

PROCEEDINGS OF THE 2006 FOPRISA ANNUAL CONFERENCE

Edited by
Jonathan Mayuyuka Kaunda



FOPRISA Research for Regional
Integration and Development *REPORT 3*

Botswana Institute for Development Policy Analysis
2007

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Editorial note

This collection of papers was presented at the 2006 FOPRISA Annual Conference held at the Polana Hotel, Maputo, Mozambique, on 28 and 29 November 2006. The annual conference brings together all the institutions and individuals participating in the research programme, and its main function is to report on research findings and discuss emerging concepts and themes.

The *Proceedings of the 2006 FOPRISA Annual Conference* represents the culmination of research activities undertaken during the first year of FOPRISA, from 2005 to 2006. This collection of 15 papers covers four research themes: Democratic Development (Norms and Standards of Electoral Processes); Politics, Defence and Security Cooperation (Security Cooperation); Regional Trade and its Relations to the International Trade System (Trade Policies); and Economic Harmonization, Finance and Investment (Macro-Economic Convergence).

Separate publications on the monitoring theme were produced in 2006. These are *Monitoring Economic Integration in SADC, 2005* (ISBN 99912-71-34-1/978-99912-71-34-1) by Dirk Hansohm and Rehabeam Shilimela, and *SADC and Donors – Ideals and Practices: From Gaborone to Paris and Back* (ISBN 99912-0-574-8) by Elling Tjønneland.



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Abbreviations

ACP	African, Caribbean and Pacific
AIDS	Acquired Immune Deficiency Syndrome
ANG	Angola
APRM	African Peer Review Mechanism
ASF	Africa Standby Force
AU	African Union
AU-CADSP	African Union Common African Defence and Security Policy
BIDPA	Botswana Institute for Development Policy Analysis
BOT	Botswana
CET	Common External Tariff
COMESA	Common Market for Eastern and Southern Africa
CU	Customs Union
DRC	Democratic Republic of Congo
EAC	East African Community
ECF	Electoral Commissions Forum
EISA	Electoral Institute of Southern Africa
EMB	Electoral Management Body
EPA	Economic Partnership Agreement
EU	European Union
FDI	Foreign Direct Investment
FLS	Front Line States
FTA	Free Trade Area
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
GNP	Gross National Product
HDI	Human Development Index
HIV	Human Immunodeficiency Virus
ICM	Integrated Committee of Ministers
IDEA	Institute for Democracy and Electoral Assistance
IFI	International Financial Institution
ISDSC	Interstate Defence and Security Committee
LES	Lesotho
MAL	Malawi
MAU	Mauritius
MoU	Memorandum of Understanding
MOZ	Mozambique
NAM	Namibia
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organization
NTB	Non-Tariff Barrier to trade
NTM	Non-Tariff Measure
OPDSC	Organ on Politics, Defence and Security Cooperation
OSISA	Open Society Initiative for Southern Africa
PEMMO	Principles for Electoral Management, Monitoring and Observation

RISDP	Regional Indicative Strategic Development Plan
RoO	Rules of Origin
RPTC	Regional Peacekeeping Training Centre
RSA	Republic of South Africa
SACU	Southern African Customs Union
SADC	Southern African Development Community
SADCBRIG	SADC Brigade
SADCC	Southern African Development Coordination Conference
SADC-PF	SADC Parliamentary Forum
SAIIA	South African Institute for International Affairs
SAPP	Southern African Power Pool
SARPCCO	Southern African Police Chiefs Coordinating Organization
SCU	Sector Coordinating Unit
SIPO	Strategic Indicative Plan for the Organ
SNCs	SADC National Committees
SPS	Sanitary and Phytosanitary Measures
STP	SADC Trade Protocol
SWA	Swaziland
TAZ	Tanzania
TBT	Technical Barriers to Trade
TDCA	Trade, Development and Cooperation Agreement
TIFI	Trade, Industry, Finance and Investment
TNF	Trade Negotiating Forum
USA	United States of America
USAID	United States Agency for International Development
VAT	Value Added Tax
WTO	World Trade Organization
ZAM	Zambia
ZIM	Zimbabwe

**PART ONE: POLITICAL
DIMENSIONS OF REGIONAL
INTEGRATION**



***NORMS AND STANDARDS OF
ELECTORAL PROCESSES***



THE EVOLUTION OF INTERNATIONAL NORMS AND STANDARDS OF ELECTORAL PROCESS

DOROTHY MPABANGA AND LISE RAKNER

Introduction

Elections have played a major role in the democratic transitions witnessed in many parts of the world in the past two decades, and increasingly, free and fair elections have become a requirement for the international legitimacy of any government (Bjørnlund, 2004). As a result, the conduct of elections in new democracies has attracted significant international as well as domestic attention. This is reflected in a growing literature on electoral governance in new and transitional democracies. The quality of the electoral process is the principal dividing line between so-called electoral democracies and electoral autocracies (Hartlyn, 2006, Schedler, 2006). Nevertheless, analysing electoral processes involves many complex questions and few certain answers: should all electoral processes be judged against ideal norms and standards regardless of maturity of the democracy and level of development? What norms should be applied? And, when breaches of ideal standards of free and fair electoral processes are observed, are the deficiencies indications of limited capacity, or are the observed deviations intentional and signalling lack of will on behalf of incumbents to allow for a free and open electoral contest?

Following the democratic transitions in the late 1980s and early 1990s and the ebbing of the Cold War, democracy promotion became a key element of foreign policy and development assistance. In addition to governments, multilateral organizations and a large number of national and international non-governmental organizations renewed and expanded their commitments to international engagement to support democracy. A consensus developed within the international community that considerations of national sovereignty should not shelter a society's political arrangements from outside criticism. Thus, not only did democracy emerge as a universal aspiration, norms also emerged in the international community indicating that it was legitimate to have an interest in promoting and supporting democracy abroad (Bjørnlund, 2004; Burnell, 2000). Thus, starting in the late 1980s, norms, standards, guidelines and best practice models have been endorsed by international institutions, bilateral agreements and international NGOs.

What is electoral assistance and who is involved in it?¹

Electoral assistance may be defined as the technical or material support given to the electoral process (UNDP 2004). This covers a wide variety of activities including: support and advice on electoral systems, laws and regulations and assistance to establish legal electoral frameworks; general input to the national electoral commission and support for electoral procedures, such as party and voter registration, balloting, vote counting and dispute resolution; support to election administration and the training of election administrators; support to civil society in areas such as voter education; and the training of local observers and media monitors. The political complement to the administrative electoral assistance is election observation, defined as "the purposeful gathering of information regarding an electoral process, and the making of

informed judgments on the conduct of such processes on the basis of the information gathered by persons who are not inherently authorised to intervene in the process.”²

Support for electoral processes is channelled through multilateral, regional and intergovernmental organization such as the United Nations Development Programme (UNDP), the United Nations Electoral Assistance Division (EAD) of the Department of Political Affairs (DPA) (established 1992), the Organisation for Security and Cooperation in Europe (OSCE), hereunder the Office for Democratic Institutions and Human Rights (ODIHR), the Organisation of American States (OAS), the Commonwealth (mainly former British colonies), the African Union (AU), and other multilateral organizations that have made the promotion of elections and democracy a priority. The European Union (EU) also provides assistance for electoral processes, in particular to independent electoral commissions. It grants material, technical and legal assistance in preparing for elections assists in measures to promote the participation of specific groups, and in training of election observers. Since 1997, the EU has organised observer missions to new and transitional democracies.

On the bilateral side, governments too provide electoral assistance. The United States Agency for International Development (USAID) has had the longest and most consistent programme of electoral support. The Democracy and Governance Office of USAID also supports regional programmes of electoral assistance through NGOs like the International Foundation for Election Systems (IFES), the National Endowment for Democracy (NED) and institutions of American party politics (the National Democratic Institute (NDI) and the International Republican Institute (IRI)).

Indeed, most other bilateral donors support electoral processes as part of their overall democracy and governance assistance, such as the British Westminster Foundation, the Netherlands Institute for Multiparty Democracy and political party foundations in Sweden, Norway, France and Austria. In 1995, 14 established and newly democratic countries set up a new multilateral organization focusing exclusively on democracy assistance: the Institute for Democracy and Electoral Assistance (IDEA).

International norms and standards and best practice

This paper assesses three main issues of electoral governance, from the perspective of international best practices. In the first section, we discuss the *evolution of international standards of how to perceive electoral processes*. We show that while an international consensus has emerged on what constitutes free and fair elections, few practical and objective guidelines have emerged on how to assess real life elections according to these standards. We also find that a consensus has evolved to increasingly regard elections as long-term and essential political processes. Current international understandings of electoral processes also emphasise that elections must be assessed in the context of ongoing political developments. In section two, the discussion focuses on *the administration of electoral processes* and, in particular, the role of electoral management bodies (electoral commissions). While a number of references to ‘best practice models’ have emerged, we argue that this issue cannot be judged in isolation from the specific context, such as the nature of the party system. In the third section we assess *the evolution of international practices of election observation*. We show that election observation is still far from a ‘science’ to the extent that elections are judged according to objective and fully comparable standards. However, the gradual move to a greater emphasis on long term election observation and the role of local (national) observer teams have enhanced the

value of electoral observation for the process of securing electoral governance.

International standards of how to perceive electoral processes

The legitimacy of the electoral process hinges on the electorates' and candidates' perception that the process has been conducted in a way that does not ensure a certain outcome in advance (Przeworski, 1991: 40–41). To ensure legitimacy, the electoral process should therefore be regulated by constitutional rules and special legislation as well as by cultural norms developed to govern the behaviour of the actors. Elections, and the administration of elections, are increasingly being judged according to international norms and standards that have developed in inter-governmental and multilateral forums over the past two decades. These standards include fair conduct of the balloting and counting; opportunities for political parties to compete; equitable access to media; impartial electoral administration; fair rules; a political environment free of intimidation; and just resolution of election related grievances (Bjornlund, 2004, 94). When electoral processes meet these standards, they are referred to as "free and fair".

But what exactly does 'free and fair' mean? According to Bjornlund (2004), the concept of free and fair as a measurement of the adequacies of an electoral process is old and has, with regard to US elections, been referred to since the 1920s. With the democratic openings of the early 1990s, when international election monitoring gathered a significant momentum, a number of international organizations have attempted to define the free and fair standards. In 1990, the OSCE Declaration set out a set of standards for assessing elections in OSCE member countries, based in the Universal Declaration of Human Rights (OSCE/ODIHR, 2002). These standards emphasised various characteristics, such as: the conduct of elections at regular intervals, equal suffrage, the right to seek office in freely contested seats, the secrecy of the ballot, and unbiased counting procedures. In 1994, the Inter Parliamentary Union (IPU) formally adopted the Declaration of Criteria for Free and Fair elections. These included a range of rights for citizens, candidates and parties.

Together the OSCE and IPU standards established a broad consensus on the principles of what constitutes free and fair elections. Arguably, these standards have served as a model in the development of similar standards by a range of other international and governmental organizations; for example, the standards endorsed by the African Union (AU) and the Southern African development Community (SADC). Scholars and inter-governmental organizations also sought to develop ways of measuring the concepts of free and fair elections.³

The following boxes summarise the central qualities that the electoral process must comply with in order to qualify as a free and fair election according to international standards. Box 1 (overleaf) defines the nature of the electorate and the exercise of the right to vote, whereas Box 2 (overleaf) defines the characteristics required of the contestants, parties and candidates, and the electoral campaign.

From free and fair to perceptions of the 'will of the people'

From the 1990s onwards, the concepts of free and fair elections have evolved into a test of legitimacy that electoral processes either passed or failed. However, while increasingly elections around the world became judged according to the free and fair criteria, scholars also started debating the usefulness of the concept. The recent developments within OSCE, where elections

Box 1: Defining freedom: The nature of the electorate

- (a) all adults are qualified voters
- (b) each voter has only one vote
- (c) each voter has an equal opportunity to participate in the elections
- (d) when casting their votes the electorate should be free to choose among the alternatives (parties candidates) without fear for picking a particular choice, or without being compensated for choosing a particular alternative
- (e) each vote is counted only once and for the alternative chosen by the voter
- (f) only ballots cast by the voters are included in counting

Box 2: Defining fairness: Securing a level playing field

- (a) the criteria for registering parties and nominating candidates should be politically neutral
- (b) each contestant (party or candidate) should have an equal opportunity to present to the voters their arguments, both arguing for their own case as well as to formulate a critique against the incumbent government
- (c) none of the contestants should have greater access to resources that are supposed to be neutral between the contestants

are assessed according to whether they are conducted in general accordance with international standards; reflect the increased emphasis on elections as essentially long term and political processes. The OSCE Declaration (OSCE/ODIHR, 2002) provides a guide to standards and principles for democratic elections best practices. The best practice standards and principles constitute what has been developed over the years, including the 1905 European Convention for the Protection of Human Rights and Fundamental Freedoms, the 1948 Universal Declaration of Human Rights, the 1960 International Convention on Civil and Political Rights, and the 1990s Copenhagen Comprehensive International Standards of Democratic Elections. There have been supplements to these declarations, including contributions by the OAS, ODIHR, UN Human Rights Committee, the Commonwealth of Independent States (CIS), and recent additions by OSCE in 2001 and 2002.

From a focus on elections day to understanding elections as long term political processes

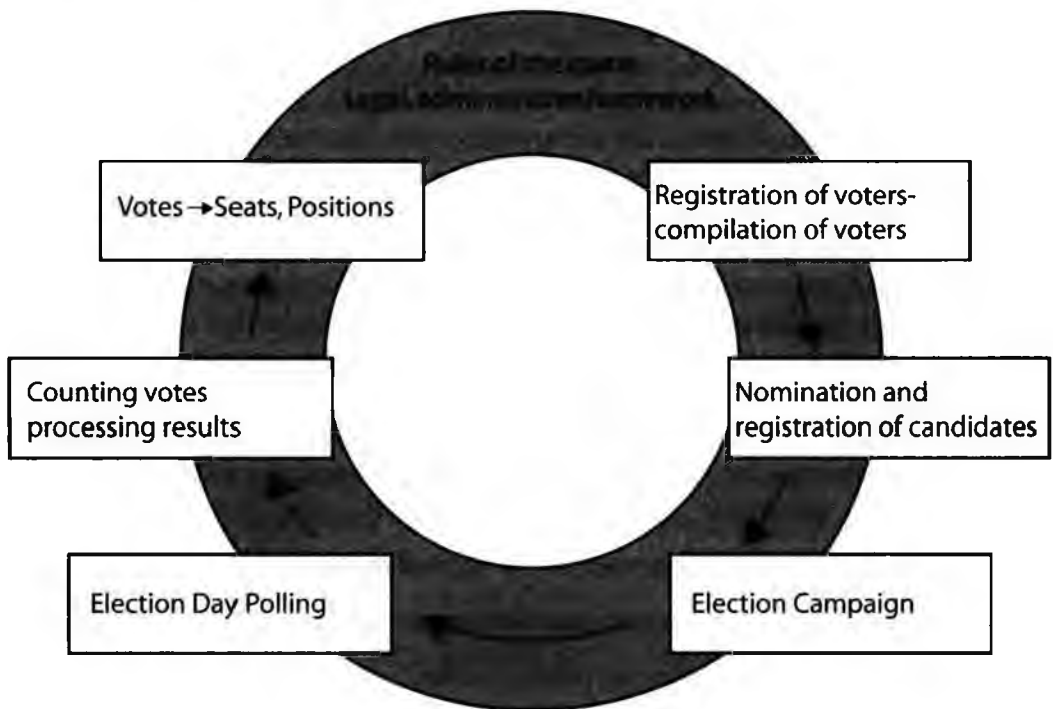
Unfortunately, the standards developed are rarely fully met in real life elections. It may also be argued that by describing an ideal, and not a minimum standard, the international norms of standards for electoral processes have not provided a practical guide to assess electoral processes 'on the ground' (Bjornlund, 2004; Elklit and Reynolds 1999). Thus, rather than conceptualising elections as a dichotomy between the two categories of free/fair and unfree/unfair, elections are increasingly being conceived as long-term and essential political processes that are better understood as a continuum rather than a test an election either fails or passes. Underscoring the time dimension of an electoral process, it is increasingly argued that the electoral cycle begins immediately after the polling in the previous election.⁴ Political actors, civil society, local and international monitors and donors have often failed to acknowledge that electoral processes begin long before elections actually take place.

Broadly speaking, the electoral cycle includes a number of steps that must be completed as fairly as possible, in order for an electoral process to be considered free and fair. Elklit (1999: 40) lists 12 steps:

1. Establishment of the legal framework for the electoral process,
2. Establishment of adequate organizational management structures,
3. Demarcations of constituencies and polling districts,
4. Voter education and voter information,
5. Voter registration,
6. Nomination and registration of political parties and candidates,
7. Regulation of electoral campaign,
8. Polling,
9. Counting and tabulating the vote,
10. Resolving electoral disputes and complaints,
11. Election result implementation,
12. Post-election handling of election material.

Thus, increasingly, from an emphasis on election-day events, international norms have developed that recognise elections as a fundamentally political and long term in nature; processes that involve a number of steps, ranging from the pre-election stages of rules setting, and registration via elections to post-conflict settling of conflicts. The election cycle, as shown in Figure 1, illustrates that they involve a number of stages, institutions and stakeholders.⁵

Figure 1 overleaf indicates how the electoral cycle starts as the previous election ends. The various stages may overlap in time, but represent distinct phases of the election process, which are explained below.

Figure 1: The electoral cycle

The rules of the game. The establishment of a legal framework regulating the election process and the election administration structures tasked with organising the process and securing a level playing field for the contestants. Deliberation and contestation over the rules, including the demarcation of electoral districts, tends to dominate early in the electoral cycle, but underpins the entire process and may surface at any stage. The fairness and quality of the rules, as they are implemented throughout the electoral process, are fundamental for the fairness of any election.

The registration and education of voters. This determines who gets to vote, and how informed their choices are. Biases at this stage, whether due to manipulation or incompetence, may greatly influence the election results.

The registration of parties and the nomination of candidates. This involves both party internal processes of choosing candidates and the official registration by the electoral administration. Eligibility criteria and the procedures and costs imposed in this process may effectively bar, or impede, certain parties or candidates, which can decisively influence election outcomes.

The election campaign. Political balance in media coverage and access to financial and other resources for campaigning, and fair enforcement of the regulations on campaign activities are central aspects at this stage.

The voting and tallying of the vote. 'The election' in common parlance. Intimidation of voters, ballot stuffing and other forms of rigging may influence results, as well perceptions of whether the election is free and fair and the outcome legitimate.

The post-polling process. This includes the distribution of positions of power and the handling of complaints challenging the election outcome, requiring resolution by legal institutions. Legal disputes may, however arise at any stage of the process.

Thus, increasingly, international norms and standards for judging electoral processes have adapted a long-term and qualitative perspective for evaluation of elections. While this development represents a step forward as it accepts that elections are essentially political processes that cannot be judged as an isolated event, it also raises new and problematic issues. Despite an emerging consensus at the theoretical level, the particular criteria developed by international forums and commentators remain broad aspirations (Bjornlund, 2004: 94).

Problems of assessing electoral processes in new and transitory 'democracies'

While important developments have been made in terms of judging elections as long term processes and not just an event that happens at five year intervals, it remains problematic to hold new and transitional democracy to ideal norms and standards that even most established democracies have problems abiding by. Often, the main problem relates to distinguishing the breaches from ideal norms and standards that are related to capacity and the intentional failures to accord to established principles of a free and fair election (Carothers, 2002; Burnell, 2001; Rakner and Svåsand, 2005). In order to contextualise elections and to enable a distinction between capacity and intent, it is necessary to assess the administration of elections over time, in order to establish whether institutional learning has taken place (Bratton and Posner, 1999; Rakner and Svasand, 2005; Rakner *et al.*, 2007).

Another issue is that emphasis on national and international norm-setting focuses on the quality of electoral processes rather than its legitimacy. This has prompted attention to another area, that the legitimacy of elections should also be assessed when determining quality (Hartlyn *et al.* 2006). Measures of the legitimacy of elections are centred on stakeholders' perceptions, that is, the extent to which contestants view electoral processes as legitimate. These perceptions provide essential information in terms of the quality of electoral processes. Key informant interviews with stakeholders from the opposition, the incumbent, electoral management, and civil society may provide important insights as to how elections are perceived, and thus, the legitimacy of the exercise. However, stakeholder perceptions about political processes are subjective and influenced by limited trust in the impartiality of administration, especially in uncertain and weakly institutionalised regimes. To the extent that stakeholder perceptions add valuable insights that complement the observations of the electoral commission's administration of the main stages of the electoral process, these perceptions should be collected at various intervals throughout the electoral cycle and be based on a wide selection of stakeholders. Various international organizations and agencies have provided electoral norms and standards as guiding principles in electoral processes. The section that follows discusses international electoral norms and standards that can be applied by countries to promote democratic elections, good governance, free and fair elections. These can be universally applied with modifications to suit the local context.

United Nations Organization norms and standards of electoral processes

The United Nations through its various organs such as EAD, Department of Peacekeeping Operations, UNDPA, UNDP and UNHCHR promote the principle of genuine and periodic elections and provide electoral assistance worldwide (UN, 2005). The UN norms and standards are developed to guide government, international institutions and civil society in the conduct of elections. The best practices are intended to promote democratic governance, free and fair elections where the participation of all citizens in the electoral process including women is protected and encouraged. The UN works closely with other international organizations to upholding consistent international electoral practices.

The UNDP advocates that an electoral system is a primary vehicle where people can exercise choice and citizen voices can be heard. Though there are a variety of electoral systems countries can select from, there is no one 'best' electoral system. Countries need to select electoral systems based the overall goal of the system; for example, proportional representation or a strong local representation. It is important that any electoral system is country context specific (UNDP, 2004).

Voter registration is a key aspect of any election administration (UNDP, 2004). As delimitation is one of the major components of voter registration, best practice suggests transparency and independence in the delimitation exercise. The UN norms and standards of electoral process are characterised by accurate, clear and transparent voter registration (UN, 2005.). According to UNDP (2004), successful civic and voter education programmes target to establish general awareness and understanding of the electoral and democratic processes of a country. The UNDP guiding principle suggests civic and voter education that provides relevant information regarding rights in terms of holding their elected representatives accountable, dissemination of information to all regarding voting rights, political parties, candidates, and secrecy of the ballot.

Electoral dispute resolution is another area where international guidelines are provided. For example, the UNDP (2004) norms and standards suggests the existence of a legal framework that would provide effective means and remedies to enforce electoral rights, and provide the basis for resolving electoral disputes before, during and after elections. The UNDP further suggests electoral disputes resolution best practice entails, at a minimum, the right for every voter, candidate and political party to lodge a complaint with the competent election commission or court followed by a prompt and fair decision as a well provision for an appeal to a higher court or commission. The six global best practice approaches to electoral dispute resolution include resolution by the judiciary, election organisers, tribunal, parliament, international tribunals or alternative dispute resolution (UNDP, 2004).

Similarly to the UN, in an effort to promote and facilitate democracy and good governance, the southern African region has witnessed the establishment of various organs such as the Electoral Institute of southern Africa (EISA), Independent Electoral Commission (IEC), SADC Electoral Support Network (SADC ESN), as well as SADC Parliamentary Forum (SADC PF), SADC Electoral Management Body (SADC EMB), and the SADC organ on Politics, Democracy and Security. Civil organizations have also taken interest in issues of democracy and good governance and they have played a pivotal role in advocating for democratic, free and fair electoral process in the region. International organizations have also taken interest in facilitating democracy and good governance. The AU, NEPAD, and the Millennium Goals initiatives are linked to promotion of free, fair, legitimate elections as well as the protection of human rights, freedom of association

and promoting the culture of tolerance in Africa. In the SADC region, the evolution of election assistance, and the combined efforts of a wide range of international, bilateral, regional and local institutions is illustrated by the case of elections in Mozambique. All these regional and international bodies aim to promote good governance, free and fair democratic elections through voter and civic education of electorates. The norms and standards act as guiding principles for governments to improve and benchmark their electoral processes.

Norms and standards of electoral administration

Electoral administration refers to the way public officials designated with the tasks (electoral management bodies, governmental ministries or a mix of government and independent institutions) implement the various tasks associated with the election cycle. The way elections are administered is the key to their outcome and legitimacy.⁶ Nevertheless, a central feature of the limited democratic institutionalization witnessed relates to the poor quality of the electoral processes. The role of the electoral management bodies that are put in place to oversee the elections is central to the administration of the electoral process. The capacity of the administrative unit mandated to administer elections and this unit's autonomy from the political forces is a key factor explaining the electoral outcome and how the electoral process is perceived among voters, parties, candidates and civil society (Elklit and Reynolds, 2000).

Assistance to the administration of electoral processes

Support to electoral administration embraces a range of activities including support to legislative reform, technical equipment, organization and logistics, voter registration, and monitoring and observation. Large parts of the overall support to elections have been devoted to building the capacity of electoral commissions through funding, training, technical support and the provision of equipment. The general picture emerging from evaluations is that this support has improved the conditions for the holding of free and fair elections, increasing the legitimacy of electoral processes and results (Lopez-Pintor, 2000).

However, this has led to concern about the sustainability of the electoral processes. The largely donor-driven elections in post-conflict and transitional states have proven to be very expensive. As a result, some observers have argued that assistance to democratic processes has established unsustainable models of how elections should be conducted including sophisticated voter registration systems, transparent ballot boxes and ballots printed abroad. According to Ottaway and Chung (1999), the problem arises as donors usually support first elections generously, but the responsibility for future ones falls on governments with small and over-stretched budgets.

The UN acknowledges the importance of independent and permanent electoral management bodies (in the long term) as representing best practice in terms of global electoral administration. It is crucial that electoral management bodies (EMBs) are free from political interference, minimal ministerial control, and non-partisan appointees and are staffed with permanent professional workers in order to enjoy credibility and public trust (UNDP, 2004). UNDP guiding principles suggest easy access to polling stations, establishing convenient polling hours, provision of adequate security to prevent intimidation. The collection, compilation and analysis of data regarding electoral process, voter registration, gender, voter turnout is important component of elections. Such data will reveal any discrepancies and weaknesses

and recommend for improvement in the next electoral process. According to UN norms and standards, electoral observation is a very crucial tool for enhancing transparency of the electoral process and increasing public confidence in election results. Elections observation also provides an excellent mechanism for post electoral dispute resolution as the presence of local and international observers can detect fraud and malpractice.

In an effort to support electoral administration, the UN provides technical assistance to electoral process to member states through organs such as the EAD and the Department of Peacekeeping Operations (UN, 2005). The type of assistance extended by the UN to member countries includes increased capacity building and mobilising resources for electoral assistance and democracy. Technical assistance by the UN is usually on need/request basis and can be in the form of assistance with voter registration, change in electoral law, improvement in electoral processes, strengthening the electoral infrastructure, promoting free press and building effective political parties (UN 2005). UN does not provide electoral technical assistance in isolation. The technical assistance extended to member states is carried out in partnership with host countries, including the EMBs, the media, and political parties, local and international NGOs. In effort to promote free and fair elections and offer electoral support and coordination, the UN works closely with international organizations such as the OSCE, IDEA, IFES, EU, IRI, WFD, the Carter Centre and NDI (UNDP, 2004).

In terms of electoral assistance, UNDP support is focused on electoral systems reform, electoral administration, sustainable electoral processes, civic and voter education, mobilization and coordination of resources for electoral support. Future areas of support by the UNDP in the areas of strengthening political parties and resolving electoral disputes is most welcome as most countries especially in developing countries are undergoing democratic changes. For example, in Africa, successful power-shifts to democratic elections in South Africa in 1994, democratic reforms in Nigeria and democratic elections in the Democratic Republic of Congo (DRC).

'Best practices' in the African Union (AU)

As pointed out in the AU Declaration (1997), democratic elections are the basis of any representative government. Furthermore, the AU Declaration points out that these regular elections are a key element of democratization process as well as essential component of good governance, the rule of law and maintenance of peace, security, stability and development. Regular elections are important when it comes to the question of conflict management. It is equally important that democratic elections are held freely and fairly at regular intervals. It is imperative that countries comply with and support democratic elections with legislative framework and an independent judiciary. The AU is promoting good governance and democracy through additional initiatives such as the Pan African Parliament, NEPAD Declaration on Democracy, and the NEPAD African Peer review mechanism.⁷ Matlosa points out that all initiatives under the SADC PF, AU, NEPAD African Peer Review Mechanisms and NEPAD Declaration on Democracy are interrelated and aimed at committing African governments to legitimate and credible electoral processes.

International Standards of Election Monitoring

International monitoring of elections became an important phenomenon in the Cold War era and, as one of the oldest forms of democracy assistance, is generally accepted around the world.⁸ Between 1989 and 2002, international election observers were present for 86 per cent

of national elections in 95 newly democratic or semi-authoritarian countries. Election observation has been particularly widespread in Eastern and Central Europe and the former Soviet Union, Latin America and Africa.

Election observation describes a range of activities focused on making controversial elections more acceptable or exposing their flaws. Three main forms of election observation can be distinguished: international observation of transitional or other exceptional elections conducted by missions sent by governments, multilateral organizations or international NGOs; domestic monitoring by national organizations, especially non-partisan NGOs; and international supervision by intergovernmental organizations of post conflict elections. The last involves not just observation but also the conducted and supervision by international bodies.

Negative evaluations of election assistance programmes have often been related to the large amount of funding allocated to election monitoring exercises. Particularly in the first part of the 1990s, election monitoring consumed a major proportion of the funding available for democracy assistance. Early experiences found that the all too pragmatic and sometimes compromising attitude of observers and donor agencies purporting to stand for democracy and rule of law put the rules and principles on hold in favour of certain expected economic and political gains (Abbink and Hesselning, 2000:9). Furthermore, it was found that election monitoring was carried out with little sensitivity to issues of capacity, socio-economic development or the long term nature of the election process (the electoral cycle) Elections were monitored on the basis of whether they were free and fair without paying attention to the underlying structural biases against free and fair elections (Geisler 1993, Bjørnlund 2004).⁹ Based on these findings, evaluations suggest that donor governments should reconsider the usefulness of sending short-term election observers. Recent emphasis on long-term observer missions, arriving two months before elections in order to inform the short-term observers, has in part addressed this criticism.

It has also been noted that the mandates, interests and constraints of election monitoring groups tend to reflect the national interest of sponsoring countries, to the extent that the 'free and fair judgement' often reflected more on the observer nations' foreign relations with the country in question than with the established norms and standards of a free and fair electoral process. By the late 1990s, it had become an international norm that established and emerging democracies must welcome international observers. However, election monitoring is not a precise science and the information on which observer statements are based suffers from sampling problems and unknown levels of precision. Despite the emerging agreement on norms and standards, it is very difficult, if not impossible, to arrive at a listing of international norms for democratically satisfactory and legitimate elections that can easily be translated into more practical standards for assessing real world elections.

United Nations: Standards of Election Monitoring

According to the United Nations Declarations for International Election Observers and Code of Conduct for International Election Observers (UN, 2005), democratic elections are an important element of expression of sovereignty. In international recognition of human rights, all individuals exercise their right to vote and be voted periodically. The UN declaration further outlines the importance of peaceful conflict resolution and management mechanism in order to attain peace and stability. Democratic election legitimises government, reduces conflict and promotes peace and stability. Democratic elections should be carried without any course for discrimination based on race, colour, gender, language, religion or political opinion. Protection of the rule of law is fundamental in any democratic elections.

In relation to international election observers, the UN guidelines suggest observers consider interest of communities in the achievement of democratic elections as well as respect for human rights and the rule of law. High standards of impartiality form part of international principles, norms and values. This will ensure credibility and legitimacy of the electoral process. International observers can ensure this by detecting and exposing elections irregularities and fraud. In addition, by systematically and accurately gathering election data and professional analysis, international observers can provide unbiased and high standards of election reports and recommendations before, during and after elections. It is equally important that international election observers cooperate and work closely with host country bodies such as the electoral bodies, non governmental organizations, civil society, political parties and other election observers. UN guidelines emphasise adherence to host country election laws, constitution and the international observers' code of conduct. The UN guidelines point out that violation of these codes of conduct will render withdrawal or dismissal of the international observer mission.

Good Commonwealth Practices

The Good Commonwealth Practices (Commonwealth Secretariat, 1997) provides guidelines and main values which guide good electoral practices, and these entail "democracy, democratic practices, institutions that reflect national circumstances, the rule of law, independence of the judiciary, a just and honest government, fundamental human rights and equal rights and opportunities for all regardless of race, creed or political belief" (p.5). The main aim of these values and good electoral practice is to promote development and strengthening of electoral systems in Commonwealth countries. These values are also aimed at promoting equality, especially of women in the electoral system and the democratic process. The Commonwealth values stipulate the establishment of an electoral body with the necessary status, power and independence in order to ensure the integrity of any electoral system. Impartiality, transparency, adequate resources and legal protection are key components of the electoral body together with consultation with all stakeholders including political parties, candidates, civil society and voters. It is also imperative that the electoral body acts according to and within the law.

The electoral body has to play a key role in providing a positive environment to holding peaceful, free and fair elections. For example, freedom to form, belong to any political party, free access to the media, freedom to campaign, declaration of funding sources, training of polling officers, security, secrecy of the ballot and easy access to polling stations. Transparency, timely counting of votes and immediate announcement of results also form part of international electoral norms and standards. Equally important is the fact that all stakeholders abide by the electoral code of conduct in order to facilitate the smooth and democratic electoral process. For instance, this can be achieved through peaceful campaigning, control of supporters, non-interference with posters of opponents, respect the outcome of the poll and most importantly cooperation with the electoral body. The commonwealth electoral process guiding principles relate to other international norms and values. The UN, UNDP, AU and SADC suggest similar guiding principles in promoting legitimate, democratic, free and fair electoral process.

Conclusion

This conceptual note has discussed developments of international standards and best practices within three important sub-fields of electoral governance: the development of international

norms and standards for perceiving elections, election administration and election observation. Elections do not equate with democracy. Nevertheless, recognition of the fallacy of electoralism should not lead to underestimation of the importance of elections to democratization (Elklit 1999). Successful elections continue to be important steps towards democratization, just as flawed elections can lead to significant set-backs. In the discussion above, we have emphasised that along all three dimensions, electoral assistance has evolved and improved over time. Electoral assistance has undergone major changes since the advent of democracy assistance in the late 1980s. It is more often based on universally-accepted norms and standards, and more emphasis is placed on long-term observer missions. Assistance to improve the administration of elections has become a developed sub-field of its own. It is also an area where donors have been able to make funds available in a timely fashion. Donor coordination, the development of basket funding mechanisms and learning from regionally- and internationally-acknowledged best practices has improved assistance to electoral processes.

Nevertheless, a number of challenges remain in order to improve electoral governance, and the international norms and standards for assessing this process. First, it is important to emphasise that elections are not one-day events. Voter registration, the unfolding of election campaigns and the resolution of electoral disputes in the aftermath of the announcement of results all form part of the electoral process. International actors still place too much emphasis on election mechanisms and polling day activities. Secondly, so far international emphasis on establishing norms and best practices has evolved around national elections. However, it is necessary to broaden the perspective to local elections. In order to consolidate democracy, free and fair elections are necessary at all levels. Third, emphasis should be put on building institutions. Technical assistance has increased capacity. However, a problem remains in that capacity rests with individuals and not institutions. More emphasis should be given to the promotion of regional and continental arrangements and locally-developed guidelines. Another problem may be that too much is expected of elections and election monitoring. For instance, the international community has often looked to elections to spur processes of nation-building after violent conflicts, such as those in Angola, Iraq or Bosnia.

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Notes

1. The following section is in part based on an assessment carried out for Irish Aid by Rakner et al. (2006).
2. IDEA (1997) p. 10.
3. The following section reviews key findings developed in Rakner and Svåsand (2005).
4. This argument has been advanced by Elklit (1999), and has since become a standard that most election monitoring institutions adhere to.
5. This perception of electoral processes is developed in analyses of recent elections in sub Saharan Africa by the Chr Michelsen Institute, Norway and various partner institutions in Africa. See Gloppen et al.2006.

6. See: Lopez-Pintor (2000), Rakner and Svåsand (2005).
7. Ibid. See also keynote address by Orijiako (2006).
8. In some cases election monitoring is contested, as in Russia where the authorities have reacted negatively to OSCE election monitoring in CIS countries and Russia has set up separate CIS election monitoring efforts.
9. The 2000 elections in Zimbabwe, where the atrocities and attacks on the opposition took place long before the election day, which was itself relatively peaceful, illustrate this point.



ELECTORAL MANAGEMENT BODIES IN THE SOUTHERN AFRICA DEVELOPMENT COMMUNITY: AN EXAMINATION OF BOTSWANA, NAMIBIA AND SOUTH AFRICA

DAVID SEBUDUBUDU

Introduction

This analyses electoral management bodies (EMBs) in the Southern Africa Development Community (SADC) region, particularly in Botswana, Namibia and South Africa. It examines their organizational structure and mode of operation, with the aim of assessing the extent to which they deliver fair, credible and legitimate elections. The three countries have been chosen because they share some common characteristics. First, they are stable and ruled by dominant ruling parties, but with weak opposition, hence pressures for change emanate more from within the ruling parties than from the opposition benches in parliament. Second, all three have liberal democratic constitutions based on the principle of the rule of law. Third, the three countries have close historical, political and economic links. That implies that their cases of EMBs are easier to analyse, although their different choices of EMB models, structures and functioning becomes interesting. Primarily, the manner in which EMBs are structured and function confers legitimacy on them.

This study is based on literature review and primary data obtained from official documents and through interviews. The interviews were conducted with the Acting Director of the SADC Organ for Politics, Defence and Security Affairs at the SADC Secretariat, an official of the Botswana Independent Electoral Commission (IEC), the officials at the Electoral Institute of Southern Africa (EISA), and an official of the South African IEC. A prearranged interview with an official of the Electoral Commission of Namibia could not materialise during the visit to Namibia.

The study of EMBs is critical as they play a major role in deepening the democratization process and in furthering good governance. Lopez-Pintor (2000:130–131) notes that “although electoral authorities have existed since the introduction of mass elections in the 18th century, ‘election management’ is a new field of study and practice that has only recently emerged, following the ‘third wave’ democracies and the peace-keeping processes of the post-Cold War period. References to EMBs in the academic works and the literature on international assistance were rare until the late 1990s”. In this sense, the significance and value of election administration and electoral management bodies has steadily emerged (Ellis, 2005). Therefore, their impact on the democratization process is yet to be fully appreciated especially in developing countries.

Nevertheless, there is a growing interest in the study of EMBs as they are central to the conduct of elections which are free and fair (see, for instance, Dundas, 1994; Dundas, 1997; Lopez-Pintor, 2000; Elklit and Reynolds, 2002; EISA/ECF, 2004; Ellis, 2005; Sebudubudu and Osei-Hwedie, 2005; Rukambe, 2006; and Matlosa, 2006). Thus, electoral administration or EMBs have in the recent past received great interest and became a focal point of study from both practitioners and scholars as part of the institutional arrangements for democracy and good governance (Rukambe, 2006). Lopez-Pintor (2000:13) states that EMBs “are important institutions for democracy-building. They deal directly with the organization of multiparty elections and indirectly with governance and the rule of law”.

In this way, they play a central role in promoting and advancing good governance, and political stability. This is particularly the case in young and emerging democracies such as those found in the SADC region as they are not yet consolidated and therefore their future remain uncertain. Moreover, there is a possibility of democratic reversal or failure. Zimbabwe is a case in point. In 1988, Diamond (1998:1) observed that multiparty democracy "persisted, as well, to a considerable degree in independent Zimbabwe, albeit for a much shorter period of time and under considerably greater strain". Further, he noted that "by comparison, Zimbabwe's ruling party has at least managed to limit corruption and administer relatively free and fair elections. This has helped to preserve the regime's legitimacy and hence, its immunity to military coups" (Ibid: 5). That was then, and has since changed. The case of Zimbabwe suggests that "regimes that lack deep legitimacy depend more precariously on current performance and are vulnerable to collapse in periods of economic and social distress. This has been a particular problem for democratic (as well as undemocratic) regimes in the developing world, especially given their tendency to experience an interaction of low legitimacy and low effectiveness" (Diamond, Linz and Lipset, 1995:10). Moreover, it also demonstrates that ruling parties in fragile democracies are ready to administer relatively free elections and to some extent tolerate the opposition as long as the opposition does not pose any serious threat to the party in power. Furthermore, the Zimbabwe case and those of other countries that have fallen victims of bad democratic practices requires that new democracies and their institutions need to be continually nurtured as they remain fragile.

The Role of Elections in a Democratic System

In liberal democracies, elections are not only the basis of a democracy but they are also one of the major acceptable ways the governed communicate with those who govern. They offer the electorate the opportunity to indirectly participate in decision making by choosing their representatives thus making them accountable. They also constitute an instrument of popular participation and intervention in the political system and therefore add towards democracy consolidation. In this way, elections allow the electorate an element of control over their representatives (Diamond, Linz and Lipset, 1988). Thus, elections are an important instrument "through which the public can influence the political process and keep office holders in regular and periodic check. They provide opportunities for the electorate to make a retrospective assessment of government's (as well as the opposition's) performance, and exercise some degree of control over their representatives" (Chirwa, 2005:43).

Tsie (2003:147) argues that "the purpose of elections is to entrench popular control over decision-making processes at national and local government and to ensure equality of political rights and effective representation for all eligible voters". To this extent, elections have become an acceptable means through which power is transferred and legitimised from one governing party to another. Moreover, a democratically elected government has internationally come to be accepted as the best and most popular form of government.

Evolution of Multi-Party Political Systems and EMBs in SADC countries

Southern African countries embraced multiparty politics since the 1990s following the termination of one-party systems in a number of countries (amongst others, Malawi, Mozambique,

Tanzania and Zambia), and more importantly apartheid in South Africa and the independence of Namibia. In this regard, southern Africa “has made significant progress in the past decade in institutionalising democracy. This is reflected in a number of developments in SADC countries including the holding of successful multiparty elections in several of them in the past ten years” (EISA / ECF, 2004:3). However, these countries did not make deliberate choices to embrace democracy and elections. Both internal and international pressures played a key role towards the adoption of multiparty democracy and associated electoral reforms.

Nevertheless, these are fairly new and young democracies. It is thus fitting for the SADC Strategic Indicative Plan for the Organ (SIPO) on Politics, Defence and Security Cooperation to identify democratic consolidation and good governance as one of the key challenges faced by the SADC region. In an attempt to address this challenge, one of the primary objectives of the SIPO and the Protocol on Politics, Defence and Security Cooperation is to “promote the development of democratic institutions and practices by state parties and encourage the observance of universal human rights” (SADC, 2004:20). It seeks to realise these by establishing common electoral standards in the SADC region, encouraging political parties to accept the outcome of elections held in accordance with the African Union and SADC electoral standards, establishing a SADC Electoral Commission, promoting the principles of democracy and good governance, establishing a regional commission for the promotion of and respect for human rights, strengthening judicial systems in SADC member states (SADC, 2004).

The implementation of the SIPO should be done in line with the 1992 SADC Treaty and the 2002 Protocol on Politics, Defence and Security Cooperation. The SADC Treaty and the Protocol on Politics, Defence and Security Cooperation are binding on member states. In this sense, SADC member states have committed themselves to upholding, defending and maintaining democratic principles and institutions. Although elections are the mainstay of a democracy, they do not equal democracy, as the holding of regular elections does not signal the existence of a democracy (as democracy cannot exist without multiparty elections). Elections can be used to legitimise a dictatorship.

In addition to the SIPO and the Protocol on Politics, Defence and Security Cooperation, there are SADC principles and guidelines governing democratic elections in member states which members are expected to adhere to when conducting elections. The guidelines which are not part of the protocol and thus not binding on member states are informed by the SADC policy documents. The guidelines and principles are left to individual member states to follow. Nevertheless, the SADC principles and guidelines governing democratic elections “aim at enhancing the transparency and credibility of elections and democratic governance as well as ensuring the acceptance of election results by all contesting parties” (SADC Principles and Guidelines Governing Democratic Elections, n.d.:2). These principles entail; full participation of the citizens in the political process, freedom of association, political tolerance, regular intervals for elections, equal access to all political parties to the state media, voter education, acceptance and respect of election results deemed free and fair, challenging the results in line with what the law provides, judicial independence and impartiality of the electoral institutions, as well as equal opportunity to exercise the right to vote and be voted for.

The extent to which these principles are adhered to varies from country to country as they are not enforceable. In fact, there are countries in the SADC where these principles are not adhered to at all. The Kingdom of Swaziland is a good example where these principles are not being implemented. It would seem SADC member states have embraced western values of running democratic elections on paper, yet implementation and adherence to them is problematic.

Moreover, it appears adherence to these principles is dependent on the goodwill of the country conducting elections and a breach does not attract any sanctions from SADC, except persuasion and a gentle reminder.

The Performance of EMBs in the region

As a way of strengthening the democratization process, electoral management bodies have been created in most SADC countries to administer elections in accordance with the objectives of the SIPO and the Protocol on Politics, Defence and Security Cooperation. Their establishment was in part influenced by International Financial Institutions (IFIs) and cooperating partners and modelled along international norms, standards and practices. However, the democratic process has not been free of setbacks/hiccups. There have been problems of reversals as in Zimbabwe and violent protests as in Lesotho as well as threats to boycott elections like in Mozambique. This is in part because competitive elections, as Elklit and Reynolds (2002:86) noted, "are often held during times of societal stress and under imperfect logistical conditions characterised by administrative unreadiness". This may be the case partly because of perceived unfairness or that the country has emerged from a war situation thus giving rise to the foregoing conditions. In such a case, there is an element of mistrust amongst competing parties especially those who have never tasted the fruits of power or have been in the cold for a long time. Mozambique is a case in point. Multi-party elections were held following many years of one-party rule and a protracted civil war. In this way, the EMB should be effective and look credible. The structure and functioning of EMBs is influenced by international standards. Thus, the importance of elections in a multiparty democracy calls for a properly run election, as the outcome is at times contested. A disputed election outcome is a potential cause of conflict as the case of Lesotho has shown in 1998. Even in long established democracies such as Botswana, complaints of unfair advantage are common.

In an effort to realise successful elections which are free and fair, and deliver a legitimate government, most countries, including southern African countries, have established democratic institutions such as EMBs because these institutions have become a popular and recognised mechanism for running elections in the sense that they boost public confidence in the electoral process. Nevertheless, complaints of biased electoral administrations are common and not surprising in the SADC region, in part because of its history and that most electoral commissions in the SADC are fairly new. Also, the democratic wave in the SADC region took shape towards the end of the 1980s and the beginning of the 1990s, thus overlapping with the collapse of the Cold War, the end of mono-party states and apartheid in Namibia and South Africa. With the emergence of democratic regimes in these countries and in former one-party states, the inherited electoral systems and institutions had to be transformed as they were found not appropriate and thus not meeting the demands of a democratic dispensation.

Accordingly, the SADC region created completely new electoral bodies or they had to transform those inherited. However, there are major variations in form and status of electoral institutions in SADC countries depending on the national traditions, the constitutional system and the political compromises that had to be made at the time in each country (Tonchi, 2006:6). Thus, Khabele Matlosa observed that SADC EMBs are not of the same kind in their relationship with government. The closer they are to government, the worse their performance in managing elections. And the more distant they are, the more latitude they have to operate. According to Matlosa, we can identify three types of EMBs in SADC: government run (Swaziland); semi-

autonomous (Zimbabwe); and autonomous (South Africa).¹

Moreover, SADC EMBs are faced with a number of challenges amongst others; resources, impartiality and legitimacy.² According to Matlosa, the challenges facing EMBs in the SADC are enormous. The first challenge is to safeguard their autonomy. They are under pressure from the government and opposition parties. The second challenge is resources as they are dependent on government. This can compromise their autonomy at times. The third challenge is public image and trust of EMBs. That is, what is the perception on EMBs? Are they trust worthy? Can they safeguard democracy? Matlosa is of the view that EMBs do not take their role of public outreach seriously. They need to be active before, during and after elections. He is of the view that they only perceive themselves as facilitators of an election. The fourth challenge is the type of relationship between the secretariat and the commission, which is not always a smooth one.³

In the light of this, SADC states need to work towards building and strengthening electoral administrations which are considered impartial. This will not only help to build and instil confidence and trust in the electoral bodies but the electoral process as a whole. This would go a long way in deepening and consolidating democracy in the region. This is important as "there is a correlation between the level of public trust in elections and democracy at large and the nature of the EMB a country opts for" (Rukambe, 2006:13). Generally, there is a high degree of trust and confidence in EMBs in the developed countries and the opposite is true for Africa and much of the developing world. This is in part because multiparty elections are fairly new and are held under imperfect conditions which in most cases work clearly to the advantage of the party in power.

Thus, with the intensification of the democratization process from the 1990s onwards or what Samuel Huntington has labelled as the 'third wave of democracy', developing countries have equally adopted standards which are used internationally to judge the fairness and freedom of the electoral process. SADC is not only committed to realising economic integration but to democracy and good governance as well. In this way, "most SADC countries have committed themselves to upholding the fundamental rights and freedoms embodied in their constitutions as well as to multiparty elections that are free, fair, credible and legitimate" (EISA/ECF, 2004:7).

It is in this context that the EISA and the Electoral Commission's Forum of SADC Countries (ECF) developed principles for election management, monitoring and observation (PEMMO) in the SADC region with the view to further the democratization process. The principles were embraced in 2003 (EISA/ECF, 2004). Despite this, the fairness and legitimacy of elections in some SADC countries has been suspect. The closest example is Zimbabwe's 2002 presidential elections where the results were rebuffed by the opposition. It should be noted, however, that declaring elections 'free and fair' does not necessarily suggest that they were perfect. This only indicates that they have met the major democratic requirements for an election to be considered as such (Elklit and Svensson, 1997).

Nature of Electoral Administrations

That electoral administration is central for an election outcome to be considered free and fair by all involved including outside observers is not a matter open to serious contention. Thus, for an electoral administration to perform effectively and efficiently, it should be independent, impartial, and transparent and enjoy security of tenure for the benefit of advancing democracy and institutionalization of democratic principles and practices. For an election outcome to be

seen as legitimate, an EMB that administers such an election has to be recognised by all the contesting parties. In this way, how an EMB has evolved and structured in a particular polity is very important.

An EMB is an outcome of a particular socio-political environment at a certain time and place. Thus, the shape it takes or the model that is adopted, and where it is placed within the state structures differs from country to country. Despite this, three wide models of EMBs can be identified, namely; government, mixed and independent (Lopez-Pintor 2000; Elklit and Reynolds 2002; www.aceproject.org). According to the above-mentioned writers, the government model EMB structure is where the administration of elections is the exclusive responsibility of government. This is mainly found in older Western democracies. The mixed structure is where the government runs elections under some supervisory body. This EMB structure is predominant in Africa and some areas of Eastern Europe. The independent electoral commission structure is more prevalent in emerging democracies.

The southern Africa region in particular, experienced the formation of independent EMBs in the last few years at a rate unequal to any in the whole world (Rukambe, 2006). Of the three broad models, the EMB structure in the SADC region falls in the independent category, but in reality most EMBs in SADC are semi-autonomous, as shown and summarised in Figure 1.

Most analysts argue, however, that SADC has embraced an independent EMB structure in part because of the benefits it brings. In fact,

...the creation of permanent, independent and professional EMBs have contributed to increased public confidence and trust compared to other models especially in emerging and newly-restored democracies. In countries where high distrust and cynicism prevail especially in the ability of the executive to manage elections in a free, fair and impartial manner, independent EMBs have emerged as the most viable model to promote confidence and trust in electoral processes; hence more than 50% of EMBs across the globe are independent compared to 27 governmental and 23 mixed. Virtually all SADC countries have opted for independent EMBs because of the political confidence this model instils in democracy and elections, especially in highly polarised and deeply divided societies, e.g., South Africa and Mozambique before 1994 and Zimbabwe in 2004 (Rukambe, 2006:13).

The foregoing discussion suggests that countries appreciate the value of independent EMBs. Yet, EMBs in the SADC region function in the context of a number of constrictions such as limited independence, inadequate resources and unclear mandates. Moreover, questions have been asked with regard to the appointment procedures and tenure of office for EMB members, which in turn compromise the legitimacy and integrity of the electoral process (EISA / ECF 2004). The nature of the EMB that is adopted by the country impacts on the fairness, credibility and legitimacy of elections and their outcome. Although there is no perfect EMB, an EMB that is suspect may compromise the very election it has been mandated to administer.

This is particularly the case where other contenders question the fairness and legitimacy of the EMB. Complaints concerning EMBs that are perceived as partial are common in new democracies including those of the SADC countries. Even in Botswana, Africa's longest-standing formal democracy, opposition parties question the impartiality of the EMB. It is in this sense that countries should work towards establishing EMBs that are acceptable to all, as election outcomes that are suspect may spark conflict thus undermine the stability of the country.

