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Abbreviations and Acronyms

AfDB	African Development Bank
AMU	Arab Maghreb Union
ASANRA	Association of Southern African National Roads Agencies
ASCUDA	Automated System for Customs Data
ASYCUDA	Automated System for Customs Data
AUC	African Union Commission
AWF	Africa Water facility
BIDPA	Botswana Institute for Development Policy Analysis
CENSAD	Community of Sahel-Saharan States
CBTA	Cross-Border Traders Association
CET	Common External Tariff
COMESA	Common Market of Eastern and Southern Africa
CSO	Central Statistics Office
CU	Customs Union
DBSA	Development Bank of Southern Africa
EAC	East African Community
ECCAS	Economic Community of Central African States
ECA-SA	Economic Commission for Africa Southern Africa Office
ECOWAS	Economic Community of West African States
EPAS	Economic Partnership Agreements
EU	European Union
FESARTA	Federation of East and Southern Africa Road Transport Association
FOPRISA	Formative Process Research on Integration in Southern Africa
GDP	Gross Domestic Product
FTA	Free Trade Area
HS	Harmonized System
ICA	Infrastructure Consortium for Africa
ICT	Information and Communication Technologies
IGAD	Inter-Governmental Authority on Development
ILO	International Labour Organization
IMF	International Monetary Fund
IOM	International Organization for Migration
IPPF	Infrastructure Project Preparation Facility
ISTD	ICT and Science and Technology Division
IT	Information technology
LDC	Least developed country
MFN	Most favoured nation
MMTZ	Malawi, Mozambique, Tanzania, and Zambia

MOU	Memorandum of Understanding
NGO	Non-Governmental Organizations
NEPAD	New Partnership for Africa's Development
NEPRU	Namibian Economic Policy Research Unit
NTBs	Non-tariff barriers
OAU	Organisation of African Unity
OPDSC	Organ on Politics, Defence and Security Cooperation
OSBP	One-Stop Border Post
PMAESA	Port Management Association of Eastern and Southern Africa
PTA	Preferential Trade Area for Eastern and Southern Africa
REC	Regional Economic Communities
RETOSA	Regional Tourism Organisation for Southern Africa
RII	Regional Integration Index
RISDP	Regional Indicative Strategic Development Plan
RUCs	Routine Universal Comprehensive Screening
SACU	Southern Africa Customs Union
SAD	Single Administrative Document
SADC	Southern Africa Development Community
SARA	Southern Africa Railway Association
SARDC	Southern African Research and Documentation Centre
SPS	Sanitary and phyto-sanitary
STP	SADC Trade Protocol
TNF	Trade Negotiating Forum
TRALAC	Trade Law Center for Southern Africa
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa
UNIVISA	Universal Visa

Foreword

This Paper is a result of a study conducted by ECA-SA to track progress in the implementation of Protocols in Southern Africa. The purpose of this study is to review progress towards regional integration in the sub-region in context of the coming into force later this year of the SADC Free Trade Area and the Common Market for Eastern and Southern Africa (COMESA) Customs Union and beyond.

The findings from the study were discussed and enriched further by the Forum on progress and prospects in the implementation of protocols convened by the ECA Office in Southern Africa at the Cresta Golf View Hotel in Lusaka, Zambia from 29 to 31 May 2008. Further discussions on the subject were conducted during the ECA-SA 14th ICE meeting held from 2 – 4 June 2008 in Lusaka, Zambia under the theme: "*Achieving Free Trade Area (FTA) and Customs Union (CU): Emerging Challenges and Opportunities for Southern Africa*". Participants to the two meetings comprised the representatives from the Southern African governments, the African Union Commission, SADC, COMESA and SACU Secretariats, the African Development Bank, the Development Bank of Southern Africa, the International Organisation for Migration, the Private sector and the civil society, academia and media representatives.

The study shows that both COMESA and SADC are generally on track towards achieving the CU and FTA milestones for 2008 but challenges towards the wider regional integration agenda still remain in terms of simplification and harmonization of customs and immigration procedures, development and implementation of monitoring mechanisms for tracking the implementation of protocols, information needs for trade facilitation, and financing regional integration.

The sub-region needs to expedite and strengthen the development of an implementation framework for the protocol on facilitation of movement of persons in consultation with all stakeholders and build public awareness regarding the benefits of migration. At the RECs` level, it is imperative to establish a unit aimed at addressing the implementation of protocols related to immigration and free movement of persons, expedite and operationalize the SADC Transit Bond System and strengthen the COMESA system.

The attainment of the regional integration milestones is adversely affected by inadequate mechanisms to track and monitor progress in the implementation of protocols by member States. Strengthening the capacity of the national and regional protocol monitoring and enforcement mechanisms and disseminating information on the implementation of protocols will be critical in deepening regional integration in Southern Africa.

The development of a matrix of ICT infrastructure needs of border operations, the incorporation of these into regional ICT policies and the development of a framework for the harmonization of trade and regional integration statistics will be instrumental in upgrading ICT, statistics and other infrastructure at border posts.

The lack of resources to finance regional integration programmes continues to impact negatively on both COMESA and SADC. It is therefore important for the African Development Bank and other financing institutions to develop and strengthen mechanisms aimed at enhancing the absorptive capacities of the sub-region. Enhanced stakeholder participation and donor support to the regional integration programmes will ensure sustainability to the process. The creation of a Project Preparation and Development Unit within SADC, and strengthening of the same within COMESA; and the development of mechanisms to operationalize the COMESA Fund and the Development Fund for SADC will be pivotal to successful attainment of the regional integration agenda.

Deepening the regional integration process will require enhancing the role of private sector and regional business organizations particularly in trade development as well as the establishment of a trade, transport, immigration and customs committee to deal with the broader issues of regional integration at the sub-regional level. The strategic role played by the transport sector in trade facilitation urges the sub-region to develop sustainable funding mechanisms for regional associations and corridor management institutions and promote a system of accreditation of transport companies and clearing agents by national authorities in order to facilitate cross border trade. Speeding up the process of implementing the proposed SADC road user charge guidelines and harmonizing them with COMESA and harmonizing motor vehicle insurance practices throughout the region will be instrumental in this process.

A comprehensive development support to the transport sector should include strengthening the assistance to HIV and AIDS initiatives and the development of maintenance units along transport corridors supported by rescue operations; and strengthened mechanisms for constructing and maintaining transboundary infrastructure.

Other key areas to facilitate integration include the development of a simplified and trade facilitating regime with a strong development component, strengthening the capacity of the policy regulatory framework for SADC and COMESA and quickening the work of the taskforce on the harmonization of the SADC/COMESA/EAC programmes.

This study and all the ensuing discussions are in line with the ongoing ECA Repositioning Process emphasising our role in promoting regional integration in support of the African Union vision and strengthening the capacity by providing technical assistance to the RECs. This internal process calls upon the sub-regional offices to act as privileged partners of the RECs, the AU subregional Offices and other sub-regional institutions on harnessing regional resources to meet Africa`s development priorities.

The preparation of this study, as part of the ECA-SADC multi-year programme for 2008-09, was a collaborative effort involving experts, key stakeholders in regional integration in Southern Africa and ECA staff. I take this opportunity to thank the consultant, Mr. Farai Zizhou, of the Botswana Institute for Development Policy Analysis, who prepared this study under tight deadlines and took time to participate in the Forum on progress and prospects in the implementation of protocols and the 14th intergovernmental committee of experts.

I would like to express my gratitude to the individuals and institutions that contributed by providing the consultant with data and necessary information during the preparation of this important study. I appreciate the contribution of the AU Sub-regional Office, SADC and COMESA to the preparation process and sincerely thank the AfDB, IOM, DBSA, FESRATA, the Department of Immigration for the Republic of Zambia and the Zimbabwe Revenue Authority for their most valued contributions to the Southern Africa Development Forum. My sincere gratitude also goes to other participants to the Southern Africa Development Forum and the delegates to the 14th ICE for their invaluable inputs.

Finally, I would like to thank my colleagues for providing invaluable substantive and logistical assistance in the preparation of this study, including overseeing the work of the consultant and organizing the two meetings in Lusaka namely Munorweyi Dhliwayo, Wilfred Lombe, Oliver Maponga, Jean Luc Mastaki Namegabe, Anne Mwansa, Ruth Kananda and Dorothy Pelekamoyo.

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Executive Summary

This paper is an evaluation of the implementation by the Southern Africa region of three key intervention areas specified in the COMESA Treaty and SADC protocols on Trade, Transport, and Movement of Persons. The paper assesses the extent to which sub-regional countries are implementing trade facilitation measures agreed upon by their respective organisations. It also identifies challenges that need to be overcome, and the likelihood of attaining 2008 regional integration milestones.

The principal legal instruments from which the three protocols under study derive are the COMESA Treaty and the SADC Treaty as amended. SADC's *Protocol on Trade (SADC, 1996) and the Regional Indicative Strategic Development Plan (RISDP) (2003)* elaborate the process of liberalisation of trade. The *SADC Protocol on Transport, Communications and Meteorology* guide liberalisation and other activities in the transport sector. Article 4 of the COMESA Treaty contains provisions for the organisation's integration agenda, including trade, transport and communications. Both SADC and COMESA have also developed protocols on free movement of persons.

Ten SADC member states have implemented their 2008 tariff phase down obligations and are on course to participate in the SADC FTA at launch in August 2008..DR Congo, Angola, Madagascar and Malawi are not prepared for the SADC FTA. 12 SADC member states implementing the Protocol on Trade have implemented the revised SADC Rules of Origin. The member states have agreed on a range of trade facilitation instruments, but their practical implementation remains problematic, in cases due to capacity constraints. Fourteen COMESA FTA member states have agreed to the harmonised COMESA Common External Tariff, but have not yet implemented the new rates. Work on the sensitive products lists is ongoing and there are fears the lists could jeopardise the Customs Union launch scheduled for December 2008.

Trade facilitation instruments being implemented by COMESA member states include the COMESA Yellow Card (Vehicle Insurance) Scheme and the COMESA Customs Bond Guarantee Scheme; and Harmonised Road Transit Charges. The SADC Transit Customs Bond Guarantee system has successfully gone through the pilot phase but has still to be widely implemented.

SADC and COMESA member states are working on regional transport routes through the corridor concept. They are also working on modalities to implement the Yamoussoukro Decision on freeing the airways. The two RECs have pilot projects on one-stop border posts concept, but these are not yet operational. International cooperating partners are assisting with funding, including that of feasibility studies for the eventual roll-out of the programme to other centres. COMESA member states have not yet signed the Protocol on Free Movement of Persons. They have implemented the Protocol on Visa Relaxation. SADC member states have not signed the SADC Protocol on Movement of Persons.

The implementation of the COMESA CET will highlight the problems of multiple memberships of RECs. It will also have a negative impact on state revenues in some member states. The REC must enhance the size of the COMESA fund so it can act as a compensation mechanism. The challenge for SADC is to learn from the experiences of COMESA so as to adequately prepare ahead of the possible SADC CU launch in 2010. A related challenge is to get the other four existing members to participate before the projected launch of the SADC CU.

The major challenge regarding information for trade facilitation is to ensure compatibility of the Customs authorities' different IT systems and sharing of information. Failure to share data by adjoining border posts using the same system (mostly ASYCUDA++) shows that there is more than just technical compatibility that is involved in facilitating movement of goods and people. A related challenge is to ensure trade databases are availed to traders and that data collection must ensure comparability between countries to facilitate monitoring processes.

The study has observed that the institutional framework of SADC does not respond quickly enough to the need to facilitate the implementation of agreements. The delays in approvals of agreements negotiated by member states at technical levels shows this shortcoming. At the same time, current systems of monitoring integration progress end up with the SADC Summit and COMESA Authority.

The inadequate funding of regional integration programmes remains a big challenge. International Cooperating partners are currently supporting human technical capacity building programmes at secretariats and member state levels, infrastructure development through the transport corridors, as well as trade facilitation instruments, among others.

