, as in the short term, it represents revenue loss without an immediate alternative to turn to. SADC countries must realize that economic integration, by its very definition, is a process designed to completely abolish discrimination between local and partner goods, services and sectors over an agreed period of time. In other words, economic integration expands the effective market horizon within which economic agents can move the resources they hope to utilize productively. In the short term such movement can translate into unequal benefits among countries participating in the integration scheme. What is important is to maintain a long term perspective of the process as the benefits for a participating region are bound to come in the long run.

**(d) The Harmonization of Fiscal Policies**

For trade and liberalization measures to be successful they must be accompanied by efforts to harmonize fiscal policies in order to promote

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<sup>65</sup> Lecture by Dr. Chris Stals, Governor of the South African Reserve Bank, Harvard Institute for International Development, May 1, 1997.

economic cooperation and integration. This process should involve harmonization of financial laws, regulations, trade documents and procedures with respect to banking, finance and the movement of capital and goods. It is necessary to ensure continued reforms in the financial sector for the achievement of effective economic integration such as reforms to improve the monetary control mechanisms; institutional and regulatory reforms to improve efficiency and soundness of financial systems; and the adequacy of the interest rate structure. SADC has made good progress in establishing institutions to carry out work in this area. Under the Finance and Investment Protocol, SADC has established an Independent Committee of Governors of Central Banks. The Committee has established a small specialized secretariat and research facility within the South African Reserve Bank to serve the Committee of Governors. As Mr. Stalls, Governor of the Reserve Bank of South Africa, has noted, before the Governors' Committee was established SADC approached financial cooperation in the region on the basis of proposals made by European advisers and was based mainly on the model of financial integration in the European Community.<sup>66</sup> He argues such reliance was a mistake. The current divergences in the stage of economic development of the members of SADC are so vast that there cannot be talk at this juncture of a European type economic integration scheme in Southern Africa.

SADC has adopted a bottom-up approach with respect to the question of financial integration. This approach is based on building financial cooperation by laying an appropriate foundation in the form of effective institutional framework for the financial system in each country. This strategy involves establishing well run banks; securities firms, insurance companies, and pension funds. A successful financial sector also requires a critical mass of loan officers and bank auditors with the requisite skills to carry out the types of financial transactions demanded in a market-based economy and a strong credit culture. More grandiose schemes for the harmonization or integration of macro-economic monetary policies, such as a unitary currency, can be considered later once central banks, private banking sectors and financial markets have been established and are functioning effectively in the participating countries. Central banks must work together in joint efforts to develop compatible and inter-linkable national payments, as well as in clearing and settlement systems for financial transactions. Eventually, the national financial systems must be linked to each other to provide for more effective cross-border settlements for inter-regional financial transactions. This requires a high level of cooperation in the development of compatible

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<sup>66</sup> Ibid.

electronic data processing and in technology systems in the twelve participating central banks. Attention should also be paid to the development of financial markets in the region. This will involve the introduction of appropriate legal institutional frameworks and of financial instruments, and the improvement of technological systems and expertise in foreign exchange management, money and capital markets. Some rationalization in financial systems to the advantage of the whole region will be necessary.

Recently, SADC central banks agreed on the repatriation of notes within the community.<sup>67</sup> The work by the SADC Central Bank Committee has enabled South Africa to ease exchange controls for companies wanting to invest in the SADC region. Further, dual listings on the Johannesburg stock exchange and other SADC stock exchanges are now permissible. When sufficient work has been done, the community can move into greater harmonization and even integration of macro-economic financial policies such as interest and exchange rate policies, the management of bank liquidity, credit extension on a regional basis and operations by central banks in a more integrated financial market environment. The danger, however, of moving too fast in this area was illustrated by the introduction of travelers cheques and currency units in COMESA in the late 1980s before the regional grouping had dealt with the more fundamental fiscal policies. The result was the collapse and subsequent withdrawal of the COMESA travelers cheques and the currency units after a few years of operation.