Figure 1: Nature of Electoral Management Bodies in SADC

Country	Name of Institution	Date formed	Who appoints commission	Category
Angola	National Electoral Commission	2004	President	Semi-autonomous
Botswana	Independent Electoral Commission	1998	Judicial Service Commission	Semi-autonomous
Democratic Republic of Congo (DRC)	Independent Electoral Commission	2005	Constitution of the Transition	Semi-autonomous
Lesotho	Independent Electoral Commission	1993	King on Council of State advice	Semi-autonomous
Malawi	Malawi Electoral Commission	1994	President	Semi-autonomous
Mauritius	Electoral Supervisory Commission	1968	President on advice of prime minister and after consulting leader of opposition	Semi-autonomous
Mozambique	National Electoral Commission	2002	President	Semi-autonomous
Namibia	Electoral Commission of Namibia	1992	President from list approved by National Assembly	Semi-autonomous
South Africa	Electoral Commission of South Africa	1996	President following National Assembly recommendation	Autonomous
Swaziland	Elections and Boundaries Commission	2005	King on advice of Judicial Service Commission	Government Institution
Tanzania	National Electoral Commission	1977	President	Semi-autonomous
Madagascar	Electoral National Council	1992	President	Semi-autonomous
Zambia	Electoral Commission of Zambia	1996	President	Semi-autonomous
Zanzibar	Zanzibar Electoral Commission	1984	President	Semi-autonomous
Zimbabwe	Zimbabwe Electoral Commission	2005	President	Semi-autonomous

Source: adapted from <http://www.eisa.org.za/WEP/comemb.htm>

Elements of an Effective Electoral Administration

Although there is no definite one size fits all EMB structure, “there is [an indisputable] consensus among election analysts that the structure and functioning of election administration has a significant impact on the credibility of the Electoral Management Body (EMB) and its effectiveness in terms of service delivery” (www.aceproject.org; accessed 12th June 2006). Whatever form a country embraces, the adoption of an EMB and its structure is influenced by a number of factors, amongst others “constitutional and related legal frameworks, reform measures undertaken during transition periods, and the resource endowment of the country concerned” or in some cases by the colonial administrative designs especially where the country was a former colony (www.aceproject.org; accessed 12th June 2006).

An election administration does not only impact on the legitimacy of the whole electoral process but it “has been recognised that the quality of electoral administration has a direct impact on the way in which elections in the developing world and their outcomes are regarded, not merely by international observers, but also – and more importantly – by domestic actors such as voters, parties, media and local observers” (Elklit and Reynolds, 2002:87). This is supported by Rukambe (2006:9), who argued that EMBs are regarded as appropriate and important institutions for democracy because they preserve the suffrage by assuring the realization of clean competitive elections. “Recent experiences around the world have proved how powerful an impact an efficient and neutral electoral administration may have as a democratization instrument (i.e., Chile and Uruguay in the 1980s, and more recently Mexico, Ghana, India, and South Africa, to mention but a few)”.

In contrast, “where an incompetent or partisan biased electoral authority was in place, this has proved to be one of the weakest links in the democratization and/or sustainability processes (i.e., Yugoslav Federation in 2000, United States in 2000, Georgia in 2003, and Ukraine in 2004, and Malawi in 2005)” (Rukambe, 2006:9). This is partly because the whole electoral process including the electoral outcome becomes questionable and hence the public and contestants, especially the losers, lose trust and confidence in the process.

Although elections are at the very heart of a democracy, they do not constitute a functioning democracy on their own. At the same time, there cannot be a democracy without elections which are free and fair (Przeworski *et al.*, 1996; Chirwa, 2005; Matlosa, 2006). The consensus is that periodic elections are a significant measure of democratic governance (Chirwa, 2005). Sebudubudu (2005:60) argues that “free and fair elections are seen internationally as the basis of good governance and also give legitimacy to the victor”. In this way, elections are a necessary but not sufficient condition for democracy to consolidate. For the EMB to be effective, and for it to realise a free and fair election, there should be a number of factors in place as an EMB does not only impact on the whole electoral process, the conduct of elections, but on the electoral outcome as well.

Thus, an EMB should be predictable, free from manipulation, interference and corruption, and efficient (Macharia, 1995). Dundas (1993:40) underscores this. He observed that “the main goal of the election administration must be the delivery of free and fair election service to the electorate. It therefore has to undertake its functions in an impartial and efficient manner. It must ensure that the integrity of each election process is adequately safeguarded from incompetent election officials and fraudulent manipulators”. And for it to display these principles, an EMB should have a number of features, mainly; independence, impartiality, transparency, and security of tenure (Dundas, 1994; Macharia, 1995; Dundas, 1997; Rukambe, 2006). For Elklit and Reynolds (2002) the organizational structure of an EMB, staff motivations, transparency,

independence from political forces and internal EMB motivations are important for an election administration to be effective and perceived as legitimate. These attributes are particularly important as an EMB is the mirror of an election through which the conduct of an election is judged. It is these factors that we now turn to.

Independence

The independence of an EMB is central to its operations as the absence or even perceived absence of its independence does not defeat the notion of an independent electoral commission, but compromises its credibility in the eyes of the contenders and public. Usually, independence refers to independence from the party in power or government. However, this is much broader as it entails financial and administrative independence. This is built around a number of key questions. Who appoints members of the electoral body? Who appoints its secretariat? To whom does it report to? To whom does its secretariat report to? Who controls its budget? Does the electoral body reflect the broader society or it represents certain groups? Is it composed of known sympathisers and supporters of the ruling party or government? If an answer to one of these questions suggests that the EMB is not autonomous from the executive or a certain group, then the public image of the electoral body is at stake, a matter that negatively impacts on the electoral process of the country.

The independence of the EMB, particularly from the executive, in the developing countries including most SADC countries is a serious political issue that has been a subject of a number of workshops and conferences in the SADC and beyond. The latest workshop held to discuss this issue was in Windhoek, Namibia in March 2006. The aim of the workshop was to examine ways of strengthening the independence of electoral management bodies in the SADC.

Holding free and fair elections is not only necessary in a democracy, but for this to be realised there is need for an independent and neutral electoral authority (Dundas, 1997; Elklit and Svensson, 1997; Lopez-Pintor, 2000; Sebudubudu and Osei-Hwedie, 2005; Osei-Hwedie and Sebudubudu, 2005; Rukambe, 2006). Lopez-Pintor (2000) categorically noted that "elections should be organised and administered by independent, impartial and trained officials, within a national election commission or other competent institution. Election administrators should be free from interference by government or parties should be provided with sufficient funds to allow them to fulfil their responsibilities" (Goodwin-Gil, 1998, quoted in Lopez-Pintor, 2000:109). This is the case because "independence is beginning to be understood not only as desirable in itself but also as a means of ensuring electoral management that is impartial, accountable and transparent – and perceived to be so" (Ellis, 2005:106). In fact, not only should the appointment of the electoral commission instil trust to both the voters and political parties, but also utmost "care should be taken to ensure that the electoral body does not appear to become subservient to, or under the control of, the executive which is providing it with its funds and which could make pliability a prerequisite for adequate funding" (Dundas 1997:210). This is pertinent in order to allow the election commission to deliver an election that is acceptable to all.

Although the autonomy of an election commission is highly appreciated, however, "EMB independence ... [remains] one of the most hotly debated issues in election administration, yet there is still no clear view on what EMB independence really means. Partially this is because the argument embraces two different concepts: that of 'structural' independence from the government and that of the 'behavioural independence' expected of all models of EMBs, in that they do not bend to governmental, political or other partisan influences on their decisions" (Rukambe, 2006:13–14).

In the SADC region, the independence of EMBs is also an issue of serious concern as EMBs function within some limited independence (EISA/ECF, 2004). This is partly because the executive, particularly the president, plays a role in the appointment of members of the EMB. This raises more questions than answers as the president is also an interested party in election matters. This explains why "the way EMB members and staff are appointed may or may not enhance the EMB independence" (Rukambe, 2006:15). Even imagined lack of independence is a matter that should be taken seriously as it has serious implications for the whole electoral process. It may be used as a reason for not participating in elections or to cast doubts on the integrity of the electoral process. This is supported by Elklit and Reynolds (2002:90) who pointed out that "a perceived lack of independence, often times raised by losing electoral contestants in need of a scapegoat, is sometimes so serious that it taints the legitimacy of the entire electoral process. It should be noted that a government cannot bestow legitimacy on itself. Moreover, a government with questionable legitimacy may find it difficult to govern the country as compared to a government that enjoys wide legitimacy.

The independence of an EMB is of paramount importance as it has a bearing on the public trust of the EMB. Public perception can either accept or reject an electoral body that the country has opted for, and this can be costly to the country concerned. Where the image towards an EMB is negative, then it affects the way electoral outcomes are perceived. Lopez-Pintor (2000:109) observed that the issue of an electoral authority in the mind of the public or public perception of EMBs is yet to be factored into opinion polls of most of the established democracies possibly because such EMBs are widely accepted. However, the subject of public perception of EMBs in emerging democracies has just been newly subjected to opinion polls. In Australia, such polls have been conducted on a frequent basis by the Australian Electoral Commission. Therefore, opinion polls are a useful instrument which can be used to gather data on how the public perceives an electoral authority. For instance, "in India, a nationwide opinion survey conducted in July 1996, after the general elections, by the Centre for the Study of Developing Societies, revealed that the electoral commission was the most highly regarded of the nine political and state institutions listed" with it scoring some 62 per cent when respondents were "asked which institution inspired a good deal of trust". Within the SADC region, a survey by Afrobarometer suggests that public trust on electoral commissions is not as high as one would expect. In Botswana, the electoral commission was trusted by 54%; Zimbabwe, 26%; Zambia, 45%; Malawi, 49%; Lesotho, 32% and Namibia, 66%. The survey results are telling about the nature of EMBs in these countries (Mattes, Bratton, Davids and Africa, 2000). Thus, public perception on the appointment of the EMB, the way it functions and how it accounts may compromise its autonomy. It is therefore fundamental that the independence of the EMB is entrenched in the constitution in terms of the way members and its secretariat is appointed and accountable. Ideally, an autonomous EMB should be accountable to parliament. However, this creates a problem where there is one party dominant in parliament, which is the case in most African countries.

Impartiality

Linked and related to the issue of independence, is that an EMB should be impartial. That is, it should not take sides when executing its mandate nor should it be seen to be aligned to any of the contesting parties as this would jeopardise its standing in eyes of the voters and political parties. Impartiality demands that the electoral commission is fair and treats all the candidates on an equal footing. This is important because as Dundas (1997:208), a leading authority in

issues of elections and management, stated:

...an electoral body, however, styled, is responsible for more than staging of a poll on election day; it is the custodian of the integrity and legitimacy of a key phase in the democratic process. It must therefore act with impartiality and a maximum transparency, consulting in a meaningful way with interested parties, before decisions are taken on important matters and being prepared to give reasons for such decisions.

According to Macharia (1995:2)

...an impartial election commission is one that does not care who wins or loses the elections that it is managing. Its interest is in creating a fair and level playing field on which candidates or parties will compete, in giving all voters sufficient information so that they can cast their vote in a reasonably informed manner, and in adding up votes and declaring winners without prejudice.

Moreover, an impartial election management body does not (openly) show support for any individual, political party or group. Thus, as a way of showing its dedication to the principles of fairness and impartiality in carrying out its functions, an electoral body should carefully select its members and allow political parties to object to any person who is felt to be inappropriate to carry out the functions of an election officer (Dundas, 1994). Macharia (1995) identified a number of ways impartiality or even appearance of can be realised. First, this entails appointing members who are respected, reliable and are not aligned to any party. Second, an impartial electoral body is guaranteed allowing all the major political groups to be represented in the commission. In this way, such an election commission will not only win the trust of political parties and voters, thus making it easier for it to carry out its mandate. It will also ensure the integrity and legitimacy of the electoral process and the political system as a whole; important requirements in democratic governance. In this sense, "given the centrality and importance of elections to democratic governance, the impartial and professional management and administration of the electoral process is as important as the outcome of the electoral event itself" (Chirwa, 2005:44). However, the impartiality of election management bodies in most of the developing countries including most of the SADC countries is suspect as they are largely perceived to be aligned to ruling parties much to the chagrin of opposition parties.

Transparency

Also central to the operations of the EMB is the degree of transparency in terms of the way it conducts its business. An EMB should not only conduct its business in the open but should also be perceived as such. This can be realised if the EMB keeps all the stakeholders informed of all the major decisions taken and allowing them access to the electoral body. Thus, as Dundas (1994:36) noted "transparency constitutes an important part of the concept of the 'level playing field' ... It requires that the management team of the election deals openly and on equal terms with each of the political parties. Equal opportunity must be given to each political party to participate in or observe the preparatory processes for an election". Lopez-Pintor (2000:101) makes a related point.

Dundas argued that election administration "requires that the election authority interact on a daily, productive and open basis with groupings within society, particularly with political parties and other non-governmental organizations". This is important as anything to the contrary may raise questions and suspicions of a cover up on its part which may negatively impact on its legitimacy and the whole electoral process. It is in this sense that Elklit and Reynolds (2002:90)

observed that “the level of transparency in the work of the EMB is another important, but often overlooked, factor’. And, “when parties and voters are given some insights into the basis of decision-making, they tend to accept EMB decisions more willingly”. However, although transparency is important, it is particularly so in countries coming out of dictatorial/military regimes or rule (Macharia, 1995; Sebudubudu, 2005). This is the case because elections are a sensitive matter as they are about power and as “high pressure events” (Lopez-Pintor, 2000:100), mistakes are possible.

For an electoral authority to thrive, it has to be credible in the eyes of the contesting parties, and that trustworthiness comes from the refusal to take sides and the impartial, transparent and fair-minded nature of the EMB. Transparency in the electoral process is of critical importance in ensuring public trust in the election system and recognition of the election outcome (Dundas, 1994; Sebudubudu, 2005). Not only does transparency build voters’ confidence in the integrity of the electoral process, but also encourages participation in the process. The higher the trust in the EMB, the higher public participation. It has to be made categorically clear that:

Transparency is not concerned only with political parties. It has a much wider role, which is to enable the public at large to be kept informed on a timely basis about developments regarding electoral matters and to have confidence that the administration of the electoral process is in capable and impartial hands. By letting the public become aware of the work of the electoral commission and the manner in which elections are organised, the public perception of the electoral process is likely to be positively enhanced. This will in turn feed into and strengthen the integrity of the process (Dundas, 1994:36).

Moreover, an EMB should not only conduct its mandate in the open but it should be subjected to public scrutiny (Macharia, 1995; Rukambe, 2006), as a public institution. “No public institution is free of accountability and good governance. Even when the law is silent on the requirement for EMB performance accountability, it is incumbent on the EMB to exercise accountability” (Rukambe, 2006:22). This will help in fostering public trust.

Security of Tenure

The other key feature that ensures the operational efficiency of the EMB is stability/security of tenure for its members and the secretariat. Their stay in office and progression should not be dependent on the government or the party in power. In order to promote/guarantee security of tenure and in turn stability in the EMB, “the electoral body and its members should be subject only to the Constitution and the law of the land; they should be removable only for cause; and, ideally, they should not be persons whose further career advancement may be dependent on their performance on the electoral body” (Dundas, 1997:209).

Rukambe (2006:16) makes the same point. He stated that “EMB members’ security of tenure and immunity from any unwarranted harassment and removal from office by either the executive or any other authority is another important step to promote EMB independence. Such harassment may at best be salary and benefits cuts, or changes in their conditions of service, and at worst be dismissal from office or prosecution for no valid reason”. Therefore, their appointment, progression and removal should be subject to the constitution. This will help the EMB to earn trust amongst the voters and political parties. Stability of tenure is also central towards building integrity and confidence in the electoral process. Moreover, security of tenure will not only promote independence but impartiality. Having identified and discussed the key elements of an effective electoral administration, the following section examines cases of electoral management bodies in three SADC countries, namely three of them, namely Botswana, Namibia and South Africa.

Botswana

Since its first elections in 1965, Botswana has functioned as a multiparty democracy. So far, nine regular elections have been held with the most recent in 2004. All the elections were won by the ruling Botswana Democratic Party (BDP). However, the fairness of elections in Botswana has been a subject of debate, with part of the criticism directed at the electoral authority. Elections in Botswana were previously run by the Supervisor of Elections. The Supervisor of Elections was criticised mainly by the opposition for lack of impartiality and independence as he/she was appointed and accountable to the President of the country. In an attempt to address opposition concerns and in line with international trends, Botswana opted for an Independent Electoral Commission (IEC) structure, which was formed in 1998 following the Constitutional (Amendment) Act of 1997. The Constitutional amendment was preceded by a national referendum.

Appointment of the Botswana Electoral Commission

The IEC is appointed in terms of Section 65A of the Constitution. The Commission is made up of seven members: a Chairman, who is a High Court judge and a legal practitioner, both of whom are appointed by the Judicial Service Commission (JSC); and five other members, who are required to be fit, impartial and proper, are appointed by the JSC from a list of names recommended by the All-Party Conference in terms of Section 65A (1) of the Constitution of Botswana. The All-Party Conference is a loose and unique structure in Botswana's democratic process that brings all registered political parties together to promote inter-party dialogue and plays a part in the appointment of the IEC, that of recommending the names of persons to be appointed as members. The last All-Party Conference was held in July 2004, to propose names of persons to be appointed as election commissioners. This meeting was riddled with controversy as the main opposition parties boycotted it. However, Section 65A(2) gives the JSC the power to appoint election commissioners where the All-Party Conference fails to reach an agreement on all or any number of persons up to dissolution of Parliament. Election Commissioners hold office for two successive lives of Parliament. The functions of the Commission in terms of Section 65A (12) entail the conduct and supervision of elections, conduct of referendums, giving instructions and directions to the Secretary of the Commission, ensuring that elections are conducted efficiently, properly, freely and fairly, and performing other functions as may be prescribed by an Act of parliament. Furthermore, the Commission is required in terms of section 65A to submit a report on the exercise of its functions to the minister who in turn shall present it before the National Assembly.

In addition to the Commission, section 66 of the Constitution provides for the Secretary of the Commission. The Secretary is appointed by the President. The Secretary is responsible for the general supervision of the registration of voters and the conduct of elections. In line with section 66 (7) of the Constitution, the Secretary shall vacate office on attaining the age of 65 years or such other age as may be prescribed by an Act of Parliament. Moreover, the Secretary in terms of section 66 (8) may be removed from office only for inability to perform the functions of his office or for misbehaviour. However, where the President considers removing the Secretary from office, then he shall in terms of section 66 (9) (a) appoint a tribunal which shall consist of a Chairman and not less than two members who hold or have held high judicial office. Following an investigation by the tribunal, it will submit a report to the President and advise him or her whether the Secretary ought to be removed from office for inability to perform the functions of his office or for misbehaviour. In this way, the security of tenure for the Secretary is protected by the Constitution (Republic of Botswana, 1997).

Autonomy of the Electoral Commission in Botswana

As indicated above, the independence and credibility of an electoral authority is central to its operations. In Botswana, most features of an election administration that promote the legitimacy of government have been present in all elections held so far without major omissions. Moreover, the IEC declares that it is independent and enjoys legitimacy (Sebudubudu and Osei-Hwedie, 2005). Tsie (2003:147) asserted that "there is no interference whatsoever by the government in the operations of the IEC, even though the state finances the Commission".

Despite these declarations, the autonomy of the IEC remains a political issue. The institutional arrangement of the IEC does not make it independent. Even perception suggests that the IEC is still not truly independent from the executive. This in one way or the other casts doubts on its independence in discharging its duties. There are a number of factors which give rise to this perception. First, the IEC does not issue writs of elections. The writ of elections for national assembly elections is issued by the President while those for local elections are by the Minister of Local Government. This is the case yet the IEC is responsible for the conduct and supervision of elections. The issuing of the writ of elections has become an issue of public debate as the President and the Minister of Local Government are interested parties.

The second factor that gives rise to this negative perception is the appointment of the IEC Secretary by the President. Although the tenure of security for the Secretary is protected by the Constitution, the appointment of the Secretary is a serious political issue especially to opposition parties. Ideally, the IEC Secretary should be appointed by the Commission and made directly accountable to it. Third, the IEC is accountable to Parliament through the Minister responsible for election matters. It should be linked directly to Parliament in terms of the way it accounts. Fourth, the Chief Justice administers nominations for the office of President. This is the case yet the IEC is responsible for the conduct and supervision of elections. Fifth, the IEC does not have adequate personnel to run an election. Instead, it relies on civil servants, especially District Commissioners. Their involvement in the running of elections has been a bone of contention particularly to opposition parties because these officers are not accountable to the IEC. All these cast doubt on the independence and impartiality of the IEC.

It is in this context that the independence and impartiality of the IEC is being questioned especially by the opposition parties. It is in this sense that opposition party manifestoes propose electoral reforms to make the IEC more independent. The foregoing discussion does not only cast doubt on the independence of the IEC but also on the quality of Botswana's democracy. Even so, the IEC maintains that it is independent as it does not report to anyone nor is it forced to take any decision.⁴

In the past, opposition parties complained of irregularities in the conduct of elections. However, apart from the Tshiamo Primary School polling station ballot box incident – when a sealed ballot box was found by elections staff – which to some extent gave credence to opposition complaints of cheating, no serious or widespread irregularities have been reported so far. Even observer groups have declared elections in Botswana as free and peaceful. Despite the foregoing concerns on the independence of the IEC, "the legitimacy of Botswana's electoral process is perceived to be high both domestically and externally" (Elklit and Reynolds, 2002:104).

Namibia

Since its independence in 1990, Namibia has functioned as a dominant party system with some

observable levels of pluralism. Since the independence elections in 1989, four multi party elections have been held. All were won by the ruling South West Africa Peoples Organization (SWAPO) party. In Namibia, elections are administered by the Electoral Commission of Namibia. And as is the case in emerging democracies, Namibia adopted an independent electoral commission structure.

Establishment and Appointment of the Namibian Electoral Commission

The Electoral Commission of Namibia is established by an Act of Parliament, the Electoral Act of 1992, which was amended in 1998 to strengthen the independence of the Commission from the executive arm of government. The Electoral Act provides for the appointment of five commissioners, one of which shall serve as the chairperson. The appointment process as spelt out by section 3 of the Electoral Amendment Act of 1998 entails the following: first, a Standing Committee of Parliament decides on the criteria of selection and qualifications of prospective commissioners. Second, an advertisement calling for applications is placed in more than one daily newspaper and the Government Gazette. Third, a selection and interviewing committee – consisting of a judge appointed by the Chief Justice, a lawyer appointed by the Law Society and an Ombudsman's nominee – is constituted to identify applicants, subject them to public interviews, and then propose eight names to the President who shall in turn appoint five commissioners from the shortlist for a five year term subject to the approval of the national assembly. Commissioners may be reappointed for another five year term at the end of their tenure in accordance with section 6 of the Electoral Act (Kaapana, 2004; Balule, 2006; Electoral Act, 1992; Electoral Amendment Act, 1998; www.eisa.org.za/wep/namec.htm). The Electoral Commission of Namibia is accountable to the National Assembly and the President. With the approval of the National Assembly, the President may remove a commissioner from office for misconduct and incapacity (Electoral Act, 1992).

Moreover, the Electoral Amendment Act of 1998 also provides for the appointment of the Director of Elections who is the Chief Executive Officer and Secretary of the Commission. The appointment of the Director starts with a public advertisement calling for applications. Second, the Secretary of the National Assembly calls a meeting of the Commission to consider the applicants and identify five candidates to be interviewed by the Commission. Following this, the commission proposes not less than two candidates to the President for possible appointment as the Director of Elections. The Director reports directly to the Commission. In addition to the Director, the Commission has permanent administrative staffs, which is appointed by the Commission itself in accordance with public service laws. The Commission also determines conditions of service its staff. The main functions of the Commission are registration of voters, political parties and the conduct of elections (Balule, 2006).

Autonomy of the Namibian Electoral Commission

With the Electoral Amendment Act of 1998, the independence/autonomy of the Electoral Commission of Namibia appears to have been strengthened than it was the case before (1992–1997) when the appointment of the Commission was mainly the prerogative of the executive state President (www.eisa.org.za/wep/namec.htm). The Electoral Amendment Act has also linked the Commission to the National Assembly with regard to budgetary and administrative matters than it was the case before when it was linked to National Assembly through the Office of the Prime Minister. This structure was a public issue particularly to opposition parties. The

Electoral Act as amended in 1998 enhanced the independence of the Commission in a number of ways. First, although the President appoints commissioners with the approval of the National Assembly, their appointment is not only transparent but it is also a public process. Secondly commissioners enjoy security of tenure. Third, the Commission makes a recommendation to the President on the appointment of the Director of Elections who is the secretary of the Commission. In turn, the Director reports to the Commission. Fourth, the Commission appoints its administrative staff and determines their condition of service. However, the involvement of the President in the appointment of the Commissioners and the Director should be looked into so that an independent body makes such a decision. His or her involvement may give rise to negative perceptions about the status of the commission and the Director.

South Africa

South Africa emerged from a history of decades of white domination and held its first ever non-racial multi-party elections in 1994. Since 1994, South Africa is undergoing massive social, political and economic transformation. There is a need to rationalise the government, from one which was authoritarian and exclusive, to one which is democratic, transparent, accountable and inclusive. To this extent, it has shown its commitment to multiparty democracy by establishing democratic institutions which are protected by the country's constitution. These institutions include, amongst others, the Electoral Commission of South Africa. Since its first non-racial multiparty elections, three democratic elections have been held so far with the most recent in 2004. All the elections have been won by the African National Congress (ANC), a party which the majority of black people identify with largely because of its role in the liberation struggle. The 2004 national elections marked not only the third successive multiparty elections since 1994 but also ten years of democracy.

Appointment of the Electoral Commission in South Africa

The Electoral Commission is created in terms of section 81 of the Constitution of South Africa Act 108 of 1996 as one of the state institutions strengthening constitutional democracy and promoting democratic electoral processes. It is an independent and impartial institution that is subject only to the constitution and the law. The Electoral Commission is accountable to the National Assembly. In terms of section 6 of the Electoral Commission Act 51 of 1996, the Commission shall consist of five members, one of whom shall be a judge, appointed by the President of the country.

To qualify for appointment as a member of the Commission, one has to be a South African citizen who does not have a high party profile at the time of appointment, be recommended by the National Assembly by a resolution adopted by a majority of the members, and be nominated by a committee of the National Assembly that is proportionally composed of members of all parties represented. Unlike in Botswana where members of the Commission are appointed by the JSC from a list of names recommended by the All-Party Conference, in South Africa members of the Electoral Commission are appointed from a list of no fewer than eight recommended candidates by a panel consisting of the President of the Constitutional Court who serves as the Chairperson of the panel, the Public Protector, a representative of the Commission on Gender Equality and another from the Human Rights Commission.

A member of the Commission shall serve for a seven year term with a possibility of an extension by the President following a recommendation by the National Assembly. Nevertheless, a

commissioner may be removed from office by the President on the grounds of misconduct, incapacity or incompetence, following a finding to that effect by a Committee of the National Assembly upon recommendation of the Electoral Court, and the adoption by a majority of the members of the National Assembly of a resolution calling for the concerned commissioner's removal in line with Section 7 of the Electoral Commission Act.

In addition to the Commission, there is the administration and staff of the Commission. Once the Commission has been established, it shall appoint the Chief Electoral Officer – who is the head of the administration of the Commission – in terms of section 12 of the Electoral Commission Act. In turn, the Chief Electoral Officer shall in consultation with the Commission appoint staff of the Commission. Furthermore, the Commission determines conditions of service, remuneration, allowances, subsidies and other benefits for its staff. The functions of the Commission entail managing any election, ensuring free and fair elections, promoting conditions for free and fair elections, maintaining a voters' roll and a register of parties, establish and maintain liaison with parties, research on electoral matters, develop electoral expertise, review electoral legislation, conduct voter education and adjudicate electoral disputes amongst others (Republic of South Africa 1996).

The Autonomy of South Africa's Electoral Commission

The independence of the Electoral Commission of South Africa is not a political issue as it is protected by the Constitution and the Electoral Commission Act. In fact, it is one of the few EMBs in the SADC region which is not only institutionally independent and impartial but it is also perceived as such. There are a number of factors which give rise to this. First, the appointment process is open and transparent. The public and the media are present during the screening process. Members of the commission are also approved by a Committee of the National Assembly proportionally composed of members of all parties represented in the Assembly. Second, the Commission reports directly to the National Assembly and no person or organ of the state may interfere with its work. Third, the Commissioners enjoy security of tenure. Fourth, it appoints its staff and determines their conditions of service. To this extent, the Electoral Commission of South Africa is truly independent, effective and efficient, and all the interested parties have so far accepted the outcome of the general elections.

Having discussed the structure and functioning of EMBs in the three country cases, how do they measure up against the ideal characteristics of an effective EMB? With regard to Botswana, the independence and impartiality of its electoral authority is an issue of concern, especially amongst the opposition parties. In fact, its organizational arrangement and functioning does not make it independent. A number of factors give credence to this. First, the Secretary of the Commission is appointed by the President. Second, the writ of elections is issued by the President and the Minister of Local Government for the national assembly and local government elections, respectively. Third, the Commission is accountable to parliament through the Minister. Fourth, the Commission does not have sufficient staff and relies on civil servants to run elections. Fifth, the Chief Justice administers nominations for the office of President. In Namibia, the involvement of the President in the appointment of Commissioners and the Director of Elections does not make the electoral authority so independent and impartial. In this way, Botswana and Namibia do not measure up to the ideal characteristics of having an effective electoral body. In South Africa, the independence of the electoral body is not a public issue; hence it measures up against the ideal criteria of an effective EMB. Despite their limitations, we argue that EMBs in Botswana and Namibia just like in South Africa generally

promote democratic development as they have run successful elections which are credible.

Conclusion

This paper considered EMBs in the SADC region, particularly in Botswana, Namibia and South Africa. It examined their organizational structure and mode of operation, with the aim of assessing the extent to which they deliver fair, credible and legitimate elections. The paper has also identified factors/challenges which impact on the integrity of EMBs in SADC: safeguarding their independence/autonomy, shortage of resources, public image and security of tenure because the executive plays a key part in the appointment of EMBs. Thus, SADC should introduce a common EMB structure that enjoys a high degree of latitude and security of tenure, unlike the current arrangement where we find three kinds of EMBs: government institution, semi-autonomous and autonomous. This would help SADC to seriously move towards democratic advancement. Lastly, by creating EMBs which are autonomous and enjoy high levels of public trust, SADC would go a long way towards attracting donors and investors to the region. Moreover, by embracing the principles and guidelines governing democratic elections, SADC has committed itself to building democratic institutions and holding democratic elections. In this way, SADC should go beyond the adoption of declarations to implementation. It is only through the full implementation of such declarations that impartial electoral administrations could be built and realised.

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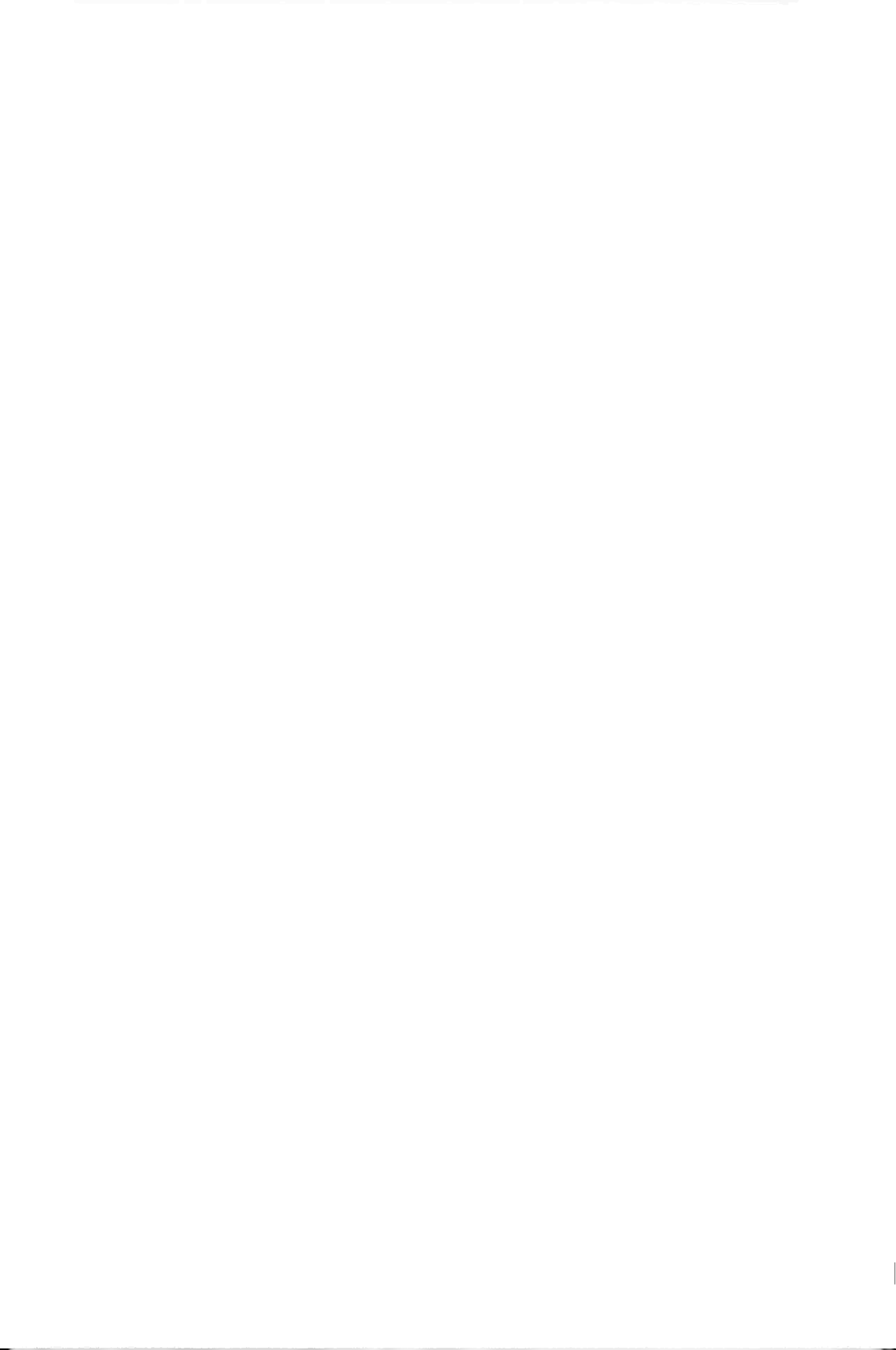
Notes

¹ Interview, 17 July 2006

² Interviews, with Bertha Chiroro, 19 July 2006; Michael Hendrickse, 20 July 2006

³ Interview, 17 July 2006

⁴ Interview, 5 October 2006



REGIONAL ELECTION BODIES AND SOUTHERN AFRICAN INTEGRATION

ZIBANI MAUNDENI

Introduction

This paper will show that the existence of the SADC guidelines on elections and their limited implementation has compelled different associations to develop, and to define broader values that have the potential to deepen democracy. The article undertakes a general review of how SADC has progressed or regressed in the area of regional political integration in terms of improving regional elections, regional legislation, the participation of civil society in SADC processes, and relations with non-SADC structures.

SADC celebrates a new era of peace and stability that dawned in the region with the ceasefire agreement signed in Angola in April 2001 and a number of power-sharing and ceasefire agreements signed between the Government of Democratic Republic of Congo (DRC) and other parties to the conflict (Ramsamy, 2002). The trend towards liberalization of the economies of the region is an added advantage (Lourenco, 2002: 5), and continental politics brings forth other advantages that complement SADC, since the consolidation of democracy is purportedly a primary concern for the African Union (AU) and the New Partnership for Africa's Development (NEPAD). NEPAD regards democracy, human rights and governance as prerequisites for socio-economic development (Melber, 2006: 5). Thus, the conditions are ripe for SADC to further reform itself and to achieve much better results in pursuit of regional integration and development.

SADC is in the process of carrying out more political reforms. It aims to convert the Electoral Commissioners Forum (ECF) into a SADC advisory electoral council. But there is resistance from ECF which feels threatened by the intended and involuntary conversion. This article will consider the positive gains made by ECF and assess its fears regarding SADC's intention of transforming it into an advisory electoral council. While SADC is satisfied with the participation of civil society in regional decision making and calls this political inclusivity (Ramsamy, 2002: 2-3), civil society representatives feel that its important work is marginalised and ignored. This paper will explore the contradictory relations between SADC and civil society to come up with a better understanding of their interaction. The coverage of the Electoral Institute of Southern Africa (EISA) into this chapter seeks to showcase the participation of civil society and to gauge whether or not SADC takes it seriously.

The paper will also closely look at the missing legislative element in SADC processes and how it could be incorporated. It will show that SADC has so far said and done little about transforming the willing Parliamentary Forum into a SADC parliament.

SADC and Regional Political Integration

SADC signed a Protocol on Politics, Defence and Security Cooperation which informed the 2001 re-organization of its structures into directorates, including the Organ on Politics, Defence and Security Cooperation (the 'Organ'). The Strategic Indicative Plan for the Organ on Politics,

Defence and Security (SIPO) recognises in its fourth objective the need 'to promote the development of democratic institutions and practices by state parties and encourage the observance of universal human rights' (SADC, 2004: 20). To achieve this objective, the following strategies/activities are listed.

1. Establish common electoral standards in the region, including a code of electoral conduct;
2. Promote the principles of democracy and good governance;
3. Encourage political parties to accept the outcome of elections held in accordance with both the African Union and the SADC electoral standards;
4. Establish a SADC electoral commission and define its functions;
5. Establish a regional commission for the promotion of and respect for human rights; and strengthen member states judicial systems.

Thus, SADC considers common electoral standards, principles of democracy and good governance, as well as a regional electoral commission, a regional human rights commission, and strengthened judicial systems, as corner-stones in political integration. SADC believes these goals are achievable due to positive political changes in the region. Competing with, rather than complementing, developments in civil society, SADC produced a document known as 'Principles and Guidelines Governing Democratic Elections' which governments refer to. This is a short and less detailed document in comparison to the ones developed by the SADC Parliamentary Forum (SADC-PF) and by EISA together with the ECF. The SADC document expects member governments to:

1. take measures to ensure the scrupulous implementation of these democratic election principles;
2. establish impartial, all-inclusive, competent and accountable national election bodies staffed by qualified personnel;
3. safeguard human and civil liberties of all citizens, including the freedom of movement, assembly, association, expression, campaigning and access to the media on the part of all stakeholders, during electoral processes;
4. provide adequate resources for carrying out democratic elections;
5. ensure that adequate security is provided to all parties participating in elections;
6. ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and other observers/monitors.

Each SADC government is expected to meet these minimum optional requirements. There is no doubt that SADC governments have taken some steps to meet the guidelines. For instance, the Zimbabwe Electoral Commission Act was promulgated in February 2005 following electoral reforms undertaken in the country in conformity with the SADC Principles and Guidelines on Elections.¹

Through internal review mechanisms (to be elaborated shortly) the Organ on Politics, Defence and Security is assisting the Zimbabwean government to comply with the guidelines.² What is

odd is the satisfaction that SADC has with Zimbabwe's electoral reforms and the conduct of the 2005 election. SADC, through the Organ, is satisfied that the Zimbabwean 2005 parliamentary election did not call for its intervention. Neither did its election observer mission issue a report on the Zimbabwean election as it was thought to be unnecessary.³ Worse still, SADC documents do not clearly state what 'scrupulous' implementation of its principles means. Neither does it spell out how 'qualified personnel' to man an 'impartial, all inclusive and accountable national election body' are to be picked. SADC does not clarify whether or not picking such qualified personnel from supporters of the ruling party only compromises the impartiality of such bodies.

Angola has postponed the elections to 2007 and SADC through its Organ carried out an assessment and convinced itself that all the stakeholders supported the postponement.⁴ There is agreement between SADC and the Parliamentary Forum that in Angola, 'despite the growing tension, the ruling party and opposition parties are all sincerely striving to promulgate legislation, within the existing constitutional framework, to achieve compliance with the SADC Principles and Guidelines Governing Democratic Elections (Mateus, 2004:22). However, SADC was also assisting Angola to hold credible and legitimate elections. Teams of experts have been dispatched to Angola to help plan for the elections.⁵

SADC has been a primary player in the DRC dialogue process, in preparing for the 2006 elections and ensuring security and peace. SADC ensured that the DRC dialogue complied with its principles and guidelines, hence confirmation by independent observers that:

Participants in the Inter-Congolese dialogue in Sun City (South Africa) represented all relevant political forces in the DRC – rebel groups, unarmed opposition, government delegates and representatives of civil society. They all agreed to establish a government of national unity to rule the country during the transitional period with three main objectives. These are to end the war, to reunify the country and to organise free and fair elections (Baudouin, 2004:44).

It should be noted that SADC was compelled to spearhead efforts to assist the DRC to prepare for the 2006 general elections.⁶ It has an obligation to assist all member countries. In the current case, SADC sent a preliminary team to assess how it could be of help to the DRC, then subsequently a technical team to assist with logistics and operations, including police officers and soldiers that would secure the peace and order. SADC also sent an election observer team. As a result, there were more encouraging signs in the DRC. For instance, DRC's the Independent Electoral Commission together with the Media Regulatory Authority set up a media and election network to monitor both public and private media coverage during the elections (Baudouin, 2004:53). In addition, a SADC member country assisted the DRC by printing ballot papers in order to ensure that it was ready for the 2006 elections. Thus, serious attempts were made by SADC, member countries, ECF and EISA to implement the principles and guidelines on elections. Unfortunately, SADC's assistance to member countries is hardly publicised as this is regarded as confidential information.

Strictly speaking, the SADC guidelines are not part of the protocol, which leaves governments with discretion in interpreting and applying these provisions. The fact that these are mere guidelines means that currently there is no SADC structure sufficiently authorised to ensure that these principles and guidelines are fully implemented. However, the Organ on Politics, Defence and Security is convinced that the principles and guidelines have been and are being fully implemented.⁷ The secretariat of the organ notes that its internal mechanisms known as 'Review of The Implementation of SADC Decisions', are sufficient to ensure that SADC guide-

lines are implemented. This mechanism purportedly ensures that member countries report on different matters facing them, make undertakings to address them and are required to report on progress. The secretariat of the Organ says such an internal review process ensures that member states take SADC decisions seriously and implement them.⁸

Civil society organizations criticise some of the SADC governments for not practising good governance in the electoral process, for autocratic tendencies in their approach towards civil society and opposition political parties, and mismanaging the economies of their countries. For instance, some researchers observe that 'In Zimbabwe, the Registrar-General has often been accused of blatant bias in favour of the ruling party and the method of appointing the electoral commission does not guarantee the Registrar-General's impartiality and inclusiveness' (Zimbabwe Election Support Network, 2005:51).

It should be acknowledged that NGOs and SADC structures approach matters differently: the former criticises openly and the latter uses internal review mechanisms to encourage a member state to address matters facing it. However, the more vocal NGOs gain credibility and international recognition at the expense of the silent SADC which works confidentially through unpublicised internal reviews. Thus, SADC allows itself to be eclipsed and displaced by non-governmental organizations whose stinging criticism on authoritarianism discredits SADC. What this means is that SADC needs to make itself more visible, either by publicising the achievements of its internal review mechanism or by strengthening its public relations office and make it more visible.

Observations on the Nature of Democratization in SADC Countries

It would appear that state-sponsored (as opposed to civil society-sponsored) democratization in Africa has been too narrow and slow to significantly benefit ordinary citizens. Some scholars observe that 'most post-1990 elections in Africa appear to have been organised merely to give semblance of democratic legitimacy to satisfy internal and external public opinion and reap the fruits of electoral legitimacy without actually running the risks of democratic uncertainty' (Fombad, 2006:11). He also observes that what is missing and allows for cosmetic reforms and even for reversal in the democratization process in SADC is the absence of binding legal codes that could compel member states to reform their administrative and electoral practices. For instance, the SADC Blantyre Declaration on Gender and Development (1997) calling on all political parties contesting an election to commit themselves to a minimum of 30 percent women party candidates by the year 2005, has been fully implemented by some states and completely ignored by others. Fombad represents the common view that the SADC principles and guidelines should be made binding. This could be done either by incorporating them into the Protocol on Politics, Defence and Security or creating more space for the SADC member country legislatures and civil society to influence regional policy.

Other researchers such as Claude Ake talk of the democratization of disempowerment of the masses, which is manifested through SADC governments' protection of each other against criticism. It is true that SADC defends member states but never criticise them publicly. This is because members are required to present reports on matters facing them, highlight their constraints and make undertakings to address them. On the basis of all these, SADC makes a decision that it defends publicly when challenged by media reports. SADC is obliged to continue defending the member state until the next meeting which allows for a review of the implementa-

tion of its decisions where it makes another decision on the matter. They also noted that SADC operates under the principle of reporting positive developments in the concerned countries and keeping quiet about negative ones that it has subjected to 'review of the implementation of SADC decisions'.⁹

Apparently, this is in line with 'respecting the integrity and sovereignty of member states', which amounts to what in official circles as 'silent diplomacy', 'Silent diplomacy' meaning publicly defending the positive image and keeping silent about negatives and handling them through internal reviews, dis-empowers SADC governments as it silences them in the face of autocratic practices within the region. It also tarnishes the image of SADC. However, if SADC silences itself against autocratic practices of some of its members, then it should not allow them to silence national media and NGOs who criticise such practices.

It should be noted that civil society organizations have replaced SADC in the role of criticising undemocratic practices in the region and in calling for more electoral and constitutional reforms. SADC should allow them to do so. For instance, the Zimbabwe Lawyers for Human Rights (2005:29) used the SADC Principles and Guidelines to assess the country's 2005 election, declaring that:

The submissions and conclusions drawn in this report present a picture that Zimbabwe has failed, on most accounts, to ensure a free and fair electoral process in the run-up to the polling date on 31 March 2005. Although some efforts have been made to consider the SADC Principles, most are merely cosmetic. In view of the legislative framework, there is still a long way to go and much work to be done before such aspirations are realised.

It could have carried more weight if such a report had been produced by an official SADC structure, which also served as information to the world that it did not condone undemocratic practices. Unfortunately, such a report would be in violation of the Protocol on Politics, Defence and Security Cooperation, which insists on respecting the integrity and sovereignty of member states. In contrast, SADC plays the role of shielding undemocratic practices of its member countries which are criticised by civil society and international organizations. This places SADC in a position where it publicly contradicts its calls for conformity with its own standardization of electoral practices. Such a contradictory position compels donors to bypass SADC in issues of political governance and to sponsor non-governmental bodies that publicly criticise undemocratic practices.

The Role of the SADC Organ on Politics, Defence and Security Cooperation in Improving Political Governance

Donor agencies used to directly fund national governments to carry out political projects and to improve on their political governance before the restructuring of SADC that created the Organ on Politics, Defence and Security Cooperation in 2001. The SADC Secretariat used to implement what was known as special political projects. 'Before the establishment of the Organ the European Commission, through the [Berlin Initiative, which established a framework for political dialogue between the EU and SADC], provided funding for a number of [special political projects] implemented by the secretariat. This included SADC's work on small arms. Since 2001, direct donor support to SADC has been limited to some funding from UNDP's peace building programme in Africa' (Tjønneland), 2006: 14). Thus, the creation of the Organ on Politics, Defence and Security Cooperation radically changed the relations between many donors and

SADC on political projects. While donors still support infrastructure related projects, they have stopped supporting political governance projects (except for natural disaster projects such as dealing with flooding), and this prevents them from intervening strategically to influence political developments in the region.

Many donor organizations (despite the fact that they place a lot of emphasis on good governance) are not directly funding the SADC Secretariat or the Organ on Politics, Defence and Security that officially deal with electoral governance and democracy issues. 'Many donors are giving high priority to good governance and/or security issues and are also providing significant funding to a range of regional activities in this area. Almost nothing, however, is channelled through the official SADC structures' (Tjønneland, 2006: 14). According to interviews with secretariat of the Organ on Politics, Defence and Security Cooperation, its activities are proudly 100 percent sponsored by member governments and is dependent on the status of their national budgets.

In contrast, non-governmental organizations have been preferred by donor agencies in this area, not because they are better positioned than SADC to pursue deeper democratization, but simply because SADC is portraying itself as a reluctant partner in good political governance. SADC's reluctance to openly pursue more democratization and to criticise undemocratic practices, and the willingness of NGOs to play those roles, has diverted donor funding to the latter. Such donor switching left SADC's political projects less resourced and its political structures incapacitated from pursuing regional integration in terms of improved electoral processes. In contrast, former national NGOs and universities have transformed themselves into regional bodies that favoured deeper democratization. The next section shows how a quasi inter-state organization has played the leading role of democratising elections in the SADC region. It also shows how this organization has become a target of destabilization by SADC which never envisaged that universities and NGOs would move faster to transform themselves into think tanks and implementing agents of these goals.

The Electoral Commissions Forum

A short history of the ECF is in order to contextualise the discussion. In July 1998, electoral commissions within the region formed ECF), without encouragement or support from SADC, and parallel to it. They mandated the ECF to perform the following functions:

- to strengthen cooperation and support among member countries on electoral issues and democracy building;
- to promote conditions conducive to free, fair and transparent elections in SADC;
- to promote democracy as a political system of responsible government through the electoral process; and,
- to encourage active participation of a citizenry which is well informed about the electoral process.

In pursuing these objectives, the ECF has concentrated on: capacity building among electoral commissions in the management of elections; electoral conflict management; developing principles of electoral management, monitoring and observation; and electoral observation missions. 'Since its inception in 1998 the ECF has deployed observation missions comprised of members of different SADC electoral management bodies'.¹⁰ This is an ideal role since election

practitioners from different countries are best positioned to provide practical advice on election management. The ECF agreed to send a technical team to help the DRC electoral commission to prepare for the July 2006 historic election. In the case of election observer missions, the ECF has managed very well and has observed all elections in the region.

The question here is whether the ECF has the right structure and environmental support to realise its objectives. Or whether it should be converted from a semi-autonomous quasi-governmental organization into an inter-governmental agent within SADC? SADC is of the view that ECF should convert itself into an Advisory Electoral Council.¹¹ But the ECF took a decision at its Windhoek meeting in 2006 not to bow to pressure to convert. There is visible tension and mutual suspicion between SADC and the ECF. There are serious negative implications of becoming an agency within SADC, including being absorbed and silenced just like all other SADC agencies, losing its privileged status with donors, and losing attachments with academics in the region. But SADC is applying more pressure on the ECF to transform and deliver itself, without giving adequate assurances against those perceived negative implications.

A further question is whether the impending transformation is likely to disfigure the ECF and make it lose its structure, independence and gains? It should be noted that the ECF is an autonomous body of electoral commissions in SADC countries. That is, each national election commission is a member of the ECF and provide it with personnel for election observer missions. To date, all 14 Commissions in SADC countries are members. It is highly commendable that all electoral commissions of SADC countries are members of the ECF, giving it a broad representation and an eminent position to influence the national election management bodies in the region. According to an interview with its secretariat, ECF is important in that it keeps electoral commissions together all the time. More importantly, ECF does not report to any SADC structure. It is its own master.

An important question is whether the ECF has any formal organizational links with SADC. It should be remembered that the Protocol on Politics, Defence and Security envisaged the formation of a regional electoral body, without specifying that EMBs could initiate that process. What is now worrying is that SADC plans either to establish a parallel structure known as the 'SADC electoral advisory council' or to convert the ECF into the same. This is expected to be sanctioned and included in the protocol, even though it would be an advisory body. It is not yet clearly known how such a structure would operate, but there are strong suspicions that it would directly compete with the ECF for funding and duplicate its programmes. This could lead to one of them becoming redundant. However, the envisaged SADC electoral advisory council is unlikely to be vocal against undemocratic practices as all SADC structures are not. Even though it is expected to have some autonomy from the Organ to enable it to attract donor funding, it is most likely to operate under secrecy through 'review of the implementation of SADC decisions', thus undermining its visibility and credibility in the eyes of donors and the international community.

In the case of the ECF, there are no formal links between it and SADC and the Organ on Politics, Defence and Security. As already noted, the ECF was formed by the different electoral commissions of SADC rather than by the summit of heads of states or by the Organ. It is not a SADC structure (not established under a SADC treaty or protocol) but an independent regional electoral body made up of elections management bodies (EMBs) in the region. The ECF has an executive committee (elected every two years) which meets quarterly to discuss operational matters and gives direction and support to the ECF Secretariat. The Executive Committee (made up of eight commissions) recommends policy issues which are then debated and agreed on

at the Annual General Conference (AGC) where all commissions are represented. The AGC is chaired by the President of the ECF who happens to be a commissioner of one of the EMBs. The AGC is the 'supreme policy-making body, chaired by the president who is the head of the forum; meets at least once a year or at any other time deemed necessary; and considers and approves, where appropriate the recommendations from the executive committee'.

The ECF is not a super-regional body and has no supervisory and policy making powers over the individual EMB members. Firstly, its small secretariat has no capacity to monitor activities and behaviours of the member EMBs. The ECF has a Programme Officer who is manning its small Secretariat, links it with the national EMBs within SADC, initiates projects/activities/programmes and mobilises participation of all member commissions. Secondly, ECF practices internal democracy as it works through Executive Committees or Task Force teams to look into specific issues and recommend to the conference which makes final decisions. More importantly, each national EMB functions according to different legal frameworks and country laws, and these ensure their independence from the ECF. Thus, the ECF has no supervisory powers over its members who follow different national laws, some of which may be promoting undemocratic practices. In contrast, it is not clear what incorporation of ECF into a SADC agency will bring that is new and better. What is likely is that the transformed ECF will be reporting to the Organ on Politics, Defence and Security, to the council of ministers and to the Summit of Heads of States. Adding such layers of bureaucracy is surely likely to subtract from its independence, and adds to the fear of absorption and silencing.

The ECF is currently funded independently from other SADC structures. It should be noted that it does not get any funding from SADC. For the secretariat/office, IEC Botswana houses it as well as provides it with logistical support (transport, office furniture and equipment). However, ECF pays for telephone and fax bills. In addition, ECF is financed through annual subscriptions by the EMBs. Currently each EMB pays a subscription fee of USD7500 per year. The subscription fee is reviewed from time to time by the Executive Committee. However, funding by the different governments to enable their EMBs to subscribe to ECF may be threatened if SADC establishes a parallel agency backed by hostile governments. But such funding is not threatened if ECF transforms itself into a SADC agency. The fact that most of the SADC governments wholly fund their EMBs gives them leverage over the continued existence of ECF, thus threatening its untransformed future.