It is imperative that SADC and COMESA develop regional mechanism to accommodate small economies and to ensure that benefits of freeing trade in the region accrue to all. This should include an effective compensation mechanism. The implementation of the common external tariff should be a gradual process over several years to lower the costs of adjustment. This should be accompanied by measures that address issues of industrial competitiveness, as well as structural changes in single commodity economies. A clearer and more accommodative policy environment could spur the private sector play a bigger role in infrastructure provision.

There is need for greater political commitment to the free movement of persons and the right of establishment; the empowering of regional integration structures at national level; as well as to the integration agendas of COMESA and SADC. Institutional restructuring must be geared towards the elimination of administrative constraints to quicken decision-making and facilitate implementation of infrastructure projects and trade facilitation instruments. SADC and COMESA must utilise the harmonisation process with each other to consolidate their integration agendas.

Chapter I : Introduction

African countries have long seen regional integration as a means of achieving industrialisation by freeing trade, and jointly securing economies of scale and efficiency gains. For the Southern Africa region, regional integration is one way of strengthening the voice of small economies to negotiate for improved market access especially in developed economies. Sub-regional countries considered it critical to jointly overcome development constraints and improve the lives of the majority of the population through the reduction in trade barriers between states, harmonization of economic and trade policies, coordination in infrastructure development, as well as other forms of development cooperation. Indeed as captured in SADC's RISDP, "Markets have to be competitive at local and international levels. Small and protected markets have been rendered non-viable by globalisation."[1] These are the principles driving the integration efforts in Southern Africa. The theoretical progression of regional integration starts at the preferential trade level and ends up with the establishment of an economic community as shown below.

Box 1: THEORETICAL PROGRESSION OF REGIONAL INTEGRATION

STAGE	DESCRIPTION
Preferential trade Area	Preferential tariffs for member countries based on agreed rules of origin, but each with its own tariffs on goods from third countries
Free Trade Area	Tariffs and non-tariff barriers are eliminated for member countries based on agreed rules of origin, but each with its own tariffs on goods from third countries
Customs Union	Improvement on FTA - the member countries adopt a common external tariff with customs revenue sharing or allocated according to destination of imports
Common Market	Customs Union with free movement of goods, services, labour, capital and the right of residence and establishment, between members of the common market
Community	Same conditions as a common market with the addition of a single currency issued by one monetary authority, common fiscal and monetary policy

a) Objectives, Scope and Methodology

The objectives of this study are; to prepare an issues paper on Progress and Prospects in the attainment of a Free Trade Area and a Customs Union in the Southern Africa Sub-region and present the findings to a multi-stakeholder Forum

1 RISDP - *Regional Indicative Strategic Development Plan*, SADC 2003, p65

Scope

1. Prepare issues paper on *progress and prospects in the implementation of Protocols (SADC) and Treaty (COMESA) in Southern Africa,* specifically,
    a. Provide a background review of SADC and COMESA in general and the sub region's protocols and treaty in particular;
    b. Review the implementation of Protocols impacting on the creation of a FTA and CU including Trade, Transport, Communications and Meteorology and Facilitation of the Movement of Persons; indicate achievements to date, identify challenges and success factors, focus on strategies for developing common external tariffs and harmonized cross-border practices
    c. Identifying the human capacity and institutional constraints and challenges faced by member States, the SADC Secretariat and other stakeholders in this process; and
    d. Critically review the mechanisms for implementing the specific programmes towards and post creation of FTA and CU
    e. Develop monitoring mechanisms for the performance tracking in the implementation of protocols and treaty provisions on trade, transport and free movement of people in the Southern Africa Sub-Region,
2. Propose recommendations and the way forward from these findings.
3. Present the findings of the study to a multi-stakeholder Forum, and incorporate suggestions from discussions at the Forum into the issues paper, finalize and submit to ECA-SA.

Methodology

The consultancy work was mostly a desk study, which made use of independent monitoring reports on the integration process from the FOPRISA[2] researchers network, NEPRU, SARDC, other relevant literature, status of integration reports from independent consultants, official SADC and COMESA treaties, policy documents, protocols, and official gazettes. The consultant obtained additional information from the two organisations' websites[3] where they regularly post reports on their activities.

Measurement of progress was through an assessment of whether member states have signed and implemented the provisions of the protocols or Council decisions to attain the set milestones. Assessment of prospects for attainment of integration milestones relies on the observed extent of implementation in 2008, given the CU and FTA road maps.

2 FOPRISA is Formative Process Research on Integration in Southern Africa, a four-year research project hosted by the Botswana Institute for Development Policy Analysis, in support of the integration efforts of SADC. FOPRISA has financial backing from the Norwegian Government and involves several research institutes in Southern African countries as well as in Norway.

3 The official COMESA and SADC Websites are www.comesa.int; and www.sadc.int respectively

b) Background

Southern African countries have been pursuing regional integration through memberships of the Southern African Development Community (SADC[4]), and the Common Market for Eastern and Southern Africa (COMESA[5]). COMESA was established in December 1994 through the transformation of the former Preferential Trade Area for Eastern and Southern Africa (PTA), itself formed in 1981. It was established within the framework of the Organisation of African Unity's (OAU) Lagos Plan of Action and the final Act of Lagos[6]. COMESA was established "as an organisation of free independent sovereign states which have agreed to co-operate in developing their natural and human resources for the good of all their people." In line with COMESA's economic history and background, its focus is on the formation of a large economic and trading unit that is capable of overcoming some of the barriers that individual small states face. COMESA has made regional integration through trade and investment its top priority intervention area.

SADC was established in 1992 as a successor to the Southern African Development Coordination Conference (SADCC) formed in 1980. Whilst the SADCC was oriented towards coordinating development activities, SADC, represents a vision for even closer political, economic and social integration.

Six[7] sub-regional countries have memberships in both regional organisations. Five SADC member states are members of the Southern African Customs Union (SACU)[8].

(i) COMESA Customs Union Road Map

COMESA plans to transform the Free Trade Area (FTA) to a Customs Union CU) by December 2008 (revised from previous target of 2004). The creation of the CU will be a step further in COMESA's quest to achieve economic growth and prosperity through dismantling trade barriers and opening markets, hopefully leading to production and trade efficiency and welfare gains for the majority of the region's citizens.

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4 Southern African Development Community (SADC): formed in 1992, a transformation from the Southern African Development Coordination Conference (SADCC 1980), Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia, Zimbabwe; 1990: Namibia; 1994: South Africa; 1995: Mauritius; 1998: Democratic Republic of the Congo, Seychelles, though the latter later on pulled out, 2004: Madagascar

5 Common Market for Eastern and Southern Africa (COMESA): 1993 (successor to the Preferential Trade Area for Eastern and Southern Africa - 1980): Burundi, Comoros, Djibouti, D. R. Congo, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Swaziland, Uganda, Zambia, Zimbabwe.

6 Pre-amble to the Treaty of the Common Market for Eastern and Southern Africa

7 Zimbabwe, Zambia, Malawi, Madagascar, Mauritius and Swaziland are members of both SADC and COMESA

8 SACU, established in 1910 is the oldest customs union in Africa. The member states are South Africa, Botswana, Lesotho, Namibia, and Swaziland.

Box 2: COMESA CU ROAD MAP

(a) Common External Tariff

- Agree on a Common External Tariff structure that minimizes conflict with other regional trading arrangements;
- Implement a programme to have member State tariff rates aligned with CET target rates;
- Develop budgetary assistance measures to minimize revenue gaps arising from implementation of CET rates;
- Develop measures to assist industries to successfully compete under a CET/CU environment;
- Complete work on the Common Tariff Nomenclature with agreed categorization of goods; and
- Improve Rules of Origin

(b) Customs Procedures and Legislation

- Develop programmes to simplify and harmonize customs procedures and legislation; and
- Develop anti-dumping, countervailing duty regulations and other trade remedy measures for the CU.

(c) Legal and Administrative Structure

- Develop a legal and administrative framework for the CET/CU;
- Constitute the Common Tariff Nomenclature Committee; and
- Establish Customs Union Liaison Offices in member States

Source: COMESA, *Strategic Plan, 2007-2011*

The CU road map, derived from the COMESA treaty sets out the parameters Member states must implement jointly and severally for the attainment of the 2008 milestone. The main elements include the common external tariff, customs legislation and procedures, as well as supportive institutional (legal and administrative) structures. This road map has many facets that place enormous strain on the COMESA Secretariat human resources, who must manage the process successfully in addition to managing the many other programmes that define the regional economic community. It is equally difficult for member states to keep up with the multiplicity of demands on limited human resources. This may help to explain why, among other factors, the overall level of implementation of Council of Minister's Decisions is low.

(ii) SADC Integration Roadmap

SADC plans for its Customs Union are included as part of the integration road map enunciated in the RISDP. The regional body's road map[9] includes -

- The establishment of a Free Trade Area (FTA) by end of year 2008;
- Completion of negotiations for a Customs Union by 2010;
- Completion of negotiations for a Common Market by 2015; and
- Establishment of a Monetary Union by 2016 and a regional Central Bank with a common currency by 2018

9 RISDP, SADC 2003, page 66

This road map follows the theoretical progression already cited.

SADC FTA Road Map

The Member states of SADC are a stage behind COMESA in the process of regional integration, but are implementing the *SADC Protocol on Trade* (*SADC: 1996*) and have adopted the *Regional Indicative Strategic Development Plan* (RISDP) (*SADC: 2003*) as main instruments to achieve regional economic integration. In their quest to transform the regional grouping into a free trade area, SADC member states agreed on a programme to gradually liberalise trade with each other, to converge on macroeconomic variables, to harmonise policies and other economic instruments and to diversify their industries and through that, their export products. SADC has adopted the following economic strategies and tasks for member states (SADC 2003:32):

- gradual elimination of intra-regional tariffs10;
- elimination of non-tariff barriers to trade;
- adoption of common rules of origin;
- attainment of internationally acceptable standards, quality, accreditation and metrology;
- harmonisation of customs rules and procedures;
- harmonisation of sanitary and phyto-sanitary measures; and
- liberalisation of trade in services

Once the SADC member states establish the FTA in December 2008, their road map requires them to start negotiations leading to the creation of a SADC Customs Union by 2010. The most critical issue in that phase will be negotiations for the adoption of a common external tariff. - A Ministerial Task Force on regional economic integration has been created and charged with the responsibility of driving the Customs Union process. The Task Force approved the establishment of four technical working groups to deal with all the necessary preparations as follows:

a) Common External Tariff;
b) Legal, Administrative and Institutional Arrangements;
c) Revenue Collection, Sharing/Distribution Mechanism including a Compensatory Fund; and
d) Harmonization of Customs related Policies

The technical working groups will, among other tasks, deal with the following issues:

- Facilitate the development and adoption of a SADC Common Tariff Nomenclature based on the Harmonised System at the 8-digit H.S. tariff line level; Common External Tariff; SADC Common Customs Act; Regional Transit Management System and Common Customs Training Modules;
- Assess respective Member States revenue dependency on trade taxes as this impacts on the pace of trade liberalisation within the Community;

10 On substantially all trade (or 85% of trade) as provided for under article XXIV of the WTO

- Assess economic and fiscal impacts of implementing the proposed CET and make suggestions as to how budget shortfalls could be made up, either through changes in national tax structures and coverage or through budgetary assistance mechanisms;
- Assessment of the options for customs revenue collection and distribution including compensation mechanisms as well as issue of a self-financing mechanism for SADC;
- Development of a legal framework for the administration of a SADC customs union;
- Where possible to collaborate with other customs union initiatives in the region on the development of a common tariff nomenclature and common external tariff.

In developing these frameworks, the working groups will take account of other trade policy initiatives at regional and multilateral levels.

c) Socio-Economic Parameters of Southern Africa

Southern Africa has a combined population of 241 million people (2005). The sub-region's combined gross domestic product (GDP) is USD333 billion (2005). South Africa accounts for 74.4% of this. The region's average per capita GDP is USD 1,383 (2005) It is highest in Mauritius and Botswana and lowest in Malawi, Madagascar and Zimbabwe

In 2005, agriculture was the dominant real sector contributor to GDP in Malawi (34.6%), whilst the sector also scored highly in Mozambique (18.6%) and Lesotho (16.9%) (Table 2). Mining contributes the most to the GDP of Angola (53.5%, mostly crude oil) and Botswana (38.0%, predominantly diamonds), Zambia (3.2%), Zimbabwe (8.5%). Manufacturing is the dominant real sector contributor to GDP in Swaziland (20.9%), Lesotho (20.3%), Mauritius (19.6%), South Africa (18.6%) and Zimbabwe (14.6%).