#### **(e) Dispute Settlement Under the Trade Protocol**

The SADC Trade Protocol provides a dispute settlement mechanism to resolve trade disputes that will inevitably arise in the interpretation of the protocol.<sup>68</sup> The first avenue for any dispute is through negotiations between the member states involved in the dispute. If this effort fails, member states may take recourse to a panel of trade experts. As a last resort disputes will be settled in accordance with Article 32 of the SADC treaty. As it stands, the dispute settlement mechanism is too rudimentary. There is urgent need to work out a dispute settlement mechanism which is endowed with powers to give directives and to make binding decisions. Characteristics of such a mechanism should be speedy resolution of disputes; binding nature of decisions; and a party to a dispute should not have the ability to unilaterally block the implementation of a tribunal's decision. This is the only way

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<sup>67</sup> Mail Guardian, April 13, 1998.

<sup>68</sup> Protocol on Trade in the Southern African Development Community (SADC) Region, Article, 32.

SADC will ensure the effectiveness and viability of its protocols. This can be done by the establishment of a SADC court. Recently, SADC ministers of justice agreed to establish a SADC tribunal to deal with disputes arising from the interpretation of the SADC treaty. In the case of the European Union, member states have to submit to the jurisdiction of their respective courts of justice which protect community institutions. The absence of institutional mechanisms to enforce treaties and the ability of states to block decisions arrived at by dispute settlement tribunals are some of the major weaknesses of most regional organizations in developing countries.

## VII. CONCLUSION

Integration is a laborious and time consuming process with a gradual evolution pattern. It can only be achieved through a well balanced recognition of mutual interests. Agreements on the process can only be concluded with excellent preparatory work by the community institutions and by putting practical goals on the negotiating table. The European experience shows quite clearly that, at the institutional level, a movement towards regional cooperation and integration must give regional institutions real power. Southern Africa has a great opportunity to build a viable economic community, and this opportunity should not be missed. Most of the major historical political conflicts of the region have been resolved or are in the process of being resolved. Namibia attained independence in 1989; in Mozambique the conflict between FRELIMO and RENAMO has been resolved; white minority rule has ended in South Africa thereby removing the dominant source of instability in the region. There are, however, two intractable conflicts—Angola and Congo. Unless resolved, these two conflicts have the potential to seriously undermine SADC integration efforts. The prospects for an enduring settlement in both conflicts do not look good, and efforts to resolve the conflicts are painfully slow.<sup>69</sup> Except for Swaziland and the newly joined Congo (Kishasha), democratic elections have been held in all the SADC Member states. This means that there is a commonality in political systems and out-

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<sup>69</sup> The Angola Peace Agreement, Lusaka, 1995 that was being implemented has for all intents and purposes collapsed. The United Nations Secretary-General has recommended the termination of the UN Mission in Angola, see, Africa News Agency, “Annan Recommends End of Angola Mission.” January 18, 1999. See also “Angola’s Claims Affect Congo Talks,” Post News Paper, January 18, 1999, Lusaka, Zambia and “I will Never Talk to Rebels-Kabila,” Post News Paper, January 15, 1999, Lusaka, Zambia.

look. In addition, as we earlier noted, all the countries embrace the free market system and welcome private investment. To maintain the momentum, the countries in the region must ensure that they pursue economic and political policies which promote growth. This means that there must be: (1) political and social stability in the region; (2) macro-economic stability; (3) sound legal and administrative framework; (4) openness to intra-regional trade and investment; and a (5) well supervised, regulated, and competitive financial system and investment in people.