Currently, member EMBs pay their dues by June/July each year, ensuring that ECF has a formal financial year. However, sometimes payments are delayed by the transfer systems used in various countries. But the impending establishment of the electoral advisory council brings with it a political threat to ECF. Encouragingly, no EMB has been suspended due to non-payment. Only Seychelles withdrew its membership in 2004 because the country was also withdrawing from SADC. It may be crucial in future not to suspend any member due to lack of payment. Alternatively, donor agencies may have to step in to pay membership fees to ensure the sustainability of an untransformed ECF and to reduce its dependence on subscription fees which are primarily dependent on government budgets susceptible to political posturing.

In addition, the ECF's financial autonomy from SADC has enabled it to attract donor funding and to work in partnership with the Friedrich Ebert Foundation, an international promoter of democracy in the SADC region. For instance, an ECF workshop held at Kasane in Botswana in 2005 was primarily funded by the Friedrich Ebert Foundation, covering travel from Gaborone to Kasane through a military aircraft, hotel accommodation and conference facilities. Such financial partnership has enabled the ECF to hold workshops for its members in order to encourage

sustained interaction and the exchange of ideas. Thus, independence from SADC allowed ECF to continue cordial relations with donors. This has proved to be an important institutional arrangement which should not be tampered with. On the whole donor funding gives the ECF financial and structural autonomy from SADC, and this is a positive development.

On the other hand, some donors have interest in funding policy issues and not training workshops, constraining ECF from following its own priorities. The problem with this is that ECF has to abandon some of its immediate goals and focus on those that donors are willing to fund. Thus, ECF's autonomy from SADC places it in the hands of some inflexible donors. Immediate objectives such as training electoral staff to be able to conduct credible elections are often ignored. In this light, SADC should assist ECF to be able to realise its objectives. Such assistance need not be tied to prior transformation. ECF prefers that there should be funding available for a given period for different fields. For instance, there should be funds for election observation, workshops and conferences, training fund and related fields.

Structural independence from SADC gives the ECF autonomous existence outside the control of the seemingly conservative Organ on Politics, Defence and Security, of the council of ministers and the summit of heads of states which consist of leaders from democratic and undemocratic regimes. Such structural independence provides a forum where election commissioners, secretaries of electoral commissions and staff of electoral commissioners meet, network, train through workshops and exchange views. This has enabled ECF to draw on independent academics from different SADC universities to research and present papers at its workshops. It has also allowed ECF to publish its reports and made it visible and heard on policy matters. ECF needs assurances from SADC that the impeding transformation would not disrupt such independent arrangements.

ECF workshop proceedings are published and made available to policy makers, academics, journalists and civil society organizations that use them to assess politics in the countries. ECF shares all its reports and resolutions with SADC and other stakeholders. The ECF/EISA project 'Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO)', adopted in 2003, is a visible addition to conceptualising legitimate, free and fair elections in the region. More importantly, the ECF uses the document as a guide to render technical advice to EMBs in the region, to observe elections and to compile comprehensive reports.

Principles for Election management, Monitoring and Observation in the SADC region is the product of an initiative that originated at a Southern African Electoral Forum Conference held from 11–14 June 2000 in Windhoek, Namibia. The forum drew together more than 100 participants from governments, electoral commissions, political parties, civil society and research institutions and electoral and political experts from the SADC region. These stakeholders exchanged views about the determinants of best electoral practice, especially those issues related to improving election management monitoring and observation, and enhancing the transparency of the electoral process (EISA/ECF, 2003:1)

The production of an electoral handbook was an important achievement by ECF and its partner, EISA. ECF needs assurances that its gains would not be reversed and future gains blocked.

The electoral handbook outlines central values and defines a set of criteria to guide electoral practice and sets out norms and standards for regional elections. It identifies the primary challenge to be 'the need to secure the integrity of the electoral process and the adoption of people-oriented voting procedures and facilities as well as establishing a culture of peace and tolerance' (EISA/ECF, 2003:3–4). These are management values that are intended to provide

new directions in the democratization process. Their documentation serves as a wake up call to SADC to democratise the politics of the region. Here, SADC should allow itself to be advised and to embrace these managerial values in order to improve election management. In addition, SADC should not itself pose a threat to ECF by establishing parallel and competing with it or by compelling ECF to deliver itself into a SADC agency.

The Electoral Institute of Southern Africa/Electoral Commissions Forum (EISA/ECF) electoral handbook also makes recommendations on a number of areas and encourages SADC governments to incorporate them into laws. In the area of constitutional and legal framework it recommends that fundamental freedoms and human rights should be guaranteed; that good governance and values of political stability should be promoted; that gender equality and affirmative action should be explicitly provided; that an independent and impartial electoral management body should be provided for; and that constitutional and legal provisions dealing specifically with electoral issues should be enacted. These are values that could help the different SADC governments to improve their political practices. The PEMMO document has also prompted the Media Institute of Southern Africa (MISA) to assess the electoral laws and practices in the SADC countries, and criticising those that are not fully compliant. SADC would do better to concentrate on reviewing ECF's recommendations and enacting laws to actualise them than to pressurise it to become a SADC agency.

In the area of electoral systems the EISA/ECF electoral handbook suggests that a clear statement on the type of electoral system for the country should be provided; that the electoral system should promote broad representation of diverse political interests and population groups; that it should promote inclusiveness and the political participation of the key actors; that members of parliament should be accountable to the voters; that it should entrench a culture of intra-party democracy that ensures the credibility and legitimacy of the nomination process. These recommendations are relevant in the light of electoral practices in the region. The authors of the MISA book note common political intolerance in Angola, DRC, Malawi, Zambia and Zimbabwe (Baudouin, 2004; Khembo, 2004; Habasonda, 2006). They also note the serious problem of insecurity in the eastern part of the DRC. 'Ethnic clashes have not ended in the Ituri district bordering Uganda. Militias are still bearing arms and are ready to fight despite the presence of UN peacekeepers' (Baoudouin, 2004: 59). This means the DRC government and rebel groups should be assisted to entrench the culture of tolerance and peace. Such observations should prompt SADC to take necessary steps to encourage member governments to improve their political systems rather than applying pressure on ECF to become its agency.

In Zambia, some scholars using the EISA/ECF electoral handbook as a reference point, note that either, elections are boycotted, or the results are vigorously contested (Habasonda, 2006). In addition, 'in Zambia there is political intolerance, harassment of opposition parties, unfair applications of electoral laws and lack of access to the public media. Added to these are the ever-available inducements from the government to opposition members and leaders to defect to the ruling party, a phenomenon now commonly known as the [buying of politicians]' (Habasonda, 2006:2). Issues of this nature are what the electoral handbook seeks to address. Encouragingly, the country is grappling with electoral reforms, such as finding ways to amend article 34 of the constitution, seeking to abolish the use of simple majority in the election of the president, either to a majoritarian 50 percent plus one formula with provision of a re-run for the top two candidates, or a majoritarian system in which the presidential candidate who scores 50 percent can invite other parties to form a coalition government. Thus, SADC should be helping Zambia to reform its electoral system, rather than be piling pressure on ECF to become a SADC agency.

In the area of election management bodies, the EISA/ECF electoral handbook notes that 'some of the constraints to their operation include limited independence, unclear mandates and inadequate resources' (EISA/ECF, 2003: 11). For instance, 'the Malawi Communications Regulatory Authority, entrusted with the responsibility to oversee the electronic media in the country, also shifts the responsibility to the Malawi Electoral Commission' (Khembo, 2004:70). The electoral handbook recommends that the composition of the EMB should be representative of the society, with at least 30% women; that the budget of the EMB should be decided by a vote in the national assembly; that the EMB should be accountable to parliament rather than to a ministry; that a specified percentage of the commissioners should be full time; and that one of the commissioners should have held high judiciary office. ECF further makes recommendations on technical issues in the pre-election period, election time and post election period. Its recommendations are based on values that describe best electoral practice. Many of these recommendations have not been incorporated into SADC protocols. The interest of SADC should be actualising such recommendations rather than pressuring ECF to become its agency.

What prevails in practice concerning the recruitment of electoral commissioners and administrators vary from country to country, and ECF is worried about this. The common standards laid down in the SADC principles and guidelines, and expanded and elaborated in PEMMO, have not yet been met. For instance, in Botswana, the secretary of the EMB is disappointingly appointed by the president alone. In contrast, in Lesotho the hereditary King (the council of state provides him with the list that has been short-listed by political parties) appoints the commissioners. In Zimbabwe, presidential, parliamentary and local elections are confusedly overseen by a quartet of institutions: the Electoral Supervisory Commission; the Delimitation Commission; the Election Directorate; and the Registrar General of Elections. 'Members of the four organs are presidential or government appointees and as such lack independence of the state' (Kabemba, 2004:10). Kabemba also notes the disturbing hostility between the Electoral Supervisory Commission and the Registrar General that resulted in numerous court cases between them. In addition, 'Zimbabwe's chairman and two commissioners of the Electoral Supervisory Commission are appointed by the president in consultation with the Judicial Service Commission and two other commissioners are appointed by the president in consultation with the Speaker of Parliament' (Kabemba, 2004:12). Thus, there are still shortcomings in the manner in which national electoral bodies are constituted and on which ECF is outspoken on. Now to forcefully convert ECF into a SADC agency while such shortcomings exist is tantamount to silencing it.

Currently, ECF is entrusted with capacity building roles rather than supervisory roles. These capacity building activities are addressed through workshops. Invitations to ECF workshops depend on the workshop title such that workshops attract different personnel of EMBs. If the workshop is on HIV/AIDS and elections, then HIV coordinators in EMBs are invited, etc. In 2006, the ECF held a workshop entitled working 'towards a framework of regional standards for electoral management bodies', an ideal standard that each EMB should aspire to. The envisioned framework is outlined in the 'Conference Report on Strengthening the Independence of Electoral Commissions in the SADC Region' (Balule, 2006:36-7) and includes: entrenching the EMB into the constitution; stipulating its independence in the constitution; separating its budget from that of government and requiring parliament to vote onto it directly; auditing its accounts through the auditor general's office; empowering the EMB to appoint and dismiss its own staff; appointment of its senior staff to be open, staggered on a minimum of 10 years and based on performance contract; appointment of chairperson to be by members from amongst

themselves; and so on. These are recommendations that SADC should take seriously. Absorbing ECF is not the best way to deal with such recommendations.

The March 2006 ECF workshop in Windhoek had come from a general concern that most Electoral Commissions do not seem to be as independent as they ought to be and that this impacts on their service delivery. ECF has ably tackled the theoretical aspects of the issue of autonomy thanks to its network with EISA, SADC Parliamentary Forum, and International Institute for Democracy and Electoral Assistance (IDEA) which provides resource persons for its workshops and conferences, personnel for election observer missions, expertise for research matters, and leadership on contemporary issues. To now threaten ECF with absorption into SADC only adds to its growing fears that its independence is doomed.

At the Windhoek workshop, Joram Rukambe, IDEA's Africa Programme Manager, presented a paper on the 'autonomy of electoral management bodies – an international perspective'. His paper differentiated electoral bodies from institutions performing tasks with impact on elections such as delimitation commissions, civic education commissions, election courts, and statistics bureaus. Rukambe (2006:7) identified an electoral body as that 'which is tasked under law with the responsibility for the core business of the conduct of elections, and of electoral direct democracy instruments such as referendums, citizens' initiatives and recall votes'. He also discussed types or models of electoral bodies, namely independent, governmental, and mixed or supervisory bodies, and named the countries that housed them. He further outlined the history and importance of independent electoral bodies, showing how they prevented the entrenchment of dictatorship in Uruguay and Chile in the 1980s, and defused fears and mistrust in transitional moments such as South Africa and Mozambique before 1994 and Zimbabwe in 2004. This proves that independent election management bodies are a crucial pillar of democratization. By extension, autonomous regional election bodies are more crucial in the sense that they attempt to standardise election practices at regional level. Now to threaten ECF with absorption into SADC should not be condoned if the region is serious about deeper democratization .

Since the ECF established its own Secretariat in 2005 it has held 2 workshops. The first was 'Strengthening Voter Education Programmes in the SADC Region' (July 2005) in which experts from EISA, IDEA and other institutions presented papers. This workshop aimed at exploring how voter and civic education programmes could be used to address the ever growing concern of voter apathy in the region. The second workshop was on 'Exploring ways of Strengthening the Independence of Electoral Commissions in the SADC region' (March 2006). Such workshops provided forums through which the members of the different electoral commissions met experts and scholars on elections, shared experiences from the different countries and discussed new concepts on election administration. ECF also encourages staff exchange programmes, attachment and enhances capacity building more than anything else. However, the objectives of ECF cannot be realised without SADC government providing supporting environments. Political violence and election rigging by ruling parties are always likely to generate more voter apathy which the ECF is doing so much to combat. Threatening ECF with absorption only worsens the situation of authoritarianism in the SADC region.

In addition, EFC has held two important annual general meetings. The 2005 AGC theme: 'Promotion of Democracy through empowerment of Women' was significant in the sense that it explored ways of enhancing gender equality. The 2006 AGC theme: 'Towards Responsive Electoral Systems: Enhancing Representation, Participation and Democratic Governance', was also important. Thus, the ECF discusses issues that could help the different EMBs to democratise

their administrative practices that do not necessarily call for government legislation. There seem to be no doubt that the ECF is a capable and dynamic body that has enormously contributed to regional integration. But there is doubt whether an absorbed ECF would similarly perform so well. The next section looks at how civil society has contributed to regional integration and to democratization . It also analyses how SADC relates with civil society organization s.

Electoral Institute of Southern Africa (EISA)

Article 10 of the SADC Protocol on Politics, Defence and Security Cooperation, appreciates the importance of working with non-state actors. The primary example of a civil society organization with a keen interest in regional integration and cooperation is the Electoral Institute of Southern Africa (EISA). It has taken the lead in developing common electoral standards, building regional electoral and parliamentary bodies, observing elections in the region, carrying out research on various issues that impacted on regional integration and cooperation and conducted workshops for stakeholders. Disappointingly, SADC has not moved fast enough to establish rules of cooperation with civil society organization s such as EISA. To begin with, Article 10 (1) of the Protocol on Politics, Defence and Security inserts preconditions of cooperation with non-state actors. Cooperation shall be accepted provided that such agreements shall not:

- be inconsistent with the objectives and other provisions of the treaty and protocol;
- impose obligations upon a state party that is not a party to such cooperation agreement; and
- impede a state party from fulfilling its obligations under the treaty and this protocol.

However, there is no doubt that EISA meets all these conditions even though SADC has not developed special relations with it.

Article 10 (2) adds a structural constraint by requiring that 'any agreement between the Organ and a Non-State Party, or between the Organ and an international organization , shall be subject to approval by the Summit'. Such an approval requirement introduces an element of inflexibility which seems to preclude non-formal arrangements which may not need approval by the Summit of Head of States.

EISA has played a crucial role in uplifting the ECF and should be fully consulted in its impending transformation into an advisory regional electoral council. For the initial eight years of ECF's formation, EISA was its interim Secretariat, handling its fundraising, coordinating its election observer missions, initiating its projects, organising its workshops and annual general meetings, and initiating and publishing its PEMMO document. EISA effectively ensured the functionality of ECF at a time when it had no secretariat. Thus, EISA acted as a surrogate mother of ECF which owes its effectiveness to the former. In addition, EISA also provided technical assistance to the SADC Parliamentary Forum on election observation, electoral reform initiatives, management of election related disputes and parliamentary reforms. Thus, SADC should accord EISA a privileged status and should fully consult it in all efforts aimed at transforming ECF into an official organ of elections.

In its integration efforts, EISA also raised funds from NORAD and the Open Society Initiative for Southern Africa (OSISA), organised a methodology workshop which brought together scholars from the region to develop a common methodology, and conducted research on consolidating democratic governance in the different countries. Scholars from the SADC region

reviewed and developed a common methodology which they then used to conduct research on democratic consolidation in the region. The first phase of the research focused on 'the dynamics of democratic governance in the region'. The research was empirically based on interviews with key political stakeholders such as leaders of political parties, members of civil society, academics, opinion leaders, electoral commissioners and members of the foreign donor community. It took the region's transition from authoritarian rule to multiparty democracy as its starting point. This background is aptly captured by the Botswana Institute for Development Policy Analysis (BIDPA) in its research proposal:

What was particularly striking was the bold decision by President Frederick de Klerk in February 1990 to set in motion a process to dismantle the infamous apartheid system in South Africa ... Southern African authoritarian regimes were swept aside by the third wave of democracy – beginning with the Kaunda regime in Zambia in 1991. Then country after another, Angola (1992), Lesotho (1998), Malawi (1994), Mozambique (1994) and Tanzania (1995) replaced authoritarian rule by multiparty democracy. By the end of 1994 multiparty democracy was in place in almost all parts of the region – except in Swaziland which remains a no-party monarchy (BIDPA, 2004:4).

EISA took this background to carry out its series of researches on assessing the consolidation or lack of democratic governance in the SADC region, noting: the dominance of the *tinkundla/chieftaincy* system which allows the king and chiefs enormous influence over the election process, thus blocking progress towards democracy in Swaziland (Kabemba, 2004: xi), a fragile transition in Lesotho where the consolidation of democracy remains in the early stages (Kabemba, 2004:1), an electoral democracy where the behaviour of the state is increasingly characterised by different forms of abuse (Olaleye, 2004:xi) and secrecy (Kabemba, 2004) in Zimbabwe, an environment of peaceful elections in an uneven playing field in Botswana (Sebudubudu and Osei-Hwedie, 2004:ix), democracy devoid of constitutionally consolidated democratic institutions in Tanzania (Karume, 2004:xiii).

The country reports were published in monographs and presented at a regional workshop for that purpose. While these publications are evident demonstration of integration at scholarly level, the Organ should make it a habit to attend EISA workshops where such reports are presented or to read the publication with a view to inform its own internal debates and possibly incorporate the findings in its 'review of implementation of SADC decisions'. EISA produces comparative material that the Organ on Politics, Defence and Security Cooperation, through its Politics and Diplomacy Committee, could cheaply use to assess political progress on matters of consolidating democratic governance in the SADC region. Even though the secretariat of the Organ assured this author that the Politics and Diplomacy Committee is required to read all reports extensively (including EISA reports), the strong impression is that it does so un-enthusiastically with the primary purpose of dismissing them. This is because, firstly, recommendations from numerous EISA researches that need implementation by SADC and member governments remain un-implemented. Secondly, EISA officials and other civil society organizations raise serious complaints about the near impossibility of scheduling meetings with SADC officials in the headquarters in Gaborone.¹²

In 2005, EISA raised sponsorship for another round of regional oriented research, and organised another methodology workshop for political researchers in the region, and carried out further research on democratic consolidation. The research was also conducted in almost all SADC countries (except Angola and DRC). The research is likely to be finalised in 2006, and SADC is advised to study the findings closely and positively, and devise ways of incorporating

the recommendations in its work. It is important here that SADC should allow itself to be influenced by EISA research so that its bureaucratic outlook could soften. Interviews with senior leaders of the organ gave the impression of a highly secretive bureaucracy that held civil society organizations in disdain and contempt.

It should be noted that EISA and ECF use the PEMMO handbook as a tool in election observation and has been very critical of some elections in the SADC region. EISA and ECF have observed all recent elections in the SADC region and the former published its observations in its regular newsletter and website. For instance, after observing the Mozambican election, EISA observed that the country's long and secret tabulation process violated the norms on transparency and of free and fair elections (Hanlon, 2004). 'Both the SADC Parliamentary Forum and EISA criticised the length of time it takes to count votes in Mozambique. EISA noted that on average Southern African countries report results within five days, compared to more than two weeks in Mozambique'. But so far, the government of Mozambique has resisted electoral reforms (Hanlon, 2004), and SADC has remained quiet about it. It is here that SADC through the Organ should develop interest to assist that government to embrace electoral reforms that could improve the country's democratic credentials.

EISA also partnered with IDEA in 2004 and 2005 to organise workshops on 'dialogue on political parties and governance in the SADC region'. EISA and IDEA correctly observed that 'no comprehensive study had been done by African scholars in the area of political parties in the SADC region' (EISA, 2005:1). One of the official objectives of the workshop was to re-orientate political parties away from authoritarian tendencies. The workshops brought together researchers and party functionaries to discuss research results.

The workshop allowed researchers to present their findings and brought together leading members of ruling and opposition political parties from all the SADC countries ... this workshop had an impact at two levels. First, it allowed parties with different origins and capacities, levels of development and political cultures to exchange experiences and to share the challenges they face in their respective countries ... Second, the interaction between political parties and researchers helped to enhance the credibility of the research and its findings (EISA, 2005).

The above is a clear case of engineered regional integration at workshop level, enabling ruling and opposition parties in the region to come together to share experiences, and encouraging them to move away from authoritarian tendencies. Surely this is an effort worth SADC's support, but none has been forthcoming. The findings that were presented at that workshop were interesting. In Malawi, political parties are built on personalities and where gender equality is taken seriously, policy issues are ignored, the ruling party and opposition parties form unstable coalitions, party conventions and internal party elections are never held, state funding favours the old at the expense of new parties, and there are no membership records (Patel, quoted in EISA, 2004). In Mauritius where there is stable democracy, political parties have no clear method of electing leaders, no membership records, are ethnically based, funded by well-wishers whose identity was unknown, do not take gender equality seriously, but did take development policy seriously (Kasenally quoted in EISA, 2004).

In addition, in Angola where corruption is rife and entrenched and where there is a long history of armed conflict, political parties enjoy no internal democracy and leaders control candidate selection, ignore gender equality and there is a mushrooming of parties (Santana quoted in EISA, 2005). In contrast, in the DRC, where there was a long period of dictatorship, where President Mobutu created numerous opposition parties and manipulated them, and

where election rules are not entrenched, and where everything is in a transitional mode and the illiteracy rate is 60 percent, political parties are still in an embryonic stage, they are dictated over by and are the private businesses of their leaders, they are dysfunctional and disorganised, and have no commitment to gender equality (Kabungulu quoted in EISA, 2005).

Moreover, the EISA/IDEA research on political parties found that in Lesotho where democracy has been unstable, but where political parties keep membership records, political parties split often and formed unstable coalitions, are under resourced, and take gender equality less seriously (Khabele and Sello quoted in EISA, 2004). Similarly, in Zimbabwe where there is authoritarianism in which foreign funding of political parties is prohibited and where opposition parties are burdened with bureaucratic requirements in the process of conducting meetings and where private newspapers not liked by government have been closed down, political parties, deeply mistrust each other and dispute election results, issue membership cards that are used and abused to buy food, publish their own newspapers (ZANU PF and MDC), and use state police to guard ruling party headquarters (Sachikonye quoted in EISA, 2004).

Similarly in Swaziland where the king staged a coup in 1973 banning political parties and personally declaring the *tikundla*/chiefdom system rooted in wards dominated by chiefs who are empowered to expel unwanted elements, political parties sometimes hold their meetings in South Africa and at other times are disguised as cultural groups to avoid harassment, have secret membership records, are not allowed to participate in elections (but individual members do) and do not have the critical rural support which remains loyal to the king (Mzizi quoted in EISA, 2004). Mzizi also notes a case where a Swazi opposition leader who sought a political home in Tanzania was deported back to face political persecutions. Thus, it is important for the SADC Organ to closely study these reports, investigate the allegations and compel member states to address them. Thus, EISA and IDEA have taken SADC integration seriously, and are carrying it out through workshops for political parties, as well as bringing together researchers in the region.

Ultimately, EISA concluded that political parties were the weakest link in the democratization process (Matlosa, 2005). There is also the marginalization of women in most of the SADC countries. EISA has made startling findings on the status of political parties and politics in the region, and SADC should come up with ameliorating programmes tailored for each country. Unfortunately, SADC has either made few efforts to study EISA's ground-breaking research on political parties and other areas or has approached its research with a negative attitude with the intention of rubbishing it. Thus, reports that have the potential to bring more regional integration are ignored and rubbished by the Organ that is supposed to spearhead political standardization and integration. The question is whether SADC, through the Organ, can do something about the corruption and unstable politics of Angola, dysfunctional political parties of the DRC, deteriorating politics in Swaziland, the increasing dictatorial tendencies in Zimbabwe, the ever-splitting parties of Lesotho, or the patrimonial parties of Malawi whose orientation is towards personalities rather than developmental policies?

EISA and SADC have been separately involved in the DRC election. 'The Electoral Institute of Southern Africa has been working with the DRC Senate, political parties and civil society groups in the process of drafting a constitution to ensure that the legal framework is properly secured' (Baudouin, 2004:53). In fact, EISA has done enormous work in the DRC, assisting the country's peace process and democratic transition).¹³ EISA has a large country office in the DRC which has assisted with: the establishment and capacity building of the IEC; involving the DRC IEC members in election observation missions in order to help them learn lessons from

other countries; coordinating DRC civil society on democracy and election issues; facilitating the constitutional review process and monitoring the referendum; undertaking research work on political parties in the DRC; putting in place a project on building democracy in post-conflict DRC; and organised an observer mission for the 2006 election.

In contrast, SADC also sent missions to the DRC as already noted in previous sections. However, both SADC and EISA sent separate teams whose activities are not fully coordinated and have the potential for overlap. On the positive side, it should be appreciated that the SADC does not seek to exclude other players such as EISA from DRC politics, and this should be encouraged. However, it may help if both EISA and SADC could establish a desk that deals with the other to improve working relations. On the negative side, there is duplication of efforts.

In response to the politics of exclusion at official SADC forums, EISA has partnered with NGOs in the region to organise a permanent parallel forum. For instance, there was a parallel civil society forum to the SADC Summit in Gaborone in 2005, and another one in Maseru in 2006. These efforts are aimed at making the voice of civil society heard in the exclusively government-dominated SADC. Such a parallel forum is aimed at pressurising SADC to move away from being perceived as a forum for ruling elites into a people-friendly regional organization with organic roots in local communities. It is therefore important that SADC, through the Organ, should systematically engage EISA and other civil society organizations, establish dialogue with them, study their reports, attend their seminars when invited and develop positive attitude towards them.

The SADC Parliamentary Forum

The SADC organizational structure lacks a legislative component. SADC was formed by the executive governments of the region. In response, parliamentar speakers from the SADC region formed a parallel association known as the Parliamentary Forum (SADC PF) to provide informal checks on SADC that was predominantly constituted by the executives and the bureaucracies. The PF was an inter-parliamentary association formed without any powers and outside the SADC structures. Each parliament in the region is an affiliate with the SADC PF. The SADC PF later encompassed all parliamentarians and parliamentary staff in the region. Each parliament/affiliate has a forum desk, whose official purpose is to increase cooperation between the different parliaments. The SADC PF grew independently in terms of hierarchy and funding. It was AWEPA that initially assisted it to get started, USAID that funded many of its activities such as election observation missions, and member parliaments that financed its secretariat. In addition, it was the host Namibian Parliament that provided it with office space in a prestigious location of the parliamentary gardens, that provided it with committed leadership through its Speaker of Parliament, and that is offering to host a future SADC parliament.

The PF already has structures that could easily be converted into a regional parliament. There is a plenary assembly that meets twice a year to deliberate on its own annual budget and audit reports. The plenary assembly has also been inviting itself to deliberate and make recommendations to SADC authorities, and has gained enormous skills in dealing with regional issues. It has also been advising SADC Summit on matters of overall policy, scrutinising and making recommendations on SADC budget, and so on. In short, the PF plenary assembly has experience but no legal authority to deliberate or approve or reject Summit decisions.

In a nutshell, only the collective executive governments represented in the Summit of Head of States deliberate and approve treaties, protocols, policies and regulations that affect the whole region. Thus, SADC has a legal executive element, but does not have a legal legislative compo-

ment at all. What is even more worrying is that some SADC governments such as Zambia are empowered by their constitutions to sign protocols without authorization from their national parliaments. The SADC situation contrasts sharply with the EU where the European Parliament and individual parliaments of member countries have legislative powers over the policy-making powers of the European Commission.¹⁴ In the absence of a protocol inviting and authorising the SADC PF to deliberate on SADC treaties, protocols and policy issues, the Forum invites itself, making its views known, even though they have no binding effect on SADC. It is the view of the SADC PF secretariat that there should be a legal requirement that all SADC treaties, protocols, policies, budgets and regulations should pass before the future SADC parliament when it is established.¹⁵ Such a legal requirement should compel the and the SADC Summit to receive binding input from the parliament.

The SADC PF also has other structures that could assist its transformation into a regional parliament, being currently organised into committees consisting of parliamentarians from different SADC countries. There is: an executive committee with eleven MPs from ten countries, many of whom are speakers of parliament in the respective countries; a standing committee on regional integration; a standing committee on gender, democracy and conflict resolution; a standing committee on inter-parliamentary cooperation; a standing committee on HIV/AIDS; and a legal sub-committee of the executive committee. Each committee (except the standing committee on HIV/AIDS and the legal sub-committee) has a chairperson, a deputy and several members. Each committee is expected to submit a report at the forum's biannual meetings (www.sadcpf.org/). The executive committee is answerable to the plenary assembly, manages affairs of the PF, implements decisions of plenary assembly, gives direction to the Secretary General, prepares annual budget and reports for plenary assembly, prepares the agenda for plenary meetings, present programmes of activities, and so on. These standing committees should be increased to cover more areas in the future SADC parliament.

The committees are aligned to areas of concentration outlined in the strategic plan. First, there is a committee for democracy and governance (covering election management, conflict management and anti-corruption initiatives). Second, there is the gender committee (covering knowledge development and skills building for gender mainstreaming for parliamentarians, gender advocacy and lobbying for women's representation in positions of power, and lobby for domestication of regional and international landmark agreements on gender equality). Third, there is the HIV/AIDS committee (covering policy development and harmonisation of HIV and AIDS in the SADC region, capacity building and HIV and AIDS mainstreaming, and the SADC secretariat HIV and AIDS workplace programme). The fourth committee focuses on scaling up cross-border initiatives, facilitation of technical response and resource networks and collaboration and coordination, monitoring and evaluation of global and regional commitments. It is important to note that a future SADC parliament should expand its areas of concentration to correspond with the scope of SADC itself. The future parliament should also cover defence and security issues, environmental issues, and so on.

The Parliamentary Forum receives substantial donor money, marked for strengthening its capacity to provide leadership in election monitoring and election related research.

Support for free and fair elections has been another popular topic for many donor agencies. Again, most activities supported have been at national level. At the regional level the main funding has been to the Parliamentary Forum and to activities implemented through or with the strong support of a South African NGO – the Electoral Institute of Southern Africa (EISA). This has revolved around advocacy and policy research (Tjønnealand, 2006: 16–17).

Donor support has enabled the SADC PF to observe all elections in SADC since 1999 (except for the Zimbabwean parliamentary election of 2005 because it was not invited), published elections reports, conducted workshops for parliamentarians, and advocated for electoral reforms. The election reports have proved to be valuable sources of information for electoral commissions, parliamentarians, governments and research institutions in the region. In contrast, despite assurances to the contrary, the Organ does not seem to pay close attention to these election reports that consistently noted discrepancies and violations in some countries. Unfortunately, the PF has remained an advisory body whose voice SADC is not obliged to listen to and whose voice it can always ignore without any legal implications. As noted above, the PF currently attends SADC Summits as observers only, without the legislative powers to approve or reject what the governments have developed or agreed. In return, the PF invites the SADC secretariat to its plenary assemblies and allows it to present papers for information only. This will have to change with the establishment of a future SADC parliament where SADC ministers should be required to make the presentations that can be deferred, approved, amended or rejected. The current situation is such that SADC does not have a legislative element, thus, giving all the authority to the Summit of Heads of States to decide matters for the whole region. The desire to introduce a legislative element into SADC has led to calls for the establishment of a future SADC parliament whose powers and functions need to be defined in a protocol. However, such a protocol should aim to preserve all the positive features of the current PF, while adding a legislative element to it.

Some of the positive developments include the fact that the SADC PF has already published its 'norms and standards for elections in the SADC region', which should be tabled before a future SADC parliament for use in official observer missions. Crucially the 'Norms and Standards', is a document based on the experiences of the PF observer missions in different elections and countries over time, as well as on international best practices. Part one of the document deals with elections and individual rights, voting and secrecy and freedom of association and expression. In the first instance, the document notes that 'while voter registration is a prerequisite to smooth elections it is common knowledge that some individuals intending to exercise their right to vote or to be voted as candidates in an election have been prevented from doing so through cumbersome registration requirements, technical nomination details, removal from the voters' register, intimidation through political violence and kidnapping of candidates'. Election observation by the PF is followed by written reports with recommendations on the different aspects of elections. It should be a requirement that such future reports are tabled before the SADC parliament which will authorise the Summit of Heads of States to take approved actions, including suspension and ultimately expulsion of a persistent violator of the norms and standards.

Part two of the Norms and Standards, deals with elections and government, assessing (1) commitment to pluralism, multiparty democracy and politics, (2) date of elections, (3) misuse of public resources and funding of political parties, (4) government, political parties, NGOs and the media, and (5) electoral commissions. These observations are actualised in election observer missions whose reports carry detailed assessments of these indicators. Part three of the Norms and Standards, deal with 'fostering transparency and integrity in the electoral process which includes (1) registration of voters, (2) voter education, (3) boundary delimitation commissions, (4) nomination process, (5) election campaign, (6) funding of political campaigns, (7) role of courts, (8) the electoral commission and the media, (9) polling stations, (10) ballot boxes, (11) counting of votes, (12) acceptance of election results, (13) managing post election conflicts, (14) role of observers, and (15) the role of the SADC PF in election observation,

noting that 'the Forum has been experiencing difficulties in some member countries in respect of timely accreditation, confusion about who has authority to invite the Forum to observe the elections, and a common understanding of how lessons from observing elections are shared with stakeholders' (SADC Parliamentary Forum, 2001: 25–26). Here the Norms and Standards made serious recommendations that the Organ should take seriously: 'all governments should endorse a standing invitation to the SADC Parliamentary Forum to observe elections whenever they are held in any SADC country without having to wait for a formal invitation from the host government'. This recommendation is appropriate partly because the PF was not invited and therefore could not observe the Zimbabwe parliamentary elections of 2005. There is a need for legislation authorising the SADC PF to observe all elections that it has capacity to observe. A protocol establishing a future SADC parliament should have a clause making such authorization. It should also incorporate the Norms and Standards as a guiding tool for future observer missions by the proposed parliament.

The SADC PF also organised empowering workshops, such as the one on electoral system design in 2005 that was attended by secretary generals and chief whips of political parties in the national assembly, chairpersons and secretaries of electoral commissions, and heads of civil society organizations. The aims of the workshop were:

- promoting deeper understanding and insight in how electoral systems impact on representation, participation and democratic governance;
- fostering dialogue on electoral system reform in the sub-region in general and in countries that are contemplating electoral system reforms;
- sharing electoral system experiences among SADC countries as a way of promoting mutual learning and fostering the adoption of best practices in electoral system design;
- promoting exclusive dialogue for re-designing electoral systems;
- strengthening cooperation and networking in an effort to explore areas of future cooperation between IDEA and the SADC PF; and
- pilot testing and disseminating IDEA's new electoral system design (ESD) handbook and linking it to IDEA's 10th anniversary celebrations and the package of lessons learned from the SADC Parliamentary Forum's election observation programme.

The SADC PF further closely worked with the German Ambassador to organise another workshop on the EU experience. That workshop was held in Victoria Falls in Zimbabwe 2001, and the German Ambassador invited German MPs to make presentations on: the process of building the EU and the involvement of national parliaments; how the German parliament operates in the consideration of EU treaties and their transformation into national law; how the German Parliament is involved in the process of international treaties; and regional conflict management of the EU and the involvement of national parliaments in the legislative process of the region. The Victoria Falls workshop was attended by delegates from all SADC parliaments, as well as the executive secretary of SADC. Enormous benefits accrue from such workshops that should be allowed to continue even when the SADC PF is transformed into a parliament. Part of the reason why such workshops should continue is because they made the PF and would make the future SADC parliament into an important source of knowledge and a capacity builder for its members who happen to be legislatures in their respective countries, electoral commissions and civil society organizations.

Conclusion

This paper has assessed the current good environment in which regional integration is being pursued, noting the end of hostilities and war in Mozambique, Angola and DRC. It also reviewed the extent to which SADC has pursued regional integration in the political field, noting the adoption of optional norms and standard for elections, the establishment of the Organ, and the secretive manner in which SADC carries out its business. The paper also noted that SADC publicly rubbishes negative media reports on its members, but failed to publicly criticise their authoritarian practices, thus sending wrong signals. SADC's collective responsibility to stand together, its readiness to denigrate media reports and its secretive processes have combined to alienate donor agencies, and to give the impression of an organization that views civil society with contempt.

SADC has ignored recommendations by ECF to amend laws in order to give more autonomy to the election management bodies in the region. The manner in which SADC currently applies pressure on ECF to convert into an agency within SADC threatens to thwart its autonomy, reverse its gains and disfigure its contribution in the regional integration process. Under threat is ECF's structural autonomy and visibility by having to report to SADC structures, its financial independence by losing its cordial relations with donors, and its strong capacity by weakening its links with academics in the region. Such situations give the impression that SADC intends to entrench authoritarianism rather than openness and accountability.

In contrast, the PF's willingness to become a SADC parliament to inject a legislative element in the region's affairs is met with caution and the dragging of feet. Its important work of observing all elections in the SADC region has been hampered by uncooperative regimes. It would appear that SADC is hesitant to see the establishment of a regional parliament to compete with the Summit of Heads of States as the supreme law maker. The readiness of SADC to want to convert ECF into its own organ and its reluctance to establish a regional parliament is sending conflicting signals, giving the impression of an organization that does not want to be exposed to legislative oversight and that does not want to exist in parallel with other agencies of significance.

The relations between SADC and civil society (here represented by EISA), has not been a cordial one. EISA has conducted ground-breaking research on politics in the SADC region, making significant findings and recommendations that only SADC can implement. However, SADC has paid little attention to these findings on the state of democracy in the region, on the state of political parties, and so on. It has not allowed these studies to inform its deliberations and has not taken corrective measures to improve governance in the region.

Recommendations

- SADC should review its position of publicly defending authoritarian tendencies by its members.
- SADC should allow research done by civil society organizations to influence its decisions and activities.
- SADC should allow vocal civil society organizations (including the media) to criticise authoritarian tendencies.
- SADC should allow input of civil society in its deliberations.

- The structural autonomy of ECF should be respected and promoted.
- SADC should take seriously recommendations from ECF on improving election administration.
- SADC should speed up the establishment of a regional parliament.

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Interviews

- Email correspondence with Dr Khabele Matlosa of EISA in Johannesburg. Extensive interviews were conducted with him on the 5th July 2006.
- Extensive interview with Dr. Ndlovu of the SADC Organ on Politics, Defence and Security, on the 22nd June 2006.
- Numerous Email correspondences with the ECF secretariat in Gaborone during the month of April 2006.
- Extensive interviews with the Parliamentary Forum secretariat staff in Windhoek, 19th and 20th July 2006.

Notes

- ¹ Zimbabwe Electoral Commission, 2005:2
- ² Interview with Dr. Ndlovu, secretariat of the Organ, 22 June 2006
- ³ Interview with SADC official, 22 June 2006
- ⁴ Interview with SADC official, 22 June 2006
- ⁵ Interview with secretariat of the Organ, 22 June 2006
- ⁶ Interview with SADC official 22 June 2006
- ⁷ Interview with secretariat of the Organ, 22 June 2006
- ⁸ Interview with secretariat of the Organ, 22 June 2006
- ⁹ Interview with secretariat of the Organ, 22 June 2006
- ¹⁰ interview with secretariat, 22 June 2006
- ¹¹ Interview with secretariat of the Organ, 22 June 2006.
- ¹² Interview with EISA officials in Gaborone, 6 July 2006
- ¹³ Interview with EISA, 28 June 2006
- ¹⁴ Interview with PF secretariat, 18 July 2006
- ¹⁵ Interview in Windhoek, 18 July 2006



THE APPLICATION OF ELECTORAL NORMS AND STANDARDS IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

MPHO G. MOLOMO

Introduction

Since the end of the cold war southern Africa has been at cross roads; there have been relentless pressures for democratization and mixed fortunes in the transitions to democracy. Through what Diamond (1999:24:63) referred to as the 'third wave' to democratization, the southern African region has experienced major transformations. The end of one-party rule in countries like Zambia (1991), Lesotho (1993), Seychelles (1993), Malawi (1994), Mozambique (1994), Tanzania (1995); and the end of minority rule in Namibia (1990) and South Africa (1994) have all marked the end of an era of authoritarian rule, and the dawning of a new era of democratic transitions. Botswana and Mauritius remain the longest-standing democracies in Africa, whilst democratic transitions are still at the formative stages in Democratic Republic of Congo (DRC)¹ and Angola.² Although democracy appears to be regressing in Zimbabwe, as ZANU-PF and Robert Mugabe rely on repressive means to hang on to political power, the entire southern African region, except for Swaziland, which is still stuck on monarchical rule, appears to be firmly making the transition to democratic rule.

The conception of a regional community is founded on the need for greater cooperation on electoral norms and values that guide political, economic and security cooperation in SADC. Values and norms are, by their very nature, subjective and subject to considerable dispute and contestation. However, there are certain universally accepted norms and values emanating right from the French Revolution – such as human rights, freedom, equality, liberty and democracy – that are inalienable and must be extended to all of humanity. It is on the basis of these norms and values that people negotiate standards to regulate their behaviour. These generally entail a set of benchmarks that guide countries in their conduct of elections to ensure that they comply with best international practice. Regional norms and standards are necessary because they provide for both state and human security. Adherence to such norms and standards ensures that governments come to power legitimately and are recognised by the electoral, regional and international community as having the mandate to rule. Similarly, such ensures that the principles of human dignity and equality are put in place to facilitate decent living for all.

Structural functional analysis (Almond and Powell, 1966; Bill and Hardgrave, 1973; Schmitter and Karl, 1991), which has dominated the discourse on comparative politics, places emphasis on structures and institutional processes to evaluate democracy. For democracies to 'endure,' certain institutions need to exist and be codified in constitution; there needs to be a multiparty system, regular free and fair elections and majority rule (Przeworski *et al.*, 1996). As we move beyond the 'third wave' of democratization, the absence of well-articulated norms and standards (of electoral practices) could limit the quality of democracy (Huntington, 1991). We ought to recognise that there is a fine line between structure, function and democratic processes. Mere technocratic adherence to procedures does not necessarily contribute to achievement of the desired outcomes. For instance, the existence of political parties and the holding of regular elections are essential pillars in the institutionalization of democracy, but they do not in them-

selves amount to democracy. There is often a discord between theory and practice because not all elections are democratic; some are simply a charade geared to legitimate authoritarian rule.³ Second, democratic elections that are founded on majority rule could serve to entrench the tyranny of a majority over minority interests; multiparty elections could even entrench predominant party systems, thus running against the grain of democratic practice. Third, the electoral processes may not reflect the socio-economic conditions and the cultures of a people in question; thus norms and standards need to be based on a measure of democratic consent and bargain that reflect the local realities.

This paper states that democracy goes beyond elections, and recognises that it is as much a function of processes as it is of values. The critical questions are: can institutions be designed for democracy? Is democracy not a product of a country's socio-economic conditions? What is the relationship between democratic institutions and democratic politics? In basic terms, it appears that concern with democratization has tended to place undue emphasis on institutions and structures rather than on the conduct of democratic politics.

Framework for Understanding Electoral Norms and Standards

SADC is a region in transition; it encompasses countries at different levels of socio-economic, political and security developments. Democracy, as the catchword in the transitions and developments that have taken place since the end of the Cold War, 'resonates in people's minds' as they strive for the 'struggles for freedom' and 'better life' (Schmitter and Karl (1991:76). As a normative value-based liberal ideal its core values are civil and political liberties, the rule of law and human rights. Norms and standards are important because they ensure that the electoral processes are representative, open, accountable and inclusive, strive towards gender equality, display political tolerance to the rich diversity of different cultures and the existence of intra-party democracy.

SADC norms and standards are about shared values that have been agreed to by the regional collective; whilst they embrace institutions and structures, they go beyond them to recognise the values and ethos that bind the region together. Moreover, these institutions, structures and values need to be situated and embedded in the cultural setting to reflect the situation of the people they are applied to.

Electoral Systems in SADC

Electoral systems occupy an important space in developing electoral norms and standards. They are important because they define the rules of the game, that is, how elections are won and lost. They determine the basic parameters of the electoral law and determine the frontiers of representation and inclusion.

The SADC region has a range of electoral models that include variations of the First-Past-The-Post (FPTP), Proportional Representation (PR) and Mixed Member Proportionality (MMP) electoral systems. These electoral systems provide different degrees of representation. The FPTP system usually operates the constituency system, which provides for an effective link between government and the electorate but does not cater for the political interests of the people whose candidate lost the election. In the FPTP system the losing candidate does not only lose an election, but also their vote, and creates a sense of disillusionment with the system. Moreover,

the predominant party systems where people are able to tell the outcome of the election even before it takes place tend to breed complacency.

The PR system is generally viewed as being more accommodative in that it ensures that the votes cast correspond to the number of seats won. Moreover, due to its inclusive nature it ensures that all shades of political opinion are included in the decision-making structures. Yet, as it is the case in South Africa and Namibia, PR also promotes a predominant party system and also there is no effective link between the party and the electorate.

The MMP borrows from both the FPTP and PR systems to develop best practice in representative government. The essence of the MMP is that it enjoys the better of two worlds; it draws from the good attributes of both the FPTP and PR. Nevertheless, SADC has not been prescriptive to impose an electoral model for the region, but, through its norms and standards, it suggests ways and means how democratic principles could be attained.

Table 1 below shows that the FPTP electoral system is widely used in SADC, wherein eight out of 14 countries use a variant. This system is credited with producing stable governments that are accountable and providing an effective link between Members of Parliament (MPs) and the electorate. However, it also encourages a predominant party system in that it tends to exclude smaller parties from government and, as such, lacks consensus building. Of the remaining six countries, five use PR and only one uses MMP.

Table 1: Electoral Models in SADC

	Country	Population (millions)	Size of Legislature	Electoral system
1	Angola	13	220	List PR
2	Botswana	1.7	57	FPTP
3	DRC	49	210	FPTP
4	Lesotho	2	120	MMP
5	Malawi	11	192	FPTP
6	Mauritius	1.2	70	FPTP (Block vote)
7	Mozambique	17	250	List PR
8	Namibia	1.6	104	PR
9	Seychelles	0.76	34	FPTP (Parallel)
10	South Africa	43	400	List PR
11	Swaziland	1	85	FPTP
12	Tanzania	32	274	FPTP
13	Zambia	10	158	FPTP
14	Zimbabwe	12	150	FPTP

Source: Report of the International IDEA Conference: Towards Sustainable Democratic Institutions in Southern Africa (2000).

Electoral Norms and Standards

Electoral norms and standards transcend electoral systems; they are mechanisms that determine the integrity and the responsiveness of the political system and its processes. They are rules,

regulations and practices that govern the conduct and performance of political systems and the behaviour of political actors. These values need not only be codified in a binding instrument but must ensure that procedures and actions of political actors are accountable to the electorate, and must also be backed by some form of authoritative action. The importance of norms and standards is that they provide a framework or a benchmark, which could be used as a reference for national or regional dialogue in an attempt to attain best practice. Electoral norms and standards involve wide range of issues that entail free and fairness, inclusiveness, representativity, accountability and transparency, tolerance and respect for diversity. The electoral systems discussed above are measured by the application of these norms and standards.

Freedom, fairness and equity

Elections are free when they allow the exercise of basic freedoms, such as: speech, association and assembly; prevalence of peaceful co-existence, political tolerance; neutrality of the security forces; and absence of intimidation and violence. The fairness of elections is about equality of opportunity, perceptions of a 'level playing field' and that each vote is of equal value in the making and unmaking of a government. It is arrived at on the basis of a perception or reality that an election is conducted on the basis of agreed norms and standards, and that they were applied in an impartial and transparent manner. The evenness of the political playing field is affected by the nature of the electoral law, which prescribes an electoral system and may disadvantage certain groups. The ability, on the part of political parties, to canvass for political support without fear or favour underscores the basic freedom that must be enjoyed in a democracy. Coupled with that, equitable access to the state media is an essential tool for free exchange of political views. Moreover, an equitable sharing of resources, as in public funding of political parties, builds confidence in election outcomes and the political system as a whole. Equity is one of the virtues of democracy and must be upheld to ensure trust in the system. Perhaps more fundamentally, the political system must ensure that the voters are not only taught how to vote but have a clear understanding of the workings of the political system and are also aware of the limits of their rights and responsibilities.

inclusiveness

The politics of inclusion and exclusion occupy the centre stage in democratic discourse. Conflicts that are fought in Africa often arise from perceptions or actual situations of being excluded or marginalised from the political system. In situations where people are polarised along demographic features such as race, ethnicity and gender, an electoral system that is more inclusive goes a long way to enhance the credibility and legitimacy of the political system. Such norms and standards are appropriate because they facilitate national reconciliation and aids societal cohesion. The value of inclusiveness is paramount in heterogeneous societies because it facilitates the participation of minorities or marginal communities in the political system. In sum, inclusiveness guarantees political stability and social harmony.

Representation

Representation is one of the core values of liberal democracy, and it is measured by the quality of representation as well as opportunity availed to the electorate to choose their leaders. An electoral system that is truly representative ensures that the votes cast in favour of a party correspond to the number of seats it wins. The PR system tends to provide greater representation whilst the winner takes all system suggests that when you lose an election you also lose your vote in terms of making or unmaking a government.

Accountability and transparency

Accountability and transparency are basic democratic values that are expected of all democratic systems. Accountability, on the one hand, as discussed by James and Hadland (2003:22) is viewed as 'the management of expectations'. In a democracy, norms and standards of accountability are such that elected representatives are duty bound to report back to the people who elected them into public office. It is argued that the FPTP systems promotes effective accountability whilst the PR system, especially the closed party list, is elusive in the sense that in an election people elect a party rather than the candidate. However, accountability is lost in situations where people 'cross the floor' without going back to the electorate to renew their mandate. Transparency, on the other hand, means doing things in public view in an honest and sincere manner. The absence of accountability and transparency promotes corruption and undermines the legitimacy and credibility of the political system. More concretely, there must be a code of conduct that regulates the behaviour of candidates, political parties and election administration bodies.

Participation

Political participation does not only mean voting in an election but also being voted into political office; that is the state of being a politically-engaged citizenry. Broadly defined, it includes voting in an election, standing for political office, attending campaign meetings, assisting in the voter education campaign, engaging in mass action over a political or public policy issue and doing volunteer work (Bratton and Mattes, 1999). It is generally agreed that popular participation in the electoral process is one important way of strengthening and deepening democracy. And this can be achieved if the public has confidence in the electoral process and feel it is accessible to them and responsive to their demands. Lack of trust and confidence in the electoral process often leads to voter apathy.

Political tolerance and respect for diversity

What are the defining characteristics of political tolerance, and respect for diversity? Politics is about the aggregation of diverse political interests and channelling them through the political system. Moreover, most SADC countries are in transitions from one-party state, and it is essential that politicians are tolerant of groups or parties that were hitherto regarded as dissidents or rebels. 'Electoral engineering', to use Pipa Norris's (2004) term implies developing appropriate electoral models that take cognizance of the diversity of the nation-state and strengthening points of convergence. Usually, variations of the PR system go a long way to address these sensitivities.

The Practice of Electoral Norms and Standards in SADC

SADC Norms and Standards may be traced to the genesis of SADC, the regional cooperation project, as far back as the 1970s with the formation of the Frontline States (FLS).⁴ The FLS was a loose grouping of southern African states with the aim of facilitating the decolonization and ending apartheid on the sub-continent. To coordinate their activities the FLS formed the Interstate Defence and Security Committee (ISDSC), comprised Ministers of Defence and shared information on how best to liberate the region. With the independence of Zimbabwe in 1980, the majority of southern African countries, except for Namibia and South Africa that were under white minority rule, were under majority rule. At that point, it became evident to the southern African leaders that political independence not accompanied by economic libera-

tion was hollow. Arising from that realization, the Southern African Development Coordinating Conference (SADCC) was formed with a view to reduce dependence on South Africa as well to diversify sources of funding. Like the FLS, SADCC was a loose grouping of states without a formalised treaty.

Following the disbanding of the FLS and the institutionalization of the Southern African Development Community (SADC) in 1992, and perhaps also the realization of the close connection between democracy, development and security, member states decided to put in place mechanisms that would ensure closer regional political cooperation. The SADC Organ on Politics, Defence and Security (OPDS) was formed as a substructure of SADC⁵ with the political mandate to facilitate cooperation in the areas of politics, defence and security. The OPDS⁶ was conceived as a regional bridge or building block for the Organization of African Unity (OAU) and United Nations (UN) Security Council's resolve to maintain global peace and security. Although the OPDS was launched in 1996, it remained moribund for the most part in the 1990s due to internal fissures within SADC, hinging on its independence and operational autonomy.

With a view to operationalise the OPDS, SADC commissioned a *Strategic Indicative Plan for the Organ* (SIPO) to develop guidelines that facilitate the implementation its mandate. The SIPO discusses four critical areas that are interconnected, and these are: political, defence, state security and public security. At the political level, the most vexing problem for Africa is the political will to institutionalise and consolidate democracy (SADC, 2003). The creation of the OPDS was indeed recognition of the fact that an economic community not guided by a common political destiny was at best an exercise in futility. It is through a political will that the problems of poverty, underdevelopment and the reduction of the gap between the rich and poor could be addressed.

With the adoption of the SADC Treaty in 1992 and the signing of the Protocol on Politics, Defence and Security Cooperation in 2001, SADC set out to develop guidelines for the conduct of elections in the region. These guidelines, which were adopted in 2002, bear a close resemblance and affinity to the AU and UN declarations and norms and principles governing democratic elections in Africa. Of particular relevance to the region is that they closely resemble those enunciated by SADC PF and Electoral Institute of Southern Africa/Electoral Commissions Forum (EISA/ECF). The decision to formalise SADC in the form of a treaty as well as spelling out forms of economic integration was recognition of the fact that its existence as loose grouping of states was not leading to sustained regional integration. Moreover, it was realised that without adhering to some common political deals, the region would remain polarised and attempts at regional macro-economic planning would be sacrificed in favour of national development projects.