Table 1 shows the socio-economic structure of SADC member States.

	Land Area ('000 sq km)	GDP 2005 (US$M)	Population (M) (2005)	GDP / capita (2005)	Total Ext Trade (US$M) (2005)
Angola [b,c]	1,247	28,475	15,941	1,786	34,025
Botswana	582	9,559	1,727	5,535	7,677
D.R.C. [a,c]	2,345	7,200	59,739	121	4,301
Lesotho [c]	30	1,500	2,339	641	2,091
Madagascar	587	5,040	17,382	290	2,576
Malawi	118	2,156	12,341	175	1,424
Mauritius	2	6,399	1,243	5,148	5,362
Mozambique	799	6,746	19,420	347	4,107
Namibia	824	6,016	1,957	3,074	5,335
South Africa	1,219	234,347	46,888	4,998	127,823
Swaziland	17	2,900	1,108	2,617	4,095
Tanzania	945	11,208	37,268	301	4,186
Zambia	753	7,272	11,700	622	4,195
Zimbabwe [b,c]	391	4,400	11,923	369	3,743
SADC	**9,859**	**333,218**	**240,976**	**1,383**	**210,940**

Source: SADC Statistics, Facts and Figures 2005

The World Bank employs a different classification[11] of GDP, emphasizing agriculture, industry and services. According to this classification, the services sector contributes the highest proportion to GDP in eight of the twelve sub-regional economies (see table A1-1).

11 *World Development Indicators 2007*, The World Bank, pages 194-196: industry includes International Standard Industrial Classification (ISIC) divisions 10-45 (mining, manufacturing, construction, electricity, water, gas); agriculture also includes forestry and fishing , ISIC divisions 1-5; Services includes ISIC divisions 50-99

Table 2: Structure of GDP in Southern Africa (%)

Country	Agriculture	Mining	Manufacturing	Commerce
Angola	11.0	53.5	5.1	18.2
Botswana	2.1	38.0	3.6	10.4
Lesotho	16.9	2.5	20.3	11.5
Madagascar	14.8	0.2	9.9	10.2
Malawi	34.6	2.3	12.0	23.5
Mauritius	5.8	0.1	19.6	19.5
Mozambique	18.6	1.1	12.8	21.2
Namibia	5.7	8.3	12.6	11.6
South Africa	2.5	7.0	18.6	14.6
Swaziland	6.1	0.3	20.9	4.8
Zambia	4.4	3.2	10.6	18.1
Zimbabwe	9.5	8.5	14.6	0.9

Source: SADC Statistics, Facts and Figures 2005 (update these data)

External trade is an important part of the region's economy and totalled USD211 billion in 2005. South Africa accounts for 61% of the sub-region's total trade. Angola is a distant second accounting for 16.8% and Botswana is third with 3.8% of total trade.

The foregoing summary description of the region shows the varying socio-economic characteristics of countries in the region. There is a wide gap between average incomes of people in the member states. The wide socio-economic disparities make deeper regional integration relatively difficult. The same policy measures applied in different circumstances may not yield similar results and this poses risks for issues such as macroeconomic convergence.

Chapter II: Outline of SADC Protocols and COMESA Treaty to Foster Economic Integration

The principal legal instruments from which the three protocols under study derive are the COMESA Treaty and the SADC Treaty. SADC's *Protocol on Trade (SADC, 1996) and the Regional Indicative Strategic Development Plan (RISDP) (2003)* are the organisation's main instruments for liberalisation of trade. The *SADC Protocol on Transport, Communications and Meteorology* guide liberalisation and other activities in the transport sector. Article 4 of the COMESA Treaty contains provisions for the organisation's integration agenda, including trade, transport and communications. Both SADC and COMESA have also developed protocols on free movement of persons Even though they have evolved from different directions, the two treaties are not in conflict, as some researchers have tended to generalise. The broader road maps for integration emanating from the two treaties are very similar. They display more similarities than divergences.

The Declaration and Treaty of SADC spells out the objective of SADC. It reads ".... to: promote sustainable and equitable economic growth and socio-economic development that will ensure poverty alleviation with the ultimate objective of its eradication, enhance the standard and quality of life of the people of Southern Africa and support the socially disadvantaged through regional integration;"[12] among other objectives. SADC's *Protocol on Trade (SADC, 1996)* is the organisation's main instrument for liberalisation of trade, whilst the *Regional Indicative Strategic Development Plan* (RISDP) is the framework defining wider regional integration programmes post the establishment of a free trade area.

COMESA programmes aim to reduce the costs of cross-border trade by simplifying internal border formalities and fully opening up markets in the region thereby enabling member countries to take advantage of the economies of scale.

d) The Status of Implementation of Protocols and Treaty Provisions

The SADC FTA and COMESA CU will be defined by the extent to which they facilitate movement of people and goods across borders. For this purpose therefore, the following discussion is concerned with only three intervention areas: protocols on Trade, on Transport and Communications, and on Free Movement of Persons.

12 Declaration and Treaty of the Southern African Development Community, Objective 1(a)

(i) Protocols on Transport, Communications and Meteorology

This discussion will focus on the transport sub-sector only for it is the most critical complement to free trade, even though communications and meteorology have a large bearing on the effectiveness of the transport sub-sector. Transport bottlenecks are a major constraint to deeper regional integration by restricting the movement of goods and people as well as increasing the costs to the end user of both imports and exports. In the latter case, they compromise price competitiveness and timeliness of delivery. Volume 12 of *Regional Integration in Southern Africa*[13] series, notes that the high costs of utilities and poor transport infrastructure significantly add to the cost of doing business in the region and ultimately negatively affects competitiveness and investment inflows. Both COMESA and SADC have been actively pursuing harmonisation in policy matters, trade facilitation and infrastructure development.

SADC member states signed the *Protocol on Transport, Communications and Meteorology* in 1996, and came into force in 1998. The aim of the SADC transport programme[14] is to provide efficient, safe and integrated transport services that support the larger goals of integration and poverty alleviation. In pursuit of this aim, the following priority areas are the focus of SADC member states' activities:

Policy

- Liberalisation of regional air and road transport markets;
- Development of appropriate regulatory frameworks for the regional transport industry;

Facilitation

- Development of guidelines to facilitate harmonisation of rules, regulations and procedures;
- Development of measures to enhance the safety of transport services;

Infrastructure

- Development of appropriate infrastructure, including ports/harbours, roads (and corridors), and railways

Some effort has gone into the development of inland transport infrastructure and this remains a key intervention area. Already, the SADC region has a number of surface transport corridors, which are natural routes to and from the sea. However, infrastructure constraints such as poor roads, bridges, inappropriate border infrastructure layout and logistics, as well as lengthy, complicated and non-harmonised customs border procedures and documents exist. They have manifested themselves in poor levels of efficiency, poor turnaround and hence high costs of

13 *Regional Integration in Southern Africa – Vol. 12*, edited by Chinyamata Chipeta and Klaus Schade, p25
14 *SADC Annual Report 2005/06*

transportation, resulting in poor competitiveness of exports from the region in global markets as well as high landing costs of imported products in the region.

Progress to date: Southern African Development Community

SADC is in the process of addressing challenges in the corridors through:

- Packaging of corridor infrastructure development projects into bankable projects for implementation by member states; and
- Facilitating corridor infrastructure development as well as transport and trade facilitation along the corridor borders. SADC Secretariat is developing a SADC Corridor Strategy in consultation with the member states. SADC launched a study looking at best corridor practices of the region as well as those from elsewhere around the world as an integral part of the wider corridor strategies to develop and modernise all the SADC corridors.
- Some of the SADC Corridors that are being developed in conjunction with the member states include Nacala Development Corridor, Shire-Zambezi Waterway, Beira Corridor, Limpopo Corridor, Maputo Corridor, Libombo Development Corridor, Lesotho Railway, Trans-Kalahari Corridor, Walvis Bay Corridor, Trans-Caprivi Corridor, North-South Corridor, Trans-Kunene Corridor, Lobito Corridor and the Malanje Corridor. These corridors are being developed with the support of International Co-operating Partners.
- Harmonisation of customs procedures and standardisation of customs, to ensure effective movement of goods through the Trade Facilitation Project
- In air transport, SADC is guided by the decisions to open up the airways by the African Union. Already, the SADC Ministers responsible for Transport in October 2007 agreed to implement the full provisions of the Yamoussoukro Decision of African Union (AU) Ministers responsible for Air Transport on the same. The resolve follows the SADC-COMESA-EAC[15] tripartite agreement to pursue this AU initiative jointly. This is also in line with Articles 87 and 21 of COMESA Treaty and SADC Treaty respectively. However, member states are yet to domesticate the regional agreement.
- Currently transit cargo experiences delays and is made more costly by the practice of raising customs bond in each country of transit. SADC is addressing the challenge through the Transit Facilitation Project. The project has already developed a SADC Transit Customs Bond Guarantee system. The system has successfully gone through the pilot phase on the North-South Corridor and now awaits adoption by SADC Ministers before implementation.

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15 East African Community (EAC) includes Uganda, Kenya, Tanzania, Rwanda, Burundi

SADC region has adopted a number of other facilitation measures including:

- Adoption of the one-stop-border post (OSBP) concept; This is currently in the pilot phase supported by SADC and COMESA as well as the African Union with financial backing from International Cooperating Partners. Chirundu and Ressano Garcia-Lebombo OSBP projects are getting financial support from the United Kingdom's Department for International Development (DFID USAID). is supporting the development of the Malaba-Tororo OSBP. Other proposed OSBPs, like Katima Mulilo, Kazungula, Machipanda, Beit Bridge, etc are still at either the design or early development stages.
- credit card size drivers licence that is now being issued in eight Member States;
- regional driver training manuals;
- standardised road traffic signs though implementation is not universal;
- standards and specifications for roads and bridges;
- guideline for the provision of low volume sealed roads;
- Most of the Member States have also carried out reforms to establish road funds and autonomous road authorities;
- Adoption of the single administrative document meant to enable faster customs clearing. In practice, this instrument is not yet widely used;
- Other facilitation instruments that have been agreed upon but their implementation has not universally taken off include maximum vehicle dimensions, maximum axle loads, and harmonised road transit charges.

COMESA Programmes

Article 4 of the COMESA Treaty outlines the regional body's undertakings in the transport and communications sectors. In these undertakings, COMESA seeks to:

(a) foster such co-operation among themselves as would facilitate the production of goods and facilitate trade in goods and services and the movement of persons;
(b) make regulations for facilitating transit trade within the Common Market; and
(c) adopt a Third Party Motor Vehicle Insurance Scheme

Progress to date: COMESA

COMESA has made substantial progress in policy and regulatory harmonisation and other trade facilitation instruments.

Table 3 below summarises the state of implementation in Southern Africa of the various COMESA programmes as outlined in the Treaty.

Table 3: Implementation of COMESA Transport Schemes in Southern Africa

Country	Madagascar*	Malawi	Mauritius*	Swaziland#	Zambia	Zimbabwe
Customs Bond Guarantee	n/a	Yes	n/a	n/a	Yes	Yes
Harmonised Road Transit Charges	n/a	Yes	n/a	n/a	Yes	Yes
Carrier's licence	n/a	Yes	n/a	Yes	Yes	Yes
Yellow card Scheme	n/a	Yes	n/a	Yes	Yes	Yes

Source: *COMESA in Brief*, COMESA
* Not practical for island states
# Not practical - No direct link with other COMESA countries

The nature of some of the schemes makes them irrelevant to the island states of Madagascar and Mauritius. Since the withdrawal of Mozambique from COMESA, Swaziland has no border with any of the COMESA member states. The remaining three member states (Zimbabwe, Zambia and Malawi) have implemented the schemes.