The question that is often raised is the likelihood of any economic community in the Southern African region being dominated by South Africa, the economic and pre-eminent military power in the region. This concern needs to be addressed. It arises from the fact that South Africa's economy is far larger than the combined economies of the rest of the eleven members of SADC. There are already complaints, especially by Zimbabwe and Zambia, that South Africa is destabilizing their economies. These countries accuse South Africa of flooding the region with its goods while preventing reciprocal trade through its high tariffs. This arises because South Africa still has in place a generous system of incentives for its exports put in place in the apartheid era. Zimbabwe and Zambia cannot take similar action as they are both under IMF-sponsored structural adjustment programs. In 1995, South Africa's exports to the rest of the African continent jumped to \$3 billion compared to \$2 billion the previous year. At the same time, the country's imports from other African countries rose by only 19%. In contrast the other members of SADC (Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Swaziland, Tanzania, Zambia and Zimbabwe) depend up to 70% on South Africa for their imports. In the case of Zimbabwe, for example, the country's exports to South Africa increased by 1% in 1995 while its imports from it surged by 54%. Above all, the textile industry, which represented 20% of its total exports at the start of the decade, is being asphyxiated by South Africa's tariffs imposed after the expiration of a bilateral trade agreement in 1992.<sup>70</sup> The South African economy is by far the most advanced in the region. With only forty two million of the people, it accounts for 31% of the total output of all SADC countries together; the South African economy accounts for about 80% of the total gross domestic product of about \$170 billion produced in SADC; South Africa equally accounts for almost 70% of the combined exports of \$34 billion of the SADC region. Moreover, it has well developed financial markets.<sup>71</sup> To dispel the perception that South Africa is being

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<sup>70</sup> See, research by African Institute of South Africa, as reported by Agence France Presse, June 12, 1996.

<sup>71</sup> Lecture by Dr. Chris Stals, Governor of the Bank of South Africa, *supra*.

protectionist and trying to dominate the region by placing high tariffs on its imports, making other SADC countries' exports uncompetitive, South Africa's Department of Trade and Industry (DTI) undertook an extensive review of the region's tariffs. It found that Zimbabwe and Mauritius, and not South Africa, are the most highly protected economies in Southern Africa.<sup>72</sup> South Africa has also shown a commitment and a willingness to participate in regional projects of which the Maputo Corridor project is a good example.<sup>73</sup>

There is no doubt that these difficulties can undermine regional integration and make harmonious regional integration more complex. But as the South African government has aptly observed, "South Africa cannot be an island in an ocean of poverty. Its destiny is linked to the region."<sup>74</sup> For one thing, South Africa will, in the long, run have to abide by the World Trade Organization trading regime. In addition, South Africa has huge domestic problems created by the legacy of apartheid which it needs to address. It requires a high economic growth rate to have sufficient resources to achieve this. This can only be guaranteed if the economies of the other Southern African states are vibrant. South Africa can ill afford unstable and poor neighbors, with the implication such poverty has for migration from those countries to South Africa. Immigration to South Africa from the rest of Africa is already a serious problem and one which, without cooperation by all countries in the region, can only worsen. The only economic community that can work is one where all member states perceive membership as beneficial to their economies. Experience has shown, especially that of failed integration schemes, that economic integration, unless checks are put in place, tends to concentrate benefits in those countries which are relatively more developed. It is understood that all member states in an economic community cannot gain equally at any given time. In fact in the short term gains are sometimes difficult to assess and some members might lose. The long term view is, however, the critical factor. The spirit of give and take which should be the guiding principle in regional integration has to be paramount for a successful community to emerge. Particular measures should be instituted to accommodate the less developed countries of the membership of the community.

South Africa's economic power can be a positive factor for the region. South Africa has the political and economic authority to assume a regulatory role, and the leadership capacity to consolidate and promote the integration

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<sup>72</sup> See, "Trading Carefully Around SADC", Ministry of Trade, Pretoria, South Africa, August 29, 1997.

<sup>73</sup> This is a project to construct a major highway and other infrastructure to link Maputo to the Mpumalanga Province in central South Africa.