The centrality and relevance of the SADC norms and standards is that they are guidelines adopted by SADC Heads of State and Government, and, as such, carry a lot of political clout. They represent a major turning point in the democratization debate and a commitment towards the creation of a credible and legitimate government (Matlosa, 2005:156). SADC is a signatory of the UN and AU declarations, which commit the region to democratic norms and observance of human rights and dignity as enshrined in the 1949 Universal Declaration of Human Rights. These UN provisions are complemented by the AU's New Partnership of Africa's Development (NEPAD), which initiated a process of African Peer Review Mechanism (APRM).⁷ The SADC norms and standards were a deliberate undertaking by member states to develop guidelines that would be utilised in the conduct of, and help to evaluate the fairness and credibility of elections. They were informed by and made to be in consonance with the continental and international norms

and procedures. Nevertheless, there has been a proliferation of these guidelines, as there exist three parallel sets. These are EISA/ECF, the SADC Parliamentary Forum norms and standards of 2002, those of the EISA/ECF, and the SADC Electoral Norms and Standards. Each is discussed below, and later in the section 'SADC Principles and Guidelines Governing Democratic Elections'.

The SIPO identified the development of democratic institutions and the promotion of human rights as essential for the institutionalization and consolidation of democracy. These include:

- the establishment of common electoral standards
- the promotion of the principles of democracy and good governance
- the encouragement of political parties to accept the outcomes of elections held under in accordance with both the AU and SADC Electoral Standards
- the establishment of a SADC Electoral Commission with well defined standards
- the establishment of a regional commission for the promotion of and respect for human rights; and
- strengthening member states judicial systems

A number of protocols and declarations have been agreed and signed by member states with regard to democracy in SADC. These instruments involve, among others, the Harare Declaration (1991), which commits the region the rule of law and democracy; the Windhoek Declaration on the Freedom of the Media (1991) that privileges the free movement of information without fear or favour; the SADC Treaty (1992), which affirms the commitment to regional integration, peace and security; the declaration on Gender and Development (1997), which underscores the need for equality of opportunity across the gender divide.

The importance of norms and standards is that they provide a framework or benchmark for national dialogue to conform to regional and international best practice. These norms and standards include political representation, inclusiveness, political tolerance and respect for cultural and political diversity. For these norms to be effective, they must be embodied in the constitution and electoral law and to a large extent possible shared by the people and countries in the region. The norms and standards pertaining to electoral processes are important benchmarks that must be followed by all stakeholders in order that elections are perceived by all stakeholders as free, fair, credible and legitimate. The development of the common electoral norms and standards for the conduct of elections are an important starting point in terms of regional political integration.

The SADC Parliamentary Forum Norms and Standards

The SADC Parliamentary Forum norms and standards were adopted in March 2002 to guide best practice in the observance of elections in the region. They spell out the basic rights accorded to citizens in exercising the democratic right of electing a government of their choice. These liberties involve the qualification of franchise, the ability to express a political choice and preference without fear of intimidation and harassment and the secrecy of the ballot. The second aspect of these guidelines covers the role of governments in the conduct of elections, to underscore a government's commitment to democratic rule and the levelling of the political playing field by ensuring that there is equality of opportunity in terms of canvassing for political support, equal access to state-controlled media, the use of public funds in political party activities, and

the relationship between government and other stakeholders or interested parties. Third are aspects that deal with the processes that inspire trust and confidence of the electoral process. These are wide-ranging issues that includes pre-election processes, such as the electoral law, delimitation of constituencies, registration of political parties and candidates; election processes like the poll, counting of ballots and announcement of election results; and post election, which include the management and resolution of elections disputes (Matlosa, 2003). In addition to the norms and standards, SADC-PF developed an election observation manual and guideline⁸ to assist SADC Members of Parliament in their observation of elections in the region.

Electoral Institute of South Africa and the Electoral Commissions Forum Norms and Standards

The EISA and the ECF jointly developed and adopted, in 2003, the *Principles for Election Management, Monitoring and Observation in the SADC Region*⁹ (PEMMO). PEMMO is a comprehensive election management, monitoring and observation instrument covering the totality of the election process to include: the constitutional and institutional frameworks governing the conduct of elections, the pre-election processes, the election process, the post-election process, and the monitoring and observation of elections. However, as it becomes evident when you read these norms and standards, they are not fundamentally different from those propounded by SADC PF; they cover more or less the same terrain as other instruments. Both EISA and ECF are capacity building entities geared to develop best regional practice in the management, monitoring and observation of elections. They are essentially civil society organizations geared to ensure openness and public accountability of Election Management Bodies (EMBs).

For completeness, we shall proceed to outline its salient features. It underscores:

- the need for a comprehensive constitutional and legal framework;
- the importance of transparent and accessible pre-election procedures (including the delimitation process, voter registration, and candidate nomination);
- the equitable use of the media and public resources and issues of political party finance;
- the organization and management of the election phase, including the location of polling stations, their layout, and access to them; the secrecy of the ballot, and the counting process;
- the post-election phase, including the settlement of election disputes and ways of ensuring that results are acceptable;
- the requirements for unhindered, credible, professional and impartial monitoring and observation of the electoral process.

SADC Principles and Guidelines Governing Democratic Elections

The SADC principles and guidelines are premised on the 'common historical and cultural identity' that shapes the vision of a 'shared future' in the region. The centuries of oppression and deprivation have made SADC member states come up with an ardent resolve never again to regress into the dark and heinous activities of apartheid and colonial rule. In addition to upholding the virtues of human dignity, equality and brotherhood of mankind, SADC espouses the

promotion of common political values and also building institutions and structures that would promote democracy, the rule of law and credible popularly elected governments. These norms and standards seek to transcend the baseline parameters of regular free and fair elections. They wish to open new frontiers of open and transparent elections, inclusive and politically tolerant political systems, and representative and credible electoral systems. The SADC principles are anchored on six core values of democratic principles for conducting elections; the mandate and composition of SADC observer missions; guidelines for the observation of elections; code of conduct for election observers; rights and responsibilities of SADC election observers; and responsibilities of the member states holding elections (Minnie, 2004:159-163).

Although space does not allow for a detailed discussion of these guidelines, it would be useful to unpack some of its salient features. The SADC principles governing the conduct of democratic elections as enunciated in Minnie (2004) suggest:

- (a) Full participation of citizens in the political process;
- (b) Freedom of association and assembly;
- (c) Political tolerance of opposing views and the recognition of the diversity of political views on the political playing field;
- (d) Regular intervals for elections as provided for by the respective national constitutions;
- (e) Equal opportunity for all political parties to access the state media;
- (f) Equal opportunity to exercise the right to vote and be voted for;
- (g) Independence of the judiciary and impartiality of the electoral institutions
- (h) Voter education.

Challenges in the Implementation and Enforcement of Electoral Norms and Standards

Perhaps the biggest limitation in terms of operationalising SADC electoral norms and standards is that SADC as a regional organization does not have a structure that would ensure the implementation of these guidelines. Whereas institutional structures exist in the form of the SADC Parliamentary Forum and ECF and EISA, and although they operate within SADC, they are independent and autonomous entities. Perhaps the SADC-PF needs further qualification, as that, even though they comprise members of parliament, their autonomy from the executive is borne from the fact that they also comprise opposition MPs who are not under the control of ruling parties. SADC is currently involved in negotiations with ECF to transform it into a SADC advisory electoral council. Furthermore, the fact that there is no SADC Parliament to be a superstructure that would operationalise these norms and standards mean that their effect would remain marginal and, at best, a pipe dream.

There are also a number of issues that negatively affect the integrity and effectiveness of SADC in terms of delivering democratic governance. It would appear that, even if the resolutions and protocols entered into by member states are binding, there is no way of enforcing them. Even though countries have ratified these conventions, they have not domesticated them to become part of the national laws, and this presents the problem of applying regional norms

and standards to sovereign states. Swaziland remains a big exception in the region, as it clings to an un-elective traditional system of governance, which actually violates SADC declarations. But SADC cannot sanction Swaziland in order to address the problem. Zimbabwe, in the wake of the 'quiet diplomacy' by member states, violates the rights of its people with impunity and nothing gets done. This makes one wonder whether SADC is a club of elites who are beyond reproach and cannot be condemned publicly to bring about reforms. This then creates the impression that SADC, instead of promoting good governance, condones bad governance.

Another serious indictment of SADC is that despite the upsurge of movements to empower women and ensure that they are given greater equality in advancement to elected office, they continue to be under-represented in public office and decision-making bodies in most SADC countries. Although SADC governments have ratified international conventions and protocols that establish norms and standards for gender equality in the public sphere - the 1979 Convention on the elimination of All Forms of Discrimination Against women and the Nairobi and Beijing platforms, which that called for gender equality by 2005 – women representation in decision making positions still remain a serious problem.

The other challenge is that it appears the proliferation of entities that guide the conduct of democratic elections is a result of mistrust that exists between SADC executives, parliamentarians and civil society organizations. Much as all the entities are guided by principles of democratic governance, the power relations that exist between them makes for a tenuous relationship. Executives wish to be in positions of absolute control, whilst the SADC Parliamentary Forum seeks to ensure that the executives are accountable to national parliaments. Civil society entities strive to traverse the space between the state and the people to ensure that people's civil liberties are not undermined and violated. Actually there is a lot of scepticism about SADC executives – that they are bent on entrenching the predominance of ruling parties. This perception is borne out of the perception that although most EMBs are said to be independent and autonomous, they report to line ministries, usually the 'ministry of the state', instead of reporting directly to Parliament.

In the new wave of democratization, elections are taken as a panacea that would solve all societal problems. But the reality is that elections are themselves often the cause of conflict. Countries emerging from conflict are often given a hasty timetable to hold elections before they are ready or have created institutions that would support a democratic dispensation. Moreover, the lack of legitimacy and credibility of elections outcomes is one of the biggest challenges SADC faces in the institutionalization of democracy.

Conclusion

The conclusions that one can draw in this paper are that despite the adoption norms and standards of electoral practices in SADC, which represented a major milestone in the institutionalization of electoral processes in the region, the conduct and practices of electoral systems do not necessarily conform to these guidelines. Member countries and SADC, as an organization, face major challenges of implementation and enforcement. The development of these norms came out of a realization that elections in the region come in many forms and differ in content and character. The setting up of common norms and procedures was an endeavour to provide yardsticks that would be common and agreed upon by all stakeholders in a particular election, and also by all regional stakeholders. These guidelines are an attempt to level the political playing field for all the contestants, and also an attempt to instil a sense of ownership

by the electorate of the electoral process. There must also be a code of conduct that regulates the behaviour of candidates, political parties and EMBs.

Perhaps the biggest challenge that SADC countries face is not so much the operationalization of elections norms and standards but their enforcement. SADC appears not to have the political will to address the regional challenges. There have been human rights violations and general economic malaise in Zimbabwe but this seems to escape the notice of SADC. Besides, even when the norms and standards that are generally similar are used to guide election observations; they often elicit different verdicts.

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Notes

- ¹ DRC had its first democratic elections in June 2006, although they were declared free and fair, had incidents of violence and intimidation.
- ² Angola is scheduled to have democratic elections in 2008
- ³ When Laurent Desiree Kabila forcefully took the reigns of power in Zaire, he renamed the country the Democratic Republic of Congo when the country was not by any stretch of the imagination democratic.
- ⁴ The Frontline States comprised Angola, Botswana, Mozambique, Tanzania, and Zambia.

- ⁵ Its organization and structure consist of the Chairperson and the Troika, which are key decision-making institutions; a Ministerial Committee comprising of Ministers of Foreign Affairs, Defence, Police and Intelligence; two committees, namely the Inter-State Politics Defence and Security Committee (ISDSC) and the Inter-State Politics and Diplomacy Committee (ISPDC); and the Secretariat.
- ⁶ Its objectives are to: protect people against instability; promote political cooperation and diffuse common political values and institutions; develop common foreign policy agenda; promote regional security cooperation; manage conflicts by peaceful means; develop close cooperation between police and state security services in combating cross-border crime; coordinate and develop peacekeeping capabilities in the region, and enhance regional capacity regarding disaster management.
- ⁷ These were adopted at the 38th Ordinary Summit of the Assembly of Heads of State and Government in Durban in July 2002. They provide that: democratic elections are the basis of the authority of any representative government; regular elections constitute a key of the democratization process and therefore are essential for good governance, the rule of law, and the maintenance and promotion of peace, security, stability and development; the holding of democratic elections is an important dimension in conflict management and resolution; and democratic elections must be conducted in a free and fair atmosphere, under democratic constitutions and in compliance with supportive legal institutions, under a system of separation of powers that ensures that, in particular, the independence of the judiciary, the holding of elections at regular intervals codified in the national constitutions, and the supervision of elections by an impartial, all-inclusive, competent, accountable elections institutions staffed by well trained personnel and equipped with adequate logistics.
- ⁸ SADC PF, Election Observation Guide for Members of Parliament. Windhoek: SADC PF, 2002.
- ⁹ EISA/ECF, Principles for Election Management, Monitoring and Observation in the SADC Region. Electoral Handbook No.13, Johannesburg: EISA, 2004.

ELECTORAL NORMS AND STANDARDS IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY: A SYNTHESIS

BALEFI TSIE AND JONATHAN MAYUYUKA KAUNDA

Introduction

This paper is in two parts; the first provides a conceptual framework for appreciation and understanding electoral norms and standards and the second summarises and analyses the preceding four papers on this theme. The paper concludes by considering the core arguments for the necessity of electoral norms and standards in the SADC region and provides some recommendations.

Since the end of the Cold War there has been a relentless demand for democratic rule throughout the whole of the Third World. Authoritarian rule had been the order of the day during much of the Cold War. Indeed, there has been a 'global democratic revolution' or a 'third wave' of democracy in both the Third World and in the former Soviet Empire. Unprecedented demands for multiparty democracy also engulfed sub-Saharan Africa (SSA) during the early 1990s. At the core were demands for replacement of various shades of authoritarian rule manifested in one-party states and military dictatorships. A rare combination of political forces emerged in Africa and popular domestic political forces came to the forefront of the 'struggle for democracy'. With the end of the Cold War and fall of the Berlin Wall, Western governments no longer had any excuses for propping up autocratic regimes. International Financial Institutions (IFIs) and bilateral aid agencies also joined the bandwagon demanding an end to 'bad governance'. Thus, a powerful consensus emerged that democratic rule and 'good governance' had to prevail. Southern African was not an exception to this trend and had authoritarian regimes, with the exception of Zimbabwe and Swaziland, swept aside by the 'third wave' of democracy.

Starting the democratization process amongst the already liberated states of Southern was the removal, through multiparty elections, of the Kaunda regime in Zambia in 1991. Also particularly striking was the bold decision taken in by State President F. W. de Klerk of South Africa in February 1990, to release Nelson Mandela from prison and lift the ban on the African National Congress (ANC) and other liberation movements. This set in motion a process of the dismantling the apartheid system in South Africa. The historic decision brought the prospect of the end of the protracted national liberation struggle in South Africa, and emboldened seething sentiments for multiparty democracy in the rest of the region.

From one country to another,¹ multiparty political systems replaced authoritarian ones; they were actually prevalent in the region by late 1995. However, Swaziland was the exception and is still an authoritarian monarchy that does not allow political pluralism and is legitimated by a traditional political system (*tikundla*). Regular multiparty elections are now a common feature of political practice in most member states of the SADC.

Although the transitions to multiparty systems and the post-apartheid dispensation in South Africa have been acclaimed by many, the results of some elections have been hotly contested and led to less than desirable consequences. Electoral contestation led to violent domestic conflict after Angola's 1992 presidential and parliamentary elections; Lesotho faced political turmoil after the 1998 general elections: there were disturbances in Zambia after the 2001 presidential

election; instability in Zanzibar after the 2000 general election; and Zimbabwe degenerated into political and economic repression after the 2002 presidential election. In the case of Lesotho, SADC military intervention in the form of deployment of security forces from Botswana and South Africa had to be authorised to contain and stabilise the situation.

The contentious issue in all southern African post-election disputes has been whether the elections had been 'free and fair'. The issue of freedom and fairness has sometimes even divided electoral observer missions. An example is the disagreement between the SADC Observer Mission and the SADC Parliamentary Forum (SADC-PF) regarding the conduct of the presidential election in Zimbabwe in 2002. Whereas the SADC mission had declared the elections free and fair and representative of the wishes of the Zimbabwean electorate, the SADC-PF declared the opposite. Controversy such as this prompts observers, ranging from academics, policy makers, politicians and civil society, to question what constitutes a 'free and fair' election. This query is central to discussion of electoral norms and principles and, by extension, to an examination of what contribution elections make to the consolidation of (liberal) democracy and respect for human rights in southern Africa. In other words, research on electoral norms and standards is one of the points of discourse surrounding the meaning and substance of democracy, especially whether elections are necessarily a component of democratic practice.

The concern for electoral norms and standards and democratic practice culminated in the Electoral Institute of Southern Africa (EISA) organising a conference 'to define a set of criteria to guide electoral practice and foster a sound enabling environment in which elections can take place' (EISA, 2003:1) in Windhoek, Namibia in June 2000. The conference underlined the importance of developing a common set of electoral norms and standard that could in future provide guidelines for 'best electoral management practice' in the region. The Principles for Election Management, Monitoring and Observation (PEMMO) in the SADC Region was the end product. These principles were formally adopted by the Electoral Commissions Forum (ECF) of SADC countries in November 2003. The SADC Parliamentary Forum has a similar set of principles that has been officially adopted by SADC. The objective of developing SADC electoral norms and standards is to encourage member states to strive for and ultimately attain best practice in electoral procedures and processes whenever they hold elections.

Conceptualising electoral norms and standards

Electoral norms and standards should be conceptualised within the broad context and the meaning of democracy. A working definition provided by David Beetham is that "democracy entails the twin principles of popular control over collective decision making and equality of rights in the exercise of that control" (Beetham and Boyle, 1995:1). This is the essence of representative democracy, where several political parties compete for political office in regular elections that usually involve universal suffrage. Nevertheless, "democracy is a matter of degree; of the extent to which the principles of popular control and political equality have been realised" (Beetham and Boyle, 1995:2). One should also caution that democracy is elusive and may come in fragments and parts because it is a process and not an event; it is even subject to erosion and reversal, as the experiences of Zimbabwe demonstrate. Regular competitive multiparty elections are expected to give the voters opportunities to choose their political representatives or leaders from a range of contestants. But such was rare in southern Africa before 1989, as only Botswana and Mauritius were holding regular contested elections. Currently the crucial question is: what has been the quality of these "democratic" multiparty elections in the SADC region after the

“third wave” of democracy, post-1989?

The roles of elections in a democratic society are to confer legitimacy on the government of the day; provide opportunities for popular participation; select political representatives for the legislature and other bodies; and to hold the elected leaders accountable to the electorate. Legitimacy promotes deference and complicity with government orders because it implies widespread acceptance of the government. Thus elections promote political stability through the legitimating of a government. But this is only possible if the process by which such a government came to power is deemed to have been fair and just. That is why election results and the way elections have been conducted matter so much. Secondly, by providing opportunity for popular participation, elections are a central pillar of democracy because “voting is itself an act of direct participation in public decision making” (Katz, 1997:105). Of course, the expectation is that popular participation in public decision making does not end on after polling day, because other avenues of participation in collective decision making such as the *kgotla* (village assembly) meetings or *indaba* may be utilised to regularise and enrich representative democracy. Third, elections are a means of choosing political representatives that reflects the informed choice, by the electors, of leaders and/or social and economic programmes that represent the popular will. Finally, competitive elections give the voter an opportunity to choose their leaders from a range of contestants and to reject or remove from office those who the voters deem unworthy of their vote. Stated differently, elections are a means by which leaders can be held accountable to the electorate through the “law of anticipated reaction”.

However, the quality of elections in the SADC countries varies enormously. For example, in Botswana the elections are routine, institutionalised, and non-violent and devoid of any controversial issues; in Zimbabwe they are acrimonious, violent and controversial. Nonetheless, there is growing belief in the region that competitive elections are the most legitimate means of choosing political leaders. Such elections should be free, fair and honest; which implies there should exist conditions that enable free political activity and choice, in a context of constitutional and legal frameworks that guarantee, protect and promote fundamental human rights and freedoms. Contesting political parties and candidates should be free to conduct their campaigns without fear, harassment or intimidation, in the context of a “level playing field”. Fair elections also require equal or equitable access to state resources and the media by all contesting political parties and independent candidates; transparency of procedures (including the delimitation of constituencies, demarcation of polling districts, registration of voters, nomination of candidates and certification of the voters roll); access to information (including voters’ rolls) and to polling stations; and guarantees of secrecy of the ballot. Finally, the vote counting process must be transparent in order to ensure a correct and honest outcome.

Other requisite conditions are that candidates should be allowed to send their party agents to polling stations and counting centres and the results of polling should be promptly announced. Only when all or most of these conditions have been met can the elections be taken or judged as credible, free and fair democratic elections. The adherence to such electoral norms and standards has the potential to promote credible democratic elections.

Summary and analysis of the four papers

Lise Rakner and Dorothy Mpabanga set off the discussion with their conceptual paper on “The Evolution of International Norms and Standards of Electoral Process”. They assess, from the perspective of international best practices, the application in the SADC region of three main

issues of electoral governance: international standards and perceptions of electoral processes; the functions and role of electoral management bodies (electoral commissions) in the electoral processes; and election monitoring. Their paper gives a brief outline of the main international (multilateral, bilateral and party-based) institutions that have contributed to the development of electoral norms and standards.

They observe that, whereas there is international consensus on what constitute free and fair elections, few practical and objective guidelines have emerged on how to assess real life elections according to these standards. There is also consensus that elections are essentially long-term political processes that should be assessed in the context of ongoing political developments. Second, that the administration of electoral processes, in particular the role of electoral management bodies or electoral commissions has to be examined and understood in specific contexts, such as the nature of the country's party system. Third, that election observation is still far from being a 'science' with objective and fully comparable standards for judgement.

Rakner and Mpabanga point out that until the 1990s, the SADC region had no specific processes, norms and standards established to guide the election processes in the various countries. It was only later that the Electoral Commissions Forum (ECF) of SADC (1988) and the Electoral Institute of Southern Africa (EISA) developed norms and standards that would act as the principles for guiding democratic elections. Added impetus came with the establishment of the SADC Organ for Politics, Democracy and Security, which constituted an important factor in the development of SADC norms and standards for electoral processes. Lastly, Rakner and Mpabanga observe that the promotion of democracy and good governance cannot only be accomplished by SADC as an organization. There is a need for the engagement of civil society, national, regional and international organizations to work together to ensure that the principles of democratic and good governance are established and adhered to in the SADC region.

These are valid and important findings. Rakner and Mpabanga raise crucial issues with regard to the basis and evolution of the region's electoral norms and standards. Of critical value too is their observation that elections are not the total sum of democracy; they are only a part of the development of a democratic system and, as such, they should be examined over time. In addition, the promotion of democratic practice is not the preserve of the "official" actors, that is, governments of the member states and the SADC as an organization, but rather it should be on the basis of partnership of these and the "non-official" actors in civil society. Hopefully, such broad partnerships and the adoption, acceptance and application of norms and standards for the conduct of elections would lead to comprehensive and inclusive democratic development. These are obviously issues that need further and continuing research as political and other dynamics are constantly changing in the member states, regionally and globally.

David Sebudubudu's paper concentrates on the organizational and functional aspects of electoral management bodies, also known as electoral commissions. He specifically examines the organizational structure and mode of operation of the three countries' electoral management bodies (EMBs), namely, Botswana, Namibia and South Africa. His examination of the EMBs is aimed at assessing the extent to which they are able to deliver free, fair, credible and legitimate elections. The paper discusses elements of effective electoral administration, which are spelt out as independence/autonomy; impartiality; transparency; and security of tenure. It is worth adding here that a high level of professional integrity is also required for effective electoral administration.

The paper suggests that the assessment of the effectiveness of EMBs should include examination of the political and institutional context that may affect their performance. Political

interference, especially from the incumbent executive authority, and relationships with the other government institutions such as the executive and judiciary may impact on the performance of the electoral management body. The paper further suggests that impartiality of the EMBs, their transparency or openness to public scrutiny, and the security of tenure of both the Commission and its Secretariat should be guaranteed by the law.

Sebudubudu's paper emphasises the important characteristics that must exist for EMBs to effectively conduct elections. Important for further research is consideration of whether SADC member states' electoral management bodies actually contribute to the promotion of democratic principles and practices through their operations. It would also be interesting to consider whether these bodies are subjected to or face the threat of various forms of capture that could render them ineffective, impartial, un-free and unfair.

Zibani Maundeni's "Regional Election Bodies and SADC Integration" devotes considerable attention on the SADC Principles and Guidelines Governing Democratic Elections, in the context of the Strategic Indicative Plan for the Organ (SIPO) and the related protocol on the Organ. He finds the guidelines wanting because they are not binding. This means that some member states can fully observe and adhere to the guidelines whilst others choose to ignore them completely without risking any punitive sanctions or even being publicly criticised. As also noted by Molomo, this implies that there is a wide variation of application of electoral norms and standards in the SADC region.

The paper, in its examination of relations between SADC on the one hand and non-governmental organizations and civil society organizations on the other, criticises SADC for giving little space for such non-state actors in SADC affairs. This observation echoes Rakner and Mpabanga's observation that SADC as an organization cannot monopolise the democratization of SADC member states; that a partnership with non-state actors is essential for democratic development. The paper also observes that SADC parliaments are denied sufficient legislative space to influence regional policy. The limited interactions with non-state actors and legislatures makes SADC appear an elitist and state-focused organization. Moreover, the organization seems to be all too keen to publicly defend errant member states from regional and international criticism, but never willing to publicly criticise undemocratic practices in such countries. Consequently, the international community does not take SADC seriously by on issues of democratic governance, particularly over its handling of the Zimbabwe situation.

Maundeni's paper also criticises the Organ for its sloppy response to the challenges and problems surrounding democratization in the region, and questions its lack of action on corruption and unstable politics in Angola, dysfunctional political party practices in the DRC, the deteriorating politics in Swaziland, the increasing dictatorial tendencies in Zimbabwe, and the never-ending party squabbles in Lesotho. Lastly, Maundeni criticises what he perceives to be the Organ's reluctance to "work closely" with EISA and other regional election bodies.

Last but not least, Maundeni discusses the origins, mandate, organizational structure and progress of the SADC Parliamentary Forum. He notes with concern that "the [SADC] PF plenary assembly has no legal authority to deliberate or approve or reject Summit decisions". It can only make recommendations to the Summit and other SADC structures such as the Council of Ministers. However, he notes the positive SADC PF approach to the improvement of electoral administration and its commitment to pluralism, funding of political parties and the need to avoid misuse of public funds, as well as observance of the critical process-steps and the nuts and bolts of how to prepare for a transparent, free, fair, legitimate and credible election.

The overall conclusions from Maundeni's paper are that, on the one hand, SADC may be

criticised for its lack of promotion of democratic practices, defence of undemocratic regimes, and inadequate recognition of the role of civil society in advancing democracy; on the other, the SADC-PF should be commended for its promotion and enhancement of regional democracy. This is interesting, as the latter essentially represents elected parliamentarians and stands up for the upholding of democratic norms and standards of electoral processes, unlike the former, which appears to be under the effective control of executive presidents and ministers, and apparently undermines democratic practices and also prop up undemocratic regimes in the region. Perhaps the underlying message here is that you cannot expect centralised bureaucratic extensions of regional member states (the SADC organization) to foster the development of democracy; it is better to rely on the products of democratic processes (and other non-state actors) to nurture regional democracy.

Mpho Molomo's paper, entitled "The Application of Electoral Norms and Standards in the Southern African Development Community", builds on the argument that the institutionalization and consolidation of democracy requires more than the holding of regular, free and fair elections and developing structures that support those elections. This article thus sums up the emerging consensus of the papers: democratic consolidation requires *developing and applying* norms and standards that ensure that the electoral process is representative, open, accountable, and inclusive, strives for gender equality, displays political tolerance, and promotes intra-party democracy.

Conclusion

The four papers are focused on the conceptual basis and actual applications of electoral norms and standards in the SADC region, and the contribution of electoral processes to democratization. Whereas there has been significant movement towards democratization in southern Africa since the early 1990s, the transitions to democracy have been uneven. The nature of democracy is often fragile and its quality questionable. Electoral contestation has not necessarily translated to the consolidation of democracy. The holding of regular, "free and fair" elections does not guarantee the institutionalization of democratic practices.

Further, there is the question of whether the transitions to "democracy" have even contributed to the enhancement of human choices, capabilities and overall development in the region. It is evident that the practice of democracy is far from ideal in most member states of SADC, where elections do not necessarily lead to choices of genuinely representative political leaders, but rather political elites that do nothing to halt the erosion of democratic principles and abuse of human rights. Meanwhile, poverty and inequalities are deepening and escalating in the majority of SADC countries. There seems to be preoccupation with the form rather substance of multiparty democracy in the region; indeed, there is a tendency to equate the holding of elections with democracy. Even though elections are important, they are merely the beginning of a long journey toward democratic consolidation. What has occurred is the "democratization of disempowerment", whereby the people have been given "the democratic right to elect governments that have no effective power to determine social or economic policy". To this we add that the governments do not appear to have the *effective will* to pursue democratic development. It would also appear that the nature of representative democracy in southern Africa is elitist, with masses participation only manifest during elections. Political practice effectively excludes the masses and civil society organizations. This kind of distorted democracy prevails, and keeps the poor voiceless and powerless in almost all the SADC countries.

Likewise, the interactions of SADC with NGOs and civil society reveal that there is not sufficient space to for the latter to participate meaningfully in SADC affairs. On top of that, SADC parliamentarians do not have influence on regional policy. Seen in this light, it may be concluded that democracy has not been consolidated in a number of countries, and has suffered serious reversal in some instances.

Nevertheless, the introduction of electoral reforms in several SADC countries in the 1990s and development of regional electoral norms and standards may enhance the march of democracy. However, effective application of the norms and standards (electoral guidelines) requires that they be made binding. There should not be tolerated a situation whereby SADC member states choose to selectively apply or comply with agreed regional standards.

Recommendations

The following recommendations could assist SADC and its member states achieve best electoral practice to consolidate democracy in the region.

- Harmonise, to the extent possible, electoral norms and standards in the region.
- Make adherence to electoral norms and standards mandatory by transforming PEMMO and SADC Guidelines into a Protocol on Democratic Elections and ensure that the Protocol is indeed domesticated into electoral legislation in member states.
- Introduce a common EMB structure (similar to the one that exists in South Africa) that enjoys a high degree of autonomy, independence and public confidence.
- Strengthen and consolidate the autonomy and independence of EMBs through appropriate domestic legislative intervention.
- Ensure that the security of tenure of both the Commission and Chief Executive Officer of the EMB is guaranteed in the constitution or electoral act.
- Encourage member states to consider creating machinery for handling election conflict before, during and after elections where such machinery does not exist.
- Establish and formalise institutional means of interaction of the SADC organization with civil society organizations.
- Recognise the pivotal role of the SADC-PF has played in improving norms and standards of conducting elections and in encouraging the upholding of democratic practices, and empower SADC Parliamentarians to have influence in the SADC structures.

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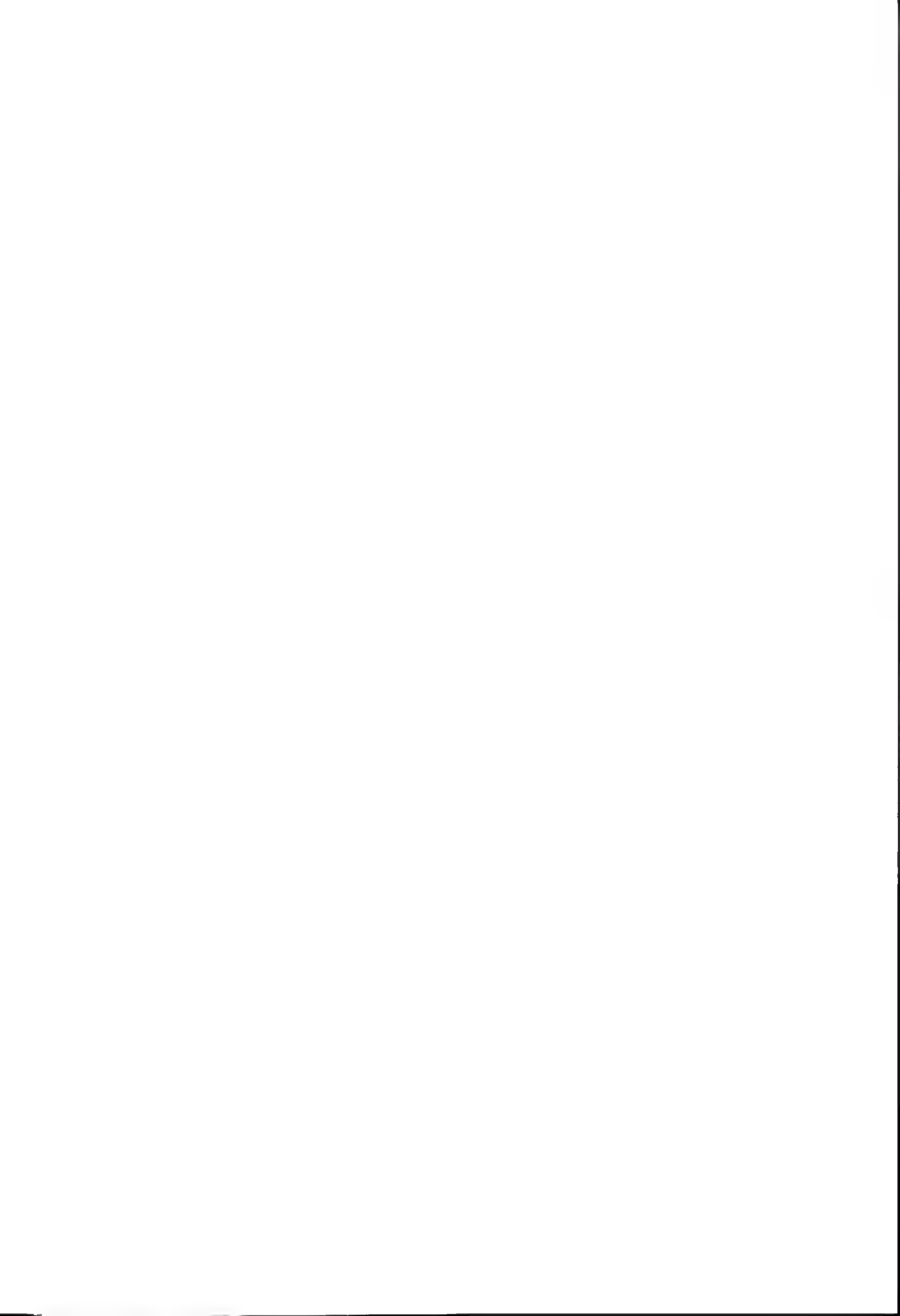
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Note

- ¹ Zambia in 1991, Angola in 1992, Lesotho in 1993, Seychelles in 1993, Malawi in 1994, Mozambique in 1994, South Africa in 1994, and Tanzania in 1995.

SECURITY COOPERATION



KEY CHALLENGES FOR SOUTHERN AFRICAN DEVELOPMENT COMMUNITY SECURITY COOPERATION

GAVIN CAWTHRA

Introduction

This paper explores and examines the key security issues on the global, regional and national levels and the assumptions upon which the current Southern African Development Community (SADC) security cooperation project is based. Particular focus is on the Organ on Politics, Defence and Security Cooperation (OPDSC)

Methodological challenges immediately arise when addressing this topic. The first relates to the level and unit of analysis. On a global level, are the issues those facing the system of states, the global collective security system or individual states (and, if so, which ones)? On a regional level, do the issues pertain to the SADC as an organization or to individual states? And at the national or state level, SADC member states face often quite divergent security challenges, and state concerns are not always the same as group or citizen concerns.

The second challenge is: what do we understand by security? The concerns of the OPDSC mainly revolve around 'traditional' or 'narrow' security issues covered by the defence, policing and intelligence functions of states. But they also include wider political dimensions, such as foreign policy, democratic practice and human rights. Many SADC documents refer to what is in effect 'human security' (broadly defined as freedom of citizens from fear and want) – even if the term is not used - which widens the understanding of security even further (SADC, 2001, 2003, 2004).

To make this topic manageable, therefore, the approach adopted in this paper is to examine key global, regional and national security issues, *as seen from the perspective of SADC countries* and privileging the (rather limited) collective policy decisions and pronouncements as opposed to those of individual states, although some recognition certainly needs to be made of the concerns of major security players, especially South Africa. The focus, consistent with that of the Strategic Indicative Plan for the Organ (SIPO), is primarily on the narrower issues of security, but the paper seeks to embed them in broader political, socio-economic and human security appreciations.¹

A further difficulty is that not many states have made their threat perceptions public, while SADC as a body has issued few statements identifying security issues. However, some research projects that have been carried out identify a wide and diverse range of threats, including crime, HIV/Aids, economic marginalization, the weakness of states, social exclusion, religious extremism, illegal fishing and money laundering. Many of these issues are regional, or at least cross-border in nature (Cawthra and van Nieuwkerk, 2004:15).

Key security issues at the global level

From SADC's perspective, taking into account the limited collective expression of policy regarding global security issues, a number of key characteristics of global security impact on the regional organization. These are regional and sub-regional management of security; increased

international interventionism; imposition of superpower security agendas; mainstreaming of security into development discourse; and the security implications of democratization .

First, SADC is an expression of the growing tendency for security to be managed at regional and sub-regional levels. As one of the Regional Economic Communities (RECs) identified by the African Union (AU), the organization reflects the global tendency for collective security functions to be devolved to regional groupings. SADC is responsible for implementation of the SADC Standby Brigade of the AU (SADCBRIG). This is despite the absence of a formal arrangement under Chapter VIII of the UN Charter.

However, SADC has always been clear that this role should not entail the abrogation of UN collective security responsibilities, especially with regard to peace support operations (PSOs); the UN Security Council should remain primarily responsible for global peace. The 'regionalization of security' must also be counter-posed against the challenges of unilateralism, or of countries or coalitions operating outside of the framework of the UN Charter and hence with questionable authority under international law, as the US has done in Iraq. While SADC itself has not taken a position on this particular issue, its commitment to multilateralism is evident in its policy preferences and modes of operation, and individual countries, especially South Africa and Zimbabwe, have taken strong stands against the US-led intervention in Iraq.

Nevertheless, the principle of interventionism is becoming increasingly acceptable internationally through the doctrine of 'responsibility to protect', which is incorporated into both SADC and AU policies. This implies some erosion of state sovereignty, or at least making sovereignty contingent and not absolute. Implementing this is not easy, as has been made evident by the AU's dilemmas regarding the Darfur intervention. This will be discussed later.

Second, SADC countries have to grapple with the global military dominance of the US but also the limitations (increasingly evident) of US power, particularly its 'soft power' in the wider Middle East. SADC countries have thus had to respond to the agendas set by the war on terror, for example by incorporating them into SIPO and into national legislation.

In part, the US has been able to impose its agendas because of the archaic and unequal structure of the UN Security Council, particularly the veto powers arrogated by the Permanent Five. The reform of the global collective security system under the UN Security Council is thus an important issue for SADC. Here SADC has fallen into line with the AU, through the Ezulwini Consensus, in which African countries are promoting an expansion of the Security Council involving two permanent African seats with veto powers, but little if no progress has been made and Africa remains unrepresented on the Security Council on a permanent basis.

Finally, the global security discourse has been dominated by the increasing linkages between security and development, and security and democratization . Since the end of the Cold War, security has been 'mainstreamed' into development discourse and practice, mainly as a result of donor agendas. Security is seen as essential to development, and vice versa. Under-development is explicitly seen as a security threat. This is not merely at the level of human security but also at that of state security: for this reason a 'security first' agenda has been adopted by many development agencies, on the basis that without security development cannot take place.

Much attention has been paid to the need for security sector reform (SSR) in developing countries as part of a package of development initiatives. SSR involves a comprehensive approach to improving governance, reallocating resources, developing policy frameworks and professionalising security agencies (Brzoska, 2006:2-5). SADC has undoubtedly adopted this agenda, as expressed in numerous policy documents. While it might seem natural for developing countries to emphasise the security implications of poverty and lack of development, the

linkage between the two raises many complex issues for policy, not least of which is the danger of 'securitising' development (see Duffield, 2001; Buzan, 1991; Buzan, Weaver and De Wilde, 1998)

The link between security and democracy is perhaps even more problematic, although it has also been explicitly endorsed by SADC in several policy documents, including the Protocol on Politics, Defence and Security and its implementation strategy, the SIPO. This is taken as an article of faith, and seems to rest on the 'democratic peace' thesis, that democracies seldom if ever go to war with each other and are less likely to experience enduring internal conflicts. There is certainly some empirical evidence to support this within SADC, as the two most enduring democracies in the region, Botswana and Mauritius, have both experienced largely peaceful histories since independence (and have ended up as the two countries within SADC with the highest gross national product per capita).

However, while democracy might be associated with peace, the same cannot be said of democratization processes. First, democratization does not necessarily proceed in an ordered, linear, teleological way and often comes unstuck or results in compromises, 'shell' democracies, reversals to authoritarianism, and all too often, gives rise to internal conflict and war (Cawthra and Luckham, 2003). The worst conflict ever in SADC (or indeed in Africa), the war in the DRC, can be understood in the context of a democratic transition that went wrong.

Moreover, as Nkiwane (2003:55) has argued 'in southern Africa the prospects for peace arguably have less to do with democracy in its liberal sense than with questions of socioeconomic distribution or a broader understanding of the democratic question' – in other words the social dimensions of democracy. While this may not be true of developed countries, there is a strong argument that in developing countries as a whole formal democracy without socio-economic improvement is hollow, and perhaps unsustainable. Hence the tendency of some SADC countries – such as Botswana and South Africa – to declare themselves to be 'developmental states'.

Key security issues for SADC

The security challenges that face the continent are much the same as those facing the SADC region. A vast range of often interconnected issues can be identified as causes of insecurity or factors that contribute to insecurity, and it is difficult to do justice to them all here. What follows is, therefore, necessarily schematic and selective, including: poverty, inequality and marginalization; poor/bad governance; (international) terrorism; and environmental degradation.

Poverty, Inequality and Marginalization

The overwhelming reality of poverty, marginalization and inequality within and between states, exacerbated in many cases by globalization, remains the bedrock of human insecurity in Africa and southern Africa. Most African states are characterised by massive (and increasing) poverty and inequality. They are indebted and dependent on aid, trade and investment flows from developed countries, resulting in a lack of 'horizontal integration' between African states, a 'debt trap' and dependence (SADSEM 2004: 8). While rates of economic growth in most parts of Africa have increased in recent years, for decades there was in effect little or no development in Africa, and recent growth appears to be accompanied by deepening inequality. If the UN Development Programme's Human Development Index (HDI) can be taken as a measure of human security, then Africans suffer more from human insecurity than any other peoples. HDI indexes in Africa (with a few exceptions, such as Seychelles) tend to lag behind GDP indicators,

reflecting that even where wealth exists, such as in South Africa, it has not been translated into human development.

Food insecurity remains a major concern, with famine precipitated by conflict and natural disasters a major human security challenge. The UN World Food Programme estimates that by 2010 one in every three people in sub-Saharan Africa will be 'food insecure' (cited in Shelton, 2004: 31).

Unemployment in most African countries is exceptionally high, even in the most developed economies such as South Africa (where it is over 20 per cent according to government statistics), and most economies are dominated by the informal sector and by subsistence agriculture. This, compounded with low levels of education and literacy, makes for limited life chances.

Human development challenges in Africa have also, of course, been exacerbated by the HIV/AIDS pandemic, worse in Africa than anywhere else. UNAIDS calculated in 2006 that there were nearly 14.8 million people in SADC countries with HIV, an overall prevalence rate of 15.4 per cent (ranging from 0.5 per cent in Madagascar to 33.4 per cent in Swaziland), and that over a million people died of AIDS in 2005 – around 3000 per day (UNAIDS, 2006:505–540). While there is little evidence that the pandemic is leading to state collapse, it clearly puts additional pressures on states to meet the human security needs of citizens, particularly on its ability to deliver at a local level (Fourie, 2006).

It might be argued that none of these factors constitute security challenges in the traditional sense of the word, although they certainly impact negatively on human security. However, they also have the effect of weakening social cohesion and the basis for nation-building and state-building, and lead to, or exacerbate, competition for scarce resources which always has a potential to lead to conflict.

Governance issues

Apart from poverty and under-development, weaknesses and failures of governance probably constitute the single most important factor behind the insecurity of both states and citizens. As discussed above, while the vast majority of African states have embarked on democratic transitions, these have not necessarily culminated in consolidated democracies, or for that matter improvements in human security, at least when it comes to 'freedom from want'. In the SADC region, HDI indicators have declined overall since 1990 despite (or perhaps because of) democratization. (Cawthra, Matlosa and van Nieuwkerk, 2005).

The New Partnership for Africa's Development (NEPAD) has highlighted governance deficits as major constraints on development in Africa. Consequently, the AU, through the NEPAD African Peer Review Mechanism (APRM), has developed a framework for enhancing and promoting democratic governance and observance of human rights. The promotion of democratic governance has also been through RECs like SADC and other sub-regional organizations. More specifically, both the AU Charter and the SADC Protocol on Politics, Defence and Security Cooperation provide for intervention, without the approval of the government concerned, in extreme cases of human rights abuses and governance breakdowns. SADC has also adopted a Code of Conduct governing elections. However, it has been practically difficult for the AU and SADC to implement these provisions; consequently, human rights abuses by African states have continued to go unchallenged.

Many African states remain weak – indeed they may have become weaker as a result of globalization – and a few, like most of Somalia, are failed or collapsed states, while others, such as Cote d'Ivoire and Sudan, have been plunged into civil war, in large part because of failures

of governance. In other countries, transitions from war to peace, from authoritarianism or one-party rule to democracy, from a socialist to a capitalist orientation, have proved extremely difficult and in some cases have been associated with new forms of conflict. In southern Africa, Angola and, particularly, the DRC are evidence of this.

Violent internecine and fratricidal conflicts have continued to plague the African continent, albeit at the lower levels since the formal end of the Congolese conflict. Where conflicts have ended, disarmament, demobilization and reintegration (DDR) has proved challenging and is often incomplete, the DRC being a case in point. While not a cause of conflict *per se*, the continued proliferation of small arms and light weapons certainly makes it easier for conflicts to escalate should they begin.

Although successful military coups have been very few in recent years, the military continues to threaten democratic rule through attempted coups and by exerting hidden forms of political influence and interference (Cawthra and Luckham, 2003). The SSR agenda has been taken on board by many African countries, but the application and the results have been mixed. The challenges of consolidating democratic political control over the military in Africa thus remain.

International Terrorism

Terrorism, and the US-instigated war on terror, poses new challenges. Although relatively low on the list of threats of most African countries – because of the enormity of the development and governance challenges – there is evidence that international terrorist networks are spreading in Africa, while a number of terrorist attacks have been carried out, mostly in North and East Africa. The US response, the so-called war on terror, has created different challenges that have placed African states under enormous pressure to divert scarce resources to this campaign, and to enact often complex and costly measures to combat money-laundering and other international threats, which in many cases provoke domestic political opposition. The war on terror has had other unfortunate effects on democratization because ‘anti-terror’ policies and actions actually provoke terrorism or insurgency, and the US is prepared to turn a blind eye to the democratic deficiencies of allied states. Thus, although security issues have been widened, ‘old-fashioned’ military threats continue in the form of armed conflicts, while the challenge of holding the military to civil account continues.

Border issues also affect security. African countries often have borders that are artificial and porous. The borders, which were drawn by the colonial powers, cut across ethnic-linguistic identities, and thus do not coincide with the national borders. Thus most of the African countries contain a multiplicity of nations and, in many cases, the splitting of historic nations has created a recipe for instability, irredentism and the politics of ethnicity. These characteristics have often led weak states into civil war. State-building and nation-building have thus been protracted, often bloody, affairs (see Zack-Williams and Mohan 2004).

In addition, the porosity of borders implies that they are not effectively monitored and controlled and, coupled with the conflict-drivers listed above, has resulted in extensive cross-border crime, as well as the flow of refugees across borders. Africa has more refugees proportionately than any other continent and, as many of the refugee groups pursue political or military agendas, they are potentially a source of insecurity. The presence of tens of thousands of Rwandan refugees in Tanzania and the DRC, are the principal source of such tensions in southern Africa.

Environmental issues

Whereas it is debatable if environmental issues on their own constitute security challenges,

they can certainly create security problems: environmental degradation, competition over water resources, and access to land, in particular.

For example, environmental degradation of pasture and farming land or access to water or (wood) fuel supplies, may lead to conflict over scarce resources between competing groups. Many conflicts in Africa, especially in the Sahel, are attributed to these factors. Environmental degradation also directly impacts on human security. As recently stated, "Environmental resources are a critical part of the livelihoods of many people. When these resources are threatened because of environmental change, people's human security is also threatened" (Commission on Human Security 2003: 17). Water is a particular actual and potential source of conflict in dryer parts of Africa, including in the SADC region. Competition for water 'places considerable strains on different social relationships, such as between and within countries, between rural and urban populations, between upper and lower river interests, among agricultural, industrial and domestic water users and between human need and the requirements of a healthy environment' (World Commission on Dams, cited in SADSEM, 2004: 12).

Land is also a major source of conflict. In the Sahel, competition between pastoralists and agriculturalists has generated violence for centuries, exacerbated now by population increases, land degradation and climatic change in part propelled by global warming. In southern Africa, much of the conflict revolves around efforts by post-liberation governments to restore land taken by settler colonialists to the indigenous population and to redistribute land in the interests of agrarian reform. These conflicts have been particularly acute in Zimbabwe, but may also arise in South Africa and Namibia.

Population issues

A number of security challenges may be identified within the broad theme of population and demography. Whereas the HIV/AIDS pandemic is slowing population growth, it is not doing so in a benign way, affecting in large part the most productive sectors of the populace and devastating family and household structures. As noted above, this impacts negatively on delivery of services such as health and education. It is often assumed that it also unduly affects the security capacities of the state, particularly with regard to the military, as they are assumed to have higher rates of HIV/AIDS infection than other sectors of society. This, however, is debateable, partly because there is a high turnover of personnel in the military. Despite the fact that millions of people are infected, surveys repeatedly show that, as a whole southern Africans are more concerned with poverty, unemployment, crime and insecurity than with HIV/AIDS (Fourie, 2006:12, citing Afrobarometer surveys).

Rapid population growth in Africa has been accompanied by even more rapid urbanization, resulting in a huge underclass of mostly unemployed urban or semi-urban residents. Many of these are youth, for rapid growth has also led to a skewing of the demographic profile of nations, with a large proportion of citizens of many African countries under the age of 21. While it might be stretching a point, some analysts have seen in certain African conflicts – Liberia for example – as a 'battle of generations'. Certainly there are political faultlines, as in Zimbabwe, where the youth are often seen by the generation who fought the liberation struggle as a potential threat to the unity of the country.

Gender and ethnicity remain larger fault-lines however. It would be difficult to see gender as a cause of inter-state conflict, but the marginalization and oppression of women is certainly a major factor in human insecurity.

Crime and Public security issues

Crime of various types has escalated in southern African countries in recent decades, partly propelled by urbanization, globalization, and the breakdown of community and family structures. International migration and social change have contributed to the proliferation of international criminal syndicates. Crime is now perceived as a real and pervasive security threat.

Maritime issues

Although often neglected, as all eyes in Africa tend to be on the mainland, littoral and island states face a range of maritime security issues. These include piracy (especially in the Horn of Africa), smuggling, illegal exploitation of fishing stocks, and environmental degradation, including global warming which could affect sea levels.

Assumptions that underlie SADC security cooperation²

As can be seen from the above discussion, the threats to security in Africa and SADC are not primarily military, but include poverty and underdevelopment, governance, crime. If human security can be conceptualised as 'freedom from fear' and 'freedom from want', then the first of these can be tackled by the 'traditional' security sector – police, military, justice organizations – but the second is a broader socio-economic development task and the responsibility of a wider range of organs.

So it is with SADC, which is essentially a regional economic community (REC) rather than a security organization. The SADC treaty and various structures dealing with development and regional integration deal with the 'freedom from want' dimensions of human security, while the OPDSC and its subsidiary structures tackle 'freedom from fear' through a narrower focus on security cooperation and conflict resolution. This is sometimes taken to indicate that SADC still sees security in narrow, militaristic terms (Zacharias, 2003:39). There is an element of truth in this because the regional focus is mainly at the level of the state, although the OPDSC may be conceptualised in the context of a wider developmental agenda.

Nevertheless, right from the outset SADC envisaged security cooperation, although it is a REC. The objectives of SADC, as defined in the 1992 Treaty list not only economic ones, but also the promotion of common political values, systems and institutions and the promotion and defence of peace and security (SADC, 1992: Articles 5.1 (b) and (c)). SADC is legally able to take on such security functions by virtue of its recognition as a REC by AU: in effect the AU devolves functions under Chapter VIII of the UN Charter to the RECs. However, enforcement actions, possible in international law under Chapter VII of the Charter, should be carried out only with the approval not merely of the AU but also of the UN Security Council.

An important characteristic of SADC's approach to security is that it is an inter-state organization premised on the notion of 'sovereign equality' of states as well as 'non-interference in internal affairs'. It is hardly surprising therefore that SADC focuses on state security rather than human security. However, there is a tension in Treaty (as in the UN Charter) between the assertion of sovereignty and the provision for promoting human rights – how this is supposed to be done without dealing with sovereign states' internal affairs is unclear, as will be explored later.