COMESA Regional Customs Bond Agreement was signed by the Heads of State and Government of the Preferential Trade Area (PTA), (now COMESA) Summit, held in Mbabane, Swaziland, in November 1990. The COMESA Customs Bond Guarantee Scheme, is a customs transit regime designed to facilitate the movement of goods under Customs seals in the COMESA region and to provide the required customs security and guarantee to the transit countries is in place.

Railway systems continue to operate in an environment where there is unregulated competition. From a policy perspective, most regional countries have concessions operating certain sections of their national networks. The lack of effective regulation has resulted in some uncompetitive practices that restrict traffic in favour of certain concessioned routes. This has been observed in Zambia and Zimbabwe.

In summary, Malawi, Swaziland, Zambia and Zimbabwe have implemented more than 50% of transport facilitation instruments. Corridor management committees have been set up where appropriate. Transport observatories are being set-up in a joint programme with SADC (as part of the Sub-Saharan African Transport Programme). Data from these observatories will be used to formulate strategies to eliminate factors causing delays through the corridors.

(ii) Protocols on Trade

Fourteen out of 19 COMESA member states are participating in the free trade area. Current programmes are aiming at the launch of the COMESA customs union. SADC is still at the preferential trade area stage. Current programmes are to transform it into a free trade area by August 2008.

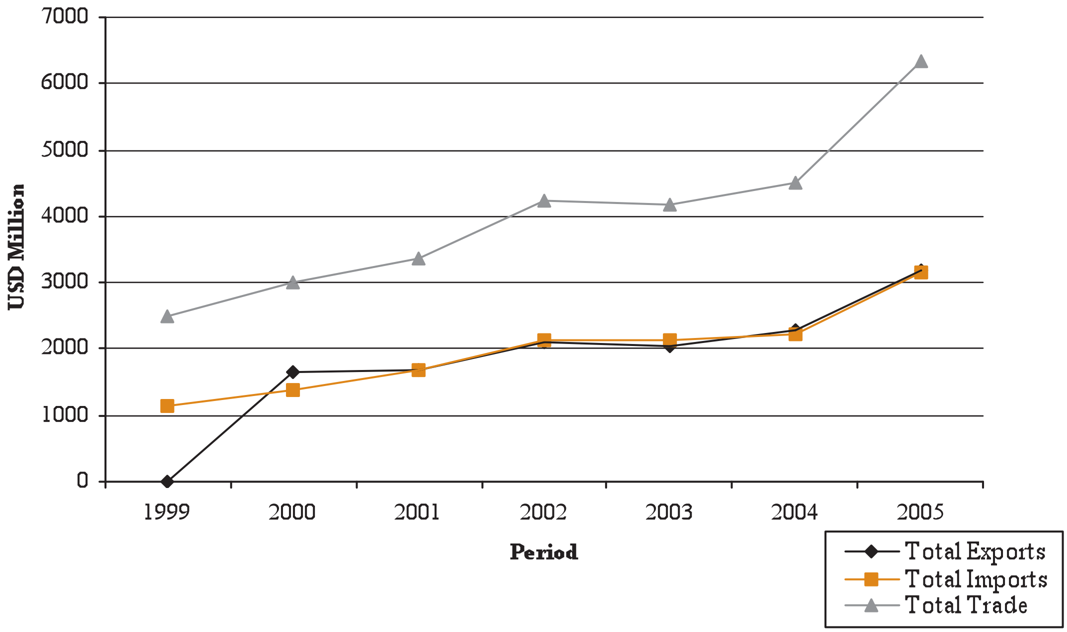
Implementation of Protocols on Trade

Trade issues are the pillar of COMESA and other issues covered by the COMESA Treaty are in support. As of March 2008, Madagascar, Malawi, Mauritius, Zambia and Zimbabwe are participating in the free trade area[16] in place since October 2000. Swaziland has not been able to do so due to its membership of SACU.

Whilst this is a good achievement for the five member states, it is worth noting that the implementation of a free trade regime has not in itself led to high levels of intra-regional trade though as Figure1 shows the intra-regional trade has been rising steadily since 2000. However, this growth is skewed in absolute terms in favour of more developed COMESA member states like Kenya and Egypt.

Whilst the free trade area has only been in existence for seven years, there is a danger of structural rigidities preventing the growth of intra-regional trade to levels that would render the integration process a success. Khandelwal (2004) attributed this to low levels of product complementarities. We explore this issue further in later sections of the paper.

Figure 1: Intra COMESA Trade 1999 to 2005

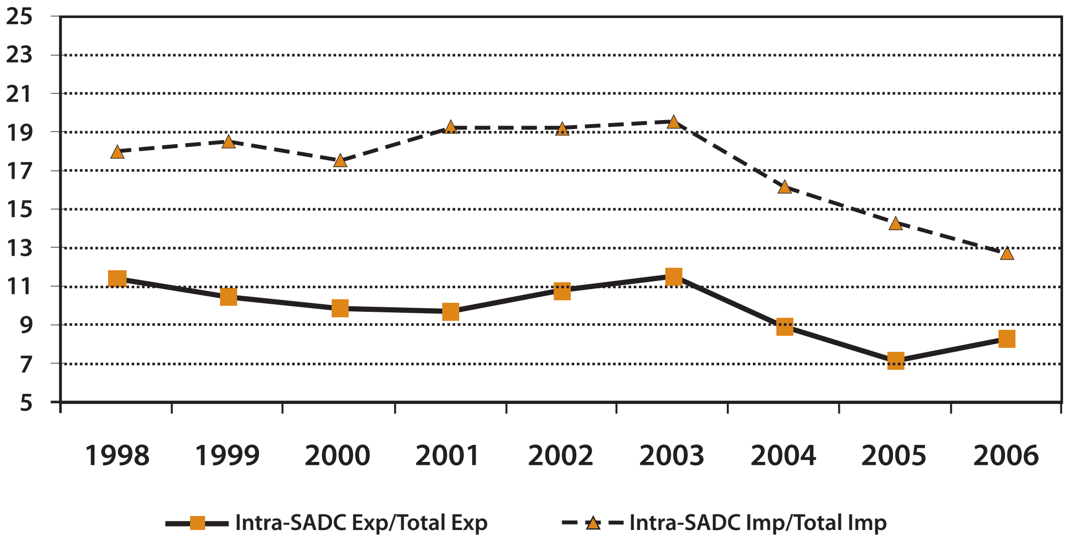


Source: COMESA (2006)

16 At its launch in October 2000, the COMESA FTA consisted of 9 member countries: Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia, and Zimbabwe

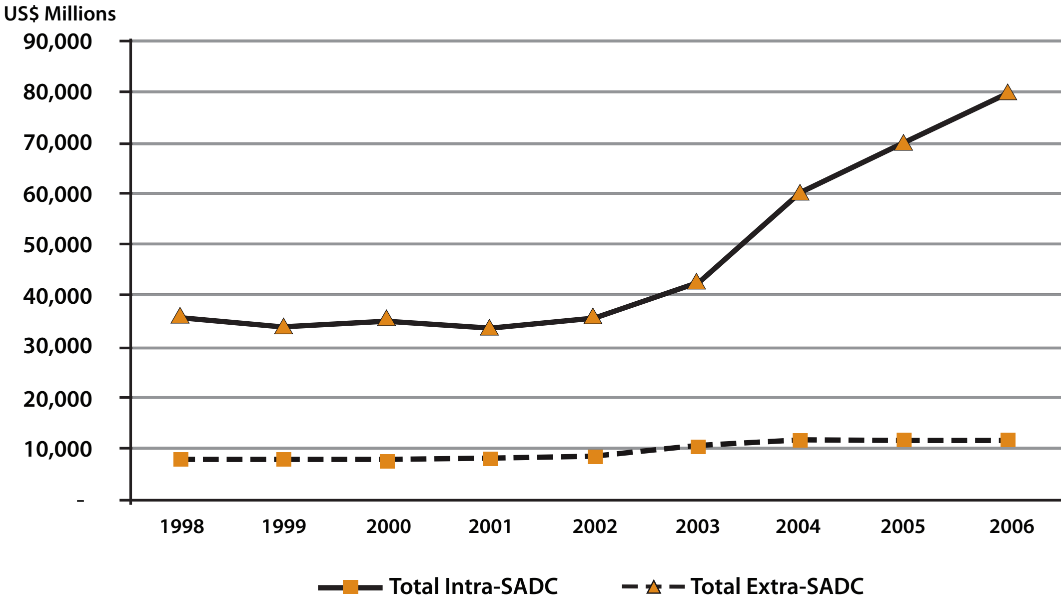
Figure 2 shows that intra-SADC exports and imports as a proportion of total exports by SADC member States have been on the decline since 2003. This implies that trade with non-SADC states has been growing at a faster rate than trade within SADC. Figure 3 further demonstrates the faster growth of extra-SADC trade compared to intra-SADC trade. It is not clear if the tariff phase down programme or wider SADC regional integration had any role in the growth of extra-SADC trade from 2001. The relationship between the two could be a subject of future research.

Figure 2: Intra-SADC Trade as a Proportion of Total Trade by SADC Countries 1998-2006



Source: BIDPA calculations, based on data from SADC, 2008

Figure 3: Total Intra-SADC Trade and Total Extra-SADC Trade, 1998 to 2006 (US$M)



Source: SADC, 2008[17]

According to the COMESA Secretariat, as of 2007, the degree of compliance with COMESA decisions by SADC member States ranges between 55.9% in Swaziland, 62.2% for Madagascar, 65% in Mauritius to over 72% in Zambia, Malawi and Zimbabwe. This level of compliance demonstrates inadequate political commitment and calls for more commitment to COMESA programmes by Member States. This could be an indicator of the impact of belonging to more than one regional economic grouping as is the case with all the countries above as it shows half-hearted commitment. This is after taking into account the fact that both SADC and COMESA usually make decisions by consensus.

COMESA Common External Tariff

Madagascar, Malawi, Mauritius, Zambia and Zimbabwe are five Southern African countries that are set to be part of the launch of the COMESA Customs Union (CU) in December 2008. This is by virtue of their implementation of the COMESA FTA and acceptance of the Common External Tariff (CET). The implementation of the CET is the basis of the Customs Union. The COMESA member States have agreed to implement the CET with rates ranging from 0% for capital goods to 25% for finished products

17 The figures from SADC are based on data submitted by Member States. Data for some years is unavailable for Lesotho, Swaziland, Angola, Zimbabwe and DR Congo.

Table 4: COMESA Common External Tariff

Product Category	Agreed External Tariff
Raw materials	0%
Capital goods	0%
Intermediate inputs	10%
Finished products	25%

Source: *COMESA Official Gazette, Vol. 11 No. 1, 28 May 2007*

The impact of a common external tariff is discussed by Khandelwal (2004) whose calculation shows that the CET rates as adopted by COMESA will yield a simple average tariff of 12% which results in little liberalisation for Zambia. Implementation of the same CET will result in temporary adjustment costs for producers in Zimbabwe, Mauritius and Madagascar, member states that have significantly higher protection at present. The COMESA CET will have a negative impact on state revenues in some member states. Table 5 below is an extract from Kandelwal's (2004) calculations.

Table 5: Trade Tariffs and Revenues in Southern Africa's COMESA countries

	Maximum tariff	Simple average tariff	Trade tax/GDP%	Trade tax revenue/ total revenue
Malawi	25	13.6	2.5	12.4
Mauritius	80	19.9	5.4	31.5
Madagascar	25	16.2	2.8	25.6
Zambia	20	11.5	5.9	30.9
Zimbabwe	100	19.7	2.6	10.4

Source: Khandelwal P, COMESA and SADC: Prospects and Challenges for Regional Trade Integration[18], 2004

Madagascar, Mauritius and Zimbabwe will experience a significant drop in revenue since their simple average tariff is significantly higher than 12%. For Zambia, even though the country has a high dependence on trade tax revenue as a proportion of total revenue, the current average tariff is actually lower than the COMESA CET simple average. The CET on its own will therefore not have an impact on Zambia's trade tax revenue. Malawi's average tariff is also insignificantly higher than the CET simple ave*rage* and the impact will be negligible.