<sup>74</sup> "Trading Carefully Around SADC", *op. cit.* supra note 72

process. Its expertise and advanced technology is needed and can play a vital part in the development of the region. South Africa's economic dominance places on it an obligation to act as the integration leader in the region and a responsibility to act maturely in its dealings with its partners in SADC. As Professor Davis has observed, for integration to succeed in Southern Africa, it will have to be based on five principles: (a) a regional economic program has to be viewed as an essential component of any strategy to promote growth and development in Southern Africa; (b) inequalities in present relations need to be taken into account in developing closer regional economic ties after apartheid. If this is not done, present inequalities will be reproduced and there will not be a sustainable basis for strengthening ties. It is likely that the socio-political consequences of such polarization will be large-scale migration across the sub-continent's borders; (c) a regional program cannot be based on the unrealistic expectations of weaker partners. Unless all partners can reasonably expect concrete benefits, the political will to sustain a regional program will be lacking; (d) the need to find a combination of cooperation and integration that will help to realize the benefits of closer relations; and (e) the promotion of cooperation in regional security.<sup>75</sup>

Socio-economic problems are the main threats to regional security and a new cooperative approach to security is essential to encourage disarmament and release resources for development. SADC leaders have already shown that they can act together in crisis that reared during the elections in Mozambique and in the resolution of a coup-induced crisis in Lesotho 1993 and more recently the crisis following the May 1998 disputed election results.<sup>76</sup> They are also working together, albeit with great difficulty, to resolve the war in the Congo between the Kabila Government and rebels seeking to remove it from power.<sup>77</sup> Water and Energy protocols have also been concluded. Work on defense, security, police and drugs cooperation is continuing. The Economist Intelligence Unit commenting on the progress thus far made by the earlier organization SADCC, notes that, "nearly a decade later, most of the doubters were convinced. The region's peasant farmers are beginning to plant new crops, strains from a SADC research

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<sup>75</sup> Minnie Venter, *supra*, chapter 2, pp. 4-71, See also Laurie Nathan, *A Framework and Strategy for Building Peace and Security in Southern Africa*, Center for Inter-group Studies, October, 1992.

<sup>76</sup> The Xinhua News Agency, May 31, 1996. Also, Mail Guardian, October 12, Johannesburg, South Africa.

<sup>77</sup> Mail Guardian, October 22, 1998, Johannesburg, South Africa. The Congo crisis has severely tested the unity of SADC. Some states, Zimbabwe, Angola and Namibia have deployed troops while others have misgiving about such a move.

center, while business people in different countries can telephone each other over SADC links and ship their goods through ports and railways improved under SADC auspices. Equally important, but less visible because it does not carry the SADC label, is the growing regional cooperation in a wide range of economic, business, political and military matters as officials and politicians and business people get to know each other better and to think in regional terms.”<sup>78</sup>

It should also be noted that SADC was developed within the region, and not presented to the member countries by outsiders as was the case with many regional integration schemes in Africa, for example, COMESA, which was established in conjunction with the Economic Commission for Africa. SADC is an appropriate institution to serve as a vehicle for the economic integration of Southern Africa. Integration in this region is not, however, going to be easy. Countries in the area will have to recognize that the only way to create an economic community is to harmonize economic policies and tariffs, and to remove bureaucratic obstacles to the movement of capital, labor and goods within the SADC countries. These are necessary conditions for a fully integrated market and for the establishment of a free trade area. Such actions will certainly involve the surrender of some aspects of sovereignty rights by individual states, but not much more than already relinquished by member states of the European Union or those of the North American Free Trade Association Treaty.

If Southern Africa states fail to bring about genuine economic integration, their economies will stagnate and will be unable to meet the challenges of the region. The ultimate result is that the region's people will remain poor. SADC countries must put aside narrow nationalistic tendencies in favor of cooperation, coordination and collaboration. Successful economic integration in Southern Africa is bound to have far-reaching political, economic, social, cultural and scientific implications not only for the Southern African region but for the rest of the Africa. SADC could serve as the much needed catalyst that finally launches Africa on the road to development and reverse the decades of increasing poverty in Africa, and the marginalization of the continent in the world.

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<sup>78</sup> Economist Intelligence Unit, “SADCC in the 1990s”, *supra*, p.1.