A variety of different forms of security cooperation at inter-state level may be identified, and SADC has taken them all on, to greater or lesser degrees. These include common or collaborative security, where states agree to peaceful cooperation to enhance mutual security; collective security, where states agree not merely to peaceful cooperation but also to the possible use

of force in terms of the UN Charter, mostly through peace support operations; and collective self-defence which entails mutual defence pacts for protection against external aggression.

The Organization and Functioning of the OPDSC

Although it was mandated by the 1996 SADC Summit, the OPDSC in practice only became operational with the signing of the governing Protocol on Politics, Defence and Security Cooperation in August 2001 (SADC 2001), the implementation of which is the principal responsibility of the Organ. The functioning of the Organ is in turn defined by the SIPO, which sets out a detailed programme of activities against key political, defence, public security (policing) and state security objectives (SADC, 2004).

The Organ operates at the level of the Heads of State, through a Troika, which reports to the SADC Summit. There is a parallel Troika of Heads of State looking after SADC affairs. A Ministerial Committee, consisting of ministers responsible for defence, policing and intelligence from all 14 SADC states, reports to the Troika and in practice makes key decisions. Operationally, work is carried out through two committees of senior officials, the Interstate Politics and Diplomacy Committee (ISPDC) and the Interstate Defence and Security Committee (ISDSC).

The Protocol, and hence the Organ, deals with a comprehensive range of security cooperation based on principles of common and collective security as well as mutual defence. It also serves as a framework for implementing the SADC BRIG, the operational arm in southern Africa of the AU's Peace and Security Council. SADC BRIG has a wide range of security responsibilities, especially for future peace support operations, including rapid deployment and eventually participating in multi-functional operations including policing and civilian post-conflict peace-building activities. It is structured around a small headquarters and planning element at SADC headquarters in Gaborone, supported by an Early Warning System, and with military and other units based in member states but earmarked for deployment in the brigade.

The Protocol empowers the Organ to deal both with inter- and intra-state conflicts, providing the latter are 'significant', such as civil wars, military coups, gross human rights violations, ethnic cleansing and large-scale communal violence. The 'right to intervene' is in line with recent international thinking on the 'responsibility to protect' people in extreme circumstances even if states claim sovereignty, and with similar provisions of the AU. It will not be easy to implement, however, as criteria for intervention, decision making around it, and the nature of the forces to be deployed will be very vexed issues.

A further framework determining the nature of the OPDSC is the Mutual Defence Pact, signed in August 2003. This commits member states to developing both individual and collective defence capabilities, and to cooperate on defence training, research and intelligence, and provides for collective action in the event of an armed attack on a SADC state. However, as it does not specify what form this action might take, it stops short of requiring automatic collective military action (SADC, 2003: Article 6).

It is often overlooked that the Pact is also in effect a non-aggression treaty. Signatories are committed 'not to nurture, harbour or support' individuals or groups 'whose aim is to destabilise the political, military, territorial and economic or social security of a State Party or overthrow the legitimate government' (SADC, 2003: Article 8). While this is of course a confidence building measure, it could be argued that the wide sweep of the clause could potentially be used against legitimate opposition groups.

However, it is too early to tell how exactly the Protocol and the Mutual Defence Pact will be

applied in practice – for example, what the ‘threshold’ for intervention might be how ‘complex emergencies’ might be dealt with, how the relationship between SADCBRIG, the AU’s Peace and Security Council and the UN Department of Peacekeeping Operations in New York might be managed in operational terms. Previous interventions carried out in the name of SADC, those in the DRC and Lesotho in 1997, took place before the legal instruments were in place, and SADC did not respond to claims from the DRC in 2005 that it was the target of aggression from Rwanda.

Summary of the Key Challenges for SADC and OPDSC

The principal challenges facing security cooperation in SADC are the absence of common values; weak institutional capacity; member states’ guarding of their sovereignty; weak systems of governance with respect to democracy, human rights and security; over-emphasis on military rather than political cooperation; and problematic relationships with the AU and other RECs.

Common Values: It has been argued by Laurie Nathan and others that the apparent absence of common values has led to a failure of the common security project, and southern Africa is unlikely in the foreseeable future to become anything like a security community (Nathan, 2004). This is probably an over-pessimistic view: the European experience has shown that, over time, increases in interactions between political leaders, officials and ordinary people lead to the development of trust and a convergence of values. Strong policy frameworks have been put into place, but it is no secret that implementation has been slow, that capacity at the SADC Secretariat is extremely weak and that states have been unable to agree on common strategies to deal with key political and human rights crises.

Weak institutional capacity and sovereignty: Weak states, such as many of those in SADC, tend to cling to sovereignty for precisely the reason that they are insecure. Sovereignty for many SADC states, often hard-won through liberation struggles and thus understandably dear to hearts of the political leadership, has been eroded through indebtedness to donor countries and international financial institutions that have imposed their own policy prescriptions. But there can be no progress beyond a certain point if states are not prepared to cede or transfer some of their sovereignty to the collective.

Democracy, human rights and human security: As argued above, there is nothing wrong with the Organ restricting itself to more traditional security issues (indeed, given that it primarily involves military and other security officials, it should be steered away from involvement in social and economic issues to avoid ‘securitising’ these issues). However, it is clearly important that such functions are embedded in and contribute to the broader commitments to human security, human rights and democracy.

SADC has shown little or no inclination to publicly raise issues of governance failures and human rights violations with member states, and has tended to close ranks when states have been criticised in international arenas. Yet the promotion of good governance and human rights remains a core objective of the Organ, and mechanisms will have to found for implementing this if progress is to be made.

Military vs. political approaches: Related to the above, SADC appears to have been more suc-

cessful in dealing with military cooperation than political cooperation. There have been serious divisions within SADC over the issue of the use of force, especially with regard to the DRC (Nathan, 2004). It is notable that military cooperation through the ISDSC has progressed at a faster pace than political cooperation and conflict prevention through the ISPDC and that the military component of SADC BRIG is far more advanced than the civilian functions. If military interventions under the Mutual Defence Pact take precedence over conflict-resolution then there will be a danger that the organization will become militarised.

Relations with the AU, other RECs and ICPs: While SADC BRIG is envisaged to implement the peace and security functions of the AU as well as SADC, the relationship between the sub-regional and the regional organizations, especially regarding decision-making and deployment mandates, are not as clear as they should be. This is further complicated by overlapping membership with other RECs, notably the Commonwealth of Eastern and Southern African States (COMESA) which is also developing security functions. SADC relations with ICPs over security issues have not been as smooth as they might be. This is partly because there has been some resistance in SADC to exposing security issues to donor scrutiny, caused in part by the failure of the SADC Secretariat to develop concrete business plans and projects for potential funding, notably at the ICP consultative conference in Windhoek in April 2006.

Conclusion and recommendations

The future evolution of SADC security cooperation will depend on the political will and the capacities of states and – to a lesser extent – civil societies to further evolve and implement the policy frameworks that have already been agreed. Key to this, as set out in the Protocol, is the development of a common set of values and practices in relation to governance, democracy and human rights. Relations with the AU, other RECs and the UN will also need to be worked out, and it will probably be necessary for states that are members of more than one REC to make a decision about where they want to belong.

So far, more progress has been made with military cooperation than with the non-military dimensions of security: this is hardly surprising as professional military officers tasked with establishing, for example, SADC BRIG, can do this very efficiently as a technical exercise. The more complex issues of political decision-making will take longer to develop. In particular, as time goes on states will need to make vital decisions about which policy areas (not just foreign but also domestic) need to remain sovereign and which should become shared concerns where collective decisions are made.

It is unrealistic to expect SADC to make much progress with regard to its security functions if it is unwilling or unable to build institutional capacity, in particular by setting up a viable secretariat to service the Organ. The SIPO sets out an ambitious strategic programme that will take considerable resources, including donor resources, to implement. All this will require training, recruitment of staff, organizational design and development, and a willingness by political leaders to devolve tasks to technocratic officials.

In terms of the role that ICPs can play in meeting these challenges, a document prepared by the SADC Secretariat for the Consultative Conference did list the following potential areas for cooperation (SADC 2006: 6):

- Post-conflict peace building with special focus on demobilization, disarmament, reintegration, clearance of anti-personnel landmines, collection and destruction of obsolete,

surplus and redundant firearms, ammunition and related material

- Development of mechanisms that prevent inter and intra-state conflicts
- Consolidation of democracy and good governance
- Effective DDR and monitoring of ex-combatants and child soldiers
- Development of policies and capacities to ensure that the region maintains trained units ready to be deployed in peace support operations
- Addressing the negative effects of globalization that promote growing vulnerability of national borders, increase in trans-national organised crime, drug trafficking, money laundering and human trafficking
- Development and consolidation of regional disaster management mechanisms by creating an integrated early warning system.

From this list, the thrust of the argument in this paper has been that the consolidation of democracy and good governance, linked to the further development of institutional arrangements and mechanisms to prevent intra- and inter-state conflict, are the essential pivots around which the insecurities of the region may be successfully tackled.

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Notes

- ¹ This draws upon a paper prepared for, but not adopted by, a SADC conference on defence and security cooperation held in Maputo, Mozambique in December 2004. Entitled 'Sustaining Peace and Security in Southern Africa: Perceptions of Regional Threats and Responses' it was drawn up through a collaborative process by the Southern African Defence and Security Management Network (SADSEM, 2004)
- ² Parts of this section were prepared for an unpublished paper commissioned from the author by the Friedrich Ebert Stiftung (Cawthra, G, 2004).

ORGANIZATIONAL DIMENSIONS OF SECURITY COOPERATION IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

ANTHONI VAN NIEUWKERK

...Summit congratulated the Outgoing Chairperson for his untiring efforts to improve the performance of the Organization and for steering it to greater heights in its integration agenda during his tenure of office

SADC Communiqué, August 2006

...the AU, NEPAD, ECOWAS, SADC...are more like *per diem* watering holes than competent agencies

Van Zyl Slabbert, *The other side of history*, 2006

It is the capacity for solidarity in the face of adversity that gives the SADC region a unique ability to remain cohesive

Fisher and Ngoma, *The SADC Organ*, 2005

Introduction

This paper focuses on the institutional dimensions of security cooperation as it manifests in southern Africa in general and the Southern African Development Community (SADC) in particular.¹ The paper argues that the deepening of regional cooperation in the area of peace and security requires *institutional governance* in the sense that regional institutions need to be developed.

As the above-quoted impressions suggest, security cooperation, as part of a bigger project of regional integration, is not obvious. Indeed, should southern Africans believe their politicians when the latter claim that SADC is 'forging ahead' on the road to formal integration? Slabbert seems unconvinced. Not only academics, but civil society increasingly questions its *raison d'être*.² For many, it is unclear whether or how SADC provides human security to the people of the region. Instead, they argue, SADC members' positions on the key regional challenges, that is, trade, growth and development, security and stability, are driven by national rather than regional interest. As realists argue, national interests (a must-have) are hard and measurable; regional cooperation (often a nice-to-have) is hard to measure. Or should we accept a regional consciousness shaped by a 'shared' historical experience – a problematic assumption? Few ordinary southern Africans seem willing to identify with rulers and bureaucrats who romanticise the past, fear the future, and suffer from policy implementation paralysis. Increasingly, it seems, a new generation of southern African citizens are growing up with no direct experience of apartheid and colonialism. Their sense of belonging is shaped by other factors: securing a job, accessing anti-retroviral medication, craving a Nokia (or all three). A policy analysis whereby one looks at organizational behaviour through the lenses of new institutionalism might enable a deeper understanding of SADC security cooperation.

New Institutionalism

For a long time, institutions were at the heart of political science and public administration. More recently, researchers have expressed a renewed interest in institutions, by going beyond constitutions, legislatures and executives and focusing on processes, actors, interests, norms and rules (Parsons, 1995: 223). This article uses institutions to refer to forms of social organization, specific or abstract (Williams, 1983:169). Following Lowndes (1996), institutions display the following characteristics:

- *Institution is a middle-level concept.* Institutions are devised by individuals, but in turn constrain their action. They are part of the broad social fabric, but also the medium through which day-to-day decisions and actions are taken.
- *Institutions have formal and informal aspects.* Institutions involve formal rules or laws, but also informal norms and customs – ‘the way things are done’.
- *Institutions have legitimacy and show stability over time.* Institutions have legitimacy beyond the preferences of individual actors.

However it must also be said that new institutionalism is not a single or coherent body of theory. The concept is used in many different disciplinary contexts such as political science, policy studies, economics, and organizational theory (Lowndes, 1996; Powell and DiMaggio, 1991). The valuable point most new institutionalist perspectives make is that institutions are not *things* but *processes*. This article explores two approaches to institutional development, as put forward by Lowndes (1996) and Smith (1994), and their possible application in understanding the institutionalization of security cooperation in southern Africa.

First, it is worth emphasising that institutions display three key characteristics, which are: a set of formal and informal rules that structure social action; change and stability which are stages in an institutional life cycle; and strategic action which plays an important role in driving change, whilst norm-driven behaviour is key to sustaining institutional rules over time. On the basis of these variables Lowndes (1996) constructed six short ‘vignettes’ or sketches of institutions, four of which are further summarised below.

The ‘stable’ institution. Institutions reduce uncertainty by providing a stable, *but not necessarily efficient*, framework for human interaction. Technically inefficient institutions persist because they contribute to stability and harmony in interaction and because they are deeply embedded in culture and tradition. It is the tenacity of informal constraints that produces institutional stability. While formal rules (constitutions, contracts, standing orders) can be redrawn overnight, informal rules change slowly; ‘old’ conventions often persist in the face of, and at odds with, new formal codes.

The ‘manipulated’ institution. Public choice scholars view institutions as obstacles to effective exchange. They predict processes of ‘institutional entropy’ in the political arena. Manipulated by utility-maximising politicians and bureaucrats, institutions degenerate over time; they come to serve the individual, private interests of officials and any conception of the public interest is lost.

The ‘disaggregated’ institution. The ‘policy community’ or ‘policy network’ approach paints a picture of institutions which are disaggregated, informal, policy-specific and relatively stable

over time. Policy is made not by a unified machine but by an assortment of actors linked together in networks. Networks have a limited number of participants who interact frequently, share values and exchange resources. There are low levels of conflict and 'positive-sum' power games. However, the specific pattern of network relationships varies in different policy fields: there are also areas in which inter-agency relationships are not institutionalised as networks; such fields are characterised by a lack of stability and continuity.

The 'appropriate' institution. Institutions provide order in political life. They express norms of decision-making and behaviour, providing 'logic of appropriateness'. Seemingly neutral procedures and structures embody particular values, norms, interests, identities and beliefs. A calculus of identity and appropriateness is more important to actors than a calculus of political costs and benefits. Rules are sustained by trust, and reflect and embody historical experience. Institutions generally change in an incremental way through responding to environmental signals.

Secondly, another version of the new institutionalism assumes progress through process. Smith (2004) for example argues that through the process of institutionalization, relations among states in a cooperative arrangement (such as the European Union, which he examined) progress from narrow instrumental rationality characterised by intergovernmentalism, to a more collective or social rationality characterised by legitimate procedures of governance and corresponding changes in their domestic policies. With a view to its applicability to the SADC security arena, one can distinguish between the following stages or steps in such a process, while allowing for overlap and inconsistency:

Establishment of the policy domain as an intergovernmental forum. The start is often a conscious, public decision amongst a number of actors to organise their cooperation in an issue-area. In the case of southern Africa, the Frontline States (FLS) Alliance historically played this role, although it must be acknowledged that the FLS was a development that followed from the Pan African Freedom Movement for East and Central Africa (PAFMECA), later changed to include the southern African nationalist movements seeking independence (Omari, 2000).

Information sharing. Once actors have agreed to cooperate, they may then begin a discourse about the means and ends of their cooperation. This can initially be mere discussion about policy coordination ('cheap talk') or specific cooperative policy actions ('results'). As goal-oriented communication intensifies, the demand for greater structure grows and cooperation becomes more likely. Arguably, the Defence Staff Committee (DSC), which was later renamed the Inter-State Defence and Security Committee (ISDSC), played this role as a mechanism of the Frontline States (FLS).

Norm creation and codification. Once communication moves beyond 'cheap talk', institutionalization takes on a new dynamic, involving the generation of norms. As officials learn to trust each other and develop a shared understanding of what their cooperation actually involves, it becomes possible for them to establish clearer obligations regarding ends and means of a specific policy domain. Smith examined various types of norms: informal customs, or the traditions and practices that emerge in day-to-day interactions among officials, norms that are codified in written form, a further transition of norms to rules as specific rights and obligations applicable to certain situations, and finally the transition from rules into formal laws. Although

the Southern African Development Coordinating Conference (SADCC) started to play this role from 1980 (Mandaza and Tostensen, 1994), very little changed in the security domain; the FLS and DSC continued to act as coordinator of activities related to defence and security.

Organizations. Behavioural norms are not the only manifestation of institutionalization. The establishment of a permanent organization to administer some policy domain represents an additional degree of institutionalization. Such formal organizations can change the nature of cooperation. At the very least, organizations can provide some institutional memory concerning previous decisions. At the most, the organization itself can become an autonomous actor with policy influence. In the case of southern Africa, the establishment of the SADC in 1992 indicated that the region was moving up a level in terms of institutionalised political and economic cooperation (Le Pere and Tjønneland, 2005).

Smith finally identifies *governance* as a further evolution of cooperation, where states consider cooperation as a unified whole. This, in his opinion, requires a policy process whereby governance is seen as the authority to make, implement, and enforce rules in a specific domain.

How relevant is this to SADC and its efforts at security cooperation? We can display the above process of institutionalization of security cooperation in the following format:

Institutionalization of security cooperation in southern Africa

Process	Application
Establishment of a policy domain as an intergovernmental forum	PAFMECA / PAFMECSA / FLS Alliance (late 1950s and 1960s)
Information sharing	DSC / FLS Alliance (1970s)
Norm creation and codification	(SADCC) DSC / FLS Alliance (1980 to early 1990s)
Organization	SADC (1992 onwards)
Governance	OPDSC, Protocol, Mutual Defence Pact? (2001 onwards)

Institutionalization of Security Cooperation in Southern Africa

The historical experience of southern Africa appears to have allowed for informal patterns of security cooperation that were primarily focused on the struggles against colonialism and apartheid to be formalised with the establishment of organizational structures. That is, southern African countries adopted rules-driven and forward-looking behaviour. One question to be examined is whether the restructured SADC of 2001 and its Organ on Politics, Defence and Security Cooperation (OPDSC) and the range of recently-adopted policy frameworks in the area of security cooperation (including the 2001 Protocol on Politics, Defence And Security Cooperation, the Mutual Defence Pact and the Strategic Indicative Plan for the Organ (SIPO)) can be seen as approaching the fifth level of institutional cooperation (governance). In other words, to what extent are SADC member states willing and able to harmonise national decision making (structures and practices) in order to enhance the region's security authority to make, implement and enforce rules?

The second question is, to what extent does SADC display institutional behaviour of a

'stable', 'appropriate', 'manipulated' or 'disaggregated' kind? In a recent seminal analysis of SADC, Oosthuizen (2006:325) concludes that it provides an 'evolving, institutionalised, rules-based forum within which the members meet regularly to discuss and argue about political and security issues'. That is a characterization of SADC having evolved governance capabilities, or displaying 'appropriate' behaviour.

However, participant observation, formal and informal discussions with SADC country representatives and the donor community suggests that three alternative scenarios are possible in the future development of the regional organization. First, SADC could follow a holistic, or integrated and comprehensive, approach to trade, economic and security integration, accompanied by a negotiated road-map with clear time lines and implementation indicators, therefore approaching governance or appropriateness. Secondly, it could adopt a dual-speed approach to integration by fast-tracking trade and economic integration, but slowing security integration, accompanied by separate RISDP and SIPO implementation plans, therefore displaying organizational or disaggregated behaviour. Third, there could be a radical rethink of the nature of the relationships between countries in southern Africa, therefore suggesting mere information sharing behaviour and signs of being manipulated.

The Institutional Character of SADC

In order to interpret the institutional nature and behaviour of SADC security cooperation, the paper will now briefly discuss the genesis of SADC, its evolution and the current state of implementation of rules.

SADC's genesis

Formal, inter-state cooperation in southern Africa is a relatively new phenomenon. The roots of this practice may be traced to the region's complex colonial past, whereby European powers maintained an exploitative presence in the region primarily for economic purposes. Wars of liberation gave rise to security cooperation, initially through PAFMECA and PAFMECSA, but especially with the formation of the FLS alliance in the 1970s. Furthermore, there evolved economic cooperation through the Southern African Development Coordination Conference (SADCC), which was established in 1980. Largely in preparation for a liberated South Africa, the region reconfigured its cooperative strategies by establishing SADC in 1992. As its membership expanded from nine to fourteen countries, and objectives became more ambitious and bolder (from socio-economic cooperation to integration), the structures and operations of SADC had to be revised. This was initiated in 1999, leading to formalization of peace and security cooperation by establishing comprehensive decision making architecture, and adoption of an implementation plan in 2003.

The nature of the integration project

SADC is first and foremost an arrangement facilitating economic integration in order to 'improve the quality of life of the peoples of the region' (SADC, 1992). SADC's genesis reflects this priority. When SADCC was formed in 1980, it adopted the slogan 'Southern Africa—towards economic liberation'. The post-1992 SADC vision is one of:

...a common future, a future within a regional community that will ensure economic well-being, improvement of the standards of living and quality of life, freedom and social justice and peace and security for the peoples of southern Africa.

However, as the academic literature on regionalism and human security makes clear, this task is not easily attainable, and requires a range of objective and subjective preconditions.³ Indeed, at the time when the SADC leadership was contemplating the future management of power relations, a throng of policy analysts recommended the need for SADC to adopt the 'new', widened definition of security.⁴ The uncritical assumption was that this would lead to 'the elimination of war' and sustainable human development, both of which are features of a 'security community' (Booth and Vale, 1995). Much that was said was inspired by the mood of the time, notably the dawn of a new post-cold war, post-apartheid era. Significantly, the caution from some analysts and policy makers, that the impact of the violent political history of the region should not be underplayed, was discounted.⁵

Indeed, analysts and policy makers alike hoped that a regional grouping such as SADC was to evolve into a 'secure community' on the basis of exhibiting four conditions. These were active engagement with security and development challenges, a timeline for achieving objectives, an inclusive process, allowing for state and civil society input, and institutionalization of the process (Schoeman, 1998; Ngoma, 2005).

The model never, however, fully accounted for the long-term impact of the historical experiences of the region. With the onset of the wave of democratization in southern Africa, some major fault lines rose to the surface (Matlosa, 2003). One of these was the eruption of the Great Lakes crisis, which tested the naïve beliefs of many of the theoretical community builders. In 1999, one assessment was that SADC appeared unable to meet the first three conditions (see above), and partially met the test of institutionalization (Van Nieuwkerk, 1999. See also Isaksen and Tjønneland, 2001; Nathan, 2004; Ngoma, 2005). A few years later Landsberg and Baregu (2003) concluded that SADC's security architecture remained 'elusive', the operationalization of the OPDSC was not guaranteed, and that the gap between policy and practice needed to be closed. Similar conclusions were reached by Tjønneland (2005) in a thorough overview of the SADC security system.

The SADC project can progress on the basis of careful phased planning towards meeting these four conditions: active engagement with security and development challenges, a timeline for achieving objectives, an inclusive process allowing for state and civil society input, and institutionalization of the process. However, institutional development is the key requirement; regional cooperation in the area of peace and security similarly requires *institutional governance*. As Hansohm (2005) observed:

The formation of a regional integration arrangement requires that regional institutions be developed to which important facets of national economic and political decision making will be subordinate. Its successful establishment . . . requires a major transition, which can easily trip participating countries up. This may explain why the conclusion of regional integration arrangements is not matched by the active participation of member states in the integration exercises. . .

Of course, there are alternative avenues, including 'functional coordination' to deal with, say, cross-border theft, or coalition or alliance formation or networking whereby a number of countries come together for a short period of time to pursue policy objectives in a specific issue/area. But the language of the SADC Treaty and the OPDSC Protocol is clearly written with more than just functional coordination and alliance formation in mind. It specifically aims at governance. Hence the seemingly useful fit between new institutionalism and SADC's behaviour.

The question that needs to be examined then is: can SADC make the transition to institutional

governance as specified above? Although one may track the phases of institutional development, for example the adoption of the OPDSC Protocol, (adopted in 2001) and its implementation, such developments seem not to be matched by the active participation of members, to the extent that one can discern a positive impact of such institutional activity upon regional peace and security. If the SIPO (adopted in 2003) was designed to give effect to the mandate of the OPDSC, as well as a measuring tool for the Organ's impact, then the evidence is not entirely convincing, as discussed below.

Institutional evolution of SADC

Regional cooperation in the 1980s, even if informal and limited, succeeded in realising a number of regional development projects, mainly in the infrastructure and food security sectors (Lambrechts, 2001). The activities of the FLS alliance, in its quest to eradicate colonial rule and apartheid in southern Africa, additionally brought about a sense of regional identity and briefly promoted a shared political vision (Omari, 2000).

The SADCC was transformed into SADC in 1992, reflecting the changing regional and international environments. Most importantly, South Africa joined SADC in 1994, as did the DRC in 1997. However, in 1998 a major regional war erupted, involving the DRC and a number of other SADC (and non-SADC) states. At the same time an attempted coup destabilised the small country of Lesotho. SADC's unresolved security structure, the Organ, which was at the time chaired by president Robert Mugabe of Zimbabwe, played a controversial role in the attempt to resolve these crises (Williams, 2001).

In following the logic of 'no development without stability', broad institutional refinement was therefore called for. As noted by Tjønneland (2005), the March 2001 SADC Extraordinary Summit approved the proposed recommendations for far-reaching changes in SADC's institutional framework and the structure for executing its 1992 mandate. These included changes in SADC's governing structures at the regional and national level, and, most importantly, a plan for the centralization of the 21 sector co-ordinating units and commissions located in 12 of its member countries. These units were brought together in four clusters in a strengthened SADC Secretariat in Gaborone.

At the August 2001 Council of Ministers Meeting and Summit in Blantyre, these changes in SADC structures were further consolidated. The SADC Treaty was amended to take into account the proposed institutional changes. In addition the Summit signed a Protocol on Politics, Defence and Security Cooperation which provided for an Organ on Politics, Defence and Security Cooperation under the SADC Summit.⁶ The Organ has its own set of regional structures and mechanisms for policy formulation and implementation. The Summit is the supreme policy-making institution of SADC. It is led by a Troika system consisting of the Chairperson, incoming Chairperson and the outgoing Chairperson. It meets twice each year, by 31 March to focus primarily on regional economic development matters and the SADC Programme of Action and in August or September to dedicate to political matters.⁷ Decisions are taken by consensus and are binding.

Assessment of SIPO

The foreword to the printed version of the SIPO (dated August 2004) states that the SADC Protocol on Politics, Defence and Security Cooperation is intended to serve as an instrument

for dealing with the region's political and security challenges, and that the SIPO was formulated to assist with the implementation of the Protocol:

The SIPO is not an end in itself...it is an enabling instrument for the implementation of the SADC developmental agenda (embodied in RISDP). The core objective of the SIPO therefore, is to create a peaceful environment ... to realise the region's socio-economic objectives.

The SIPO was designed to do three things, namely: to provide guidelines for action, or strategies and activities; shape the institutional framework for the day to day activities of the Organ, including the Protocol and the Mutual Defence Pact; and align the regional peace and security agenda with that of the AU, in particular the Standby Force and aspects of good governance.⁸ Apart from these objectives, SIPO was also developed in an attempt to clarify the role of external actors, primarily donors, in the security arena.⁹ But what is it that the participating member countries want from the SADC security agenda? Although attempted before (Cawthra and Van Nieuwkerk, 2004), this question remains difficult to answer without additional research into the national security agendas of SADC member states.

There is an implementation plan, which contains over 130 objectives that do not, however, have clear prioritization. Additionally, there has not been any serious effort to produce a business plan for the operations of the Organ.¹⁰ The absence of priorities and a business plan are problematic issues. There are two major factors that may explain these issues.

First, the manner in which the document evolved is important for understanding its shape. SADC's preference for consensual policy-making resulted in a number of countries adding their voices to the activities of the working group that drafted the guidelines. The resultant document is reminiscent of the delicate nature of security perspectives and preferences amongst members of the SADC, and more accurately reflects the combined national interests of fourteen countries than a strategic management tool to guide Organ activities.

Secondly, the management of the Organ's affairs takes place in the context of an inadequate and weak administrative infrastructure and human capacity. This has negative consequences for SADC's ability to prioritise, implement, monitor and evaluate mechanisms and plans relating to its peace and security agenda. The choice to run a 'minimalist' Organ Directorate relates to divergent political outlooks and priorities of its member states whereby some governments are preoccupied by state (or regime) security issues, while others emphasise human security. As some analysts provocatively argue, the Organ was created to ensure the self-preservation of SADC and its 'governing elites' (Makoa, 2005; Van Zyl Slabbert, 2006). Governments have also adopted different approaches to dealing with internal challenges, reflecting the region's varied experiences with democratization (Nathan, 2004; Tjønneland, 2005).

SADC is therefore awkwardly positioned. It preaches human security but practices state and regime security. Because of its practice, it would be misleading to expect the SADC Secretariat to be engaged in political decision making relating to regional peace and security: it exists by design of the member states, in order to carry out political instructions. Put differently, the SADC Treaty and the mandates of the Secretariat and Directorate restrict it to being an administrative (and at most, an implementation, monitoring and evaluation) unit with no political decision-making powers. Because of the absence of a common or shared value system in the area of politics and security, SADC member countries have not (yet) chosen to establish a regional institution with supra-national power in the areas of defence and security – critically, a precondition for moving the institution towards a security community. Given these strictures, the relationship between the Secretariat and individual members becomes crucial, as does leadership. In short,

the Organ is not more than the sum of its parts, and given its in-built shortcomings, the parts become critical. The relationship is highly unbalanced (both in terms of power and distribution of administrative tasks) and will remain so, until such time that the southern African political leadership begins to act on a minimum set of agreed values and principles that will allow for their translation into governance norms on the institutional level. As the AU (NEPAD) African Peer Review Mechanism (APRM) shows, the contents of such a 'minimum set of agreed values and principles' are subject to discussion, critically involving all sectors of society.

Status of implementation

The rather exhaustive list of objectives, strategies and activities contained in the SIPO document can be summarised to include democracy building, peacekeeping training, police cooperation (especially regarding cross-border crime), disaster management, conflict management (with the emphasis on conflict resolution), and food security. In the (much) longer term the organization plans to promote institution building, peace enforcement and harmonization of foreign policies. The current focus is not easily discernable and hence needs examination.

It is necessary to point out the Organ's so-called 'inability' to deal with political crises, and the manner in which it deals with some of them. Makoa (2005) has serious reservations about the ability of the Organ to act as an integrative, democratic force in the region and points to its 'inability' to deal with political crises in Angola, Zimbabwe, Swaziland and the DRC (see also Ndlovu, 2006; Nathan, 2004). This, in his view, demonstrates the Organ's lack of credibility and legitimacy. Thus it appears to be 'protecting governments rather than people'. This perception led to his call for the Organ to realise its potential by being democratised, that is, opened up to the people, presumably via introducing parliamentary oversight over the institution. This debate, of course, raises questions about the nature of the integration project (scenario 2 above), which lies beyond the scope of this paper.

Some analysts believe the focus of the Organ is altogether wrong. If the Organ has to be of value in the broader integration process, then focus has to be on its implementation, which we can analyse. Tjønneland (2005) sees three emerging priority areas for focus, namely small arms, elections management and peace support efforts. On the first issue, he notes that SARPPCO seems to be making more progress than the Organ Secretariat itself (although it must be noted that the former is not formally part of the latter). Regarding peace support operations, he notes progress but also the emergence of various problems, such as the failure to get the RPTC re-activated, the absence of a mandate for SADC BRIG deployment, the question of the financing of a deployment mission, and finally, contrary to UN doctrine, the absence of any meaningful civilian involvement in the activities of the standby force. Again, it must be noted that the putative SADC BRIG can only be understood from the perspective of the AU's evolving continental security architecture and plans (Van Nieuwkerk, 2003). From this perspective the various 'problems' noted above should rather be seen as 'issues requiring further attention'.

Perspectives from the Directorate of the Organ

It is useful to probe the thinking of the Organ's Directorate on these matters. In a recent review of the status of SIPO the acting Director of Politics, Defence and Security argued that one had to understand the SADC project from the perspective of its member states 'historical frame of mind', meaning:

...the wounds and scars inflicted by the forces of colonialism and oppression continue to serve as a fundamental reference that draws the SADC citizenry together around a paradigm of political cautious-

ness and pragmatism...insecurity and destabilization of a neighbour is one's own destabilization, and therefore must be faced collectively (Ndlovu, 2006: 4).

The acting Director then noted that SADC's foreign policy had three main objectives: market access, consolidation of democracy, and security. In the light of this, recent Organ activities included '...conflict resolution interventions in Lesotho, monitoring political developments in Zimbabwe to ensure that only peaceful means are used in addressing issues of national interest, electoral observations in member countries, and peace building in Angola and the DRC'. All of this meant that '...there is no dispute that SADC is relatively the most peaceful region in Africa with an undisputed emerging market' (Ndlovu, 2006: 6).

He also addressed the question of the relationship between SIPO and SADC's Regional Indicative Strategic Development Plan (RISDP) by pointing out: 'As we gear ourselves for a full implementation of the RISDP, the operationalization of the SIPO becomes urgent lest the RISDP is compromised by insecurity and political instability' (Ndlovu, 2006:7). The thrust of his subsequent argument was that of human security. As he argued, democracy, good governance and human rights were interrelated, and, despite gains with democratization (such as mainstreaming human rights in the region's political framework), the region faced a number of socio-economic challenges that posed as threats to human security. These included inadequate shelter and education, unemployment, poverty and scarce resources, food insecurity, health care and HIV and AIDS, and post-conflict population displacement situations. In his view, SIPO was an operational vehicle 'which can be enhanced and utilised to respond to these threats' (Ndlovu, 2006: 8). He identified four areas amenable for partnerships with donors (international cooperating partners). These are: post-conflict peace building and reconstruction, with a focus on small arms and light weapons (SALW), mine clearance, demobilization of former combatants (DDR); the need to structure domestic SADC-Civil Society Partnerships; capacity building relating to Electoral Management Bodies; and a 'smart partnership' to democratise and strengthen multilateral institutions such as the UN Security Council and the Bretton Wood Institutions. Identified separately in his overview was international cooperating partner support for the SADC BRIG and the Regional Peacekeeping Training Centre (RPTC).

On the question of security challenges, terrorism and 'mercenaryism' were identified as issues requiring urgent intervention (Ndlovu, 2006). In his view, the recent Aswat¹¹ episode illustrated that the region could be perceived as a safe haven for terrorists, and moreover, the region needed a strong regional policy against mercenaryism, lest the perception be created that it was a mercenary-brewing zone. The operationalization of a regional early warning centre (REWC) was also seen as important. In order to prevent and manage conflict, the REWC would monitor threats and risks such as terrorism, mercenaryism, drug trafficking, famine and potential natural and human induced disasters, by conducting research, presenting its findings and making recommendations for policy intervention. He added that the REWC would be based on open sources and work with civil society.

He also reported on the status of the SADC Standby Force, noting that its establishment was at an advanced stage. All SADC member countries have 'officially pledged' standby military and police units, and the RPTC was also 'fully functional albeit with scanty resources'. In his view, the RPTC would serve as a hub for the dissemination of expertise in peace support capabilities 'by creating strategic partnerships with a myriad of specialised research institutions abound within and beyond the region'.

Mediation and peace facilitation efforts were restricted to the DRC, focusing on the current election process.

Finally, the role of civil society in the implementation of SIPO featured prominently in the acting Director's overview. He made the general point that 'civil society plays a critical role in ensuring intra-regional confidence building and the promotion of the culture of peace and democratic values' (Ndlovu, 2006:13). Also identified was the development of a SADC-Civil Society Partnership as an example of a mechanism for conflict prevention. He also envisaged a role for civil society in the activities of the REWC, but was silent on the civilian dimensions of the SADCBRIG.

The Status of Security Cooperation

What does all the above mean? There is no question that SADC, through its newly-established Organ and related structures including the SIPO, has made progress. The Organ Directorate can rightly claim that the region experiences relative peace and security (although not entirely because of the Organ!) and that the focus should be on responding to the human security agenda. From the Organ Directorate's perspective, these issues have been identified as in need of further operationalization.

Yet in reviewing the status of SIPO there are various worrying signals. The first relates to the Directorate's secrecy and resultant suspicions that it is unaccountable to anyone. There is a lack of engagement of the Organ and Directorate with ICPs and civil society; the latter regularly report frustration with attempts to meet and/or consult with Organ officers. Secondly, although the focus in SIPO and the Organ Directorate seems to be on meeting the region's human security challenges, there appears to be an obsession with the SADCBRIG. As analysts have pointed out elsewhere, it is a military obsession, whereby the AU request for standby arrangements is interpreted as requiring a militarist response, leaving civilian input and participation behind, if not deleted from planning altogether. Hence, the questions of deployment mandate, decision making, and training remain pertinent.

In order for the SIPO and its managers to move beyond some of this criticism, it is suggested that the proposed SADC-Civil Society Partnerships, as identified by the acting Director of Politics, Defence and Security during the SADC Consultative Conference of April 2006, be activated expeditiously. Apart from establishing a much-needed channel of communication, such structured engagements will allow both sides to pursue matters in a manner that will benefit the broader integration project. Over and above such confidence-building measures, it will also provide ICPs an additional channel to engage with the Organ. Despite initial positive signs, at the time of writing (February 2007) this has not happened.

Which Way for the Organ and Security Cooperation?

At a different level, there is an argument that one ought not to expect the Organ Directorate to lead with political decision making in the areas of politics, defence and security. This point of view recommends that individual member countries examine their own approach and commitment to the Organ's objectives. Which of the three scenarios identified earlier in the article are attractive to members: the holistic approach to trade, economic and security integration; the dual-speed approach; or the bilateral approach? To help determine this, some questions can be put to the nation: does the regional integration project, and the pursuance of peace and stability, resonate with its own broad vision of the future, does the country get an adequate return on its investment in SADC, is committing to SADC (in terms of human and physical resources) in the national interest? Critically, how does the regional peace and security policy framework

integrate with domestic policies? What is the view of SADC amongst the general public? Is there a regular review of the regional/national interface?

As with the AU (NEPAD) APM, these questions ought not to be answered by government and state managers alone, but civil society also has a critical role to play. One has to gather responses to these kinds of questions from all the member states in order to determine whether SADC is really being held together by 'common values and norms', and is transiting from the regime security to the human security paradigm such that it resembles a truly regional, democratic integration project.

For those supportive of the vision, more work is to be done in preparing for the further prioritization and implementation of SIPO, taking into account the specificities of the parts which make up the whole. On this basis SIPO can then be reformulated to look like the road map it was supposed to be in the first place. The October 2006 Extraordinary Summit in Maseru seems to point a way forward, in that finally a road map to realise the Community's vision of deeper regional integration and poverty eradication was accepted, and specific stages and timelines were outlined. These are summarised as follows: establishment of a Free Trade Area in 2008, a Customs Union in 2010, a Common Market in 2015 and a Monetary Union by 2016 (SADC, 2006).

Conclusion

In conclusion, the article's brief *affaire* with New Institutionalism allowed us to construct a view of SADC security cooperation that suggests a developmental path from ad hoc, informal to formal, rules-based governance. This appears to be good news, as it provides a critical anchor for the broader integration project. Yet many questions remain. For starters, such a view goes against the impressions created by the promoters of the security community concept, whereby strict criteria are set in order for a regional institution to be allowed into the club of the caring. Analysts argue that SADC does not (or even more severe, cannot) qualify for such membership. It is clear, from this paper's analysis, that in the short- to medium-term the Community will pursue a dual-speed approach to regional integration (the second scenario identified above), interspersed by moments of bilateralism (the third scenario). This means the maintenance of a stable (but not efficient) institution, used by members to behave in a disaggregated manner, driven by the overriding demands of national interest and sovereignty.

However, the new institutionalism also allows one to ask alternative, penetrating questions about the nature of security cooperation in southern Africa. Which factors motivate and encourage, or discourage and retard such cooperation? How can such behaviour be examined? What is the nature of relations between players, including power dynamics between strong and weak? These questions are illustrative of the research agenda emerging from such a perspective.

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Notes

- ¹ The assistance of Brig Gen Paulino Macaringue in deepening my understanding of some of the historical dimensions and intricate dynamics at play in the southern African security sector is hereby acknowledged. However the author claims responsibility for the paper's arguments and conclusions.
- ² For academic perspectives, see McGowan (2006); Van Schalkwyk (2005); de Coning (2005); Makoja (2005). For a more activist perspective, see Bond (2002).
- ³ See for example the September 2004 edition of *Security Dialogue*, in which a special section provided a broad overview of human security debates ten years after the popularization of the concept by the United Nations Development Programme.
- ⁴ For an overview of these debates, see Zacarias (2003).
- ⁵ One such analyst remarked that 'colonialism, cold war, liberation wars and anti-racial discrimination are regarded as part of the political vocabulary of the entire SADC region' (Interview, P. Macaringue, September 2006).
- ⁶ The OPDSC operates on a Troika basis. The Troika members are selected by the Summit from among the members of the Summit except that the Chairperson of the Organ Troika cannot at the same time have the Chair of the Summit (neither can a member simultaneously belong to both Troikas). Under the Organ a Ministerial Committee (MCO) was established consisting of the ministers responsible for foreign affairs, defence, public security and state security. The Protocol also provides for an elaborate structure of the Organ, including The Inter-State Politics and Diplomacy Committee (ISPDC) and the Inter-State Defence and Security Committee (ISDSC).
- ⁷ The Organ is supported by the Directorate for Politics, Defence and Security Affairs based at the SADC Secretariat in Gaborone. It functions under the overall supervision of the SADC Executive Secretary and is headed by a Director for Politics, Defence and Security. The Directorate's tasks relate to politics, defence and security issues as defined in the Treaty, Protocol and SIPO (focusing primarily on strategic planning and policy analysis and development); the monitoring and evaluation of the implementation of Organ decisions; and the provision of administrative backup to the Organ. It also supervises the activities of the SADC Regional Peacekeeping Training Centre (RPTC) based in Harare (Ndlovu, 2006).
- ⁸ According to SIPO its scope includes the following issues:

"In the political sector: To protect the people and safeguard the region against domestic instability; Promote the evolution of common political values and institutions; Prevent, contain and resolve conflict by peaceful means; Promote democracy and human rights; Observe and encourage states to implement the UN Charter, AU CA; Develop peacekeeping capacity of national defence forces; Enhance regional capacity re disaster management and coordination of international humanitarian assistance; and Develop a common foreign policy approach on issues of mutual concern.

In the defence sector: To protect the people and safeguard the region against domestic instability; Promote regional cooperation on matters related to security and defence; Consider enforcement action as a matter of last resort; Consider the development of a collective security capacity and conclude a mutual defence pact to respond to external military threats; To observe conventions and treaties on Arms Control and Disarmament; To develop peacekeeping capacity; and Enhance regional capacity re disaster management and coordination of international humanitarian assistance.

In the state security sector (intelligence services): To protect the people and safeguard the region against domestic instability; Promote regional cooperation on matters related to security and defence; Prevent, contain and resolve conflict by peaceful means; Consider the development of a collective security capacity and conclude a mutual defence pact to respond to external military threats; and Develop close cooperation between the police and state security services.

In the public security sector (law enforcement agencies): To protect the people and safeguard the region against domestic instability; Promote regional cooperation on matters related to security and defence; Consider enforcement action as a matter of last resort; Promote democracy and human rights; Develop close cooperation between the state security and defence forces; To observe conventions and treaties on arms control and disarmament; To develop peacekeeping capacity; and To enhance regional capacity re disaster management and coordination of international humanitarian assistance.”

⁹ Interview, P. Macaringue, Johannesburg, September 2006.

¹⁰ A UNDP-funded conference scheduled for senior security sector officials from SADC, in December 2004 in Maputo, rejected proposals for the urgent implementation of a range of SIPO objectives. By observing proceedings, it became clear that SADC members did not share a common understanding or vision of the Organ or its activities. The formal communiqué, produced by the Organ Directorate, steered clear from revealing these underlying tensions.

¹¹ Aswat, the alleged mastermind of the London bombings, had been on the run since 1999. Following his arrest in Zambia, British officials were anxious to interview Aswat because of concerns that he could be taken to one of the US terrorist detention centres. In the end, Zambia deported Aswat, a British citizen, back to London in August 2005 (African Terrorism Bulletin, June 2006).



MILITARY DIMENSIONS OF SECURITY COOPERATION IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

PAULINO MACARINGUE

Introduction

This paper deals with the military dimensions of security cooperation in the Southern African Development Community (SADC). It explores military aspects related to the processes of creation of security mechanisms for the sub-region, and later the incorporation of the SADC Brigade (SADCBRIG) that constitutes part of the African Standby Force (ASF). In both dimensions of the sub-regional and regional/continental levels, the security structures emerge from concepts and represent the new tools for implementation of the military dimension of the common security policy for conflict prevention and resolution.

As a caveat, it is worth reflecting, briefly, on the general characteristics of the environment under which the security cooperation evolved in the sub-region throughout the frontline states (FLS), the Southern African Development Coordinating Conference (SADCC) and, later, SADC. As Booth (1994) stated, 'external factors' like colonialism, Cold War rivalry and apartheid destabilization, in combination with intrastate conflicts, internal oppression, poor governance and economic mismanagement form part of the significant, yet coalescing factors that have affected southern Africa's socio-political development over the last four decades and, by extension, influenced and informed the periodised, two phases of common security response.

In the mid 1970s, the FLS responded to Portuguese and Rhodesia's colonial and white settler as well as South Africa's apartheid's policy of white supremacy and regional destabilization by establishing the Defence Staff Committee. This was later transformed into the Inter-State Defence and Security Committee (ISDSC) that has survived to this day. However, since the 1970s, perspectives on the security cooperation have evolved, guided by attendant politico-military dimensions that are distinct from the economic agenda separately pursued. On the question that political and military stability are essential prerequisites for development, SADC's objectives, as stipulated in its 'treaty', also try and capture this, as it includes the 'evolution of common political values and institutions' and the 'promotion of peace and security'.¹ The above environment and context led to the establishment of the SADC Organ on Politics, Defence and Security Cooperation (OPDSC) as one of the tools of the SADC mechanism for conflict prevention and resolution.

Taking charge of regional security by a group of states is mandated under Chapter VIII, Article 52 and 53 of the United Nations Charter. The understanding is that such action ultimately contributes to overall maintenance of global peace and security. This is the international framework under which SADC has carried out its activities. However, SADC Member States are also members of the African Union (AU), an arrangement that is provided for under the principle of subsidiarity, within the UN framework. Thus, in furtherance of the peace and security obligations, SADC is under compelling need to design, build, and maintain a defence and security capability in order to encourage, control, and when necessary enforce peace as mandated by the guiding AU peace and security agenda documents.²

Although southern Africa, compared to other regions on the continent, has unique expe-

rience in addressing conflicts and co-operating in the area of security, there is a paucity of information detailing these accounts, especially where they involve military cooperation and joint operations. For example, little is known about the military dimensions that informed and guided security cooperation in the region during the FLS era, a period that was critical to the armed struggle and the liberation of southern Africa. Similarly, there have been speculative accounts, lacking evidence from reliable sources,³ focussing on the theoretical framework for security cooperation in southern Africa. Some of these accounts have viewed the interventions in Lesotho and the Democratic Republic of the Congo (DRC) in 1998 as representing regional security cooperation and attempts to de-legitimise unconstitutional changes of government. For those privy to what actually goes on within the corridors of power within SADC, this is frustrating as, even as we write, SADC has not yet clarified neither what type of security cooperation concept it has put into place, nor the normative values and principles that underlie regional cooperation.⁴

Consequently, it is towards providing some insights into the dynamics of regional security cooperation that this paper seeks to reflect upon, forming part of an emerging post-Cold War genre based on materials from archives that have begun to document the military history of the region. Furthermore, it is also true that the various military exercises already conducted in SADC, represent the most visible demonstration of military cooperation. The exercises also include cooperation for military training, notably at the Regional Peacekeeping Training Centre (RPTC) in Zimbabwe, a factor that appears to have been accorded little significance in the wider question of regional security cooperation. The same scepticism is likely to prevail with regard to the implementation of the SADC BRIG, if the debate on the broadening of the concept of security is not taken to all spheres of activities of SADC. Also, it has to be ascertained whether the establishment of the SADC BRIG does constitute an indigenous initiative as part of a SADC effort aiming at developing a capability to address the identified challenges to regional security, or whether it is externally motivated. Often the SADC BRIG is presented as an initiative imposed upon SADC by the ASF concept; and hence is interpreted as not the ideal response to the threat challenges existing before SADC security.

One of the most important roles of the military dimension of SADC security cooperation is to serve as an early warning unit for potential crisis situations; building confidence between member states through open participatory activities, such as joint exercises, and related transparency on defence and security matters. Functions such as, the cooperation on security in SADC contribute towards collaborative security programmes, giving birth to the notion of collaborative security.

Origins of the SADC BRIG

It is commonly accepted that the region now known as SADC has over many years had a long history of security cooperation. What have never been clarified in the public domain are the political and security conceptual instruments that guided the cooperation over the years. Throughout its history, the region has always attempted to establish some sort of collaborative security framework with a functioning defence mechanism although in practice and formally, this has never been possible to achieve, except for ad-hoc and episodic relationships. A quick examination of the post-cold war attempts so far made in that direction can be illustrative. In any case, records show that the first significant meeting to attempt to harmonise approaches and create the above referred defence tool was through the ISDSC meeting of mid-1983, in

Nyanga, Zimbabwe. This meeting could not conclude the proposed pact and several related military aspects, partially because some members were not prepared to commit their countries to an arrangement that could clearly expose their military association against the apartheid regime.

Suffice to state that this remains the clearest example of the difficulties the FLS encountered in trying to formalise the military dimension of its security cooperation. Notwithstanding this early failure to provide the FLS alliance with a formal defence instrument, other attempts (manifesting themselves in practice) were also made, such as the military assistance received by all liberation movements in southern Africa, Tanzania and Zambia. Furthermore, even after attaining independence, the assistance continued when a select number of liberation movements were challenged as happened in Mozambique and Angola. Again in such instances, military assistance from Tanzania and Zambia was extended, contributing to the safeguarding of these governments at a critical period of their existence. For instance, during the Mozambique conflict, partly sponsored by the then apartheid South Africa, ISDSC deployed what could be termed its first regional coordinated military initiative in which Zimbabwe and Tanzania provided troops, while Botswana, Zambia and Angola offered material and financial assistance towards the operations. In this endeavour, the incoming troops augmented the efforts of the *Forças Armadas de Mozambique* (FAM) in halting the externally inspired balkanization of Mozambique. Earlier, in the same collaborative spirit, Mozambique had also deployed its forces in support of Tanzania in its war against Idi Amin of Uganda, now popularly known as the Kagera War of late 1979–80. Before Zimbabwe's independence, Mozambique's FAM had also assisted the liberation movements in that country against the white/settler regime in Salisbury. Finally, Angola militarily assisted the South West African Peoples Organisation (SWAPO) in its struggle against the South African occupation until the Bicesse Accord of 1988 that later brought independence to Namibia in 1990.⁵

More recently in July 1998 Zimbabwe, Angola and Namibia intervened in the DRC conflict in which Tanzania was already offering military assistance/training while the rest of SADC members preferred not to deploy. In September of the same year, South Africa and Botswana also deployed forces in Lesotho in support of consolidating democracy as part of the SADC instrument of security policy. The fact that the 1998 'SADC' military intervention, triggered heated debates within the region, bringing at the forefront the issue of when and how to intervene on behalf of the organization, is interesting to highlight. At the core was the aspect of motivation, nature and character of the two interventions to be considered as SADC, given the decision process followed in their initiation. This controversy almost split the organization into two sides. One side, constituted by Zimbabwe, Angola and Namibia, was defending that, as a result of the DRC crisis, a 'type of mutual defence pact', then called 'SADC Allied' had been established that was open to the rest of SADC countries to join it. Meanwhile, the other side remained reluctant to accept the procedures and modalities followed in that particular intervention into the DRC and questioning the legitimacy of the act as a SADC one. This discussion was to continue when later the Lesotho crisis erupted. It is worth noting that the above debates were instrumental in pushing SADC to move forward in this specific area of regional cooperation.

Regardless of the polemics that have been created around these two interventions by detractors, the two events resonate with the common security policy of SADC and constitute concrete examples of the operations of the region militarily in a post-apartheid era. These two interventions have reinforced the need for SADC to have a framework for conflict resolution, particularly guiding aspects of military intervention. Indeed, following these events SADC member states

engaged themselves more vigorously in the debates, leading to the signing of the Protocol on the OPDSC and Mutual Defence Pact. These two instruments form the regulatory documents for managing military aspects of the security cooperation in the region.

Apart from the above-referred experiences, unlike events in the Economic Community of West African States (ECOWAS), SADC has had no formal experience of developing and managing a collective military capability. ECOWAS, for instance has established clear lines of authority, command and coordination for intervention. In contrast, in SADC, much of what has happened in the past was done on an *ad hoc* basis. This has also not benefited from a fully mandated ministerial mechanism, operating below the Summit, providing regional operational/tactical guidance.

There has also been a major challenge with funding. Most of SADC funding for regional conflict resolution, such as for the two operations in the DRC, were country contributions, from economies that are themselves not producing adequate surpluses and, therefore, left contributors in dire economic conditions. It is therefore correct to acknowledge that, in the development of the SADC BRIG, the more valuable regional military experiences, go back to the era of the ISDSC of the 1970s, experiences that really provided a framework for defence and security cooperation in the region (Baregu, 2003; Nathan, 2002; Omari, 2000).