Revenue sharing

The theoretical model of a customs union calls for the sharing of customs revenue since by definition; customs duty for third country products is normally only collected at point of entry

18 This is an IMF working paper

into the customs union. COMESA completed a study on the administrative and legal aspects of the implementation of a Common External Tariff, which recommends that initially, individual member countries of the Customs Union will collect revenues at national boundaries. The members will not share the revenue. COMESA member states have accepted this as being the initial stage. The implication is that member states might not realize the expected efficiency gains from the COMESA Customs Union.

Standards

According to the 2007-2010 Strategic Plan, COMESA has successfully adopted 204 quality standards and 100 new standards are under consideration in various production areas including food and fishery products; building and construction materials; electrical accessories; textiles and leather products; and timber and timber products. This is an important achievement in eliminating technical barriers to trade. This is, however, a continuing process as new products and standards come onto the market all the time.

Elimination of SADC intra-regional tariffs

By far the most difficult for SADC countries, the tariff reduction programme was the subject of negotiations over a number of years with the tariff phase-down commencing in year 2000 (SACU countries) and 2001 (Non-SACU). The member states agreed to the phased reduction in tariffs to reach 0% on *substantially all trade* by 2008. Because of the varying levels of development, it was agreed to use the principle of asymmetry, with the more developed countries (SACU countries) adopting a much faster phase-down than the rest (i.e. front-loading their tariff phase-down schedule); and the least developed countries (LDCs)[19] back loading their tariff reduction schedules. However, all tariffs were to reach the 0% threshold by 2008 for categories[20] A and B products (see Table A1-2). Table 6 below shows the extent of implementation of the SADC tariff phase-down programme as agreed during meetings of the Trade Negotiating Forum (TNF). The information shows that the prospects for SADC launching the SADC FTA in December 2008 are good, with 10 member states likely to be fully participating, 2 likely to fully participate later, and 2 other member states unlikely to participate in the short to medium-term.

D R Congo is not ready to assume obligations under the STP. Angola is yet to finalise its offer and begin negotiations with the other countries implementing the STP. The country is unlikely to participate. Malawi has not implemented its 2008 obligations under the STP. The country is unlikely to participate in the FTA at inception. Madagascar is implementing tariff reductions to

19 The original LDC group (also known as the MMTZ group) consists of Malawi, Mozambique, Tanzania, and Zambia – based on UN classification.

20 There were four categories agreed upon:- A – products whose tariffs would move to zero (or were already zero) at the start of the phase-down process (mostly raw materials and some capital goods); B – Products whose tariff levels would be reduced to zero over an eight-year period (2008); C – Products considered sensitive by member states for a variety of agreed upon reasons (e.g. major revenue sources for government) and whose tariff phase-down was expected to reach 0% by 2012 (2015 for Mozambique) and; E – Products that would permanently be excluded from preferential trade, again for a variety of reasons (e.g. fire-arms on security considerations).

attain the required threshold only by 2012. All other SADC member states have implemented their 2008 obligations and are on course to launch the FTA in August 2008.

Table 6: Progress in Implementing SADC Tariff Phase-down schedules

Country	Description of Progress in Implementing Tariff Phase-down
Angola	Not yet participating
Madagascar	Acceded in 2004 - To meet 85% of trade at 0% tariff by 2012
Malawi	Has only implemented 2 reductions - 2001 and 2004 (implemented in 2007); Probability of not meeting the 2008 FTA deadline is high
Mauritius	On course for FTA, but has introduced specific duties in place of ad-valorem for some sensitive products (category C)
Mozambique	Gazetted whole schedule one time, on course for FTA, but needs to deal with some applied rates being higher than indicated on offer, result of unilateral MFN tariff reductions
SACU	Implemented all commitments
Tanzania	Has complied, but introduced complications with a 2% levy. On goods into Zanzibar
Zambia	Implemented reductions for 2008, on course for FTA
Zimbabwe	Implemented general offer (to S Africa) and differential offer (to all SADC countries except South Africa) in 2008, with some mistakes (still to be corrected), on course for FTA

Sources: *Compiled from report by The Services Group*[21] *and BIDPA interviews with SADC Secretariat staff*[22]

Trade Facilitation Instruments in SADC

There is need for a high degree of commitment by member states to the implementation of SADC trade facilitation instruments as shown in Table 7 below. The report discusses some of these instruments under the protocol on transport.

21 The Services group, Audit of the Implementation of the SADC Protocol on Trade, 2007

22 J Mthethwa, Senior Programme Manager – Multilateral Trade; and H Kuzvinzwa, Senior Policy Advisor, Trade Facilitation project

Table 7: Status of Implementation of SADC Trade Facilitation Instruments

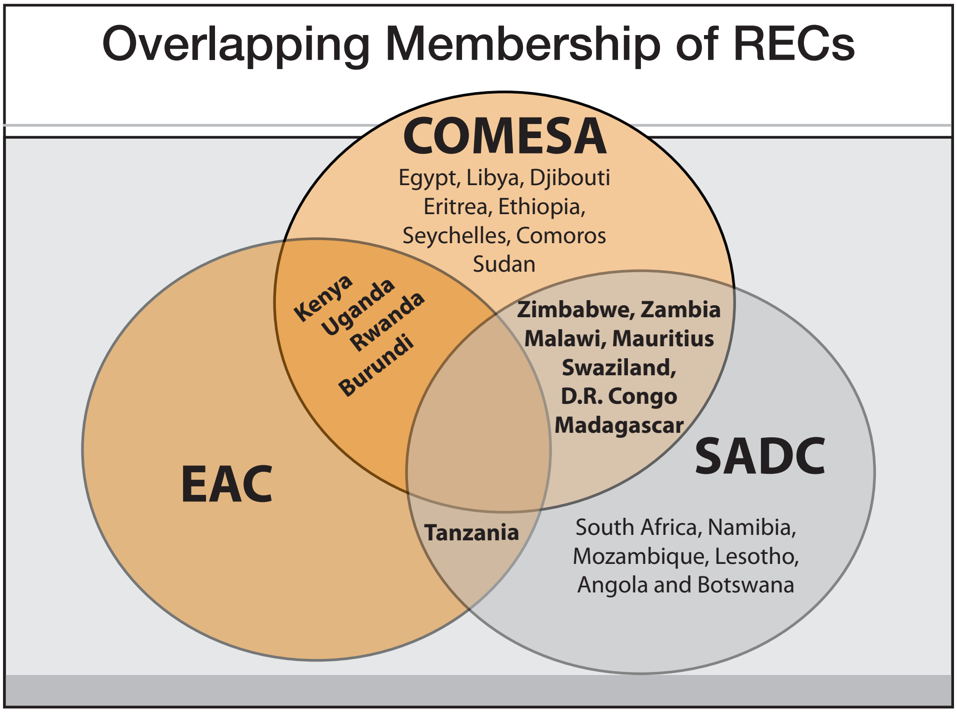
Instrument	Bot	Les	Mal	Maur	Moz	Nam	SAf	Swaz	Tan	Zam	Zim
WTO Valuation Agreement	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
HS Coding System											
schedule of concessions	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
migration to 2007	On-going	Y	On-going	Y	N	Y	Y	On-going	Y	Y	Y
SADC Certificate of Origin	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Regulations on SADC RoO*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
SADC Single Administrative Document	SAD500	SAD500	n/a	n/a	n/a	SAD500	SAD500	SAD500	n/a	n/a	n/a
Guidelines for completion of SADC Customs Documentation	Y	N	N	N	N	N	N	N	N	N	N
SADC Transit Regulations	N	N	N	N	N	N	N	N	N	N	N
SADC Transit Customs Bond Guarantee	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
MOU for SADC Customs Administrations	Y	Y	Y	N	Y	N	Y	Y	Y	Y	Y

Source: The Services Group, Audit of the Implementation of the SADC Protocol on Trade, 2007
* RoO – Rules of Origin
n/a – not yet applying

Issues arising from implementation of SADC's Protocol on Trade

One issue arising from Table 9 is the lack of conformity with the phase-down schedules amongst some participating member States or ineffectiveness of moral suasion to ensure compliance with agreed positions. This is particularly important for those member states that are yet to reach the tariff reduction target (Malawi, Tanzania (a few tariff lines) and Madagascar) for category B products. These member states will access SADC markets duty free and may be tempted to keep postponing the implementation of the zero tariffs.

This also brings to the fore a second issue, the possibility that some SADC member states may become members of the COMESA Customs Union in December 2008 or before the launch of the SADC Customs Union. Zimbabwe, Zambia, Malawi, Madagascar, Mauritius, who all have multiple memberships, will have to make a decision by December 2008.



SADC and COMESA member states will therefore have to develop a mechanism by which they relate with member states that will only be members of the Free Trade Area, but not the Customs Union or will still be in the preferential trade area phase. Tanzania's position within the East African Community is already causing some problems. Tanzania has not implemented the EAC common external tariff to SADC member states. In any case, these developments have hastened the need for discussions to define the possible relationships between the COMESA Customs Union and SADC FTA members. The paper discusses further the issue of multiple memberships towards the end.

The case of Angola, DR Congo and Madagascar has exposed shortcomings in the SADC protocol on Trade; there are no legal provisions for accession of new members, though SADC is currently working on a draft.

Enforcement Mechanisms

The protocol on trade calls for sanctions against member states who fail to live up to their membership obligations. In practice, this is an unlikely method of enforcement. Member states have used moral suasion most of the time and this seems to have worked in getting Zimbabwe to implement the differentiated offer, and for Zambia to implement the 2008 offer. However, it has only partially worked in Malawi, where her only second tariff reduction since 2001 was the 2007 implementation of the 2004 obligation. Tanzania also complied with the 2008 tariff schedules because of moral suasion (though the country has imposed a controversial levy on all SADC exports to Zanzibar). There is need for refinement of enforcement mechanisms to ensure greater compliance with agreed positions.

Malawi, Tanzania, Mozambique and Zambia are participating in the MMTZ clothing and textiles arrangement with SACU, a special dispensation where the rules of origin have been relaxed to single stage (instead of double stage) transformation. The question is: Should Malawi continue to enjoy the benefits of the MMTZ arrangement on textiles and apparel (extended to 2009) when the country has not fully implemented the tariff phase down commitments? This is a special arrangement whose withdrawal or suspension may induce faster implementation by Malawi. It has been suggested that the idea of a supra-national authority is needed to deal with issues of compliance by member states. However, such a development would only be possible if there is a complete transformation of how SADC is constituted.

Loss of tariff revenue

A third issue concerns the sudden drop in customs revenue for the countries that have back-loaded their tariff reduction programmes, including Malawi, Mozambique and Zambia. For Malawi, this is particularly an issue when this combines with its failure to implement even the back-loaded tariff phase-down as per commitment. There is also a possibility that Malawi may be pressurised by other member states to participate fully in the FTA by 2009. The report by the Services Group[23] also shows that there are some products dutiable for SADC in Malawi's applied tariff, but which are in fact duty-free under the MFN. This is, however, more an issue of technical misalignment than intentional.

The Services Group (2007) reports that in relative terms and given the pattern of trade in Southern Africa, loss of tariff revenue by SADC member states in achieving the FTA tariff thresholds is minimal (not greater than 5% of Revenue). However, Kalenga and Elago (2008) in a study on a future SADC Customs Union show that seven member states derive more than 28% of state revenues from trade taxes. This represents a potential problem for the implementation of the common external tariff, as the impact on revenues will be significant. In the case, the need for alternative sources to close the funding gap is critical.