The African Union Common African Defence and Security Policy (AU-CADSP) indicates that by 2010 an ASF capable of rapid keep/enforce peace deployment must be in place. Based on the five regions as identified by the Lagos Plan of Action of the 1970s, the envisaged ASF is to comprise standby brigades (with police and civilian components) in each of the five regions with an early warning unit based in Addis Ababa. If this comes to fruition, this will be a bold landmark that addresses African security concerns both from an internal regional perspective as well as external threats. Other structures of the AU-CADSP include a Peace and Security Council decision-making body, a Military Affairs Committee and a Strategic Studies think-tank component. Developments in the regions on the question of common security therefore take their cue from the framework provided by the AU-CADSP.

Viewed from SADC's perspective, the recommendations made in the Regional Seminar on Peacekeeping Training held in Harare, Zimbabwe, from 27–31 July 1998, later approved by the 20th Session of the ISDSC of Swaziland, March 1999, is particularly relevant. Aspects of those recommendations called for:

- setting up of the Regional Peacekeeping Training Centre (RPTC) in Zimbabwe;
- establishment of a SADC Peacekeeping Clearing House within the RPTC;
- establishment of a SADC Peacekeeping Brigade on lines of the ECOMOG (West Africa) experience (Fisher, 2006).

The above recommendations have been followed by various meetings of SADC military planners tasked to develop the SADC BRIG, and the key issues that have been on the table are highlighted below.

Purpose of the SADC BRIG

The conceptual debate of how the evolving concept of security plays out in Africa, raises many questions that interrogate the justification and, to an extent, the usefulness of the regional standby brigades, and the whole concept of the ASF.

In southern Africa, SADC's broadening of security and the acceptance of the human security concept as the ideal goal to pursue, has been gaining significant ground. The human security dimensions and concept, although not articulated explicitly in the SADC policy key instruments, are notions that are embedded in the SADC Summit decision on the OPDSC of 1996. This is further articulated in the Protocol on the OPDSC and Strategic Indicative Plan for the Organ (SIPO) demonstrating the sensitivity that the region accords this important aspect. The implications and interconnectedness of the human and state/regime security are stand-alone research topics that are beyond the scope of this paper. However, a point needs to be made about the fact that the AU peace and security agenda is yet another important African initiative aimed at providing adequate human security that is designed to foster development on the continent.⁶

A question that begs an answer is: have all of the actions undertaken so far contributed more security? If so, then whose security has been improved? Clearly, the responses to these questions will be very different depending on who is answering and, of course, who is posing the questions and should therefore be discussed in reference to the whole record of security debates that the OAU has given birth to since its inception.⁷

We must not make the mistake of perceiving the ASF and the regional brigades as a panacea of the African maladies. This does not do justice to the multitude of threats to human security, and it will be dividing the peoples of Africa further instead of looking for achievable solutions to their problems.

Secondly, we must not continue to define security primarily in military terms, as this narrow approach does not do justice to the many causes that lead to violent conflicts. As Galtung (1996) has pointed out, peace cannot be waged with war. Preventive wars are not an alternative to preventive policies, as the latter are more useful than the former. For example, there is increasing evidence that preventative policies that are grounded in human security concepts, addressing poverty, fostering democracy and the rights of peoples, are more effective instruments of conflict resolution rather than relying solely on the interventions of standby brigades.

On the other hand, the African peace and security agenda has also been flooded with verbal offers of commitment that are yet to materialise. For instance, we have heard of conditional offers from the G8 to commit resources aimed at supporting Africa's peace and security agenda, linked to the New Partnership for Africa's Development (NEPAD) with promises to undertake "training and where appropriate equip" 75,000 peacekeepers by 2010 for peace support operations, particularly in Africa.⁸ What appears to be still missing are the concrete steps needed to bring this into reality. Secondly, the European Union has offered a 250 million euro African Peace Facility, while France's Reinforcement of Military Capacities of African Armies (RECAMP) and the United States' African Contingency Operations and Training (ACOTA) programmes also promise to provide various training to African armies on a bilateral and regional basis. To this end, the U.S. Global Policy Initiative (GOPI) has also been allocated USD 660 million over five years, targeted at strengthening African peacekeeping capacity.⁹ The offers are endless, but the issue remains: is this what is really required? In an ironic note, the timeline for the establishment of the ASF seems to have been set by the deadlines extracted from these initiatives. More importantly, there are at least four significant aspects of these external elements in their relationship with the African peace and security agenda that are interesting.

First, each of the initiatives is not coordinated consultatively with the other; in other words, the US ACOTA does not necessarily speak to RECAMP and visa-versa. Consequently, this poses implications on how and where these programmes are rolled out on the continent. Secondly, each of the initiatives from outside does not make an attempt to coordinate/align itself with

the CADSP. The latter has clear mandates, timelines and regional focus to which the external players simply do not acknowledge. Thirdly, all the resources associated with the initiatives, especially in the case of the US, are in fact directed at components within the US itself with little being allowed to filter down to the continent. Finally, the operation of each of these initiatives appears to reinforce former colonial or Cold War dimensions on the African continent rather than benefiting integration.

Furthermore, it appears as though the SADC BRIG is re-opening the old debate about what are the armed forces for in today's SADC environment. If countries are to commit resources for the SADC BRIG effort, what roles and missions remain for their national armies in their respective domestic scenarios? Should the national armies concentrate in preparing replacement and reinforcement for the SADC BRIG or should they adjust or adapt themselves for some other new roles and functions? Will the development of the SADC BRIG will hasten the questioning of the role of the armies at the domestic level? Also, why should Member States retain the same level of defence expenditures while a regional standby capability is out there to be utilised, which, in the same breath they are also being asked to contribute to?

SADC certainly needs to entertain these discussions, but they fall beyond the scope of this paper and might well deserve further analysis in another stage of the FOPRISA project.

At this point, while accepting that the standby arrangements are a reality that is here to stay, let us attempt to examine the likely conditions under which the SADC BRIG might have to be deployed and operated. This might shed light to the purpose of the brigade.

From the various discussions that took place in the SADC planners' meetings, it appears that the typical situations under which SADC is perceived to use military force in the region are likely to include the following:

- aggression/conflict in any Member State;
- conflict between two or more Member States;
- internal conflict threatening:
 - humanitarian disaster
 - peace and security in the sub-region
- gross violations of human rights and the rule of law;
- unconstitutional change of an elected government;
- other situations decided by the Organ Troika.¹⁰

From the above scenario, the purpose of the SADC BRIG can be viewed as:

- participating in missions in Article 13 of the AU Protocol establishing the PSC that include:
 - observation and monitoring missions;
 - other types of peace support missions;
 - humanitarian intervention in situations of grave circumstances or on request of a member state to restore peace and security in accordance with Article 4 of the AU Constitutive Act;

- preventive deployment to avoid escalation of a conflict, spreading of ongoing conflict or resurgence of violence after parties to the conflict have reached an agreement;
- enforcement of sanctions;
- peace-building: including post-conflict disarmament and demobilization;
- policing activities;
- restoration of political and administrative institutions;
- any other purpose as mandated by the AU PSC or Assembly including SADC Summit or OPDSC Troika.

As shown above, the intent of developing the SADC BRIG can therefore be interpreted to mean that SADC should be able to react to particular events stipulated in the ASF concept through a range of pre-determined mission-type options, and address the situations that might threaten the normal implementation of the SADC goals and objectives.

Guiding principles of the SADC BRIG

The doctrine and operational procedures for the SADC BRIG are still being developed. However, its guiding principles will be in accordance with what is enshrined in the UN Charter, AU Constitutive Act, Protocol relating to the Establishment of Peace and Security Council of the AU, SADC Treaty, SADC Protocol on the OPDSC, SADC Mutual Defence Pact; and related SADC Summit decisions.

Military capability

As an organization, SADC has to strive to gradually establish a realistic and functional military capability based upon the ASF concept and the definable operational needs of the sub-region and in support of the AU and UN. This requires: an urgent definition of SADC operational requirements through a detailed needs analysis; examination of existing military capabilities and assets of Member States; determination of existing short-falls in capability; and creation of strategic policies, processes, procedures and other work in support of the force development process.

Of great significance are concerted efforts in the areas of logistics support, training of personnel, standardization of equipment, determination of field operating procedures, and a myriad of other critical activities that allow the creation of a homogenous, deployable, and effective military component.

The already referred to previous interventions by South Africa/Botswana intervention in Lesotho and Angola/Namibia/Zimbabwe in the DRC back in 1998, and by South Africa/Ethiopia/Mozambique intervention under the African Mission in Burundi (AMIB), although had to be made under adverse conditions without the proper preparation, processes, and procedures, exposed certain key aspects that are important to note for the current SADC effort of establishing the SADC BRIG. Serious shortfalls in equipment, supplies, materials, and other critical support structure did complicate those efforts.¹¹ These 'in the field' experiences are to be converted into determining, formulating, and to establish a realist and fully functional SADC BRIG.

SADCBRIG features

The above highlighted experiences require that SADCBRIG be shaped to at least display the following features:

- Ability to deal rapidly with small-scale contingencies of short-term nature;
- Ability to deal with UN Chapter VI and humanitarian aid type of contingencies under the UN, AU and SADC mandates;
- Ability to expand to appropriate force levels within a realistic warning period;
- Effective command and control structure and effective intelligence, information gathering system, to ensure early warning of potential conflicts/ crises and their management;
- Effective supply and maintenance and, where necessary, upgrading or replacement of equipment and weaponry;
- Effective training capability to develop and prepare force components for the required roles and tasks;
- Self-sustainability, meaning the bulk of the funding should come from Member States;
- Standardised doctrine, communication equipment and operating procedures.
- For these to be achieved, from the envisaged command and control structure the following should be pursued. SADCBRIG should be able to interact with UN and AU command arrangements. It should strictly be multi-national and all troops should remain under the full sovereign command of troop contributing countries (TCCs). Above all an integrated and comprehensive training programme that is followed by all TCCs is the decisive aspect.

Response times

SADCBRIG is to be guided by the Chapter 5 of the AU Policy Framework for the establishment of the ASF and the Military Staff Committee (MSC) in terms of time response:

- simpler missions (Scenarios 1–4) should be able to deploy in 30 days;
- complex missions (Scenario 5) should complete deployment in 90 days, with the military component being able to deploy in 30 days;
- due to the nature of situations demanding intervention operations (Scenario 6), it will eventually be required to be able to deploy a robust force in 14 days.

Deployment periods

SADC has agreed to follow the maximum assignment period of six months. This is to be observed, and should be the case even if the troops so assigned are due for rotation within their own country to prevent disruption of the continuity of a mission within the first six months of its mandate. Rules stipulate that no Member State is under any obligation to guarantee a follow-on replacement of its deployed capabilities after expiry of the six months of deployment.

To address this, the concept of a 'SADCBRIG POOL'¹² of capabilities that has been designed is of great importance for missions of long durations.

SADCBRIG POOL

The main reason this concept was chosen has to do with the recognition of existing imbalances in terms of defence capabilities in the TCCs. Hence a pool of capabilities has to be available within SADCBRIG. A SADCBRIG POOL ensures that inability, of one or more TCC to deliver, should not render deployment of the Brigade impossible.

It is important to note that 'POOL' is not similar to a 'reserve' which is to be planned and catered for in the mission. On other hand, every TCC will retain the sovereign prerogative to decide on its participation on case-by-case basis. The POOL provides options for tailoring of SADCBRIG to suit particular situations. The expectation is that SADC would retain deployment capability within the region even if the entire Brigade or part of it is deployed elsewhere. This will require that logistics needs of the SADCBRIG POOL are on hand and that re-supply will be readily available. For this to work is therefore imperative that priority is given to the establishment of SADC logistics depots.

Command and control

SADC is still discussing the management aspects of the SADCBRIG. However, from the discussions held so far within the SADC planners' forum, it has been agreed that, conceptually, the SADCBRIG when deployed will be under strategic direction of an envoy to be appointed for every specific mission by the mandating authority. Each country will be required to designate a senior liaison officer, who will work with the SADCBRIG commander. The SADCBRIG commander is to be appointed by the mandating authority following the advice of defence chiefs and will have to lead a staff comprising regional military and civilian personnel from SADC countries.

SADCBRIG should be strictly multinational though all troops would remain under the full sovereign command of each troop-contributing country. SADCBRIG will adopt most of the UN procedures in its deployment. However rotation of personnel would be avoided during the tenure of a mission. Exceptions will be allowed on grounds of ill health, incompetence, disciplinary matters or prospects of career advancement. At no time are the commander, deputy commander or chief of staff to be of same nationality.

SADCBRIG Headquarters (SADCBRIG HQs) will serve as commanding HQs for mission preparation and operational command of the SADCBRIG. Prior to this, the force preparation will be the responsibility of the planning element at the SADC Secretariat and TCCs. If the SADCBRIG commander is appointed as force commander the Brigade staff will serve as the nucleus for overall mission staff until this staff has been established.¹³ For actual missions and exercises, the SADCBRIG commander will assume operational control on arrival in the mission area.

Concept of military strategy: work in progress

SADC has made significant progress in implementing its ISDSC decisions to operationalise the ASF road map, but is aware that the job is far from complete. SADC has begun to strengthen its Gaborone headquarters planning element, and mounting pressure has been put to empower

and staff the Organ directorate. If these efforts are successfully accomplished there will be conditions to provide integrated strategic, operational, and tactical training to the SADCBRIG.

All this said, it remains the case that much more needs to be done by all concerned to strengthen SADC standby capacity. SADC is still struggling to finalise its implementation plan for SIPO and has not yet convened sufficient meetings and consultations to get inputs on the merger of SIPO and RISDP. Moreover, the identification of requirements, whether at national or regional level, presupposes broad agreement on priorities, timeframes and the definition itself of such integrated standby capacity (with civilian and police component) – none of which has yet been achieved fully.

The reality of SADC is that at this time the development of the Brigade and its Pool capable of rapid deployment remains too ambitious¹¹ in spite of its obligation to meet the AU's intention of ensuring that regional brigades are formed by each regional organization. Although, as noted from the recent past, SADC has not been able to harmoniously deploy, and employ, significant numbers of troops and units, and does not possess command and control elements to conduct operations. However, most SADC countries have combat and peacekeeping experiences to learn from. This pre-eminent position should be maintained and capitalised upon.

Based on the above, the concept of development of the SADCBRIG should revolve around a modular and evolutionary approach to deployment. Sequentially, when a crisis or threat to peace emerges, the SADC Organ through its various structures would determine a need for the deployment of troops. The pre-determined elements of the SADCBRIG POOL will be notified and concentration commences. Once a deployment date is determined, the POOL accelerates preparation based upon the exact location of the military operations. On the declared deployment date (x days after formal orders), the BRIG POOL deploys and operations are deemed to have commenced once the POOL is on the ground. The POOL is expected to be self-sustaining for the indicated period while, concurrently, the depot logistics systems would begin to expand and enhance capability to provide increased support. Ultimately, the SADCBRIG POOL would be fully operational.

In a worst-case scenario, the crisis continues and the SADC OPDSC TROIKA determines that additional units and expanded military capabilities are required to be deployed. The competent authorities notify the key elements of the SADCBRIG and concentration of subordinate units begins. After the agreed period commencing from the official notification of deployment, the selected elements of the SADCBRIG deploy to the crisis location. The concept is to prepare the agreed number for the Brigade as a minimum on standby at all times. This is to say that the SADCBRIG POOL consists of the agreed numbers and units needed for immediate intervention.

As the crisis evolves, the competent authority determines that additional troops are required. This concept allows a flexible and modular approach to concentration and deployment. Where and when more line units are required, they are quickly moved forward. The redundancy in the envisaged SADCBRIG structure provides an ultimate force organization that is based on the 'specificity' of the crisis via a pre-determined, generic force package. Thus, the conceptual military strategy is based on the evolution of the SADCBRIG POOL to a whole brigade based on operational, in-the-field requirements. In order to be effective, the initial POOL structure must have a wide range of modifiable capabilities, yet be fully self-sustainable and mobile.

Combat readiness

The training of the soldiers and units is the responsibility of TCCs. Training objectives are to

be standardised for each component on lines of the UNDPKO guidelines. Inter-operability is to be achieved through various small-scale multinational exercises, workshops, seminars and field-exercises.

Collective training exercises for the SADCBRIG will be crucial to achieving a gradual harmonization of various operational aspects. The RPTC represents an ideal location for training commanders and act as clearing house for all peace support operations. In short, the SADCBRIG is to structure and train to contend with the prescribed six categories scenarios as foreseen by the AU.

Challenges ahead

The road map for the establishment of the ASF has clear phases. It might be worthwhile to recall them.

- Phase one (Up to June 2005) – Developing a Regional Standby Capacity to address mission types from scenarios 1 to 4 (i.e., peace support operations capability for Chapter VI and preventive deployment missions).
- Phase Two (1 July 2005 to 30 June 2010) – Developing a capacity to manage complex peacekeeping operations (Scenarios 5–6).

This paper deliberately leaves open the challenge of assessing the level of SADC's compliance with the above AU road map.

It is ultimately this project's responsibility to provide an opportunity for open, un-attributed and frank debates about the challenges, whose objectives could be:

- To provide participants the opportunity to set forth our assessment of current SADC military capacity, objectives and priorities;
- To exchange views on the primary requirements for training programmes to develop the identified standby capacity.

Unresolved issues

The following questions could be very stimulating: Is SADC standby capacity to be developed primarily at the national level? What should be the role of SADC in establishing criteria/priorities for strengthened regional peace support operations? On what basis is the identification of equipment and related needs to be carried out and at what level – national or regional? What are the logistical requirements for the SADCBRIG? Where should the logistical depots be established and under what auspices? Who should be tasked to manage different components of viable logistics systems – maintenance, repair, inventory control, accounting system, etc? Where the finance requirements should be addressed from? Nationally, regionally, continentally or internationally and how this should be balanced with major development objectives?

Concluding remarks

The military dimensions of SADC security cooperation arose from its liberation struggle history and have benefited from experiences drawn from the post-Cold War and post-apartheid security environment. They have evolved around SADC efforts in the areas of conflict prevention and

conflict resolution and have been flowing hand to hand with political and economic dimensions of that cooperation.

The development of SADCBRIG regarded in this paper as an example of military aspect of the alluded security cooperation raises a lot of challenges that require attention from those interested in understanding SADC from the perspective of looking at it 'as it is' and not 'as ought to be'. This is perhaps, the constructive approach that can help SADC to design and develop a viable road map towards realization of its vision and attainment of chosen strategic goals.

The ongoing work that can be testified by various initiatives carried out by SADC structures to strengthen its military, civilian and police operations capability within the framework of the ASF concept is to be commendable. There is recognition that the job is far from complete but has already come to satisfactory fruition. Countries have made their pledges and carried out specific actions, some of which are highlighted elsewhere in the paper. Generally SADC member states have been engaged slowly in the development of SADCBRIG but moving in an increasing pace towards the shaping of military dimensions of regional security cooperation within the framework of the Protocol on the OPDSC, SIPO and RISDP.

This work is to be continued with the understanding that SADC is a house of many different rooms and can only move forward if its heterogeneous reality is always taken into consideration.

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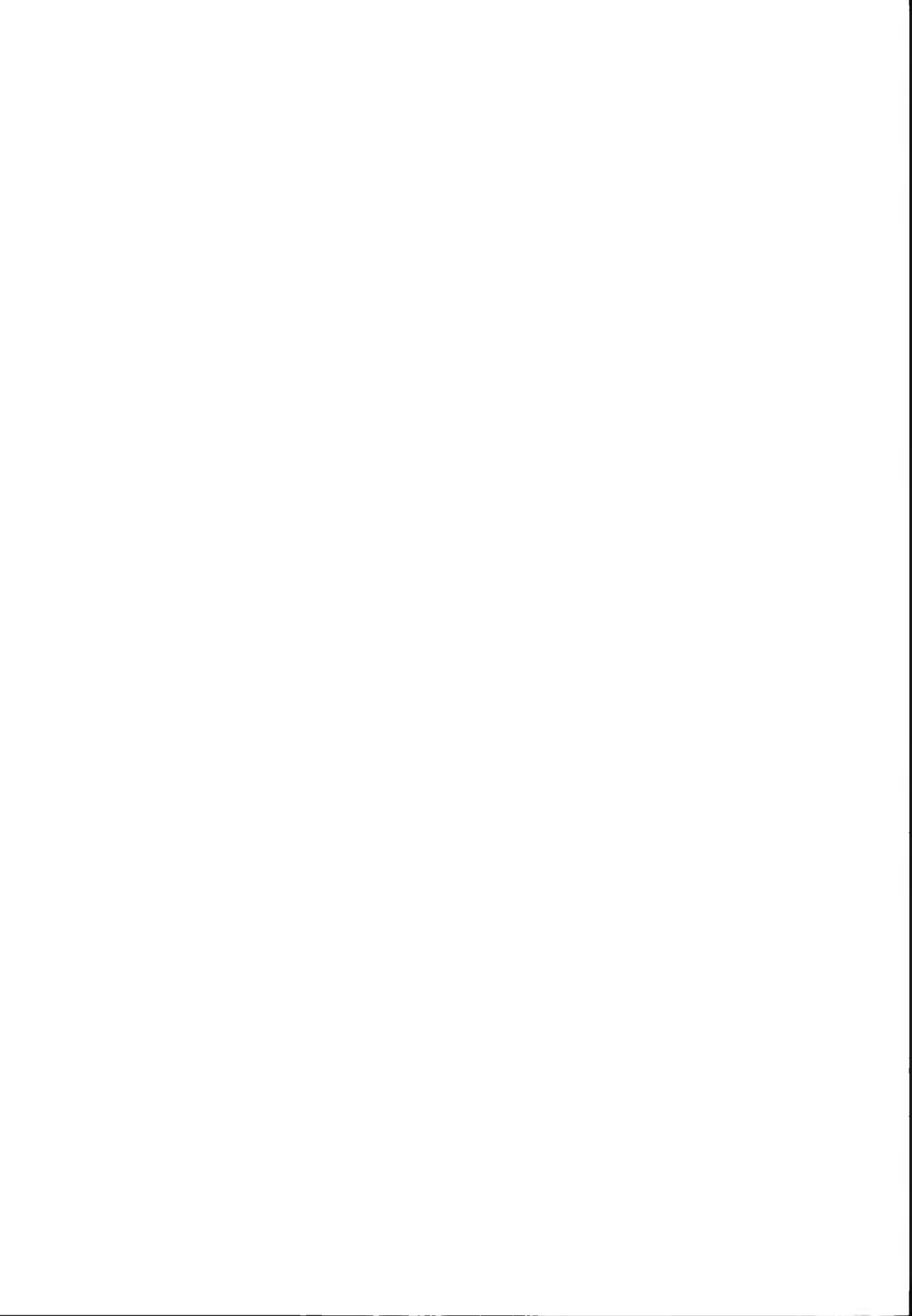
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- Various AU and SADC Peace and Security Policy Frameworks, Decisions and Reports accessible at AU (www.africa-union.org) and SADC (www.sadc.int) websites

Notes

- ¹ See Articles 5(1) (b) and (c), Treaty of the Southern African Development Community, 1992, Windhoek.
- ² See Article 13 of the AU Peace and Security Council (PSC) Protocol, and the Framework for the Establishment of the ASF.

- ³ In analysing SADC security cooperation, the interventions into the DRC by Zimbabwe, Angola and Namibia and in Lesotho by South Africa and Botswana, represent ambiguous cases due to the lack of consensus surrounding the whole issue of legitimacy and whether they constituted SADC decision. The debates about the procedural aspects of decision making followed.
- ⁴ There are growing signs of democratization reversal in some countries of SADC challenging the core principles incorporated in the Treaty and various protocols.
- ⁵ This military assistance was rendered under the framework of the then existing security cooperation championed by the FLS and deserve attention as a reference today when efforts aiming at developing military dimensions of regional cooperation are underway.
- ⁶ Almost all AU Summit resolutions since its transformation from the Organisation of African Unity (OAU) devote substantial attention to the linkage of security and development in the continent.
- ⁷ Amate (1986:60), in 'Inside the OAU: Pan-Africanism in Practice', gives the most telling evidence by recording how the debates on the OAU Charter dragged on until the paragraph stating that 'the purpose of the state was to serve its people' was deleted. This clearly demonstrates how the regime security concept was then privileged.
- ⁸ See the June 2004 G-8 Summit decision of Sea Island, Georgia and the UK Prime Minister's priorities for the EU presidency in 2005.
- ⁹ See the AU Peace and Security Commissioner's report to the AU Summit of 2005.
- ¹⁰ This draws upon the personal collection of various positions by Member States in meetings of SADC military planners, when read in conjunction with SADC Mutual Defence Pact; however, these are not yet formally adopted SADC positions on the matter.
- ¹¹ These serious difficulties are to be found in the reports on AMIB and MONUC operations presented to the AU PSC and UNDPKO that have not yet been made public.
- ¹² ECOWAS for example has adopted a concept of developing a task force that is slightly different from the SADC BRIG POOL. For more see the report of ECOWAS Planners to the Defence Chiefs on a Proposal for the Creation of Standby Units in ECOWAS, adopted in 2004.
- ¹³ See, recommendations to the SADC Defence Chiefs from the operations sub-sub Committee, 2005.
- ¹⁴ The work that has been done, if compared with the AU roadmap, tells that SADC seems to be struggling in this exercise, at least in terms of meeting some of the indicators. This is to be understood in the context of SADC being a house of many different rooms, hence with the difficulties of moving at the same pace.



PUBLIC SAFETY DIMENSIONS OF SECURITY COOPERATION IN THE SOUTHERN AFRICA DEVELOPMENT COMMUNITY

JOÃO PAULO BORGES COELHO

Introduction

Public safety issues and cooperation have attracted modest attention both by the leading regional structures and academic literature in countries of the Southern African Development Community (SADC). There are difficulties in researching sensitive issues like crime in its complex forms, as well as the institutional set ups to deal with it. This is partly a heritage from former regimes, and is a constituent factor in resistance to change. In part, this situation is due to "the fraught political, social and economic histories of these member states" (Klipin and Harrison, 2003:2) that imposed the need to establish the basis for political and economic cooperation and of building security architecture that would sustain peace. However, signs are growing of the negative impact of public insecurity on the attainment of the principal objectives of SADC, such as economic development, consolidation of democracy, and the well being of its citizens. Consequently, crime and how to deal with it has entered into the agenda of collective security.

This research paper constitutes an attempt to explore some dimensions of the development, current status and future prospects of public safety (especially police) cooperation under the auspices of SADC. It starts with establishing the context for such discussion, considering the region as a complex made of countries in transition, where crime is acquiring different and increasingly serious dimensions that demand assertive and vigorous responses. The paper then considers the main perspectives, institutional arrangements, and central actors in regional cooperation for purposes of guaranteeing public safety. After discussing the main obstacles that hamper such responses, the paper concludes with a discussion of future challenges in security cooperation.

Context: Southern Africa in Transition

Currently, southern Africa is perhaps sub-Saharan Africa's most coherent and integrated region (McGowan 2006:301). This is due partly to a shared liberation culture that emerged out of the struggle against colonialism and apartheid, the countries' historical coherence built around their satellite economic relationship with South Africa, and also the fact that they are nearly all experiencing, in unequal but parallel ways, democratic transitions.

In political terms, such transitions mean the replacement of former authoritarian regimes, characterised by colonialism or apartheid or single-party rule by a new multiparty order run by democratically elected governments. Economically, they entail the emergence of new liberal market economies. Lastly, from a defence and security point of view, they are witnessing profound rearrangements based on the replacement of former military confrontation by a culture of cooperation and common security.

Despite the apparent willingness of all the SADC countries to go through such transformations, and evidence that concrete steps are being taken, these complex transitions do not follow pre-established itineraries. On the contrary, the transitions manifest forward moves and set-

backs, since the drivers are social actors with diverse and even conflicting interests, in a regional context where there lacks clarity between what are considered as national interests and what is considered as the common regional interest. The regional interest is quite often perceived as conflicting with the national interests.

If such perceptions are already sensitive in broader spheres in the member states, they become even more so in the narrower defence and security sector, where there is a clear linkage between regional integration and national sovereignty, the advance of the former necessarily corresponding to decreases in the latter.

The recent history of SADC defence and security cooperation reveals that the end of war does not necessarily lead to attainment of peace. The case of the Democratic Republic of the Congo (DRC) is an example. Consequently, the major task of SADC has been to establish regional structures of conflict resolution, peacekeeping and common security. In as much as defence and security, in narrow classical terms, were clearly a SADC priority throughout the past decade, there are growing signs that public safety needs more attention. As some have observed, there is a connection between transitions and decreases in public safety, particularly in developing countries, and southern Africa seems to be no exception (Klipin and Harrison 2003:8).

Crime

A joke goes around in the region that crime is the sector that responded more promptly to the challenges of regionalization and integration in southern Africa. The reasoning behind it is the steep increase in cross-border organised crime witnessed in recent years. This phenomenon may be understood in connection both with characteristics of the 'old' region, and of the 'new' liberal context.

The first factor is widespread poverty and the series of inter- and intra-state conflicts that characterised the region until the early 1990s, which nurtured situations of social instability and violence, and left behind a relatively easy access to means of violence, particularly small weapons.¹ Hundreds of thousand refugees, displaced people and demobilised soldiers occupied an unstable and vulnerable environment where, in addition to widespread petty crime, new forms of organised crime rapidly emerged and developed.

In addition to this, the removal of authoritarian regimes from the early 1990s, relaxation of rigid controls, the signs of economic recovery, as well as difficulties in controlling the long and porous national borders were accompanied by a steep increase in cross-border population movement, particularly from other regions of the continent that are relatively more unstable and poorer (Boone, Lewis and Zvekic 2003: 143–144, 147). Moreover, the new liberal economic context, which is more complex and diverse, brought not only new forms of acute poverty but also provided ground for the development of unprecedented corruption.

Gastrow (2001) traced the development of organised criminal activities in the region, and observed that from the mid-1980s a new connection was established between gangs of smugglers in South Africa's neighbouring countries and South African criminal groups, leading to a rapid expansion of cross-border criminal transactions. The smuggled products, such as ivory, drugs, minerals, rhino horns, cattle, etc., found markets in South Africa, where they were sold or exchanged for goods like stolen motor vehicles, thereby provoking a steep increase in car stealing and hijacking, amongst other crimes. The new context also encouraged other forms of crime, including counterfeiting of currency notes and forgery, smuggling of firearms, armed robbery, and drug trafficking. The agents conducting it rapidly reached trans-national and sophisticated forms of organization.

Response to crime

In general, the authorities in the SADC countries displayed a limited capacity to respond to these new challenges. In part, this was due to the new environment, characterised by much greater social and economic complexity and freedom of movement, both domestic and cross-border. Another important reason was that this new situation caught police and the criminal justice systems highly unprepared.

Police forces in all countries in the region were going through deep restructuring to free themselves of their own past. In South Africa and Namibia, the police forces had a long record of brutality and repression to preserve the apartheid system, which included notorious human rights abuses. In Angola and Mozambique, the police forces were coming out of civil war situations, in which they had acquired a quasi-military profile. Here and elsewhere in the region where authoritarianism had characterised the past, the distinction between political parties and the state was blurred, institutional loyalties ambiguous, and the police profile fell under what is usually considered as regime policing.²

Moreover, the transformation of the police forces was not at the top of either political or of donor funding agendas, replaced as it was by more pressing priority areas such as the demobilization of the old armies and the establishment of new ones, peacekeeping, and social and economic development, through strategies that characterised not only the domestic environment but also the first steps of regional cooperation.

As a result, the police forces entered the new era with a bad reputation, under-resourced, poorly trained and equipped, and having to control huge geographic areas with extensive borders and coastlines, in a social environment rapidly changing and challenging.

Criminal justice systems shared some of these problems since their recent history was also tied to the colonial, apartheid or authoritarian contexts where independency from political instances was low, and their services were only made available to part of the population. Moreover, their capacity to respond was limited by acute shortage of trained personnel and resources or, in some cases, insufficient legislation.³

Regional Cooperation: Framework, Perspectives and Actors

Formally, public safety cooperation in the southern Africa region falls under the arrangement that guides SADC cooperation at a wider political and security ambit, the Organ on Politics, Defence and Security Cooperation (OPDSC). However, some of its most relevant achievements have been performed in a semi-autonomous manner by the Southern African Regional Police Chiefs Co-ordinating Organization (SARPCCO), a body created in 1995 with the aim of co-ordinating the efforts of the various national police forces at the regional level.

To understand the place of public safety in the regional security arrangement, it is necessary to go back to 1992, when the Treaty that created SADC was signed by the Heads of the member states. These were times when a major positive shift was starting to occur in southern Africa, in particular with the end of the civil strife in Mozambique, the first attempt to stop the Angolan conflict, and the prospect of fundamental changes in Namibia and South Africa. SADC had come at that time to replace the previous regional cooperation organization, the Southern African Development Coordination Conference (SADCC), established to resist economically – as its own predecessor, the Front Line States, were resisting in political and military terms – against the South African domination in the region. Until then these regional organizations had a loose,

informally run, substructure for defence and security purposes, the Inter State Defence and Security Committee (ISDSC), which had been established along classical defence and security lines to support the liberation of Zimbabwe, Namibia and South Africa (Bam 2006: 29; van Nieuwkerk, 2001).

These were also times when major changes started to occur at the international security arena, as a consequence of the end of the Cold War. Such changes were accompanied by a paradigm shift in defence and security thinking, towards what came to be designated as human security, with the acknowledgement that the old state-centred paradigm had fell short of providing stable and secure conditions for societal development. Security came to be increasingly viewed as "an all-encompassing condition in which people and communities live in freedom, peace and safety, participate fully in the governance of their countries, enjoy the protection of fundamental rights, have access to resources and the basic necessities of life, and inhabit an environment which is not detrimental to their health and wellbeing".⁴ Of special importance for this new thinking was the 1994 UNDP Human Development Report which, according to Hendricks (2006:3), "noted that human security is an integrative concept that must stress the security of people. It contended that the concept of security needed to change from an exclusive stress on national security to a much greater stress on people's security; from security through armaments to security through sustainable human development. The report identified a list of perceived new security threats, namely, economic, food, health, environment, personal, community, and political security."

This new paradigm strengthened at least theoretically the ties between development and security, public safety in particular, since the latter started to be seen as a *sine qua non* condition for development. Only in a stable and secured environment could development be possible.

The creation of SADC under a spirit of regional cooperation, as opposed to the previous confrontation, was in line with this new thinking. According to Bah (2004: 9), "SADC's adoption of a new security paradigm which encompasses both military and non-military issues marks a radical departure from the state-centric approach that characterised previous regional security arrangements. The new SADC framework emphasises the security of people and broader developmental concerns such as alleviation of poverty, eradication of killer diseases such as HIV/AIDS and tuberculosis, violent crime, promotion of democratic values and principles, small arms and the protection of human rights". Article 5 of the 1992 SADC Treaty states, as objectives of the organization, "to achieve development and economic growth, alleviate poverty, enhance the quality of life of the people of southern Africa", and "to promote and defend peace and security".

A little later, in 1993, the SADC document *Framework and Strategy* went further in this direction, calling for "the forging of common political values based on democratic norms, the creation of a 'non-militaristic security order'", and the "need to address non-military sources of conflict and threats to human security, such as underdevelopment and abuse of human rights." (Nathan 2004:5).

In this new context, SADC's defence and security architecture had to change. Not only the purpose for which it was created had gone through a fundamental shift, but also the thinking behind its action had been deeply transformed. A process was therefore started to create a defence and security substructure more tuned with the profile of the new regional organization. The concept and control of this new substructure was a matter of harsh disputes, revealing SADC's discomfort in dealing with such sensitive issues as defence and security at this early stage of its existence, and caused by changes in power relations in the sequence of South

Africa's entrance in the regional organization.⁵ After what was perhaps the most controversial and troubled episode in the short history of SADC, the Organ on Politics Defence and Security Cooperation (OPDSC) was officially accepted in 1996 but remained ill-defined until 2001, when a task force was instructed to develop its Strategic Indicative Plan for the Organ on Politics, Defence and Security (SIPO). The SIPO was approved by the SADC Summit in 2003, and one year later was officially launched.

SIPO was expected to be the instrument that would translate principles into a strategy and set of guidelines for action. Although it stressed the linkage between development and security, stating in the foreword that "Peace, security and political stability are the linchpins for socio-economic development", SIPO bears testimony to both the difficult process behind its creation and the guarded approach of member states in dealing with issues perceived to be sensitive to their respective sovereignties. As Oosthuisen (2006:127) argues, SIPO is not as detailed and comprehensive as other fundamental SADC plans such as the Regional Indicative Strategic Development Plan (RISDP). It includes an extensive listing of objectives and related strategies and/or activities, but falls short of providing an implementation framework, definition of priorities, plans and cost assessments. Section 6, which deals with the public security sector, is no exception, and merely consists of a long listing of challenges, strategies and activities.⁶

A significant manifestation of the troubled process that characterised the creation of the OPDSC, and its slow progress, is that until recently public safety cooperation was deprived of a structural framework.⁷ Notably, it was the support provided by Interpol (as a response to rampant cross-border crime) that made available the initial funding for the police chiefs of the region to meet in Zimbabwe and create the Southern African Regional Police Chiefs Cooperation Organization (SARPCCO) in 1995.⁸ SARPCCO's mandate includes promoting, strengthening and fostering "joint strategies for the management of all forms of cross-border and related crimes with regional implications".⁹

The emergence of SARPCCO with its announced principles of equality, mutual benefit and mutual respect represent the first seed of a true regional cooperation in the domain of public safety.¹⁰ Cilliers (1999) writes that "the various regional police services [could] then measure their effectiveness, standards, professionalism and ethos, as well as their operational practices in comparison with one another. In other words, the police services that had traditionally been insulated from external oversight [would] now not only strive to be accountable to the usual domestic constituencies, but [would] also be accountable to a regional constituency."

Although acting within the framework of the ISDSC, articulation of SARPCCO with SADC was far from being well defined. It probably represented a pressing factor on a process which had a different, slower pace. Moreover, SARPCCO's adoption of principles of professionalism meant a radical break with the previous regime policing culture in the countries of the region. As a result of its somewhat independent emergence, SARPCCO was seen by SADC, at the beginning, from a certain distance. For example, the police chiefs' organization was ignored by SADC in the drafting of the SADC Protocol on Combating Illicit Drug Trafficking, "despite the fact that only the sub-region's various policing agencies could and inevitably [would] end up implementing the core components of the protocol" (Cilliers, 1999). However, despite not being an official affiliate to SADC, SARPCCO's performance gradually gathered it growing levels of legitimacy, and the organization was eventually adopted by the respective ministers and ratified by national parliaments, after what, in 1999, came into effect as the entity to deal with organised crime. Since 1997, SARPCCO coordinated a series of operations tracking motor vehicle thefts, drug trafficking, firearms and precious stones' smuggling, etc., involving several national police

forces.¹¹ Currently, a specific protocol recognises SARPCCO as the lead agency to deal with the control of small arms in SADC.

SARPCCO's operations have produced impressive results in the last few years. According to Bah (2004:2), this was due to the fact that "prospects for cooperation regarding 'low politics' (e.g., small arms or functional cooperation) are better than those in the realm of 'high politics' (e.g., military intervention and sovereignty)". Even if this is true, the fact is that further development will require improvements in more than one direction. It is necessary to widen the common denominator of such cooperation, either through the establishment of effective communication and information exchange mechanisms (Cilliers 1999), or in particular through harmonising public safety legislation. Gastrow (2001:Chapter 7) shows that most of the countries in the region are short of specific legislation to tackle organised crime, and filling this important gap is a condition to harmonise procedures at the regional level.¹²

Besides SADC structures and SARPCCO, other cooperation platforms include bilateral agreements,¹³ as well as initiatives like the UNODC judicial training programme attended by numerous SADC law enforcement and judicial personnel (UNODC 2003:32) or the International Law Enforcement Academy (ILEA), located in Gaborone. Funded by the United States of America, ILEA, besides offering training on regional trans-national crime issues also provides ground where contacts between participants from all countries in the region help to produce a common understanding of crime and how to combat it, a factor which undoubtedly foster regional cooperation.¹⁴

Conclusion

SADC was created on the premise that there is a connection between development, democracy and security. Only a safe regional and domestic democratic environment could lead to the achievement of the key objectives of SADC, that is, economic growth and development, poverty alleviation, and enhancement of the standard and quality of the lives of the people of southern Africa.

Having to deal with a recent past of acute regional conflict, facing strong social and economic imbalances, and mistrust amongst member states, the SADC political structures directed their priority efforts to economic cooperation and to tackling state-centric "hard security", issues. In other words, the linkage referred to above ended up being reduced to development and democracy with hard security (Kiplin and Harrison 2003:11). Besides being more difficult to grasp conceptually, people-centred "soft security" issues did seem less threatening, and therefore less pressing, to the cause of building the region. As a consequence, the early cooperation efforts in the sphere of public safety emerged outside the direct initiative of SADC's political structures, even though they were subsequently legitimised and integrated by the formal structures.

The overall consequence of this is that SARPCCO seems to have gained a somewhat independent profile. While such a profile sometimes is seen as hampering the progress of its work (Oosthuizen, 2006:283), the opposite can also be true, since SARPCCO's relatively independent profile and professionalism is the best guarantee against relapse to undesirable former features such as regime policing, which characterised policing in most of the member states not so long ago.¹⁵

Regional and domestic public safety dimensions are therefore inextricably tied. While increased regional cooperation impacts positively on public safety at national level¹⁶, conversely the quality of such cooperation also heavily depends of important improvements in the institu-

tions that deal with public safety at the domestic level. This is a major challenge, since in terms of cooperation it probably implies incursions in the realm of 'high politics' as defined by Bah.

Public safety, police reform in particular, has so far occupied a modest place on the domestic agendas of the member states, pressed by more priority issues and struggling with limited resources. Moreover, such tendency has probably been reinforced by what Nield (1999:9) describes as "an instrumentalist theory [which assumes] that police reflects regimes, and their behaviour will come to reflect the new values of democracy once the legal framework has been reformed to incorporate those values."

The limited response displayed domestically by the public safety institutions to crime in all its new complex forms show that that assumption is not necessarily correct. To a great extent such institutions continue to hold a record which includes disproportionate use of force, lack of transparent behaviour, impunity, torture, illegal custody procedures, ill-defined relationship with criminal justice systems and several human rights abuses (Amnesty International, 2006). Changing this requires better training and equipping of the police forces, as part of a reform that can only be undertaken with a support of the political leaderships in each member state more vigorous than the one that has been displayed so far, and based on the norms of democratic policing.¹⁷ The focus on increasing the capacity of the national public safety institutions is also important to pursue equity amongst member states, after all one of the main SADC goals.¹⁸ Similarly, increased public safety cooperation demands a clearer articulation between SARPCCO and SADC structures, particularly the Organ; and the prioritising of combat against crime by the regional agenda.

Finally, the struggle for public safety is not just an affair of the state or, at the regional level, of SADC structures. It requires the involvement of civil society organizations (particularly human rights) and of communities in general. Several initiatives and discussions of community and sectoral policing are taking place, and it is the role of the regional structures to support, divulge and harmonise them. The involvement of society is important, not only to guarantee a more efficient combat to all forms of crime but also to help police reform.

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Notes

- ¹ It has been noted that increases in crime are particularly dramatic in post-conflict contexts. See, for instance, Neild (1999: 13).
- ² According to Neild (1999:3–5), "regime policing lays out characteristics that are typical of authoritarian approach to policing in many countries of Africa, Asia and Latin America", and can be defined as integrating the following elements: the mission of the police is to support the political regime or a particular government; police do not require public legitimacy to be effective; police have few, if any, accountability mechanisms; criminal detection capabilities are weak and concentrated in limited areas/constituencies; intelligence gathering structures are focused on enemies of the regime rather than on gathering criminal intelligence; concentration on policing for political control means that the understanding and practice of crime prevention are poorly developed (little tradition of visible or community policing on which to build). Still according to Neild, "regime policing is not only a legacy of military or authoritarian rule. Regime policing or a steady degradation of public order and criminal justice functions can also result from violent internal conflict and sectarian differences", as was the case with Mozambique and Angola. For regime policing in the case of South Africa, see Rauch (1993).
- ³ Boone *et al.* (2003: 150) refers that "Data suggests that prisons suffer from gross overcrowding" and "Courts of the region have also been found in the main to lack resources, to have a large backlog of criminal cases and to lack trained legal personnel".
- ⁴ Organisation for Economic Cooperation and Development, "Security System Reform and Governance: Policy and Good Practice", Paris: OECD, 2004 (cited in Marenin, 2005: 8).
- ⁵ Changes in the defence and security substructure were strongly opposed by Zimbabwe on the basis, according to Bah (2004:23–24), of three arguments: entrusting it to the SADC Secretariat would compromise the confidentiality of sensitive matters since the latter was heavily reliant on foreign donors; it would further benefit Botswana where the SADC Secretariat was based and which was already receiving the bulk of donor resources; and, finally, formal rules and procedures would compromise sovereignty on matters of 'high politics' and constrain national and multilateral freedom of action in crisis situations. More on this process is found in Cilliers (1999) *The SADC Organ on Politics, Defence and Security*; and, for a somewhat different, rather critical view, Nathan (2004).
- ⁶ SIPO's objectives for the public security sector are the following: "1) To protect the people and safeguard the development of the Region against instability arising from the breakdown of law and order, intra-state conflicts and aggression; 2) To promote regional coordination and cooperation on matters related to security and defence and establish appropriate mechanisms to this end; 3) To consider enforcement action in accordance with international law and as a matter of last resort where peaceful means have failed; 4) To promote the development of democratic institutions and practices within the territories of State Parties and encourage the observance

of universal human rights as provided for in the charters and conventions of the AU and UN; 5) To develop close cooperation with State Security and Defence forces of State Parties in order to address cross border crime and promote a community based approach to domestic security; 6) To observe and encourage State Parties to implement UN, African Union and other international conventions and Treaties on Arms Control, Disarmament and peaceful relations between states; 7) To develop peacekeeping capacity of national police services and coordinate the participation of State Parties in International and Regional Peacekeeping Operations; and 8) To enhance regional capacity in respect of disaster management and coordination of international humanitarian assistance." In order to pursue some of the objectives additional protocols were signed by member states, covering fields like corruption, firearms, drugs, legal assistance and extradition. See SADC (2004) at www.sadc.int.

⁷ The ISDSC has one standing sub-committee dealing with public security, provided with ad hoc subsidiary bodies for immigration, customs, small arms, land mines and disaster management. However, this set up was far from sufficient for providing such a framework. (see Oosthuizen, 2006:222).

⁸ Interpol established its Regional Bureau in Harare in 1997. SARPPCO and Interpol share the same Secretariat in that city.

⁹ The objectives of SARPPCO are the following: the promotion, strengthening and perpetuation of cooperation and the fostering of joint strategies for the management of all forms of cross-border and related crimes with regional implications; the preparation and dissemination of relevant information on criminal activities when necessary to benefit members in their attempts to contain crime in the region; the regular reviewing of joint crime management strategies with the purpose of accommodating changing national and regional needs and priorities; the efficient cooperation and management of criminal records and the efficient joint monitoring of cross-border crime by taking full advantage of the appropriate facilities available from Interpol; the making of relevant recommendations to governments of member countries in relation to matters affecting effective policing in the Southern African region; and the execution of any relevant and appropriate acts and strategies for purposes of promoting regional police cooperation and collaboration as dictated by regional circumstances. (see Gastrow, 2001: Introduction).

¹⁰ The principles adopted by SARPPCO are: respect for national sovereignty; equality of police/service forces; non-political professionalism; mutual benefit to all member countries; observance of human rights; non-discrimination and flexibility of working methods; and mutual respect and goodwill.

¹¹ It undertook the following main operations, amongst other: Voyager 4 (1997, South Africa, Mozambique, Zambia and Zimbabwe); Midas (1998, Lesotho, Mauritius, Swaziland and South Africa); Atlantic (1998, Botswana, Namibia and South Africa); Stone (1998–1999, Angola, Botswana, Namibia and South Africa); Sesani (1998–1999, Malawi, Mozambique, Tanzania, Zambia, Zimbabwe and South Africa); Makhulu (2000, Botswana, Lesotho, Mozambique, Namibia, South Africa, Swaziland and Zimbabwe. (see Cilliers, 1999, and Msutu, 2001).

¹² See, for a panorama of existing legislation and gaps in the member states. (Goredema, 2001).

¹³ The series of operations Rachel, developed on the basis of an agreement between South Africa and Mozambique, provide a good example of bilateral cooperation in this domain. See, amongst other, SaferAfrica (2003), "Operations Rachel", in www.saferfrica.org.

¹⁴ ILFA, created in 2000, has the following members: the USA, Angola, Botswana, Cameroon, Comoros, Congo, DRC, Djibouti, Ethiopia, Gabon, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Seychelles, South Africa, Swaziland, Tanzania, Uganda and Zambia.

¹⁵ According to Cilliers (1999), "SARPPCO should not become too closely integrated into either SADC or the Organ. Apart from the fact that the organization is independently established in terms of international law, too close a linkage would threaten the advantage of the dual use of the sub-regional Interpol bureau as SARPPCO secretariat, and the cost benefit that this implies. But, more importantly, cross-border crime prevention should not suffer tight political control or interference." And he adds: "What is needed is further regional political recognition and endorsement of SARPPCO's role, particularly at SADC level. The word 'recognition' is deliberately used in the sense that SARPPCO should be appreciated from a professional policing point of view by avoiding any attempt of politicising the Organisation. The same considerations underlie the reluctance of SARPPCO to serve as an integral part of the ISDSC, since the latter will tie the organization into a political structure."

¹⁶ Bayley (2001: 26) writes that "reform is more likely to occur if police officials are connected to professional networks of progressive police leaders (regional, national, and international)".

¹⁷ Bayley (2001: 13–14) defines such norms as follows: 1. police must give top operational priority to servicing the needs of individual citizens and private groups; 2. police must be accountable to the law rather to the government; 3. police must protect human rights, especially those that are required for the sort of unfettered political activity that is the hallmark of democracy; and 4. police should be transparent in their activities.

- ¹⁸ So far, the bulk of the regional police operations have been heavily dependent on South Africa's forces and resources.

JUSTICE DIMENSIONS OF SECURITY COOPERATION IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

ASINA E. A. OMARI

Introduction

Southern African countries have a common historical, economic, political, social and cultural history that created a strong bond and unity amongst them.¹ It is these factors that paved the way for the political and economic cooperation from the days of the Front Line States in the early 1970s to the formation of the Southern African Development Coordination Conference (SADCC) in 1980, and the current Southern African Development Community (SADC) in 1992.

Cooperation in the 1970s and early 1980s was geared towards achieving political independence. With this reality for most of the southern African countries, there dawned another reality of poverty, economic backwardness, and dependence on the stronger economies of minority-ruled neighbours. SADCC was thus conceived as a precursor for economic liberation on the basis of sustainable integrated development of the economies in the region. Though it had projects, SADCC just coordinated but did not own them, for they were owned by the individual member states. Additionally, SADCC did not have a legal status.

The early 1990s saw the region shifting from conflict and confrontation to peace and security cooperation and stability. Namibia had finally achieved independence, the civil wars in Angola and Mozambique were on the verge of ending, and democratization was imminent in South Africa. At the continental level, the African Economic Community was being discussed. Its treaty had the aim of reinforcing regional economic communities as building blocks for the continental entity. It thus appeared like SADCC member states saw their efforts to integrate as part and parcel of a wider continental initiative.

In 1992 the heads of state and government² signed the treaty establishing SADC to transform the coordination conference into a community. This redefined the framework and basis for cooperation. The arrangement was no more a loosely binding memorandum but rather a legally binding agreement creating obligations and responsibilities to promote a deeper economic cooperation and integration.

SADC Legal Framework

Other than the Treaty that established SADC, there are several protocols³ and declarations⁴ in a number of areas of cooperation which provide for a legal framework for cooperation among member states. SADC economic and social development policy is embedded in its 22 sectoral protocols, of which 16 have entered into force after obtaining the required ratifications from two-thirds of member states. The protocols span a wide spectrum of areas of cooperation among its member states. The main areas of cooperation are: trade industry, finance and investment, food agriculture, natural resources, infrastructure and services. Other areas of cooperation are politics, defence and security and, lastly, social and human development. These four main areas of cooperation are what make up the SADC Directorates. SADC sectoral protocols are crucial in the organization's community building and integration process. They provide for the legal

framework of the member states to cooperate and work together towards attainment of common objectives, aimed at cementing social, economic and political fabrics of the member states.

Having protocols and policy in itself is not enough; the protocols need to be domesticated for them to create a true legal regime in the region. There is, however, no reporting on how far this has been successful. A programme to assist member states to take protocols through their national legislatures is being developed, whereby there will be a blueprint on protocol incorporation. It is hoped that this will cure the ailment of ratifications without domestication. This will also enable the member states to move at the same pace in so far as the legal regime is concerned (SADC, 2005).

Incorporation and domestication of the protocols will enable the members to not only move at the same pace but also foster deeper integration. All member states will be using similar legislation⁵ and they will be working towards the development of SADC initiatives, thus leading to the development of regional law and a regional jurisprudence from the harmonised laws. Under the circumstances where each member state has its own legal system one can hardly expect a uniform jurisprudence.⁶

There is a need for organizational and institutional development at the level of the individual member states and at the regional level, in terms of reporting and monitoring systems, evaluation mechanisms, identification of legal and institutional capacity constraints and opportunities for an effective implementation of the policies emanating from SADC protocols at regional and national levels. Commonly observed difficulties hampering effective policy implementation span a number of areas and levels from policy formulation stage to incorporation of intergovernmental legal framework and operationalization of regional policy at national level.

The institutionalization of the protocols in the SADC legal framework corresponded to the community's realization that a sustained implementation of its policies required, over and above endeavour and political commitment by the member states to the regional integration agenda, legally binding instruments and enforcement mechanisms.

While more than two thirds of the SADC protocols have entered into force, there is concern, at the speed at which implementation has been taking place at the national level. For there to be meaningful policy and legal congruence in the region there has to be implementation of the regional policies and decisions at the national level.

A stocktaking exercise of the status of implementation of SADC protocols in force recently held by the SADC Secretariat found, on average, SADC protocols take two and a half years to enter into force. Mauritius and Botswana are seen to be leading in the ratifying and acceding to legal instruments. This however can be attributed to their constitutional and legal systems. The DRC, Angola⁷ and the Seychelles (before quitting membership) hold the slowest record. The stocktaking exposed several problems that range from scarcity of human and financial resources to limited enforcement capabilities, stemming from insufficiency of legal and institutional frameworks for policy implementation at both regional and national levels. The exercise also revealed an insufficient understanding at various levels of the national constitutional provisions for the incorporation, such as the domestication of the policies embedded in SADC protocols into the national legal orders of member states (SADC, 2005).

Incorporating provisions of the protocols in national legislation of member states aims at, on the one hand, locking in national decision-making structures and implementing agencies to the regional policy framework and, on the other, facilitating policy harmonization and achieving deeper and more expeditious process of policy implementation in the region. Similarly, the 2001 restructuring of the SADC organization was meant to address, *inter alia*, its internal

operational constraints, and to exploit synergies between the objectives of the Treaty and the institutional framework. The overall thrust of the restructuring was to increase the efficiency and effectiveness of SADC policies and programmes. This provides an avenue to look at judicial cooperation within SADC from a whole new dimension that places emphasis on fostering efficient, effective and deeper integration (SADC, 2005; see also Le Pere and Tjonneland, 2005).

The Strategic Indicative Plan for the Organ on Politics, Defence and Security (SIPO)

The SIPO is an instrument for implementing the SADC development agenda as it is spelled out in the Regional Indicative Strategic Development Plan (RISDP). It is concerned with operationalising the Protocol on Politics, Defence and Security Cooperation and seeks to consolidate peace, security and political stability in the region. SIPO also has a human security agenda including issues such as poverty, governance, HIV/AIDS, gender based violence, etc. Altogether, these and other issues⁸ are discussed as defence, state security or public security sector concerns (SADC, 2003).

To understand the specific objectives of SIPO, one has to go back to the objectives of the Organ on Politics, Defence and Security Cooperation (hereinafter referred to as the Organ), which was established in 1996. Of particular relevance to this paper are: the promotion of development of democratic institutions and practices to encourage observance of human rights; development of close cooperation amongst police and state security agents in and between the member states in an effort to address and curb cross-border crime; encouragement of the member states' implementation of international standards and conventions on arms control, disarmament, etc (Cawthra, 2001).

The Organ also incorporates the Inter-State Defence and Security Committee (IDSSC) which originated as a military coordinating structure of the Frontline States. The IDSSC has the principal mandate to promote and enhance the development of democratic institutions and practices within the member states. It is also charged with encouraging the member states to observe and respect human rights. Human security is an important cross-sectoral issue thus there is a need to look further on the public security sector of SADC within the framework of the SIPO (Cilliers, 1996).

SIPO asserts that there is an increased cooperation and collaboration between the various actors responsible for law enforcement and public security. Further, there have been significant developments in terms of developing a regional legal framework for cooperation. Protocols on Firearms, Extradition, Corruption and Mutual Legal Assistance are instruments to fight trans-national crime.⁹ The efforts to establish the legal framework for cooperation has even gone beyond the regional borders; SADC member states were instrumental in the adoption and signing of the Bamako Declaration on Small Arms and Light Weapons, which is aimed at curbing the proliferation of small and light weapons at the continental level. SADC member countries are also state parties to the United Nations Convention on Trans-national and Organized Crime. There are claims that there is reduced crime and higher recovery rates for stolen property within the region. Despite its achievements, the public security sector is faced with many challenges, these include trans-national criminal activities and organised criminal syndicates, cyber crime, terrorism, drug dealing and trafficking, combating human trafficking, combating violence against women and children, and HIV and AIDS.¹⁰ There is a lot that still needs to be done in terms of making concrete what is in the policy and legal documents.

Human Security

Human security as a compliment of state security is about individuals, the effects on people rather than those on the state and government. It is about being safe from military and non-military, state and non-state dehumanising actions. There is a close but complex relationship between human security, justice and judicial cooperation. Human security is advanced, *inter alia*, through the protection of human rights, respect for the rule of law and democratic governance. There are many international, continental and regional legal instruments that provide for human security, thus making it a legal right.¹¹ In addition to these instruments, there are various initiatives to address the various forms of human security threats. These derive from international, continental and regional initiatives that have facilitated the development of soft law for the protection of human security. The Global commitments made in the various instruments were reaffirmed in conclusion of the 1993 Vienna Conference on Human Rights (Du Pisani, 2003).

The Organ is the main agency within SADC charged with the function of enhancing human security in the region. The Protocol on Politics Defence and Security Cooperation¹² has specific policy objectives that include collective security, collective defence, governance and democracy and human rights in the region. All these policy objectives and areas of cooperation require a substantial amount of legal framework and cooperation, and demand the strengthening of the operations and accountability of the Organ in the performance of its role.

SADC Autonomous and Semi-Autonomous Institutions

Some permanent and ad hoc regional institutions have a formal relationship with the SADC Secretariat, through memorandum of understanding that give them a semi legal subsidiary status. The SADC Tribunal¹³ is an autonomous legal body that is meant to deal with matters referred to it by the Summit or the Council for adjudication and advice. Though it has a Protocol (which is an integral part of the Treaty), the Tribunal is essentially a creature of the SADC Treaty.¹⁴ Its jurisdiction is set out in the provisions of article 16 of the Treaty, *inter alia*, "to ensure adherence to and the proper interpretation of the provisions of this Treaty and subsidiary instruments and to adjudicate upon such disputes as may be referred to it..." The Protocol providing for the Tribunal's establishment has been ratified but the tribunal has not yet started operating. Members were appointed in 2005 by the SADC summit.

SADC also has an autonomous institution the SADC Parliamentary Forum (SADC PF), which was established in 1996. It is made up of national delegations of four legislators (including at least one from the opposition) seconded by the member states' parliaments/legislative bodies. The SADC PF has neither legal standing, nor a functional relationship to the Secretariat or the Summit.

Judicial Cooperation in SADC

One has to refer to the vision, mission and Common Agenda of SADC as envisaged by the founders of the community in order to understand the essence of judicial/legal cooperation within SADC. The SADC vision is one of a common future in a regional community with economic well being, improvement in the standards of living and quality of life, freedom and social justice and peace and security for the people of southern Africa.¹⁵ This can only be achieved if there is deep cooperation among the southern African countries in the area of legal/judicial cooperation.

The SADC mission is "to promote sustainable and equitable economic growth and social economic development through efficient productive systems, deeper cooperation and integration, good governance and durable peace and security . . .".¹⁶ These do not only require a high degree of cooperation, but also a legal framework that will, among other things, regulate cooperation. The mission is guided by principles stated in Article 4 of the SADC Treaty: sovereign equality of all members; solidarity, peace and security; human rights, democracy and the rule of law; equity, balance and mutual benefit; and peaceful settlement of disputes.

The SADC Common Agenda is enshrined in Article 5 of the Treaty, to emphasise how the vision and mission will be driven. SADC seeks " . . .the promotion of common political values, systems and other shared values which are transmitted through institutions which are democratic, legitimate and effective, consolidate, defend and maintain democracy, peace, security and stability; . . .achieve complementarity between national and regional programmes. . .".¹⁷

Judicial cooperation among member states and having complimentary justice systems present a great challenge to SADC, but an absolutely necessary one.¹⁸ The administration of justice (whether criminal or civil) in SADC countries will increasingly involve more than one country, the preparation, the commission and ultimately the consequences of crime affects more than one country in the region. In a situation where crime and criminal acts have become trans-national, the judicial response should also be trans-national in order to safeguard security of the person and property. There is also a need to coordinate among national prosecutors and judges in order to efficiently combat crime, otherwise the differences in the legal systems and the lack of cooperation will facilitate the existence of safe heavens for criminals. But, more importantly, judicial cooperation will bring about harmonization of the various laws and thus also share the traditions of independence of the judiciary, protection of human rights and fundamental freedoms and the rule of law where they are non-existent. This will enhance peace and security and thus economic growth and development (Van der Spuy, 1999; Seri, 2002; Zimianitis, 2003). For the public security sector challenges enumerated in SIPO to be overcome, there needs to be cooperation of not only the law enforcement agencies but also the judicial systems in the region.

For this to take off, states have first to ensure their justice systems are independent and empowered. There has to be a consensus in actions and decisions in terms of having corresponding national and international laws and, needless to say domesticate SADC legislation. This is a big challenge that member states have to endure, for it is a whole process requiring funding, time and goodwill from the various stake holders. It involves the harmonization of national legislation (with priority being given to crucial areas like corruption, organised crime, etc. – some of which already have SADC benchmarks – and the newer areas like trafficking of women and children, etc.), which will ultimately lead to a unified jurisprudence in the region.

Judicial Cooperation, Rule of Law and Human Rights in SADC

Justice is an important element for peace, stability and development. Some critical concerns about justice or the lack of it evolve from impunity and the lack of respect for human rights both in times of peace and during conflicts. The major prerequisite for a just society is the independence of the judiciary. There are various preconditions that must exist for there to be an independent judiciary. One of them is credibility in the system. In this context, credibility includes, but is not limited to: respect of the courts (especially by the government and

its agencies); courts that are independent from external control and pressure (political and economical) or influence, backed by an efficient system of law enforcement; and courts that are perceived by the people to be independent, impartial and free of corruption. For there to be cooperation in this field, member states must have a credible justice system. Otherwise there will be a situation where states purport cooperation with one another at the regional, continental and global level while their justice systems are corrupt and/or not independent. An effective, proper, functioning judiciary must have, among other things, infrastructure, human and financial resources. One of the challenges that many African countries (SADC member states included) face is upholding the rule of law and good governance, respect for human rights and fundamental freedoms.

For there to be peace, stability, security, respect for (and realization of) human rights and economic advancement, there has to be rule of law and good governance. It also needs clear and true separation of powers between the three arms of the state. Ideally there is rule of law when the judiciary is independent and empowered, an empowered parliament/national assembly/legislature and the presence of autonomous checking institutions/mechanisms like commissions and ombudsman for human rights, good governance, corruption, etc.

The AU through its NEPAD initiative has an African Peer Review Mechanism (APRM), an instrument voluntarily acceded to by member states of the AU as an African self-monitoring mechanism. Through this, members countries that are party to the APRM process will peer review each other in all aspects of governance (political, economic and social). The primary purpose of the APRM, *inter alia*, is to foster the adoption of policies, standards and practices that lead to political stability.¹⁹ This is an initiative and a process that is very important not only to the African continent but also to the SADC member states. It facilitates the possibility of having a region and a continent where there is political, economic and social development and stability coupled with the rule of law (Kajee, 2005).

A strong and vibrant civil society is also an important factor for it compliments and sometimes checks the role played by other institutions, both state and non-state.²⁰ A robust civil society will be vocal on abuse of power, will pressurise and advocate for changes, and can complement government's efforts.

SADC needs to assess the different mechanisms that exist in the individual member states, at the SADC, the continental, and global levels, to harmonise and complement efforts that would lead to the respect for human rights and upholding the rule of law in general. For instance, one can pose several questions: why are all human-rights-related instruments within SADC still declarations of one form or another that have no legally binding force?²¹ Will the SADC tribunal, other than its current mandate to settle disputes that arise out of interpreting the Treaty or its Protocols, ever have the mandate to protect human rights and uphold the rule of law in the region?

Harmonization of laws in the individual member states, the domestication of the regional and international instruments, mainstreaming human rights and the rule of law in all decisions and policies at all levels within the SADC framework and in the individual member countries are the prerequisites for any meaningful regional cooperation and of any common goals and objectives that SADC member states have set for themselves. The SADC Treaty is the legal basis for mainstreaming human rights, fundamental freedoms and the rule of law into SADC activities. This basis and need also emanates from international law and treaty practice together with the application of *jus cogens* as an agreed form of international customary law. These give states obligations to protect and promote international human rights and related norms. SADC by

being an organization of states that are part of the international community is automatically bound to see to it that human rights and the rule of law are protected, promoted and upheld in SADC and beyond (Kaime, 2004).

The core documents of the community stress on human rights and the rule of law, although one cannot comfortably say how much attention the same are receiving on a more practical and decision making level. There is neither a legal framework that translates Article 4(1) (c) nor other provisions of the Treaty, nor does the Treaty itself create a body that has the specific jurisdiction of dealing with human rights and related issues. So there is a need to have a specific legal framework with structures that will protect and promote human rights and fundamental freedoms. This need should be coupled with the reality that conflict and insecurity are not the right ingredients to ensure the respect, protection, realization and promotion of human rights, good governance and peace and security.²²

Autonomous and Semi Autonomous Institutions, Human Rights, and Rule of Law

The establishment of the SADC PF can be viewed as a means of expression of the need to move away from state sovereignty to regional sovereignty. This shows that social, political and security issues are better established in collaborative arrangements (Ngoma, N., 2003). Its major objectives, *inter alia* are to promote democracy (and in the process ensure good governance and the rule of law) in the region and, at the same time, involve legislators in various SADC activities and programs together with the facilitation of the implementation of SADC policies at parliament level in the member states. It would be desirable if this could become part and parcel of the SADC structure and be the legislative arm of the organization, as the East African Legislative Assembly and the Pan African Parliament (Le Pere and Tjønneland, 2005; see also www.sadcpf.org).

There is an issue of diversity of national and multinational legal and judicial systems. Is there a possibility of having a regional court taking into account the diversities of the legal and judicial systems that exist in the region? The answer is probably yes. As said elsewhere in this work, it is a tedious but necessary task that has to be done. Synchronising national regional and continental policies and initiatives through, for example, a national parliament, SADC PF and PAP to reduce the differentiation in focus and scope could be the first step (Kajee, 2005).

What weight do the recommendations of the regional parliaments have? Advisory in most cases. Are SADC heads of state and government, for instance, even thinking of ceding power to enact and enforce legislation on issues that affect southern Africa to the SADC PF? What weight, if any, would a regional court have? All these answers depend on the political will of the members states. Will having autonomous regional bodies that will foresee implementation and enforcement be the right way to go? Is SADC ready for a supra-national legislative body of law even if it is only in selective areas? (Moghalu, 2002, Kajee, 2005)

There is the issue of regional and continental pledges in areas of human rights, democracy, rule of law, good governance, corruption, etc. Does the legislation of member states comply with these? Are there attempts to align domestic legislation with regional and continental and international instruments? To a certain extent yes, although it may not be to the desired standards and at an acceptable speed. The issue still remains though, that there is a need to have an enforcement mechanism because; even in those cases where there is corresponding legislation, the issue of enforcement and the failure do so is not catered for.

SADC Protocols and Legal Instruments

SADC Protocols cover a wide spectrum of human security issues. The Protocols that directly focus on security are the Protocols on illicit drugs trafficking, control of firearms, ammunition and other related materials, mutual legal assistance in criminal matters, shared water course systems, the tribunal, and politics defence and security cooperation.

Article 22 of the SADC Treaty is dedicated to Protocols. It issues a directive that member states may conclude such protocols as may be necessary in the areas of cooperation. What the protocols are meant to do is essentially spell out the objectives and the scope of, and institutional mechanism for, cooperation and integration.²³ Thus protocols represent the agreement by member states on how to cooperate and proceed in the implementation of certain agreed strategies.

The Protocol *making* process within SADC is expressly provided for within Article 22. In short, it involves the SADC legal sector in collaboration with the sectoral actors developing a framework for negotiations among the actors. The negotiations culminate in the signing of the respective protocols. The signing signifies the member states commitment to the principles and policies enshrined in the protocol.

The second step would be the ratification of the protocols by the members of parliament (as per the constitutional requirements) of the individual member countries. Ratified protocols are then deposited with the Secretariat. As a general rule, two thirds of the signatories have to deposit the instrument before it can enter into force.²⁴

SADC also has soft laws in various fields of cooperation. Those linked directly to human security include among others the Maseru Declaration on HIV/AIDS of 2003 which addresses the pandemic and its socio-economic and political impacts on the member states. There is also a Declaration on Gender and Development of 1997²⁵ which is geared at creating a framework for mainstreaming gender into all of SADC's activities. The Guidelines Governing Democratic Elections of 2004 have been adopted as a benchmark for the conduct of democratic, free and fair elections in the region. They facilitate official SADC observer missions during elections and provide for a code of conduct for election observation.²⁶

SADC has made progress on formal level arrangements and policy declarations but has been less successful in implementing the decisions. It has 34 Protocols and declarations to harmonise policies and legislation in a number of key areas, some are in force while others are waiting for two thirds of the member states to ratify (SADC, 2005).

In order to honour the commitment and the obligations enshrined in the protocols member states have to make sure that national legislation, regulations, policies and procedures have to be brought in line with the respective protocols through domestication or adoption of the same into municipal laws (SAIIA, 2005).

This is the theoretical side of the matter. The practical side would entail enforcement mechanisms which SADC evidently lacks. There is no enforcement/implementation mechanism that oversees the adoption and codification of these protocols into national legislation among the member states. Having regulations that are binding on all member states should have been able to serve the purpose of aligning laws so that a decision made with regard to any issue becomes binding on all member states and cannot be altered by national legislatures. With this achieved, the region can be said to have a regional *corpus juris*. Judicial cooperation is a precursor for a regional and international *corpus juris*, but it should be noted that a prerequisite for this is having an empowered and active independent judiciary.

The complexity in the area of legal integration and cooperation is perhaps the greatest challenge to judicial cooperation in the region, arising from the different legal systems operating in

respective member country. Roman-Dutch common law systems operates in countries such as South Africa, Swaziland, Lesotho, Botswana and Zimbabwe; the English common law in Zambia, Tanzania and Mauritius and the Continental (Civil) system in those countries formerly colonised by the Portuguese (Angola and Mozambique) and the French (DRC).

The Protocol on Legal Affairs and the SADC Legal Affairs Unit

The SADC Protocol on Legal Affairs categorically states that there is recognition that there is need for the application of and interpretation of the SADC legal instruments that requires the inputs and involvement of the legal sector and support of the same.²⁷ There was also a need to have all legal instruments cleared by one body – the legal sector in this case – before they are submitted to the council or the summit.

The overall objectives of the SADC Legal Sector are expressly provided for in Article 2 of the Protocol, *inter alia*, to provide legal assistance to SADC, its institutions and members in matters relating to the interpretation of the treaty, protocols and other legal instruments, to facilitate for the adoption of appropriate schemes of cooperation in criminal and civil matters, to promote for the adoption of mutual assistance agreements in civil and criminal matters.

The Legal Affairs Unit was established in 2001, after the restructuring, and it was meant to render strategic legal services and guide SADC in the application and interpretation of the SADC Treaty, Protocols, and other instruments together with the application and interpretation of international law in conformity of the with the objectives of SADC and the RISDP (SADC, 2003, SADC, 2005).²⁸

According to the documentation of the major achievements and challenges of the SADC in its 25 years, the Legal Sector has some specific activities planned for implementation. These include the five-year plan to implement the Protocol on Corruption. There is an on going process to plan for human rights to consolidate the currently existing fragments of the various instruments and provisions that regulate human rights issues.²⁹ The unit is also involved in the development of a Protocol to operationalise the SADC tribunal. However, the legal affairs unit does not have any specific role to play in so far as the functioning of the tribunal (SADC, 2005).

The underlying importance of the Unit is that it facilitates the whole machinery of SADC to operate within its rules. One cannot divorce law from the political, social and economic cooperation and integration equation in the region (SADC, 2005). However its Existence has not filled the gap of an enforcement mechanism within the SADC structure. Member states should perhaps consider giving it more powers than its existing ones so that it can go beyond the drafting and advising. It could be given powers to liaise with the Tribunal (whose jurisdiction would also have to be revised) to monitor and oversee the implementation of the protocol and other SADC policy, and where there is need to take action to make the members accountable.

Priority Areas in Legal and Justice Cooperation

There are a number of areas that SADC could prioritise in the field of legal and justice, as outlined below.

Corruption

The necessity to make corruption a priority area need not be stressed. Corruption is an ailment capable of retarding any efforts of development at the national, regional and global levels.

Corruption is also an obstacle to good governance. The SADC Protocol Against Corruption entered into force in July 2005. It shows that there is recognition that corruption is a problem that needs immediate attention and, although most of the SADC member states have some form of anti-corruption legislation, there is a need for a regional standard.³⁰

The SADC Protocol on Corruption is very progressive in terms of its purposes and provisions enshrined therein; however when compared to the continental equivalent, the AU Convention on Preventing and Combating Corruption,³¹ this may not be the case. The AU convention is wider in the sense that it refers to, among other things, "technical cooperation and assistance to prevent, detect, investigate and punish acts of corruption and related offences",³² as opposed to the narrow "acts of corruption" in the SADC Protocol.

Mutual Legal Assistance in Criminal Matters

The SADC Protocol on Mutual Legal Assistance in Criminal Matters of 2002 sets the framework for cooperation in assistance in criminal matters in the Community. It complements the provisions of the Protocols on Illicit Drugs, Extradition and all other protocols that require some form of legal assistance in criminal matters. The Protocol requires that the state parties should provide each other with the widest possible measure of mutual legal assistance in criminal matters in respect of investigations, prosecutions or proceedings from a court or any other competent authority. This assistance is specific to criminal matters that are trans-national and organised in character, corruption, taxation, custom duties and foreign exchange control.³³

Some of the challenges that could hamper cooperation and legal assistance in the SADC region include; lack of mutual legal assistance agreements and exceptions within the agreements (this would be applicable only to those that have not ratified the protocol) inconsistent definitions of crimes and their penalties within jurisdictions, lack of uniformity in the extradition laws, substantive and procedural laws. All of which could be cured if the individual member states can take the trouble to ratify the Protocol (for those who are yet to do so) and harmonise their domestic legislation with SADC standards.

Extradition

The SADC Protocol on Extradition was tabled for signature on October 2002 and has not yet entered into force. Not all SADC countries have an extradition arrangement with the others with the exception of Namibia and South Africa. The Protocol provides for a framework where extradition can take place in the absence of treaties or other arrangements.³⁴

In so far as legal judicial cooperation is concerned, this is an important instrument in the fight against crime and the possibility of escaping from arrest, conviction or punishment. This Protocol poses a challenge for the member states. For it to be able succeed in its aims and objectives, the states not only need to ratify and domesticate the Protocol like all the others but they also need to harmonise some very important aspects of their criminal laws and procedures. In some instances, constitutional provisions that guarantee bail, the right to life, freedom from torture, degrading and inhuman treatment and punishment, and so on (Mukalebai, 2005). The Protocol categorically states that a state party has an obligation to extradite in accordance to provisions of the Protocols and their respective domestic laws;³⁵ for instance (notwithstanding the provisions of article 5 (c)) it would be unconstitutional for South Africa (which has abolished the death penalty) to extradite a person to, say, Tanzania which still has the death penalty.³⁶ This, however, is not an impediment to cooperation on all levels.

Proliferation of Small Arms and Related Materials

The proliferation of small arms and related materials forms an integral part in the fight against other criminal undertakings like drug trafficking, terrorism, and organised crime as well as ordinary robbery and theft (Stott, 2003).

The SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials³⁷ sets the legal standards in dealing with the proliferation of arms in the region. The objectives of this Protocol are to prevent, combat and eradicate illicit manufacturing of firearms, ammunition and other related materials in the region. It was adopted with the recognition that, for there to be a breakthrough in the fight against illicit firearms and related materials, there has to be a high degree of regional and international cooperation.³⁸

Though small arms and their proliferation is viewed primarily as a foreign and defence policy issue it is also a crime control issue. Thus, it touches on human security in the region, firearms are used in criminal undertakings, contribute to instability and conflict; thus pose a danger to the well being of the people, hinder social economic development and violate the right to live in peace.

The Protocol, *inter alia*, urges states to cooperate in mutual legal assistance.³⁹ It provides for legislative measures that the states have to undertake, setting out 14 priority areas that need to be incorporated in their national laws⁴⁰ including provision promoting legal uniformity in minimum standards in respect of the manufacture, control, possession, import, export and transfer of firearms and related materials and provisions that promote legal uniformity in the sphere of sentencing.

Legislation Against Organised Crime

Linkages between southern African countries with respect to combating organised crime are on two levels: the policy and the practical approach. The former involves practical public declarations regarding the will to cooperate in justice and criminal justice matters. The practical approach involves the actual cooperation requested by one country from another in matters such as providing help and arresting, collecting evidence, freezing assets of criminal origin and extraditing criminals. The political will constitutes the framework for cooperation at the practical level (Kukutwa, N. and Kumika, C., 2002). States are bound together by a network of multilateral and bilateral agreements that create mutually binding obligations thus placing governments and their performance increasingly under scrutiny.

It has been asserted that the Palermo Convention⁴¹ is the benchmark against which to determine steps that need to be taken and measures implemented in updating SADC legislation on organised and trans-national crime (Goredema, 2001). The Convention is an exhibition of the international efforts and strategy in dealing with organised crime, and an indicator of contemporary trends in the formulation and implementation of legislation against organised crime.

There are challenges that SADC states and governments have to face up to before they can be able to comply with their obligations set forth in the convention. Goderama (2001) discusses these challenges in detail. This work will only point out a few, for these challenges have a bearing not only in curbing organised crime in the region but also in areas of law enforcement and judicial cooperation.

The SADC economies are weak, labouring under the demands and pressures of transformation and privatization, and have a characteristic weaker financial service sector. For them to be able to effectively take part in the fight against organised crime, there are implications that have to be predetermined, extra expenses that have to be borne in terms of man power and training, reporting systems, record keeping, etc.

The region is characterised by fragile and/or reluctant democratic institutions which, among other things, results in fear of the sitting government to lose power. This dominates decision making which in turn leaves little room for political neutrality in decision making and law enforcement. This incapacitates a state's ability to deal with organised crime when it emanates from or aligns itself with the functionaries of the state.

The Convention prescribes the content of legislation to be used in the fight against organised crime, and SADC countries are supposed to have legislation (or amend existing ones) to criminalise participation in organised crime. To be able to enforce the provision of the Convention and later the laws the states have to be able to relate to each other's legal systems. This can only happen if they have harmonised legislation.

Another challenge is the adaptation of laws where they do not exist, having unified definitions of concepts like money laundering, corruption, etc., and the unification of procedures, which will make law enforcement much easier within the region, etc.

The need to strengthen law enforcement cooperation within the SADC region was identified by police officers in the early stages of the community. In 1995, the Southern African Regional Police, Chiefs Cooperation Organization (SARPCCO) was formed as a consequence of the realization of the region's susceptibility to growing trans-national crime threats from within and outside the region.⁴² SARPCCO is a good initiative for it, *inter alia*, fosters exchange of knowledge and skills. It is worth noting that the judiciary and the prosecution authorities have either not seen the need to join hands or are caught in rigidity and conservatism in so far as cooperation in law enforcement and legal processes is concerned (Kapinga, 2005).

Traditional Justice

Another areas of cooperation within the region that is worthy of discussion here is the traditional dispensation of justice. Though little or no attention is being paid to the role of traditional institutions in bringing justice and reconciliation in war ravaged societies and maintaining peace and order where it already exists, this is one area where the SADC member states need to invest in.

Many countries tend to look back to traditional alternatives in a more 'systematic' manner as an aftermath of conflicts, as was the case in Rwanda. These exist even in times of peace and can be used to relieve pressure on the conventional justice system if coordinated and empowered to do so.

The importance of traditional justice processes can not be overstressed; active community participation, speedier justice, reconciliation and forgiveness are some of the advantages of resorting to traditional justice. Traditional justice in most cases also embodies the community reconciliation process. For example, in Angola and Mozambique traditional justice processes with cleansing rituals have helped the reintegration of ex-combatants to their societies after many years of brutal wars and civil strife (Afako, 2006).

Having judicial/legal cooperation in these areas will facilitate uniformity not only in the laws themselves but also the procedures. It will promote a regional and, thereafter, a continental criminal code for serious offences, through a developed judicial fraternity to uphold the respect for human rights and the rule of law, and thus have a society where not only the state but also the citizenry is secure.

The Way Forward?

The appraisal of the achievements and challenges of SADC on its 25th birthday is a good starting

point for looking for a way forward. The policy implementation challenges identified by the MAC (and others) need to be dealt with before embarking on any new strategies.

The necessity for proper and coordinated policy implementation within the SADC need not be emphasised, because the existence of legally binding instruments that spell out various policies is an indicator of the same. The single undertaking rule needs to be put into practice and, if possible, made to apply retrospectively for all the key protocols thus solve the problem of ratification.

Little is known about the rate at which the protocols are domesticated at a national level. The domestication of regional instruments is an important aspect that cannot be ignored, for it is the only way of "locking-in" decision and implementation structures to tally with the regional policy framework, and thus, have a more expeditious process of implementation both at the regional and national levels. This means SADC also needs to develop guidelines for the domestication of protocols that would take into account the implementation priorities set out in SIPO and RISDP. In this way, there can be an assurance that the Treaty will be incorporated within the municipal systems which insofar as justice cooperation is concerned, will lead to a uniform jurisprudence. SIPO and RISDP have already set benchmarks for implementation and operationalization of the protocols and policy. Therefore, what remains to be done is to confer on one of the SADC structures the powers to evaluate implementation and enforcement of the protocols. Likewise, the responsibility of the member states to report to the structure.⁴³

Currently the SADC tribunal is only charged with the role of settling legal disputes that arise in implementation/interpretation of the treaty. There is no uniformity in terms of having an internal dispute settlement provision within a protocol: some have⁴⁴ while most do not. Having internal dispute mechanisms is an important aspect, for it gives an avenue of using the internal mechanism (the idea would be to exhaust all available remedies) before the matter goes up to the tribunal which is the final decision maker.

The roles of, and the need for, having autonomous and semi autonomous institutions needs to be revisited and reviewed. Having a regional assembly that is superior and independent, but emanates from the people, is an important factor to consider. There is also a need for a regional adjudicating body with a wider mandate than resolving conflicts in the interpretation of the Treaty or Protocols. It has to have an overarching mandate on all issues that affect the community in the wider sense. Autonomous and semi-autonomous institutions have to work together with the civil society and the private sector and have to get involved more in SADC's activities. These have a big role to play in the appraisal of political governance and democracy, economic governance, and democracy, economic governance, cooperate governance and social economic governance within the region.

The role of traditional dispute settlement mechanisms and justice systems has to be recognised. It can be used to salvage situations where the judiciary is over-burdened, in most cases with petty cases. Secondly, it can be used to promote peace and reconciliation. Either way it is a relatively cheaper, logical and readily available solution to some of the problems that affects the justice systems in the region. Member states have to coordinate and lay down basic principles (through further research) on the use of traditional justice systems, for purposes of systematising the whole process.

The process towards judicial cooperation has to be done in three very systematic tiers. The first is between and amongst the SADC states, involving ratification, enforcement and domestication of all SADC protocols which have to take precedence over all other issues, harmonising the legal systems so as to be compatible. The major legal systems in the region have to work

in harmony, thus ensuring more effective cooperation. Cooperation can also be strengthened through working towards joint training and regional training institutions together with regional professional bodies such as the SADC PF and the SADC Lawyers Association (SADC-LA).

The second tier will involve harmonising the existing SADC legal regimes to those that exist at the continental level. The whole process of tier one has to be repeated but this time the end result will be conformity with the AU standards and having similar measures to strengthen the system.

The last tier involves cooperation at the global level. At the level of the AU, there is need to ensure ratification and application of treaties and various international instruments on legal cooperation and assistance, including those related to human rights and human security in general. There is also a need to strengthen institutional relations through assistance, joint training exchanges, etc.

Lastly, but not in anyway least, there is a need for the recognition that cooperation in legal/justice issues is not just about the vision, mission and the common agenda of SADC but it is where the whole world is heading; globalization has also touched the law and justice sectors. Cooperation will enable the SADC countries to speak with one voice and negotiate as a block rather than individuals in the international stage. SADC states negotiated as a block during the negotiations for the establishment of the International Criminal Court (ICC) and its Statute.

Legal/justice cooperation is essential and central in ensuring that there is a regional legal system and that it works effectively. This is, *inter alia*, important for promoting regional and continental cooperation, and is a prerequisite to not only attracting business and investment in the region is but also ensuring human security both at the state and regional levels.

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Notes

- ¹ The original SADCC members were Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe.
- ² Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, Swaziland, Tanzania, Zambia and Zimbabwe were the original members and signatories to the Treaty, and South Africa (1994), Mauritius (1995), the Democratic Republic of Congo (1998), Seychelles (1998) and Madagascar (2005) acceded to it. In 2003 Seychelles withdrew its membership. There was talk that it may rejoin the community.
- ³ The SADC practice is that any additional agreements that relate to the specific sectors are referred to as protocols; these are legally binding instruments as per Article 22 of the SADC Treaty.
- ⁴ As opposed to protocols, these are not legally binding. SADC also has a Charter on Fundamental Social Rights (2003), several declarations and memoranda of understanding. Although these are not legally binding documents, they often represent and reflect the need to have a legally binding regime in the future.
- ⁵ Maintaining regional standards and setting regional benchmarks does not necessarily mean that member states will be stopped from introducing and maintaining higher standards. The important thing is there being the benchmark.
- ⁶ This has begun to emerge in the area of human rights and constitutional rights so it is possible.
- ⁷ Angola's performance seemed to improve after its chairmanship in 2002.
- ⁸ Combating terrorist activities, countering trafficking in small arms, protection of wildlife, harmonising immigration legislation and addressing refugee issues, law enforcement at sea and joint border control, etc, all have been discussed in various areas of SIPO.
- ⁹ These are the Protocol on Combating Illicit Drugs of 1996; the Protocol on the Control of Fire Arms, Ammunition and other Related Materials in SADC of 2001; the Protocol Against Corruption of 2001; the Protocol on Extradition of 2002; and the Protocol on Mutual Legal Assistance in Criminal Matters of 2003.
- ¹⁰ These are discussed at length in the SIPO.
- ¹¹ For example, Universal Declaration of Human Rights 1948, the Geneva Conventions of 1948, United Nations Charter, AU instruments and various SADC instruments.
- ¹² 2001, entered into force in 2004.
- ¹³ Established by the Protocol on the Tribunal and the Rules of Procedure, 2000, came into force in 2001. In 2002 the Protocol was amended vide Agreement Amending Protocol on the Tribunal.

¹⁴ Article 16 SADC Consolidated Treaty.

¹⁵ www.sadc.int

¹⁶ *ibid.*

¹⁷ Article 5 (b) (c) (e) of the Consolidated SADC Treaty, at www.sadc.int.

¹⁸ Legal/judicial Cooperation is not peculiar to SADC. The East African Community (EAC), for example, already has a court, the East African Court of Justice. The provisions of Article 27 (of the EAC Treaty) stipulate that the Court shall initially have jurisdiction over the interpretation and the application of the Treaty establishing the EAC. At a later date to be determined by the Council of Ministers, the Court shall be conferred with original, appellate, human rights and other jurisdiction. The court is became operational (on a transitional ad hoc basis) in 2001 and it delivered its first judgement on 4th October 2006.

¹⁹ SADC countries except Botswana, DRC, Namibia, Swaziland and Zimbabwe have already signed the Memorandum for APRM.

²⁰ SADC has not been very active in civil society issues. There is however an autonomous SADC-Coalition of Non Governmental Organizations (SADC-CNGO) which is an umbrella institution for NGOs in the region. This is not an official part of SADC but has a Memorandum of Understanding with the Secretariat. There are efforts to integrate the civil society and the private sector into the SADC activities.

²¹ There is talk of adopting the Gender Declaration and its Addendum into a Protocol to give it legal force.

²² It should, however, be noted and emphasised that even in times of conflict there is the need for respect (and there should be accountability) for human rights and humanitarian law.

²³ SADC consolidated Treaty Art 22(1).

²⁴ *Ibid.* Art 22(2)–(11). An additional deposition of an instrument for the actual implementation of agreed sectoral strategy for cooperation and integration within the agreed timeframe after the Protocol enters force may be required, e.g., in the SADC Trade Protocol that has with it several annexes and appendices.

²⁵ This has an addendum: Declaration of the Prevention and Eradication of Violence Against Women and Children of 1998.

²⁶ An Electoral Advisory Council is in the process of being established to coordinate and build capacity of Electoral Commissions in the region.

²⁷ Preamble, SADC Protocol on Legal Affairs.

²⁸ The RISDP has to be implemented within the legal regulatory framework of Protocols for the areas stipulated in the RISDP emanate from the Treaty and Protocols.

²⁹ There is no specific, legally binding document on human rights within SADC.

³⁰ Protocol on Corruption Article 2, also 10(1).

³¹ Of 2003, which came into force 2006. One has to bear in mind the fact that the AU Convention is newer compared to the SADC Protocol and thus has every reason of being more progressive.

³² AU Convention on Preventing and Combating Corruption Article 18(1).

³³ Article 2 (1)-(3). The Protocol lays down the nature and type of assistance that can be sought or given after request. It has specified the whole process and procedures for authorities and structures to deal with the Protocol in the state parties, thus making the execution of the requests fairly easy and centralised (Articles 2(5) and (6)).

³⁴ Article 2.

³⁵ *Ibid.*

³⁶ Though the death penalty exists in national legislations the SADC countries, all lobbied against it during the International Criminal Court negotiations.

³⁷ Adopted in 2001 came into force 2004.

³⁸ Preamble to the SADC Protocol on Firearms on www.sadc.int.

³⁹ Article 14 and 15.

⁴⁰ Article 5(3).

⁴¹ United Nations Convention against Trans-national and Organized Crime, 2001. Most of the SADC members have signed and ratified the convention.

⁴² Article 3 of the Constitution of SARPCCO.

⁴³ Using the same mechanism used by the UN, whereby state parties to the various conventions have to make periodical reports to the concerned Treaty bodies.

⁴⁴ See Protocol on Trade which has an internal dispute settlement mechanism.

PROMOTION OF REGIONAL COORDINATION AND COOPERATION ON SECURITY AND DEFENCE MATTERS – SYNTHESIS PAPER

BIZECK JUBE PHIRI AND ANDRÉ DU PISANI

Introduction

This synthesis paper examines the conceptual framework of the research theme “Politics, Defence and Security Cooperation in the Southern African Development Community (SADC)”. The paper highlights important theoretical developments within the theme and explores the central arguments and findings in the papers presented at the 2006 FOPRISA Annual Conference. This is followed by an analysis of the strengths and weaknesses of each of the papers and suggestions for enriching the conceptual frameworks that inform them, as well as offering new directions for further research and dialogue on the theme.

The papers examined in this synthesis coalesce around a common research theme of promoting regional coordination and cooperation on security and defence in the Southern African Development Community. Each of the papers mines specific seams relevant to the integrative theme that, in important respects, transects the four contributions: Cawthra explores key challenges for SADC security cooperation; Van Nieuwkerk examines the organizational dimensions of security cooperation; Macaringue examines the military dimensions; Coelho the public safety; and Omari the justice dimensions of security cooperation. Although each of these contributions harnesses its own conceptual and theoretical template, they all contribute towards a more holistic and theoretically informed understanding of the common research agenda, in their respective ways.

Conceptual framework

Cawthra frames the debate by exploring the key challenges for SADC security cooperation. Before interrogating the various key challenges that impact upon the SADC security cooperation project, more especially on the Organ on Politics, Defence and Security Cooperation (OPDSC), the paper raises two core methodological challenges that face the analyst. These are the level and unit of analysis, and what is meant by ‘security’.

On the levels of analysis issue, the principal concern is whether the security challenges are being faced by the system of states, the global collective security system or by individual states. On a regional level, it is important to ask if the concerns specifically relate to SADC as an organization or to individual member states. At the national level, SADC member states face divergent security challenges, and state concerns do not necessarily mirror those of groups or citizens.

Secondly, what do we understand by security? The paper shows that the OPDSC pre-eminently revolves around the defence, policing and intelligence functions of states, which are, national or state security, but wider political concerns such as foreign policy, democratic practice and human rights also feature. Moreover, in many other SADC documents, human security considerations are embedded, thus widening the understanding of security even further.

In an attempt to discipline the paper, its focus is limited to an examination of key global,

regional and national security issues, *as viewed from the perspective of SADC member states* and privileging the (rather limited) collective policy decisions and pronouncements as opposed to those of individual member states. The focus mirrors that of the Strategic Indicative Plan on the Organ (SIPO), but to its credit, the paper embeds these in somewhat less state-centric political, socio-economic and human security calculations and draws, where appropriate, on concepts from the development and human security debates. An added difficulty relates to the fact that few states make their threat perceptions public, while SADC itself has issued few statements identifying security threats.

Mindful of these caveats, the paper continues to explore key security issues at the global level. These include, among others, the management of security at regional and sub-regional levels with SADC reflecting the global tendency for collective security functions to be devolved to the Regional Economic Communities (RECs). The paper argues that the growing acceptance of the principle of interventionism through the doctrine of 'responsibility to protect' has penetrated into both African Union (AU) and SADC policy frameworks. At this (global) level, the growing military hegemony of the United States, as well as the limitations of that country's 'soft power' in certain regions of the world, pose a further challenge to SADC. A related issue is that of the reform of the global collective security system as exemplified by the UN Security Council (UNSC) and the largely moribund agenda to meaningfully reform the body. Finally, the global security discourse has been characterised by increasingly complex linkages between security, development, and democratization. It is in this domain that the paper offers valuable theoretical insights into the security-development and security-democratization nexus, with a sober reminder of the uncertainties that accompany the ongoing transition in the Democratic Republic of Congo (DRC).

At the regional and sub-regional levels the paper identifies, without making a claim to being comprehensive, a variety of security challenges and usefully clusters these under eight issue domains. These are: *development issues*, notably poverty, marginalization and social and spatial inequalities (the latter exacerbated in many cases by globalization); *governance issues*, that turn on state and institutional capacity (or lack of it) and appropriate modes and standards of public behaviour and electoral management; *military issues*, such as violent internecine conflicts, security sector reform (SSR), terrorism and democratic civil-military relations; *environmental issues*, with special emphasis on the security impacts of land degradation, other forms of environmental degradation, such as deforestation, and climatic change; *population issues*, most notably, population growth, migration, generational change (with the majority of people being youth) and HIV/AIDS; *border issues*, including trans-border migration management, trans-border crime syndication and border conflicts; *public security issues* that cluster around crime syndication, social dislocation and the loss of community; and *maritime issues* that range from piracy, the illegal exploitation of fishing stocks, environmental degradation, and the effects of global warming.

Cawthra's concept paper then proceeds to examine and contextualise the principal assumptions that inform SADC security cooperation. Drawing from history, the paper correctly identifies the preoccupation with regional economic development, and shows how the inter-state based security project evolved. Finally, the paper explores some of the domain political and legal principles and operational rules, as embedded in various protocols and agreements that govern SADC. Thereafter, the OPDSC and the relevant protocols come in for a sober assessment, including identification of a number of challenges that merit further discussion and theoretical reflection. These include, among others: the inherent tension between the imperatives of state

sovereignty and human vulnerability in extreme circumstances; the criteria for intervention; and the composition and force design to achieve a sustainable and just outcome cases of intervention. The paper situates its discussion of the SADC Mutual Defence Pact (2003) within the framework of a non-aggression treaty.

Van Nieuwkerk's "Organizational Dimensions of Security Cooperation in SADC" has a clear focus with an explicit conceptual and theoretical grounding. The paper applies the ideas of the new 'institutionalism' to the nascent SADC security project. The paper sees institutions as social constructs with specific characteristics, such as human agency, formal rules and informal norms and customs, legitimacy and a measure of stability. The paper teases out, often in new and exciting ways, the conceptual and theoretical utility of this approach to security cooperation in SADC, through the analysis of broad phases of the evolution of the institutional processes. Five such processes and phases are identified and subsequently subjected to analysis: the establishment of a policy domain as an intergovernmental forum; information sharing; norm creation and codification; organization; and governance.

The paper raises a number of issues with respect of each of these and, with a sensitive eye to history and politics, the paper traces the genesis, evolution and implementation of the organizational dimensions of security cooperation in SADC. Finally, the paper opines that while there is a rhetorical commitment on the part of the member states, the main sail of the regional project often flutters in the breeze of national interest and sovereignty. The paper makes a number of well-substantiated conclusions, often raising further issues and suggestions for the future. The most important of these questions are:

- Is SADC a living institution in the lives of the people of the region? Does it resonate with a vision of a shared future? Is there such a vision?
- What can be done to deepen the capacity and accountability of the OPDS, and more especially, of its Directorate?
- How can the provisions of SIPO be given operational import?
- Is SADBRIG being privileged over wider human security concerns as embodied in SIPO?
- How can a more robust and effective relationship between SADC and civil society agencies be institutionalised?

The paper by Macarique entitled "Military Dimensions of Security Cooperation in SADC" shares an affinity with both the previous papers in that it locates the debate on the military dimensions of security cooperation within an evolving and historically-constructed trajectory. Unlike the other papers, however, it benefits greatly from the experience and reflections of a practitioner and, as such, deepens the understanding of the reader of this dimension of SADC security cooperation. Macarique locates his analysis within the wider framework of the UN and AU. The paper examines, in turn, the legal foundation for the creation of the SADBRIG, its genesis, its mandate and purposes, its guiding principles, military capabilities and strategic calculus. As such, the paper offers much in terms of operational procedure, command and control and combat readiness for deployment. In conclusion, the paper raises a number of pertinent questions, some of which resonate with the previous two offerings. The most important questions raised in Macarique's paper are:

- Should SADBRIG standby capacity be developed primarily at the national level?

- What role for SADC (presumably the OPDSC) in establishing criteria and priorities for regional peace support operations (assuming that such criteria exist)?
- What would be the most appropriate procurement policy for determining equipment for peace support operations and the related question of the level at which such equipment should be procured – national or regional?
- What would be the location and management of logistical depots?
- What functional divisions are relevant to a sustainable logistics regime?
- How can the mobilization of financial and other resources for the SADBRIG be done?
- How can the requirements for SADBRIG be balanced with other regional development objectives such as those provided for in the RISDP?

The paper entitled “Public Safety Dimensions of Security Cooperation in SADC” by Coelho opens by lamenting the fact that, while public security is legitimately part of the regional defence and security project, history has conspired to partially mask it from critical scrutiny. SADC appeared to prioritise economic and political considerations above public security. While acknowledging that research on some aspects of public security is a complex undertaking, the paper attempts to examine the development, current status and future prospects of cooperation in the regional public safety domain, with special emphasis on police cooperation.

The paper considers the regional countries as being at various complex stages of transition, even though southern Africa is the most integrated region in sub-Saharan Africa. This is on account of a shared liberation history, a regional economy that pivots around South Africa and transitions that are accompanied by democratization challenges. In a very real sense, SADC itself is under the influence of complex non-linear transitions. The paper raises the important issue of the link between national (state) sovereignty and regional integration. The paper locates public safety within the context of these transitions. Thus, public safety concerns accompany transitions to democracy, and hence, deserve serious analysis. Crime has, in the context of transition, taken on new forms in the region and has become increasingly trans-regional and syndicated (as noted also by Cawthra).

In assessing the region’s response to crime and other dimensions of public security, the paper focuses on attempts at the transformation of police forces and criminal justice systems, while at the same time, pointing out that such processes were, by and large, not a top priority of the political elites and the donor community. Consequently, many police forces were left significantly under-resourced, poorly trained and equipped.

The paper situates the genesis and evolution of regional cooperation in the sphere of public safety, to the Southern African Regional Police Chiefs Coordinating Organization (SARPCCO). In this respect, the paper resonates with issues of institutional development that are raised in the other papers, most notably in respect of the institutional development of SADC itself, which is a central concern in van Nieuwkerk’s contribution. Similar to van Nieuwkerk’s, Coelho’s paper argues the case for civil society engagement in the domain of public safety and urges for police reform as a subset of Security Sector Reform (SSR), which Cawthra also talks about. Coelho also identifies key issues that he identifies as the main challenges in respect of public safety, including:

- The need for improved articulation between the SARPCCO and SADC, more especially with the OPDSC.

- The harmonization of legislation.
- The expansion of security cooperation beyond police forces.
- The need for improved training and governance of police forces.
- The need for more inclusive approaches to public safety.

Omari crafted her paper on the basis of common historical background of the SADC countries. To that extent the paper suggests that these factors paved the way for political and economic cooperation in the region. The paper argues for the need for regional treaties and protocols to be domesticated at the national level to ensure that implementation structures are in line with the regional framework.

Assessment of Papers and the Relevance of the Theme

From the above exposition it is evident that all the papers, in their respective ways, contribute towards advancing the different conceptual frameworks that underpin the theme. Cawthra's paper frames the debate on the primary security fractures that face SADC at the global and sub-regional levels. By its own admission, these are viewed from the perspective of SADC member states. At first, this seems to impose a limitation, but a careful reading of the paper shows ample evidence of locating the debate within a wider theoretical frame; that of human security and the complex security-development and security-democratization interfaces. Cawthra's paper is not only elegantly crafted, but it shows a command of the debates and familiarity with relevant and up-to-date literature, and thus advances our understanding of the overall theme.

There is one theoretical concern – not unique to Cawthra's paper – and it is this: defence and security cooperation, as indeed others forms of regional cooperation, are sub-sets of "regionalism" as a discursive construct. The latter, "regionalism" is a contested concept which is subject to different interpretations - it is also multi-dimensional in form. Hurrell (1995), Lee (2003) and Hettne and Soederbaum (1998), for example, all offer different understandings of "regionalism". For purposes of these papers, Hettne and Soederbaum's (1998) view of "regionalism" might offer a way out of the conceptual maze. He simply regards "regionalism" as a multi-dimensional and multi-national project which deals with economic, historical, cultural, environmental and security issues. The alternative to Hettne is to return to Andrew Hurrell (1995). He sees "regionalism" as a broad concept under which several other phenomena such as "regionalization", "regional cooperation", "regional awareness and identity", "inter-state cooperation", "regional integration" and "regional cohesion" resort.

For Hurrell (1995), "regional (inter-state) cooperation" refers to the creation of formal institutions by states in a specific region to respond to common external challenges, to coordinate common positions in international forums, to promote common values or to resolve common problems. Thus, states in a set region collaborate in technical fields such as energy, transport, communication, tourism, agriculture or human resource development; they can also establish regimes to deal with common defence and security concerns.

"Regional integration" is a sub-category or "regional cooperation" and refers to the decisions of states or governments to reduce or remove economic and political barriers in order to facilitate mutual exchange of goods, services, capital and people. "Regional awareness", "identity" or "consciousness" is a shared perception of belonging to a region arising from a common culture,

history, tradition and religious beliefs. Like nationalism, the meaning of regional identity and awareness can be subject to definition and redefinition.

Van Nieuwkerk's paper, the 'Organizational Dimensions of Security Cooperation in SADC' impresses with conceptual rigour, discerning focus and use of contemporary literature relevant to the topic. It offers a valuable primer on the institutional life of SADC and rings true against recent developments in the region. Arguably, the Regional Early Warning Centre could have received more attention in the paper, but this does not in any material sense, detract from the value of the paper. The 'New Institutionalism', like any other theoretical focus, can of course be critiqued. In the case of van Nieuwkerk's paper the author is sensitive to contrary readings of SADC and its history. His use of theory is essentially juristic and he offers sound reasons for harnessing insights from this body of theory. While acknowledging both the formal and the informal aspects of institutions, we cannot resist the temptation to suggest that the role of specific individuals in such institutions would make for a fascinating study.

Van Nieuwkerk is not alone in suggesting a more robust and effective relationship between SADC and civil society agencies. Coelho, too, makes a similar plea. This raises further questions. Among these: which civil society agencies and social movements should be involved in such a partnership? Would it be feminists, environmentalists, anti-poverty movements, peace movements, the youth, students, professionals, the unemployed, the landless, labour unions, culture movements, reformers? Where would it leave 'traditional communities' and 'leaders', assuming these exist in the region? How best can civil society-SADC interaction be institutionalised? How can the diverse and often competing interests of civil society agencies be utilised as instruments of this interaction at national and SADC level?

The paper by Macarique offers a valuable rendition of the genesis, purposes, guiding principles and military capability of the SADBRIG. His is the view of the informed insider and, as such, his paper makes an important contribution to the overall theme. Particularly useful is the suggestions contained in the paper on the design of the SADC and its 'modular and evolutionary' approach to deployment.

Coelho's 'Public Safety Dimensions of Security Cooperation in SADC' is conceptually rich and articulates well with the overall theme. The coverage of the literature is satisfactory and the issues introduced in the paper point to future research agendas, notably in the domains of harmonising criminal justice systems in SADC and instituting democratic governance of the police.

Finally, in the contribution by Omari in the paper titled 'Justice Dimensions of Security Cooperation in SADC', in common with the other papers, the conceptualization is not securely explored in all its dimensionalities. Regional integration and regional cooperation are subsets of a wider social construct and historical process, that of regionalism. Also, all the papers are virtually silent on the political economy of the region. It is conceivable, at least on the theoretical plane, to argue that neo-liberal economics does not automatically erode the power of state elites. On the contrary, it may in fact strengthen their power.

Conclusion

Based on a critical reading of the papers synthesised in this paper, it is our contention that SADC is a project under construction, especially in the domains of politics, defence and security cooperation. History has conspired to leave its imprint on the institutional culture and life of SADC, while at the same time, globalization and the complex non-linear transitions to democracy, have

generated their own security challenges and spawned their own narratives.