Removal of Non-Tariff Barriers

Besides tariffs, SADC member states have also agreed on several trade facilitation measures such as the elimination of non-tariff barriers to trade (NTBs). Research reports indicate that NTBs are on the increase in the region (Hansohm and Shilimela, 2006). However, SADC member states have committed themselves to the removal of NTBs through the harmonisation of customs rules and procedures, the harmonisation of Sanitary and Phyto-sanitary measures (SPS) and adoption and implementation of common Rules of Origin. Tripartite Task-Force meetings

23 *Audit of the Implementation of the SADC Protocol on* Trade, The Services Group, 2007, pages 12-13

involving SADC, COMESA and the EAC[24] have agreed upon mechanisms for monitoring and removal of NTBs. At the 2007 task force meeting;

- COMESA reported progress on the establishment of the web-based NTB reporting and monitoring mechanism and establishment of dedicated NTB Focal Point at the Secretariat
- COMESA adopted a recommendation on the introduction of a COMESA NTB Penalty
- SADC NTB update had been completed. Action plan for elimination of NTBs had been drafted and was awaiting adoption by the Ministers of Trade.

The Tri-partite Task Force agreed to:

i) Develop a common framework for categorising NTBs in line with the UNCTAD categories;
ii) Exchange information on structure and experiences of their mechanisms;
iii) Share information on NTBs reported and dealt with under their mechanisms;
iv) Disseminate and provide information on all trade requirements and facilitation measures for the information of all stakeholders.

Harmonisation of Customs Regulations and Procedures

The SADC business community considers the lack of harmonised customs regulations and procedures among member states as a major NTB (causes delays at border posts and increases costs of imports and hence prices to the end-consumer). The disharmony is set to end once SADC Ministers make progress on the adoption of a regional model Customs Act, negotiated by regional customs administrators. SADC Ministers are also yet to make a decision on the Single Customs Document and the Regional Goods Transit System, trade facilitation instruments that technical committees have already developed. The technical teams have also completed work on the SADC Customs Bond Guarantee Scheme. It is however necessary that this be harmonised with COMESA Customs Bond Guarantee Scheme through the Tri-partite Task Force, which is already looking at this issue.

Capacity Building and Institutional Development

This is an on-going activity that has seen the development of training modules for use by Customs Training Centres in SADC member states. The multiplicity of trade regimes that have not yet been harmonised remains a perennial challenge for Customs Authorities and border personnel. The Regional Trade Facilitation Project has also developed a training programme for the private sector and other stakeholders who interface with customs. Inadequate capacity in human resources is characteristic of most levels of regional integration management and this need to be tackled head on. SADC has started with re-organisation at the Secretariat and other governing structures such as the abolishment of the ineffectual Integrated Committee of Ministers, to be replaced by ministerial clusters that can deal more effectively with integration issues. At member state level, the incapacitation (financially and technically) of SADC National Committees seems

24 East African Community includes Uganda, Kenya, and Tanzania, recently also joined by Rwanda and Burundi

to point to an imposition rather than an agreed upon position. Otherwise, at national level, member States should set up a regional integration management system to coordinate all matters related to regional integration, including requirements to domesticate protocols and agreements and ensure their implementation.

e) Free Movement of Persons

a) SADC Protocols on movement of persons

As part of efforts to build an integrated community, SADC has produced a Draft Protocol on Facilitation of Movement of Persons, meant to enable citizens of the community "to enjoy freedom of movement of persons, namely visa-free entry, residence and establishment in the territories of Member States."[25] The stated objective of this protocol is "…to develop policies aimed at the progressive elimination of obstacles to the movement of persons of the Region generally into and within the territories of State Parties."[26]

The Facilitation of Movement of Persons Protocol has been signed by nine Member States. Three have ratified it and a fourth State is expected to complete the ratification process soon[27]. Article 4 of the Facilitation Protocol stipulates that an Implementation Framework would be agreed by State Parties six months from the date of signature of the Protocol by at least nine Member States. This milestone was reached some time ago, but there is no evidence of an Implementation Framework being developed.

The International Organisation of Migration carried out a study into the implementation of the Protocol and in interviews with the officials on the ground, made the following observations:

i. Identity and citizenship

Although the Protocol requires States to develop a Population Register (Article 9), few countries have such a thing or issue identity cards to their citizens. In some countries, the presence of large numbers of long term residents, some claiming to be citizens, combined with the absence of any reliable documentary evidence, may require governments to consider policy options, such as giving the benefit of the doubt or legitimizing the status of whole groups.

ii. Travel documents and/or the issuing process

Some Member States already issue machine-readable travel documents, as required under Article 12. There is no information as to when, or if, the remaining countries will get around to issuing such documents.

25 *Draft Protocol on the Facilitation of Movement of Persons*, SADC 2005, page 2

26 *Draft Protocol on the Facilitation of Movement of Persons*, SADC 2005, Article 2. This is the overall objective of this protocol

27 Signed by: Botswana, DR Congo, Lesotho, Mozambique, Namibia, South Africa, Swaziland, Tanzania and Zimbabwe; Ratified by: Botswana, Mozambique and Swaziland; South Africa in the process of ratifying

iii. Corruption – at the border and in the travel document and visa issuing process

Corruption exists at border posts as low salaries render officials vulnerable to bribes. Inadequate measures to curb such practices results in the facilitation of travel creating more opportunities for cross border crime.

iv. Differences in border policies and procedures

These include differences in the countries requiring visas, and different procedures at the border. For example, some will issue visas on arrival, while others do not. Some insist on entry and departure cards being completed, others do not.

v. Differences in degree of computerisation

Few countries are operating a computer system for border processing. Some are using the PISCES system installed by the US, but this system does not allow for communication or compatibility with other systems. It is likely too that no changes would be allowed on these systems and that any attempt at introducing compatible or harmonised computerised immigration processing systems could involve the wholesale replacement of PISCES.

vi. Incompatibility of data collection systems (absent in some places), data definitions, etc

Data collection is regular and comprehensive in some places, but irregular or disorganised in other places. Data collection is manual in places thereby compromising on timeliness of delivery and accuracy.

vii. Inadequate border infrastructure

Some border posts lack facilities such as computers, telephones or fax machines with which to communicate with their HQ, other border posts or their cross-border colleagues on important/urgent issues such as intelligence sharing and combating cross border crime.

viii. Low level of trust, inside own borders as well as across borders

Good migration management depends on a whole range of agencies (police, customs, national security, foreign affairs, etc) cooperating and sharing information. This is lacking in many places.

ix. Security concerns

Some countries fear that easy passage through borders may result in criminal elements moving easily from one country to another.

x. Labour market concerns

Differing levels of development among SADC member States would make it likely that job seekers from the less developed ones swamp the more developed countries, thereby creating tension and conflict in receiving countries,. The less developed member states would suffer brain drain.

xi. Visa Fees

Some States fear loss of revenue and the ability to set their own fees that would follow the abolition of visas and the introduction of a UNIVISA. They presume (probably correctly) that the visa issuing country would collect the fee. Some expect a sharing formula, others fear that this will be a loss of valuable revenue essential to their State Budgets.

xii. Transport corridors and coordination of customs and immigration clearances

Several transport corridors are being developed within the SADC region to stimulate trade. These corridors have significant implications for both customs and migration management. To be effective, clearance will need to be done only at the first point of entry, with free passage being facilitated the rest of the way under normal conditions.

xiii. One stop border initiative

The pilot project is taking shape at Chirundu though it is not yet operational due to legal requirements and other technical issues still to be ironed out.

xiv. Costs of implementation

This may be a significant consideration for some States. One possible solution is for the richer States to subsidize the costs of implementation.

COMESA Protocols on movement of persons

Article 6 (e) of the COMESA Treaty calls on member states to "... remove obstacles to the free movement of persons, labour and services, right of establishment for investors and right of residence within the Common Market." COMESA inherited one protocol from the PTA, signed by member countries in 1984. This is the *Protocol on the Gradual Relaxation and Eventual Elimination of VISA Requirements.* Since then, COMESA has developed the *Protocol on Free Movement of Persons, Labour, Services, the Right of Establishment and Residence*

The former was designed particularly to make it easier for business people to move between member countries and is an extension of the system operating under the Commonwealth. The Protocol on Free Movement of Persons was designed to make it easier for all citizens of member states to easily move between countries, as well as movement of labour, capital and in future, to enable COMESA citizens to reside anywhere within the region. Table 8 shows the status of implementation of the various protocols and provisions facilitating the movement of persons.

Table 8: Implementation of COMESA Protocols on Movement of Persons

Aspect	Member States					
	Madagascar	Malawi	Mauritius	Swaziland	Zambia	Zimbabwe
Protocol on visa relaxation be implemented	Implementing	Implementing	Partially Implementing	Implementing	Implementing	Implementing
COMESA counters at international airports	Being established	Processing	Set-up	Set-up	Set-up	Have facility
Council encouraged bilaterals	No report	With neighbours	No report	No report	On-going	Congo D R, Zambia
Grant of Visas to COMESA citizens for up to 90 days on arrival	Yes	Yes	partially	Yes	Yes	Yes
National consultations on signing Free Movement Protocol	On-going	On-going	No report	No report	Not completed	Completed
Member States carry out audit of National Laws to ensure compliance with COMESA Protocols	No report	No report	No report	No report	No report	No report
Establish National Monitoring Committees to monitor implementation	No report	yes	No report	No report	No report	No report
Day passes for border crossing	No report	All neighbours	No report	All neighbours	All neighbours	All neighbours
Signature of protocol on free movement	No	No	No	No	No	yes
Full Recognition of COMESA Laissez Passer and Agreement on Privileges	Yes	yes	yes	yes	Partially	yes
Performance by member state	30%	75%	30%	35%	45%	75%

Source: www.comesa.int

The degree of overall compliance with the protocols on movement of persons is low in Southern Africa, with only Zimbabwe and Mauritius 75% compliant whilst the rest are between 30% and 45%. The implementation of the protocol on Gradual Relaxation and Eventual Elimination of VISAs, which took place during the PTA period, allows citizens of member states to travel visa-free to most COMESA member States.

The issue arising from this protocol is that it is too encompassing and has hence been a problem for COMESA member countries. Yet, full regional integration means member states have to embrace each other's citizens for all legal travel to enhance the conduct of business and other opportunities. One is bound to query the degree of commitment of member states to the process. As reflected elsewhere in this paper, multiple memberships of RECs could also cause this apparent lack of commitment.

f) Discussion of the Requirements for Achieving FTA/CUs

Preparedness of member States to attain FTA and CU

As already discussed above, SADC member states have been implementing a tariff phase-down programme at varying speeds. It is likely that 10 member states will fulfil the conditions to implement the SADC Free Trade Area by December 2008. Malawi and Madagascar (2012) will meet the necessary requirements later. Angola is unlikely to participate. Southern African countries that are members of COMESA have already implemented the FTA, agreed on a common tariff nomenclature, common external tariff, and are expected to implement the CET by December 2008.

Human resources constraints in the implementation of the Free Trade Area and Customs Union are a major challenge for both SADC and COMESA respectively. As already noted above, limited funding and unsuitable structures have been at the core of Secretariat incapacitation. At member state level, the management of regional integration policies is not given prominence. The SADC National Committees have no power and empirical studies have shown that they exist in name only in some member states. However, there is no evidence that this constraint may prevent the attainment of the milestones.

Formalities for entry into force completed

For the Southern African states that are members of COMESA:

- The COMESA FTA has been in operation since 2000 and five of the six member states in Southern Africa, are participating (Swaziland is excluded by definition as a member of SACU);
- Member states have adopted the Common Tariff Nomenclature, Safeguards and Trade Remedies, a Common Valuation System and Regional Competition Regulations;
- Member states have concluded negotiations for the CET;
- Member states are implementing the COMESA Customs Bond Guarantee System where applicable

For the Southern African states that are members of SADC:

- The tariff phase down for the achievement of the FTA is nearing completion for 10 out of 12 member states that are participating;
- Agreed on Common Tariff Nomenclature;

- Mechanisms for monitoring NTBs has been agreed to though they are not yet operational;
- Revised common rules of origin are in use, though the MMTZ arrangement remains until 2009;
- Attained MOU on Standardisation, Quality Assurance, Accreditation And Metrology;
- Harmonisation of customs rules and procedures is defined by the agreed upon Model Customs Act which now awaits adoption into member states' legislation;
- Liberalisation of trade in services remains an outstanding issue with Ministers having approved a draft protocol. Implementation has not yet commenced.

As already noted elsewhere in this report, beyond 2008, SADC has already put in place a task force to ensure the preparations for the 2010 launch of the Customs Union take place as scheduled. The outline of requirements in place for attainment of the SADC FTA discussed above is below complemented with a discussion of threats to deeper regional integration that this task force should deal with. The section also discusses issues that COMESA needs to deal with even after the implementation of the Customs Union.

Chapter III: Challenges and Emerging Issues in Regional Integration in Southern Africa

g) Trade Issues

Information needs for trade facilitation

The major challenge here is to ensure compatibility between the different IT systems used by different Customs authorities. It would have been simpler for regional countries to use the same or similar systems, but the harmonization came after member countries had already invested in their own systems. Establishing compatibility of IT systems seems the practical way of ensuring efficiency in clearing of goods and hence reduction in time at border posts as well as related costs.

A related issue is the ability of the IT systems to aid the process of monitoring trade related aspects of regional integration. COMESA has already moved ahead in this process. In particular, it is necessary to establish the extent to which exporters are making use of preferential arrangements in the sub-region. As reported elsewhere in this paper, intra-regional trade was in the past rather low in both SADC and COMESA but is rising fast. The challenge is to monitor the changes taking place in trade patterns because of the institution of the FTA for SADC in particular. At the same time, the IT systems should monitor the implementation of the COMESA common external tariff. This paper has already referred to the project to gather data on the operation of corridors.

A third issue relates to the availability of information on the member countries' products, prices and capacities. COMESA estimates that there could be much more intra-COMESA trade if business people from the region obtain information on each other's needs and capabilities. The use of IT systems to inform traders/producers should be part of the region's trade facilitation programme. Trade information database already exists and should be more widely marketed by the secretariat as well as business organisations or organisations responsible for promoting external trade.

Simplification and harmonization of customs and immigration procedures

The adoption of model customs legislation will be a big boost for harmonisation of customs procedures. Stakeholders currently view the different procedures as non-tariff barriers. The technical teams have already done the groundwork, but the lengthy approval process is delaying implementation. The challenge here is to get the institutional framework of the regional organisations to respond to the need to facilitate the implementation of agreements. Now, whilst they should ensure checks and balances, some of the institutional mechanisms have become barriers themselves.

Development of a participatory integrated border management system

One way of facilitating movement of persons and goods that is under a pilot phase is the one-stop-border concept. COMESA and SADC have both been participating in this with the support of international cooperating partners. The Chirundu border post between Zambia and Zimbabwe is one such project. The Forbes/Machipanda border post between Zimbabwe and Mozambique is another. Such one-stop facilities call for extra-territorial application of each other's laws as has already been legislated between Zimbabwe and Zambia. This calls for a very high degree of cooperation between states. The pilot phase has not yet become operational and the issue of replication is still a long way off.

Another model of one-stop border requires compatibility of IT systems at the border posts of adjoining countries. As already noted, this is a challenge amongst SADC and COMESA member states. Although a number of COMESA countries have adopted the Asycuda++, others use different or alternative systems for dealing with movement of goods across borders. The authorities need to make the IT systems compatible. Even those that use ASYCUDA++ currently do not share information for legal and other reasons.

Dispute settlement mechanisms and trade defence

The safeguard and trade remedy provisions of SADC and COMESA are both WTO-based. The RECs have agreed to:

i) harmonise their trade defence instruments;
ii) undertake joint capacity building activities in the application of trade defence instruments;
iii) exchange of information on the application of trade defence instruments; and
iv) harmonise dispute settlement procedures.

The COMESA Court of Justice and the SADC tribunal are both in place and oversee the implementation of the regional integration in their respective areas of jurisdiction. The COMESA Treaty and SADC Treaty (as amended) created these institutions. It is however necessary to conduct awareness campaigns among business people in the sub-region so that they can make greater use of the mechanisms whenever the need arises. The dispute between Zimbabwe and Zambia over valuation for duty purposes could have been referred to either of these two had they been in existence then.

h) Regional Transport Development

This transport sector is critical for the realisation of the benefits of freeing trade in the region. It is therefore important to take measures to deal with the multitude of challenges facing it.

High transaction costs

A significant volume of trade in Southern Africa is carried out by small to medium enterprises and are mostly affected by these high transaction costs that contribute to the cost of tradable goods. The costs include direct costs, which include transportation costs, the cost of compliance associated with collection and processing of information and the indirect costs accrued due to administrative and customs procedures, which delay the import/export of goods. There is need to reduce transaction costs in order to develop international trade in Southern Africa.

Vehicle Overloading

Attempts to control overloading, through for instance the issuance of a COMESA axle load compliance certificate, have been generally ineffective due to, inter-alia, lack of capacity to ensure enforcement of the legal loads. Overloading not only significantly accelerates the rate of road deterioration but, when coupled with inadequate funding for road maintenance, it contributes significantly to poor road conditions which result in high transport costs- estimated to be typically four to five times higher than in developed countries.

Inadequate Transit Facilities

Although effort has been made in providing transit facilities for long distance truck operators, there is a need to approach the establishment of facilities in a holistic and integrated manner. Programmes such as the 'Corridors of Hope' funded by USAID and efforts by the Federation of Eastern and Southern Africa Transport Association have gone some way in addressing this challenge.

Inefficiency at Border Posts

It has been observed that busy border posts such as Chirundu and Beit bridge are characterized by congestion, duplicated efforts and delays in processing of goods and people. As an example, average transit times for trucks at Chirundu for northbound traffic range from 26 to 46 hours. A key cause for the lengthy transit times in the inordinately long procedures involved in passing through two sets of identical controls in each respective territory. The challenge is to quicken the implementation of a one-stop border post at Chirundu and find resources for other busy border posts already identified that will hopefully eliminate the duplication.

Policy and Institutional Development Constraints

There is therefore a need to develop robust capacity building programmes covering the requirements for policy support. In order to accelerate infrastructure development, a comprehensive institutional development and capacity building programme at the level of Member States and implementing agencies is required. Once developed, the SADC Regional Infrastructure Development Master Plan and the COMESA Transport and Communications Strategy/Priority Investment Plan can provide a regional priority based road map and blue print for development of infrastructure based on the Spatial Development Initiative model, as well as the corridor based approach.

All-inclusive Stakeholder Involvement

There is need to establish fora where policymakers, practitioners, the inter-governmental organizations, the private sector and civil society discuss issues on equal footing. Effort has been made to establish such fora through associations such as the Federation of Road Transport Hauliers (FERSATA, etc) who participate in the various meetings, which address transit transport issues. There is, however, still a need to agree on roles for each stakeholder in the implementation of specific action programmes especially aspects such as in setting up the corridor management committees.

Slow restructuring and concessioning process

The concessioning of railways in Southern Africa has also not been very successful due to underperformance of the concessioned entities. In an effort to redress the situation, SADC, COMESA and EAC have agreed revise the Terms of Reference for railway concessioning.

Strengthening regional initiatives

Most countries have recognised the importance of adopting all regional approaches to facilitate trade and the need to refrain from reinventing the wheel. This has always not been the case in practice. For example, the proven success of the COMESA 3rd Party Vehicle Insurance Scheme should be adopted by all RECs operating in Southern Africa. There is need to strengthen successful regional initiatives as integration progresses.

Financing of regional transport infrastructure and services

Efforts to build new transport infrastructure, maintain and/or rehabilitate the existing have been constrained by the lack of adequate financial resources and other factors. The amounts needed for such interventions are much larger than governments and donors put together can provide thus requiring both domestic and external private sector financing. However, the inherent risks combined with the limited size of the domestic markets make these projects unattractive to foreign private investors, while local investors may be in their infancy and technically unskilled to undertake major infrastructure investments. The absence of long-term bond markets also increases the difficulty in raising the required funds and user charges are often not adequate to fully finance maintenance costs.

The New Partnership for Africa's Development (NEPAD) has considered a number of regional projects with the view to providing financing support. The African Development Bank (ADB) is responsible for administering funding for NEPAD Projects. To this end, the African Union, the RECs, NEPAD and the Africa Infrastructure Consortium, constituted the NEPAD Infrastructure Project Preparation Facility (IPPF) special fund, to facilitate the development and packaging of regional infrastructure projects up to the stage of feasibility studies, in order to provide a pipeline of bankable projects for investors (Salawou, Rugamba, 2007). In Southern Africa, one of the projects that have attracted such funding is the Kazungula Bridge on the Zambezi River, which connects Zambia, Zimbabwe and Botswana. Private-Public Partnerships are however gathering momentum in regional transport. The Maputo and Trans-Kalahari corridors demonstrate how effective this type of partnership can be in mobilizing investments and technical capacity to develop and maintain road, rail and port infrastructure.

Realising the need for domestic resource mobilisation COMESA and SADC have set up funds made up from contributions from member States and funds leveraged from cooperating partners. The COMESA Fund, for instance, has two features namely finance for infrastructure projects and an adjustment facility for the implementation of the trade liberalisation programme. So far twelve out of nineteen countries have signed, eight have ratified and only Kenya and Mauritius have contributed to the fund while the European Union has contributed 78 million Euros. For the fund to meet it objectives, the remaining member States have to show their commitment through contribution.

i) Monitoring Mechanisms for performance tracking of the implementation of protocols and treaty provisions

Monitoring mechanisms are a critical aspect of the whole integration process and are therefore an indispensable part of the programmes at SADC and COMESA. The objectives of regional integration monitoring mechanisms are to:

- Show that regional integration targets set for different time periods are being attained;
- Provide a means of identifying possible problem areas;
- Advise all stakeholders of progress or lack of it in the integration process, and;
- Enable relevant parties to re-strategise if need be.

It follows therefore that the indicators to be monitored must be measurable, and that there must be an authority with responsibility over the performance of the indicators. Furthermore, the relevant authorities must advice the general populace of the measurable indicators so they may be in a position to call on their governments to account, especially where progress may be lacking.

Peters-Berries and Max[28] (2000) discuss the idea of developing a regional integration index (RII) as a way of putting pressure on SADC member countries to implement measures to ensure adherence to regional integration process. The Southern African Global Competitiveness Hub

28 *Towards Deeper Regional Integration in Southern Africa* By Peters-Berries C and Marx M T in *Monitoring the Process of Regional Integration in SADC,* Konrad Adenauer Foundation, Harare, Zimbabwe, March 2000.

is developing a regional integration monitoring mechanism in support of the SADC.[29] Both SADC and COMESA have used consultants to produce status of implementation reports, but this is inadequate for clear integration performance tracking. However, whilst it is important for regional integration bodies to measure their progress or lack of it, it is equally important that other independent monitors are also put in place. There have been a number of short-lived attempts to do this independent monitoring. Hansohm and Shilimela (2006) discuss these attempts. Currently, the FOPRISA project is monitoring economic integration in SADC in a series of publications and annual research conferences. NEPRU is also monitoring regional integration in Southern Africa, also publishing a series.

In summary, the challenge is to have an effective monitoring mechanism that is respected and/or universally acclaimed by both the regional organisations and other interested stakeholders.

Currently, the ultimate monitor of integration progress is the SADC Summit or COMESA Authority. This usually meets once a year to receive reports and approve decisions of Council. This is a lengthy process that in practice does not speed up implementation of the regional integration agenda. Devolution of power to lower levels of authority could enhance monitoring of progress.

Benefits from an aggregated or bigger market

There creation of a bigger free trade market through the launch of a free trade area presents opportunities for increased business interactions. As shown elsewhere in this paper, the Southern African Region's GDP was USD314.8 billion in 2005, and rising. However, to translate this potential into increased intra-regional trade remains a challenge for regional countries. Intra-regional trade has been low with most countries conducting less than 10% of their total trade with COMESA countries. For SADC countries, intra-SADC exports account for more than 40% of country total for Lesotho, Namibia, Swaziland, Zambia and Zimbabwe. For Botswana, Malawi and Mozambique, the equivalent figure is between 19% and 25% (2004). Madagascar, Mauritius, South Africa and Tanzania are all less dependent on SADC with other SADC countries consuming 10% or less of their total exports.

Eliminating tariffs is an important step in growing intra-regional trade, but it is not sufficient to achieve it. The region needs to address issues of industrial competitiveness (including product quality, standards and technology), global competitiveness (including services, attractiveness for foreign direct investment, etc.), structural changes in economies (including economic diversification); and environmental concerns.

SADC should ensure that rules of origin are enabling for intra-regional trade. The Services Group (2007), Hansohm and Shilimela (2006), Khandelwal (2004) all point to the need to ensure that SADC rules of origin are simplified so they do not become NTBs as currently reported by the business community (Chipeta, 2006).

29 Reported in *Trade Hub Happenings, March 2008*, page 5

However, the benefits of freeing trade, as well as of attending to the above issues, are medium to long-term rather than short-term. Structural changes in an economy in response to stimuli from regional integration will ordinarily take time. There is need for political commitment by member states jointly and severally in order to successfully address the above issues.

RECs should undertake further studies in future to ascertain whether transport and development corridors have improved the operation of regional ports. The extent to which port capacity utilisation has changed will be an important indicator of the success of the corridor projects, especially considering the current work to enhance ports capacities and efficiency sometimes through privatisation. However, SADC and COMESA are significantly dependent on donors to fund most of these projects, a situation that is not sustainable in the long term.

Requirements before the launch in December, 2008:

- Member States will be required to submit by September 2008 their National Tariff Schedules and transitional period towards alignment with the agreed CET/CTN;
- Member States will be required to complete by September 2008 the identification of the Sensitive Products list to be accorded differentiated tariff treatment under the CET;
- Adoption of the Customs Management Regulations for managing customs systems and procedures; and
- Adoption of the Customs Union legislation in preparation for the launch of the Customs Union.

Chapter IV: Conclusions and Recommendations

Ensuring sustainability of the FTA/CU

Participation in both free trade area and customs union for Southern African countries will have some impact on their revenues. F*rom a fiscal perspective and to ensure sustainability of the integration effort, alternative means of raising state revenues need to be found by each member state.*

Related to the issue of resource gaps, is the all-important question of how to ensure that small economies benefit from a SADC Free Trade Area and/or the COMESA Customs Union. There is a real danger that a big economy, such as that of South Africa (74% of sub-regional GDP) will get the most benefit since her industries have considerable economies of scale right at the outset. Producers in small economies like Malawi, Zimbabwe, and Mozambique need to enhance their capacities significantly before they can compete on an equal footing at regional level. *It is imperative that SADC and COMESA develop regional mechanism to accommodate small economies and to ensure that benefits of freeing trade in the region accrue to all.* The RECs should seek more ways of ensuring that all countries reap the benefits. The adoption of sensitive lists by member states of both organisations is one such mechanism. The adoption of a compensation mechanism is another short-term mechanism whilst deliberate regional capacity building policies are in progress. Another mechanism is to introduce a common external tariff gradually or over a specified period which could also be characterised by the application of the principle of variable geometry. There is no reason why the adoption of a common external tariff should just be an event rather than a process.

Deepening integration beyond the FTA and CU

Regional Economic Communities must *take measures that stimulate the supply side response.* The populace will benefit significantly from trade liberalisation through increased income earning opportunities that result from diversification of economies and industrialisation. Shilimela (2007)[30] established that, "...even though there is so much emphasis on tariff reduction and elimination for the attainment of a free trade area in SADC, tariffs are currently not a problem for most SADC countries and in some instances; tariffs have not even been major obstacles to regional trade in the past. .... The main factor hampering intra-SADC trade is the lack of capacity (technology, financial resources etc.) amongst producers that limits their ability to innovate, diversify and to produce non-traditional goods in order to access new markets in the region." COMESA has already noted the need to enhance complementarity between member states' economies and increase value addition in order to increase intra-regional trade. Such a task is best carried out by RECs as the member states individually do not have the necessary human and financial resources. The growth of competitive business in Southern Africa may take

30 *Monitoring Economic Integration in SADC 2007* - This is the second report in a series under the FOPRISA project. (to be published in 2008)

a long time. This means the immediate implementation of a CET can result in higher levels of competition for CU industries when they are not yet prepared. This scenario leads to trade diversion rather than trade creation for RECs.

Regional countries are awakening to the reality of small-scale cross-border traders whose collective influence has been growing, with or without official blessing. Few formal facilities (such as special visas for entry into South Africa) have been put in place for these small traders within the context of regional integration. Regional countries have now voiced their support for regional initiatives to facilitate trade by small cross-border traders (SADC International Conference on Poverty and Development Declaration, April 2008).

There are several initiatives meant to jointly develop areas covered by basins of shared watercourses. The Okavango, Zambezi, and Shire river basins are some of the projects that are already being looked at. These developments have the potential to introduce another form of integration that is not necessarily tied to the Customs Union projects.

Other Recommendations

Simplification and Harmonisation of Customs Procedures and Immigration

(a) develop an implementation framework for protocol on free movement of persons
(b) Harmonise immigration procedures
(c) Reinforce the technological, human and financial capacities of border management
(d) Enhance policy dialogue among immigration officials and with other stakeholders
(e) Strengthen the capacity of existing bilateral structures to monitor implementation of protocols
(f) Strengthening capacity within customs
(g) Expedite and operationalize the transit bond system
(h) Operationalize harmonized and transparent customs procedures already developed
(i) Develop awareness mechanisms and fora for sharing experiences on the OSBP operations
(j) Accelerate duplication of the one-stop border posts mechanism in the sub-region
(k) Standardise and harmonise ICT systems
(l) Strengthen the role of Immigration in trade facilitation

Monitoring Mechanisms for Tracking the Implementation of Protocols

(a) Strengthen the capacity of national and regional monitoring mechanisms
(b) Develop mechanisms for information dissemination on implementation of protocols to stakeholders
(c) Develop compliance enforcement procedures such as peer review mechanism

Information Needs for Trade Facilitation and the Integrated Border Management System

a) Develop a matrix of ICT infrastructure needs of border operations, incorporate these in regional ICT policies, and provide resources for implementation
b) Member states need to clearly identify the authority responsible for border management
c) Upgrade and strengthen joint IT and human resources management systems at border posts
d) Develop a system of accreditation of enterprises by national authorities within the region for trade facilitation
e) Speed up the process of implementing and harmonizing the proposed SADC road user charge guidelines and harmonise them with the COMESA
f) Expedite the development of a framework for the harmonization of regional trade statistics

Financing Regional Integration

(a) Develop sustainable funding mechanisms for regional associations and corridor management institutions
(b) Prepare MOUs between RECs and donors in line with regional integration priorities, projects
(c) Expedite the development of Monitoring and Evaluation systems
(d) Expedite the operationalization of the Development Fund for COMESA and SADC
(e) Strengthen the capacity of RECs in procurement, institutional and human resources

Resolving issues emerging from the membership overlap

Regional integration efforts in Southern Africa are more than just economic groupings. They engender political cooperation and solidarity arising from shared histories and political relations that are not easily broken. Any solutions to the emerging problem of multiple memberships of regional economic groupings must therefore consider this.

The debate about the merits and demerits of belonging to more than one regional economic community has been inconclusive, even where national studies have been carried out such as in Malawi. The member countries themselves, through their governments see merit in belonging to more than one REC. There is a general perception that this factor acts as an impediment to faster regional integration due to lack of political commitment to one or the other regional economic community.

There is growing evidence of African RECs with overlap in their memberships taking the initiative to harmonise several aspects of their integration agendas. SADC, COMESA and the EAC have formed a tripartite task force that has been looking at such harmonization programmes. An institutional framework is operational and has done some serious work on several aspects of harmonization of trade facilitation instruments, infrastructure development programmes, as well as policy development, among others. There appears to be greater political commitment to this process as it enables regional member states to make choices that do not result in them losing ties with other regional countries.

Idea of a wider Free Trade Area

In this regard, regional countries must fully support the work of the Tripartite Task Force involving COMESA, EAC and SADC on harmonising their trade regimes, specifically the common external tariff and related trade policy areas**.** Trade Ministers from member States have already signalled they see merit in pursuing the practicality of a free trade area encompassing the three RECs. There is a possibility that far from becoming a major obstacle to integration, the complications resulting from multiple memberships of RECs may turn out to be the catalyst for wider free trade in Africa, if current trends are anything to go by. *SADC and COMESA must pursue the idea of a wider free trade area encompassing their combined territories.* This is in harmony with the African Union call for RECs to begin negotiations for harmonisation of their activities as building blocks of a larger free trade area encompassing the whole of Africa.

There is a misconception that somehow harmonization being pursued by the three RECs indicates a departure from consolidation of the individual RECS. This is not necessarily so as all it does is to ensure that doing business in the whole region is made as smooth as possible through the adoption of similar systems in all regional countries. A member state can belong to any REC without being prejudiced. The creation of a free trade area encompassing the SADC FTA, COMESA CU and EAC CU is a technical feasibility, which will in fact help the consolidation of regional economic communities.

Annexes

Annex 1: SADC key trade data and categorisation for SADC Tariff phase down

Table A1-1: Southern Africa: Structure of Output 2005

	Agriculture	Industry	Services
Angola	7.0	74.0	19.0
Botswana	2.0	53.0	44.0
Lesotho	17.0	41.0	41.0
Madagascar	28.0	16.0	56.0
Malawi	35.0	19.0	46.0
Mauritius	6.0	28.0	66.0
Mozambique	22.0	30.0	48.0
Namibia	10.0	32.0	58.0
South Africa	3.0	30.0	67.0
Swaziland	12.0	48.0	41.0
Zambia	19.0	25.0	56.0
Zimbabwe	18.0	23.0	59.0

Source: *World Development Indicators 2007*, World Bank

Table A1-2: Product Categorisation for SADC Tariff phase down

Product Category	Description
A	products whose tariffs would move to 0% (or were already 0%) at the start of the phase-down process (2000)
B	Products subject to tariff phase-down to 0% over an eight-year period (0% by 2008)
C	Sensitive Products, phase down over 12-year period (0% by 2012)
E	Excluded from preferential trade

Table A1-3: SADC Imports by Country of origin

Country/Year	1998	1999	2000	2001	2002	2003	2004	2005	2006
Angola	n/a	n/a	n/a	n/a	n/a	n/a	1.9	6.3	n/a
Botswana	7.2	6.6	5.5	4.6	3.9	4.0	5.3	7.0	6.7
Dem. Rep.of Congo	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Lesotho	1.5	1.4	1.6	2.7	2.4	1.1	n/a	n/a	n/a
Malawi	1.7	1.5	0.8	1.5	1.0	1.2	1.2	1.5	2.4
Madagascar	0.5	0.3	0.5	0.9	0.5	0.8	0.4	0.3	0.3
Mauritius	0.3	0.3	0.4	0.4	0.5	0.5	0.5	1.7	1.6
Mozambique	2.1	2.2	2.3	2.8	3.6	3.1	3.2	4.5	5.5
Namibia	8.3	7.7	7.6	6.5	8.1	10.5	10.3	11.2	12.8
South Africa	49.8	51.7	55.6	53.8	47.7	43.5	46.5	57.9	60.7
Swaziland	13.8	13.1	12.7	17.1	15.6	20.2	20.7	n/a	n/a
U. Rep.of Tanzania	0.8	1.0	0.9	1.1	1.3	1.0	1.7	3.9	2.1
Zambia	4.5	4.1	4.4	5.2	5.0	5.1	8.1	5.5	8.0
Zimbabwe	9.4	10.0	7.7	3.3	10.3	9.2	n/a	n/a	n/a
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: BODPA calculations based on SADC, 2008 (original data submitted by Member States)

Table A-4: Taxes on trade as Percentage of Total Revenue (2003) in SADC

Angola	5.9
Botswana	6.8
Dem. Rep.of Congo	41.0
Lesotho	42.9
Madagascar	49.0
Malawi	11.0
Mauritius	21.8
Mozambique	15.1
Namibia	29.6
South Africa	2.9
Swaziland	37.6
U. Rep.of Tanzania	37.6
Zambia	28.5
Zimbabwe	6.8

Source: P Kalenga and PM Elago, 2008

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