While SADC may indeed be one of the most cohesive regional projects in sub-Saharan Africa, and while significant progress has been made in promoting regional coordination and cooperation on security and defence matters, security and developmental challenges exist at both the national and regional levels. There is a need for further research, as well as for a discourse on ethics that informs both national and regional reconstruction. The new directions for further research include the following:

- More policy-oriented work needs to be done on the security-development nexus, more especially in the domain of public safety and security.
- Police reform – as an important aspect of Security Sector Reform (SSR) and of democratic security sector governance.
- Research on former combatants and child soldiers as part of post-conflict peace building.
- Research relating to SADBRIIG, more especially the framework for strategic deployment.
- Overall, the social dimensions of the regional integration project deserve further research and reflection.
- Research on early warning and disaster management.
- Maritime security concerns (a crisp overview of the issues).
- Civil society and SADC – towards a new paradigm.

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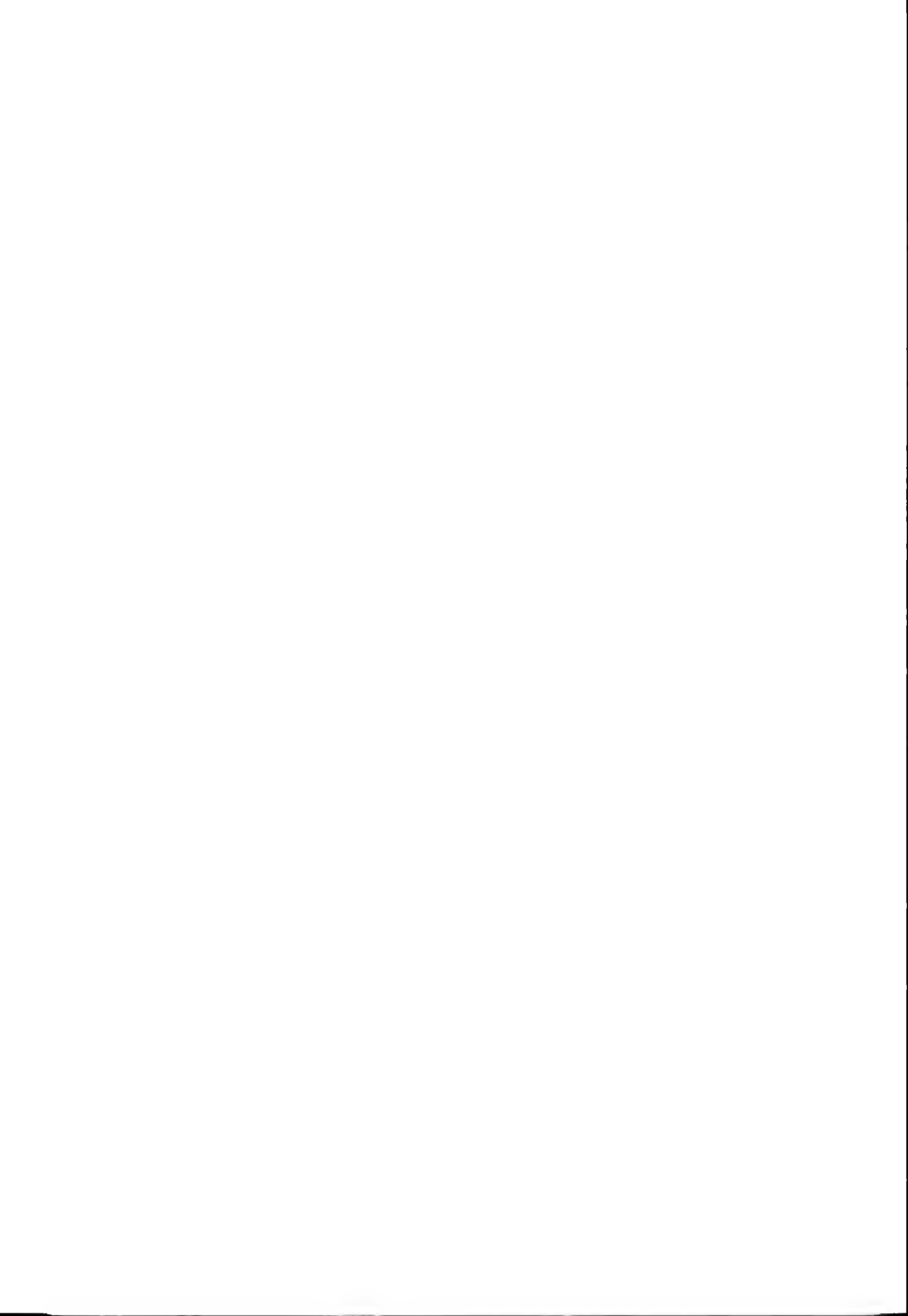
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**PART TWO: ECONOMIC
DIMENSIONS OF REGIONAL
INTEGRATION**



TRADE POLICIES



TRADE LIBERALIZATION AND POVERTY: CHALLENGES FOR SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

LINE TØNDEL SEIM AND ARNE WIIG

Introduction

In this paper we review the impact of trade liberalization on poverty levels in developing countries. Trade might influence poverty, or household welfare, indirectly through its impact on economic growth and more directly through its impact on income (through wages, employment and prices).

Liberalization holds the potential to open up markets and allow economies to integrate with the world economy and thereby spur economic growth. However, as liberalization entails preference and tax erosion, as well as increased competition that might have adverse effects on employment – at least in the short run – some countries or groups of people within some countries may be negatively affected. We consider what conditions need to be in place for developing countries to benefit from liberalization, and what measures will contribute to cushioning the negative impacts. The role that the Southern Africa Development Community (SADC) might play is discussed in the light of these insights.

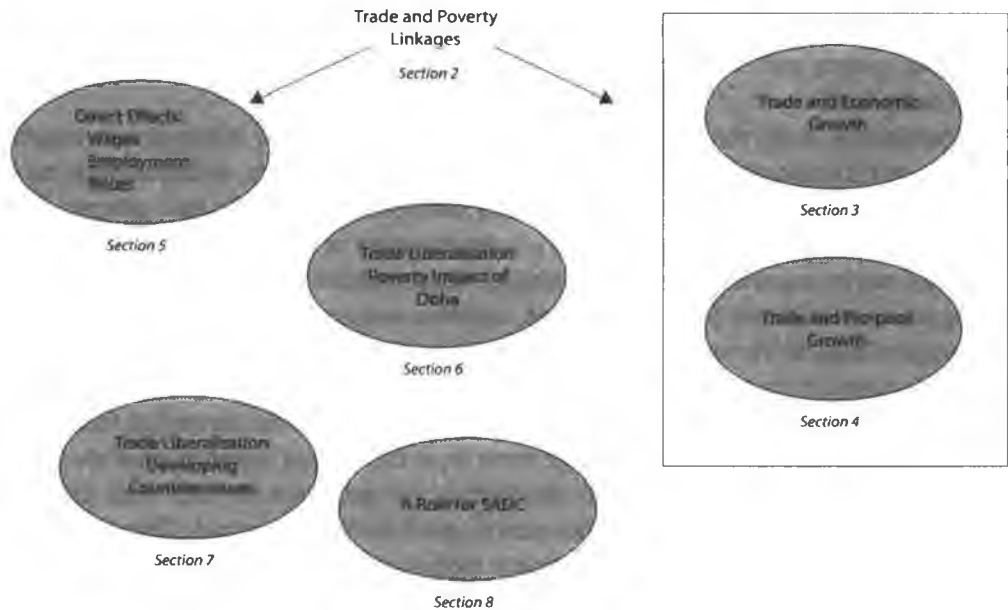
The paper is organised as follows. First we briefly summarise the theoretical foundations for the trade-poverty relationship. Then we move on to the indirect impact of trade on poverty through economic growth. The growth literature is vast and opinions differ with respect to which are the more important engines for growth, good institutions or trade liberalization. We give a summary of the issues, paying attention to methodology and the use of instrumental variables in cross-country studies. Even though it is hard to separate the effects of institutions and trade on growth, and to find foolproof evidence that trade liberalization has a positive impact on growth, there is also no evidence to support a negative relationship. The linkage between growth and poverty reduction via distribution is explored in the next section. We discuss the term 'pro-poor growth' and the role income distribution plays in achieving pro-poor growth. Pro-poor growth is easier to achieve in countries with an initially equal distribution of income and where trade liberalization does not lead to significant changes in that distribution. Still, there does not seem to be any evidence to suggest that trade liberalization will be negatively associated with income distribution and poverty rates in the long run. Both of these sections present evidence from *cross-country* studies on the trade-growth-poverty relationship.

Next we investigate the direct impacts of trade liberalization on poverty through the effect on prices, wages and employment based on country case study evidence. The country case studies suggest that the poor do not always gain from trade liberalization. Poor people employed in sectors where there is growth of exports or foreign direct investment (FDI) gain, whereas the unskilled in sectors that were previously protected and subsequently exposed to competition following liberalization might lose out in the short run, depending on the existence of complementary policies or programmes.

Following this we consider the results from various studies that attempt to assess the potential impact of liberalization through the World Trade Organisation (WTO) following the Doha round negotiations. These studies are often based on computable general equilibrium (CGE) models,

which will have implications for the results. We consider these studies in the light of previous empirical findings, focusing on what countries and sectors will gain or lose from liberalization. Next we specify what obstacles developing countries, SADC countries in particular, face in trying to exploit the potential gains from trade liberalization. In the penultimate section we draw on the insights obtained in the preceding sections to assess the role of SADC, as a developing country regional organization, can play in exploiting the potential offered by liberalization and mitigate the negative distributional impacts that might arise. The final concludes.

Figure 1. The structure of the paper



Trade and Poverty – the Linkages

Trade and liberalization of trade, both unilateral and multilateral, are thought to influence poverty through their *effect on economic growth in the long run*. Trade affects growth through the accumulation of physical and human capital and through technological change. Trade can also have more *direct impacts* on poverty through its effect on the *wages* of the unskilled in developing countries. It might also lower (raise) the *prices of consumption goods* and raise (reduce) the *prices of goods produced by the poor*.¹

Openness promotes competition in domestic markets. Competition increases the pressure on firms to be innovative and provide consumers with a wider choice, ideally at lower prices. To exploit their comparative advantage, firms need to bring in new skills and technologies. Integration eases the transfer of technology between firms. Trade expands the market for domestic firms and thereby the return on infrastructural investments characterised by high fixed costs (roads, telephones, ports and so forth).

According to factor endowment theories of international trade (the Heckscher-Ohlin (H-O) framework), liberalization will be pro-poor both in the short run and in the long run. In the short run, poverty will be reduced because the wages of unskilled labour will tend to increase. This happens because countries will tend to export commodities that are using abundant (and

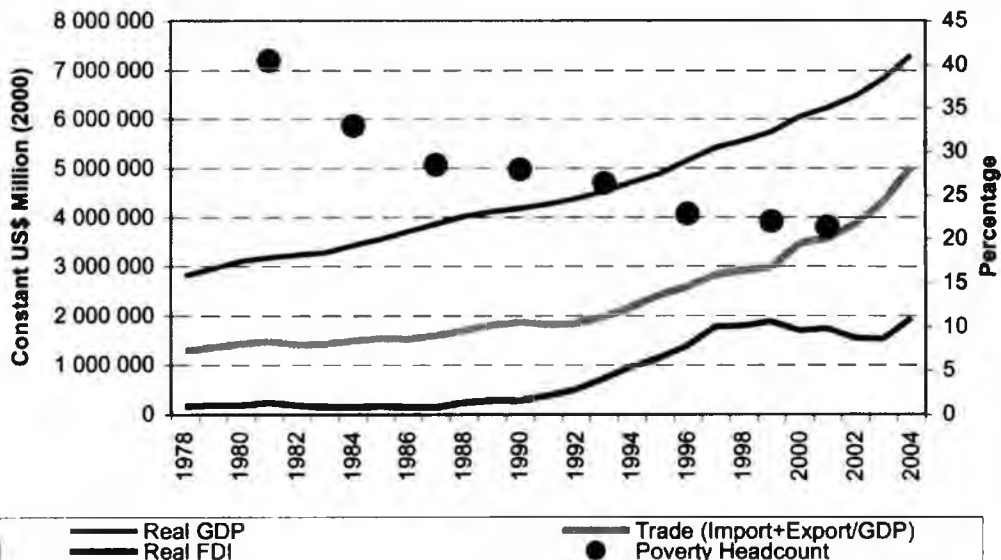
therefore relatively cheap) production factors intensively in the production process. This will drive up the demand for and therefore the price of the abundant factor. In the long run, when both capital and labour are mobile across sectors, this effect will be reinforced by reallocation of capital into labour intensive sectors. When a higher share of the capital stock is used in the labour intensive sectors, the scarcity of labour will increase even more, and so will the wages of unskilled labour. Bhagwati and Srinivasan (2002) have used this model to argue that trade reforms are pro-poor.

However, Davies and Mishra (2004) counter that this argument is based on a narrow interpretation of the Stolper-Samuelson theorem, which will only hold if all countries produce all goods and unskilled labour is mobile (moves from contracting to expanding sectors). An alternative to the H-O framework for analysing trade reform is to apply a sector-specific framework. Within such a framework, the workforce and machinery are less mobile, and are 'attached' to the specific sector. Any reduction in protection for a sector will lead to a fall in income for workers who are not able to relocate. However, an increase in the export activity of a sector would be beneficial to the workers attached to that sector. The sectors that use most unskilled labour in developing countries (textiles, apparel etc.) have traditionally been protected. Within SADC, for instance, clothing is regarded as sensitive, and is therefore protected, for countries such as South Africa, Tanzania and Zambia, while agriculture is the most sensitive producing sector for other SADC countries (see Maiketso and Sekolokwane, 2007). Thus trade reforms with inflexible labour markets may result in less protection for the poor (unskilled labour).

The main difference between the H-O framework and the sector specific framework (where not only capital but also labour is inflexible) is, then, that within the former *the skill level* determines whether workers are winners or losers, whereas within the latter this is determined by the *sector* in which the worker is employed. If the assumption of labour mobility is violated the sector specific framework might be more appropriate, at least in the short run.

Figure 2 provides a snapshot of the trends in income (GDP), measures of global integration (trade and foreign direct investment) and poverty at an aggregate level for low and middle in-

Figure 2. Trends in GDP, trade, FDI and poverty in low and middle income countries



come countries. The figure suggests that at the macro level there is in fact a tendency for poverty reduction, global economic integration and increasing income to be correlated. However, it is not possible to say anything about the exact nature or causal relationships in the figure. As this considers an aggregate relationship it does not tell us anything about distribution either (and for sub-Saharan Africa, the relationship does not hold, see Wiig et. al. 2007).

In Table 1, we consider changes in the trade-poverty relationship within SADC over time. We see that Lesotho, Malawi, Mozambique and Swaziland experience both increasing trade and a reduction in poverty. Thus, these countries support the notion that increased trade is positively related to lower levels of poverty. Namibia, Tanzania, Zambia and Zimbabwe experienced an increase in the poverty rate over the 1990–2001 period. At the same time trade also decreased. So the evidence from these countries also supports the notion that more trade is positively associated with poverty reduction while less trade is associated with higher levels of poverty. Madagascar, South Africa and Botswana show diverging experiences in trade and poverty. Both poverty and trade have decreased for Botswana, while for South Africa and Madagascar the increased trade has not been associated with poverty reduction. So in general the evidence fits the picture of more trade being associated with lower levels of poverty.

Generally, economic growth goes hand in hand with poverty reduction. However, for Swaziland, Namibia and Tanzania, the correlation between the poverty headcount and GDP is negative (Namibia has, for instance, experienced a growth in per capita income at the same time as an increase in poverty). These countries are marked with an asterisk in Table 1.

Table 1. Trade and poverty in SADC 1990–2001

	Poverty	Improvement	Deterioration
Trade			
Increase		Lesotho, Malawi, Mozambique, Swaziland*	Madagascar, South Africa Namibia*, Tanzania*
Decrease		Botswana	Zambia, Zimbabwe

Source: GDP per capita: World Development Indicators 2006; Poverty headcount (US\$ 1): PovcalNet <http://iresearch.worldbank.org/PovcalNet/jsp/index.jsp>

Cross-country studies focus on the macroeconomic determinants of growth and the growth-poverty reduction relationship. To study the effect on wages – and thus more specifically on the poor – country case studies are more commonly applied. We start by giving an overview of the trade and economic growth literature. Then we move on to address the issue of when economic growth translates into poverty reduction.

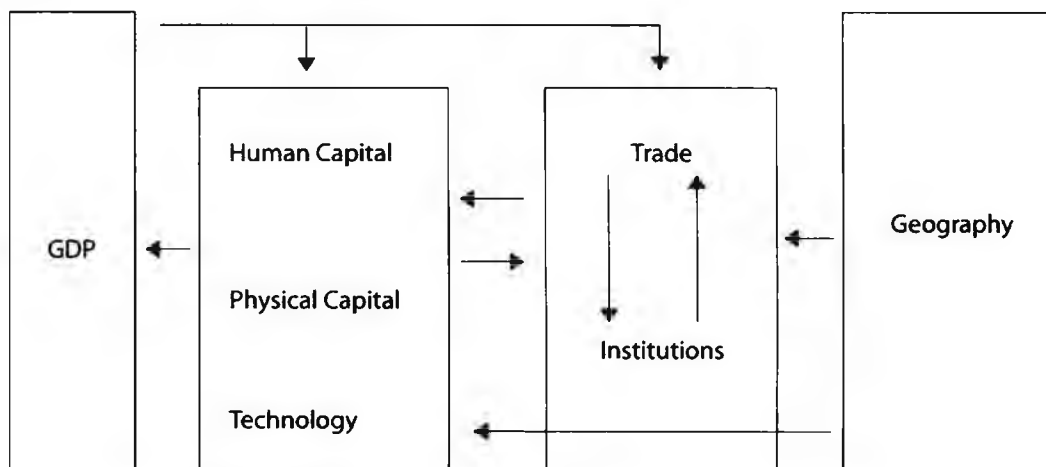
Disentangling the Impact of Trade on Economic Growth

The vast differences in GDP per capita among countries observed worldwide has inspired an extensive literature, both theoretical and empirical, that attempts to identify the causes of these differences and explain economic growth. There is consensus that economic growth can be achieved through accumulation of physical and human capital and technological change. There is no consensus as to which of these is more important. Institutions, international trade and geography are referred to as the deeper determinants of growth that drive physical and human

capital accumulation and technological change.² It is hard to map out the exact relationships due to the interdependencies of all these variables and the income level. Institutions and trade might both have an impact on the other variables, and they are both influenced by geography and the income level.

In Figure 3 we see that income is affected by all determinants and can in turn affect all of them except geography. That is, both good institutions and higher trade volumes are associated with growth and higher income levels. This is what we refer to as endogeneity. How do we know that it is improvement in institutions and trade liberalization that causes growth and not the other way around, and how do we determine what is more important? One suggested solution is to use instrumental variables. *Instruments* are variables that are correlated only with the (endogenous) explanatory variable in question (trade or institutions). We need to find a variable that is correlated with trade and not with other explanatory variables. The instrument should not have an impact on the income level either beyond its indirect impact through trade. If a suggested instrument affects institutions as well as trade, we are not able to distinguish the effect of either trade or institutions on growth. When we have a valid instrument, the trade is estimated from the instrument and the other variables included in the growth regression. Geographical variables (latitude, tropical climate and so forth) are used to construct instruments for trade. Finally, we estimate our growth relationship using the predicted value for trade from our first regression. This implies that we are able to identify the 'pure' effect of trade on growth (we only use the variation of trade that is explained by the instrument to estimate the variation in growth).

Figure 3. Determinants of economic growth



European settler mortality rates in colonies between the seventeenth and nineteenth centuries have been accepted by many as the best possible instrument for current institutional quality. The line of reasoning is that different types of colonization policy created different sets of institutions, and colonization strategies were influenced by conditions affecting mortality rates. Where conditions were good, Europeans would settle and set up European institutions. If mortality rates were high, colonisers would simply set up extractive states for the purpose of transferring the resources of the colony. Institutions set up in these states did not provide for the protection of property rights or checks and balances against government expropriation. The institutions created persisted after independence and influenced the creation of current

institutions and performance. The types of colonization strategy are exemplified by the 'extractive' state of Belgian Congo at the one extreme and the USA, Canada, Australia and New Zealand at the other end of the scale. However, even when instruments are identified and applied in regressions, the answer regarding what affects growth and how is not straightforward, as a short recapitulation of a few central articles in the field reveals.

Sachs and Warner (1995), Frankel and Romer (1999), and Dollar and Kraay (2001) all conclude that trade has a positive effect on growth. Rodriguez and Rodrik (2000) criticise this work, suggesting that methodological problems leave results open to misinterpretation. Acemoglu *et al.* (2001) find that institutional quality is the more important determinant of income. Glaeser *et al.* (2002) claim human capital is the fundamental determinant. Easterly and Levine (2002) state that institutions trump trade as a determinant of growth. Rodrik *et al.* (2004) suggest that institutions not only trump trade but even geography. Dollar and Kraay (2002a), however, conclude that when both trade and institutions are included in regressions it is difficult to distinguish the effects of the two. In a meta-study of cross-country growth regressions (with not more than seven independent variables), Sala-i-Martin *et al.* (2004) report that trade volume is significant in two thirds of the regressions, though it is not among the 18 most robust predictors of economic growth.³ Hall and Jones (1999) find a positive relationship between a measure of social infrastructure and growth, where social infrastructure is a combination of institutional and trade-related measures. In a recent study Andersen and Dalgaard (2006) suggest that human mobility (as a measure of integration) is still important even when controlling for institutions.

In Tøndel and Wiig (2006) we provide a more comprehensive review of cross-country evidence on the impact of trade on economic growth. The lessons to be learned from these studies are that many factors need to be considered in a quest for economic growth. Also, it is difficult if not in fact impossible to separate the effects on growth from trade and from institutions at the aggregate level. However, even though it is hard to find robust evidence that trade liberalization leads to growth, there is at least no evidence to the contrary (Rodriguez and Rodrik, 2000). By combining the effect of institutions and trade policy, Hall and Jones (1999) conclude that both matter but are not able to distinguish between the effects of increased trade and improved institutions. Their results seem to support the idea that policies are *complementary* and are most effective when combined. Thus any policy geared towards achieving growth should incorporate both trade policy and institutional change. Berg and Krueger (2003) argues that the fact that trade policy is part of a 'package' makes it even more important. If institutions are important to growth and are positively affected by trade liberalization, the latter has an additional effect that increases trade volume.

Three general policy lessons arise from this section. First, it is important that the government provide the population with a minimum level of quality education in order to enable workers to take advantage of new work opportunities deriving from international trade. The second condition for making trade increase growth is that investors be encouraged to respond to the new market opportunities. Increased investment is crucial for fostering growth. Due to the scarcity of capital in the poorest countries, the returns to capital tend to be rather high, so there seem to be profitable opportunities for investors. However, the economic risks, lack of infrastructure and poorly-functioning institutions constitute major obstacles to increased investment. The third condition for making trade increase growth is to take advantage of the technological development that is made available by international markets through inputs, intermediates and production knowledge. Domestic entrepreneurs need to absorb the commercial ideas that are available in developed countries, and to adapt them to fit the production

conditions in their own country. To be successful, however, may require both managerial skills and technical know-how at rather advanced levels. So if domestic companies are not able to take advantage of the technological opportunities created by international markets, then the government or donors can play a role in identifying the barriers and contributing towards their removal (see Wiig *et al.*, 2007).

Trade, Inequality and Poverty

Two questions will be addressed in this section. When is economic growth pro-poor? Is trade-related growth pro-poor growth? First, however, we define poverty, inequality and pro-poor growth.

Absolute poverty is measured either as the percentage or the absolute number of people living under a poverty line. For low income countries, the World Bank has calculated poverty lines at US \$1 and US \$2 a day. The general trend show that poverty has fallen during the 1980s and 1990s. There are regional disparities, however. While the number of poor has decreased in Asia, particularly in China, poverty has increased elsewhere. Sub-Saharan Africa is the region with the highest incidence of extreme poverty. There has also been a bunching up of people between \$1 a day and \$2 a day, and the number of people under the \$2 a day poverty line has remained stable.

While *relative inequality* depends on the ratios of individual incomes to overall means, *absolute inequality* depends on the absolute differences in income levels. Pro-poor growth is accordingly defined in two different ways. The *first* definition states that growth is pro-poor if poverty falls more than it would have if all incomes had grown at the same rate, i.e., relative inequality is decreased (Ravallion, 2004; Baulch and McCulloch, 2000; Kakwani and Pernia, 2000). The *second* definition states that pro-poor growth reduces poverty (Ravallion and Chen, 2003). The second definition focuses only on poverty – not distribution. Economic growth that is associated with increasing inequality during an overall period of economic growth will still be deemed pro-poor as long as there are absolute gains to the poor. To achieve pro-poor growth according to the first definition, the income of the poor must grow faster than the income of the non-poor and thus entail a distributional shift. If the elasticity of the income of the poor is equal to one, then growth in mean income is translated one-for-one into growth in the income of the poor and growth is distributionally neutral, i.e., relatively, but not in absolute terms.⁴ If the elasticity is greater than one, the poor benefit more and growth is pro-poor.

So, is economic growth typically pro-poor? Many studies find that there is no correlation between economic growth rates and changes in inequality (Ravallion, 2001; Dollar and Kraay, 2002b). The studies find that, on average, growth tends to be distributionally neutral and that growth is not typically pro-poor by the first definition. However, *both initial inequality and change in inequality seem to matter for the effect of growth on poverty*. The higher the initial inequality in a country, the less the gains from growth tend to reach the poor (Ravallion, 2001; Kraay, 2005). Ravallion (2001) finds that among the growing economies the median decline in poverty (US\$1 a day) is 10% in countries where inequality also declined, and only 1% for countries where growth was accompanied by rising inequality.

Ravallion (2001) finds that a 1% increase in mean income results, *on average*, in a fall of 2.5% in the proportion of people in *absolute poverty* (the poverty elasticity is equal to -2.5). Inequality increases about half the time (between countries) and there are gainers and losers at all income intervals within countries. Individual country experience varies around the average

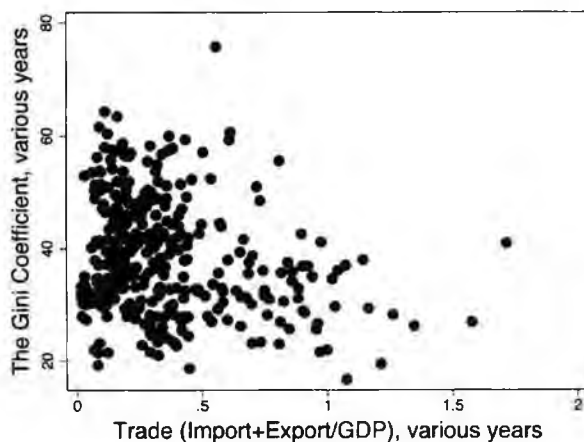
growth elasticity of poverty, and the poverty elasticity ranges from -4.3 to -0.6 depending on how the growth process performs. There are also extreme country cases where increasing trade has led to increasing poverty (see below).

Growth incidence curves give the rate of growth over the relevant time period at each percentile of the distribution of welfare, ranked according to income or consumption. According to the second measure of pro-poor growth, the area under the growth incidence curve up to the headcount ratio is the total income of the poor over the relevant period. The rate of pro-poor growth is the mean growth rate of the total income of the poor. Growth incidence curves have been constructed in some countries at various points in time. For China, the growth rates tend to rise as we move up the distribution (increasing relative inequality); for India, there is a U-shaped pattern. In spite of increasing relative poverty, the rate of pro-poor growth is positive in both countries, and higher in China for all income levels.

Summing up what we know and do not know about pro-poor growth, Lopez (2005) concludes that (a) growth is fundamental to poverty reduction and does not appear to affect (relative) inequality, except in a few cases such as China; (b) growth in combination with progressive distributional change is better than growth alone; (c) high initial inequality hampers poverty reduction; (d) inequality in terms of asset holding predicts lower future growth rates; and (e) education, infrastructure and macroeconomic stability have a positive effect on both growth and distribution.

In Figure 4 we show the relationship between trade and the income gini-coefficient based on the Dollar and Kraay (2001) dataset. As we can see it is hard to make any conclusions about how trade and inequality are associated.

Figure 4. Trade and inequality



Source: Dollar and Kraay (2001) dataset.

Dollar and Kraay (2004) examine the trade, growth and poverty relationship. They first relate trade to growth and conclude that greater involvement in trade is related to faster growth in developing countries. Then they consider the inequality and poverty trends in the post-1980 globalisers, drawing on their previous work (2002a). The poor are defined as those at the bottom 20 percent of the income distribution. Dollar and Kraay (2002a) conclude that the income of the poor moves proportionally with mean income and that growth is distribution neutral.

Dollar and Kraay (2004) conclude that there is also no significant correlation between changes in inequality and changes in trade volumes. Thus there is no evidence that more open countries have rising income inequality on average. They do agree that there are distributional conflicts, but the poor are not systematic losers from trade openness.

Ravallion (2005) and Ravallion and Chen (2004) find that in China the impact of growth on poverty is sector specific. Growth in agriculture was found to have a significant impact on poverty. He found a four times higher poverty impact from growth in the primary sector than from

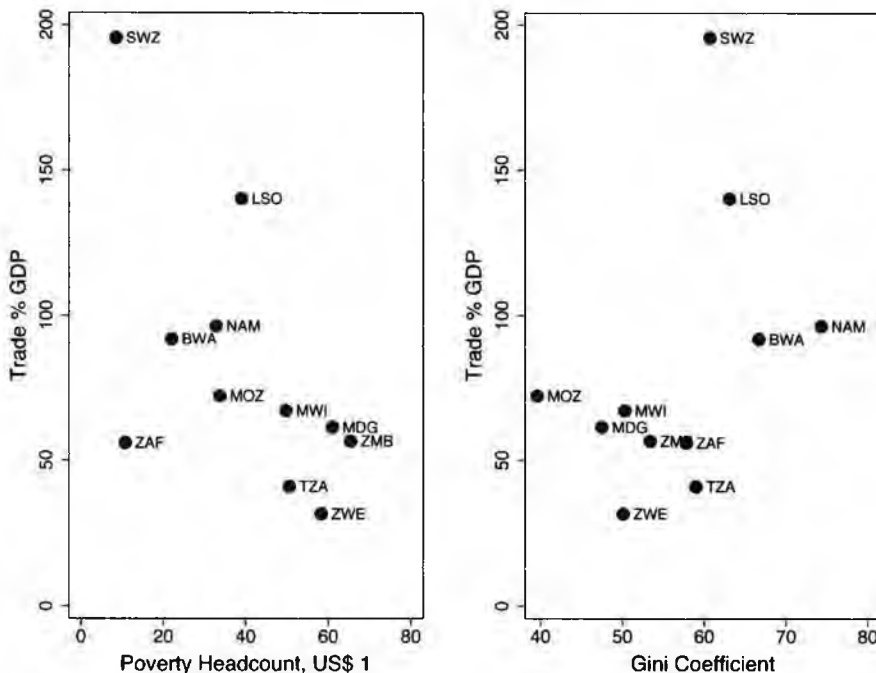
growth in the secondary and tertiary sectors. Only rural economic growth had a significant effect on poverty reduction. Ravallion (2005), however, warns against drawing the conclusion that the reduction of poverty in China stems from trade liberalization. Most of the poverty reduction in China arose before China made any progress in world trade, and was partly attributable to agricultural reforms.

Whether a country is a net importer/exporter matters for whether liberalization achieves a net gain. Furthermore, as discussed above, liberalization might hurt import-competing sectors when the labour market does not adjust to expanding export opportunities.

If growth effects are small and there are negative distributional consequences, trade-induced growth could actually be associated with a lower income for the poor. Easterly (2005) and Milanovic and Squire (2005) both suggest that globalization has been accompanied by increasing inequality in poor countries. In this regard, *trade policies are important as they influence which sectors grow and thereby the income distribution within a country. Increasing inequality might in turn impede the impact on poverty reduction.* Thus, to study the direct linkages between trade and poverty we need to look at country case studies at the microeconomic level.

The direction of change in poverty across SADC countries during the period 1990 to 2001, as measured with the Headcount index, is presented in Table 1. The level of poverty and the distribution of income for which we have the latest comparable cross country data are given in Figure 5.

Figure 5. Trade, Poverty and Distribution in SADC, 2001



Source: WDI (2006) and PovcalNet <http://iresearch.worldbank.org/PovcalNet/jsp/index.jsp>

The figure shows the relationship between trade, the poverty headcount and the GINI coefficient for the SADC countries for which we have this data. A higher value of the GINI coefficient

indicates more inequality. The relationship between trade as percentage of GDP and the poverty headcount suggests that more trade is associated with lower levels of poverty across the countries in the sample (supporting our findings based on time series in Table 1). When we consider the trade inequality relationship, the countries appear to be in two groupings; Mozambique, Madagascar, Malawi, Zambia Zimbabwe and Tanzania in the first group and Swaziland, Lesotho, Botswana and Namibia in the second group. Within the two groupings there does appear to be a pattern where more trade is associated with less inequality (lower GINI coefficient). Thus, cross-country statistics suggest that for the SADC countries trade does not appear to be harmful in terms of increasing inequality and more trade is associated with lower levels of poverty.

The Direct Effects of Trade on Poverty

McCulloch *et al.* (2001) identify potential linkages between trade, trade liberalization and poverty. These include changes in the prices and availability of goods, in factor prices, in income and employment; in government taxes; in the terms of trade, and in incentives for investment and innovation, to mention just some. The conceptual framework for the trade-poverty relationship is depicted in Figure 6. Most country case studies focus on one or two of the linkages. Our focus is on impacts on wages and prices.

Changes in the price and availability of goods (consumption) are often the focus of micro-studies. This has in part to do with the importance of prices given that in the poorest households, food constitutes as much as 70% of the household budget. World food trade is also highly distorted and as such holds potential for liberalization. Changes in factor prices, income and employment may also affect the poor more directly. Loss of employment might cause a household to fall below the poverty line overnight. There is a dominance of earnings-side impacts over the consumption-side effects of trade reform. The importance of factor market effects is due to the fact that households tend to be much more specialised with regard to income sources than they are with regard to consumption. This is a problem as household surveys are noted for their under-reporting of income. From the perspective of the poor it is the market for unskilled labour and agricultural produce that is most important. The poverty impacts of trade policy often hinge crucially on how well the increased demand for labour in one part of the economy is transmitted to the rest of the economy via raised wages, increased employment or both, and how changes in international prices are transmitted to domestic producers and consumers.

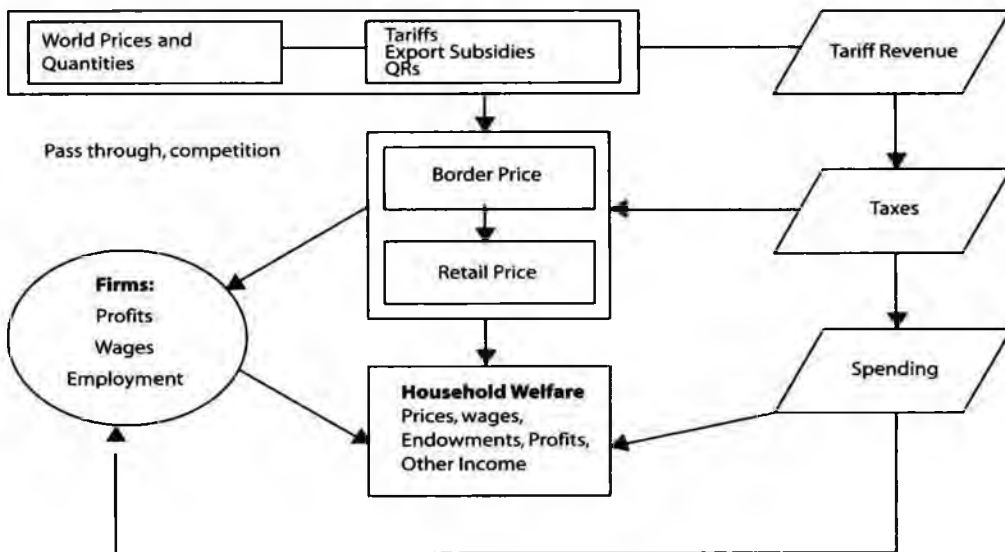
Trade liberalization changes the prices that the poor face both as producers and as consumers. If the prices of goods they consume fall and the prices of goods they produce increase, then trade liberalization will have a positive effect on poverty. If consumer and producer prices change in the same direction, the effect on poverty will depend on the net position of the poor as consumers and producers.

A series of country case studies from Columbia, India, Mexico and Poland examine the trade reform-labour market outcomes linkage. In the case of Columbia, Goldberg and Pavcink (2004) consider the impact of reductions in average tariffs between 1984 and 1998 on urban labour market outcomes. Outcomes include the probability of becoming unemployed, minimum wage compliance, informal sector employment and the incidence of poverty. Poverty is highly correlated with these labour market outcomes. The study indicates that employees in sectors with increasing import competition are likely to become poorer, while those in sectors where exports are growing are less likely to become poorer. However, workers do not seem to be able to move from contracting towards expanding sectors, which contradicts the assump-

tion in the H-O model framework. The exception is when trade reforms are accompanied by labour market reforms that make it easier for firms to hire and fire and ease the relocation of workers. Then the adverse effect of trade liberalization on poverty is alleviated.

The above conclusions coincide with those from a recent study on India (Topalova, 2005). Changes in tariffs are related to changes in the incidence of poverty. Results suggest that the rural poor gained less from the trade reforms than the other income groups or the urban poor. Actually, the progress in poverty reduction experienced in rural India was lower in trade-affected areas. Thus, the net effect of liberalization on poverty in India is the contribution of globalization to overall poverty reduction minus the adverse impact on districts with increasing import competition. The negative impact of trade policy on poverty is reduced in regions with flexible labour laws. Harrison (2006) finds that in Mexico between 1990 and 2000 individuals in states that were exposed to globalization experienced an increase in income compared to individuals in states with low exposure to globalization. During this period poverty actually increased in Mexico. However, areas that were more exposed to globalization experienced a lower increase. Goh and Javorcik (2005) suggest that workers in sectors that experienced the largest tariff declines also experienced the highest increases in wages following trade reforms in Poland in the 1990s. The mechanism at work was that of competition increasing productivity, which in turn resulted in higher wages.

Figure 6. Trade policy and poverty: conceptual framework



Note: QR = quantitative restrictions

Adapted from McCulloch et al., 2001.

There is also a series of studies – on Ethiopia, Mexico and Zambia - that address the impact of globalization on poverty via the prices of production and consumption goods. This is important as wages are not necessarily the primary source of income for the rural poor. Balat and Porto (2004) calculate that wages accounted for only six percent of income for the rural poor in 1998 in Zambia. Thus, globalization might have a larger effect on poverty by affecting the prices of goods produced and consumed by the poor than through wage income. In many cases, the urban poor

are net consumers of agricultural products and the rural poor are producers of the same products. A removal of export taxes might therefore increase urban poverty but reduce rural poverty.

McMillan *et al.* (2005) find evidence that during the 1990s, Mexican imports of white and yellow corn increased, leading to a fall in the price of Mexican corn. However, the majority of the poorest corn farmers were also net consumers of corn and thus in the end benefited from the lower prices. The income from corn production fell among middle income farmers. However, due to transfers through central government programmes, these farmers did not experience a decline in real income equivalent to the price reduction. In Zambia there was a liberalization effort in the market for maize which led to a price increase and consumption losses (Balat and Porto, 2004). Rural Zambia would gain from switching production to cash crops if other complementary policies were in place. These policies would include extension services, infrastructure, irrigation, access to credit, and education and health services. The country of course also needs access to the international agricultural market.

Hansohm *et al.* (2002) show that even though liberalization would lead to increasing prices of beef in Namibia, it would have a limited impact on supply. This has partly to do with the supply being inelastic (due to soil and weather conditions). Cultural constraints also play a part in constraining the impact on supply (off-take rates). Liberalization will therefore influence poverty through its impact on prices, not through the impact on quantity.

Löfgren (2000) applies a general equilibrium model to analyse how reduced agricultural and industrial protection affects representative Moroccan households in the short run. He specifically assesses the impact of removing border protection. In this setting, trade liberalization is found to produce gains for the economy as a whole, but the rural poor lose out. Investments in rural education and infrastructure, plus government transfer payments, are necessary if rural households are to benefit from liberalization. Löfgren (2000) excludes, among other factors, the link between investment and innovation; thus there is a risk that he has systematically underestimated the long run benefits and short run costs (risk adjustment) of trade liberalization.

Harrison (2006) considers evidence from country case studies and concludes that in countries with an abundance of unskilled labour the poor do not always gain from trade reform. The poor are more likely to share in the gains from reform if there are complementary policies in place. Case studies also show that in regions where exports or foreign investments are growing, poverty falls. It is also clear that globalization produces both winners and losers among the poor. Even within a single rural region, farmers might be affected in opposite ways. Across different countries, poor wage earners in exporting sectors or sectors with FDI inflows gained from trade and investment reforms. However, poverty rates increased in previously protected sectors which were exposed to import competition.

The Predicted Impact of the Doha Round on Poverty

We now move on to consider the potential impact of further liberalization in relation to the Doha round negotiations of the WTO. The Doha Round negotiations were launched in 2001 as the development round. It was suggested that unskilled labour wages would gain more from liberalization, and hence poverty would decline. The initial predictions of gains for developing countries from trade liberalization were more than \$500 billion. However, estimates of the potential gains from Doha have declined as the Global Trade Analysis Project GTAP (Monash University) database has been updated to account for liberalization that has already taken place (see below).

Studies that seek to identify the possible outcomes of the Doha negotiations most often apply variations of the CGE model. When gains from liberalization are predicted in the CGE setting, developing countries gain first and foremost from their own liberalization. This is because the gains in efficiency linked to trade liberalization are proportional to the size of the domestic economy and the level of its protection against imports. Thus developing countries accounting for about 20% of world GDP will also get approximately 20% of the liberalization benefits.

Box 1. CGE models

Computable General Equilibrium models are the best available tools for assessing the impact of economic shocks across sectors, regions and countries and are used extensively. They allow the researcher to assess the impact of trade liberalization on consumers' purchasing power and on production by explicitly taking into account the various linkages between industries and countries. The models can become quite complex and make it hard to distinguish the extent to which results are driven by particular modelling assumptions or whether they are robust against model specification and largely data driven. The models are subject to strict assumptions in order to ensure as realistic estimates as possible.

Table 2 shows two alternative predictions for the gains from the Doha Round made in 2002 and 2005 using the World Bank Linkage model and the GTAP model (Purdue University). The predicted gains are reduced in both model specifications. The differences in the predictions reflect differences in the modelling specifications and assumed future scenarios. So far, the poorest countries have gained relatively little from increased manufactured trade, and the rich countries are reluctant to give up their protection of agricultural sectors reducing the overall expected gains from liberalization (Hertel and Reimer, 2005).

Table 2. The shrinking gains from trade liberalization

Model	Year	Developing country benefits		World total
		Billion US\$	US\$ per capita	Billion US\$
GTAP	2005	22	0.84	84
	2002	108	4.75	254
Linkage (WB)	2005	90	3.13	287
	2002	539	17.5	832

There is a wide range of studies that assess the potential effects of different Doha Round outcomes. Results differ somewhat; however, there are certain trends worth noticing. The main findings with respect to welfare gains from two separate studies assessing different scenarios (the Doha and Hong Kong scenarios) are compared in Table 3. There are two main reasons why results differ in these studies. First, they employ different models. Anderson and Martin (2005) employ the World Bank Linkage model whereas Polanski (2006) employs the Carnegie model. Second, the Hong Kong Scenario assumes the same level of tariff cuts in both the agricultural and manufacturing sectors whereas the Doha Scenario allows for a greater reduction of tariffs in the manufacturing sector.

What we can conclude from Table 3 is that there are winners and losers in both scenarios. Both gains and losses are estimated to be larger with the World Bank Model and Doha Scenario.

However, in both scenarios the main beneficiaries from liberalization in agriculture would be the competitive exporters – Australia, New Zealand, Brazil, Argentina and Thailand – in addition to consumers in developed countries that liberalise their agricultural trade. The poorest countries, such as sub-Saharan Africa and Bangladesh, are among the potential losers. In the Hong Kong Scenario, sub-Saharan Africa would experience an overall loss whereas gains and losses in the manufacturing and agricultural sectors more or less level each other out in the Doha Scenario. Bangladesh also loses out in the Hong Kong Scenario with less liberalization in the manufacturing sector, whereas it is estimated to experience a small gain in the Doha Scenario.

Table 3. Comparing results from two studies

Welfare gains from partial trade liberalization, two models (billions of US\$)						
	World Bank Doha scenario*			CEIP Hong Kong scenario**		
	Manufacturing	Agriculture	Total	Manufacturing	Agriculture	Total
High income countries	13.6	18.1	31.7	16.4	5.5	21.9
Developing countries	7.1	-0.4	6.7	21.7	-0.06	21.5
Brazil	0.3	1.1	1.4	0.8	0.3	1.1
India	2.0	0.2	2.2	2.3	-0.04	2.3
China	2.2	-1.5	0.7	10.6	-0.3	10.3
Argentina	0.3	1.0	1.3	0.2	0.4	0.6
Bangladesh	0.1	0.0	0.1	-0.03	-0.02	-0.05
Vietnam	0.4	0.0	0.4	1.8	-0.2	1.6
South Africa	0.3	0.3	0.6	0.3	0.06	0.3
Sub-Saharan Africa	0.6	-0.3	0.3	-0.08	-0.11	-0.19
World Total	20.7	17.7	38.4	38.1	5.4	43.4

Sources:

*Anderson and Martin (2005), "Agricultural Trade Reform and the Doha Development Agenda", World Bank Table 12.14 Scenario 7 (SPSS)

**Polanski (2006), "Winners and Losers: Impact of the Doha Round on Developing Countries" CEIP, Figures 3.1, 3.3, 3.5, 3.8.

Anderson *et al.* (2005) explicitly assess the effect of liberalization on sub-Saharan Africa. However, there is only disaggregated information on eight sub-Saharan countries in addition to South Africa in the GTAP database, and the other countries are treated as a group. Anderson *et al.* (2005) conclude that sub-Saharan Africa stands to gain proportionally more from liberalization than do other developing and high-income countries. They suggest that as much as two thirds of the gains come from liberalization in the agricultural sector. Polanski (2005) suggests that 90% of gains can be accrued to liberalization in the manufacturing sector. Part of the difference is explained by the authors applying different models (Linkage and Carnegie). The Carnegie model allows for unemployment, thus the effect on unskilled employees' wages will be smaller. Anderson *et al.* (2005) states that many SSA countries are net exporters of agricultural products and thus stand to gain from rising world market prices. Polanski (2006), on the other hand, states that there are also many net importers in the region and suggests that the products of subsistence farmers (who comprise a large proportion of farmers in poor

countries) are not competitive in the global market and thus might not benefit from rising world market prices to the degree suggested by Anderson *et al.* (2005). The authors also have different views on whether the loss of preferences will have a noticeable impact. The results of Anderson *et al.* (2005) apply full liberalization in the agricultural sector as a baseline and the largest gain to SSA comes from the removal of protective policies from cotton by high income countries. The suggested range of liberalization in the agricultural sector is significantly lower in the Polanski (2006) Hong Kong scenario.

Some studies focus more directly on the linkages between liberalization and specific elements of the economy for specific countries rather than the world economy. The case studies presented below are structured along two dimensions: studies that look at price linkages and how households respond to price changes.

Price linkages

The results of several World Bank studies on the effects of agricultural reform have been published (World Bank, 2005). The studies suggest that countries are vulnerable to shocks following agricultural trade reform. Bangladesh, for example, a net importer of agricultural produce, would risk a short-term rise in poverty of 1.1 percent with full liberalization, but its long-run gains would be a poverty decline of over 4.6 percent. To capture the long-term gain, Alan Winters observes, "the case for aid-for-trade is very clear: support vulnerable countries during the initial risk period so that they don't miss the opportunity for sizeable gains in the future."⁵

Nicita (2005) finds that in Mexico, international price changes due to the Doha Round would not pass through to individual producers and consumers. A one percent increase of international agricultural products would lead to only a 0.25% change in the prices faced by individual households/producers.

The transmission mechanism diminishes with distance from the border and is lower in rural areas than in urban areas. That means people living in the urban areas may notice the impact of liberalization while in rural areas business is as usual. In fact, Nicita (2005) finds that urban consumers will face higher prices for agricultural products while rural producers will not notice any difference apart from eroding most favoured nation (MFN) preferences and the poor will therefore lose due to liberalization. Rural households will benefit from Doha reforms only when complementary domestic reforms, such as improved transport and market infrastructure, are undertaken. Without these reforms, rural producers may not have the resources to take advantage of improved market conditions. Studies which have specifically explored the impacts of infrastructural improvement interventions on the rural populace in countries such as Uganda, Morocco and India (World Bank, 2005) independently confirm their importance.

Arndt (2005) finds that in Mozambique, one third of rural households will be unaffected by Doha as international price changes will not transmit into changes in domestic prices. He concludes by underlining that complementary reforms are needed in order to transmit price changes to rural areas and improve supply constraints.

Household responses to price changes

Apart from a welfare gain/loss due to changes in prices (at a given quantity produced/consumed), the impact is insignificant when the product in question is not important as an income or consumption source. In this case, the main impact on the poor may rather come from their behavioural changes in trade volume.

Balat and Porto (2005) find that Doha would lead to a 12% rise in cotton prices, but the income share from cotton is only 8% in Zambia. Thus the impact of increasing cotton prices on poverty in Zambia would be small. They conclude by underlining that if complementary policies are implemented, subsistence farmers may switch to cotton production, which would improve the welfare gain of the poor significantly.

The overall conclusion from these case studies predicting the outcome of Doha is in line with findings from empirical studies and there is mixed evidence on the impact of trade liberalization on poverty. Developing countries therefore have concerns about the effects of liberalization. Some of the most prominent concerns will be addressed in the following section where we also address some particular challenges that affect a country's ability to reap the gains from liberalization. A particular emphasis is devoted to SADC countries. These findings make a case for considering the role SADC might play.

Reaping the Gains from Liberalization: Developing Country Challenges

The first concern we address is the erosion of preferences for poor countries that occurs under liberalization, as other countries might be or become more competitive and capture market share. However, Anderson (2004) argues that preference erosion is not necessarily bad. A preferential agreement might have a depressing effect on the price of a good sold. The exporting country might have achieved a higher price without it. In addition, preferences create disagreements between developing countries and prevent them from cooperating as one group. If these preferences had not been offered, developing countries might have negotiated more vigorously in previous GATT rounds. Even so, there will be countries that experience a loss in export market shares due to preference erosion.

A second concern is the loss of revenues following a reduction in tariffs by developing countries. Import duties are an important share of tax revenues in many developing countries. Thus, liberalization by reduction in import tariffs could result in fiscal deficits. Table 4 shows the share of tax revenues from customs and other import duties for SADC countries. We see that Lesotho, Madagascar and Swaziland collect 50% or more of total tax revenue from import and customs duties.

Table 4. Customs and other import duties as a percentage of tax revenue

Country	Share	Country	Share
Botswana	37	Namibia	35
Congo, DR	33	South Africa	3
Lesotho	55	Swaziland	52
Madagascar	50	Zambia	17
Mauritius	25	Zimbabwe	19

Source: World Development Indicators: Latest year available (1996–2004)

For countries to be able to make use of the opportunities offered through trade liberalization there are certain elements that should be taken into consideration. UNCTAD (2005) states that foreign market access and the building of supply side capacity are equally important when explaining good export performance. Elements that affect the ability to benefit from trade liber-

alization include transport and communications, infrastructure, the skill level of the workforce, access to utilities (electricity and water), the existence of linkages to international markets, sound macroeconomic environment, existence of good institutions and a favourable business climate. Anderson and Wincoop (2004) suggest that policies related to transport and infrastructure investment, law enforcement, the existence and quality of property rights institutions and so forth are more important than tariffs and barriers associated with the exchange rate system. In Table 5 we list some basic measures of trade capacity.

The first thing we notice is that there is vast variation within SADC. There are middle income countries such as South Africa and Botswana. The highest GDP per capita is that of Mauritius at 4 289 US\$, whereas in the Democratic Republic of Congo GDP per capita is a mere 88 US\$. The average GDP per capita for the region weighted by population is 926 US\$. In terms of school enrolment South Africa, Mauritius and Botswana are the top performers while Mozambique has a secondary enrolment rate of only 6 per cent. The same variation is also seen in the measures of infrastructure and infrastructure quality.

Table 5. Basic measures of trade capacity: supply side constraints

Variables	SADC			Low Income
	Mean	Min	Max	
GDP per capita in constant 2000 \$US'	1 275	88	4 289	373
GDP growth'	5	-4	11	6
Trade (imports + exports/GDP)'	91	47	176	75
Inflation, consumer prices'	10	0.03	37	7
FDI inflows (% GDP)'	3	0	9	5
School enrolment secondary''	42	6	85	32
Railways, goods transported (million ton -km)''	25 540	88	10 0434	18 836
Roads, goods transported (million ton -km)''	3 094	461	5727	751
Air transport (freight, million tons per km)''	101	0.3	688	47
Internet users (per 1000 people)**	13	0.1	73	4
Fixed line and mobile subs. (per 1000 people)''	84	21	160	23
Telephone faults (per 100 mainlines)''	87	3	22	90
Electric power transmission & distribution loss (% of output)''	12	0.5	388	22

Source: *World Development Indicators 2006*

Notes: * = 2004; ** = 2000

The quality of physical infrastructure affects the transport costs associated with trade and is a very important factor affecting foreign market access. Transport costs are high on the African continent compared to other areas and delays and unreliability add to the problem. Long distance driving is also a high risk profession with respect to HIV/Aids. This makes it hard to get and keep highly qualified drivers. Transport costs constitute as much as 25% of the factory gate price of final goods in overseas countries. This means that inputs into production and other goods are more expensive, particularly from the landlocked SADC countries.

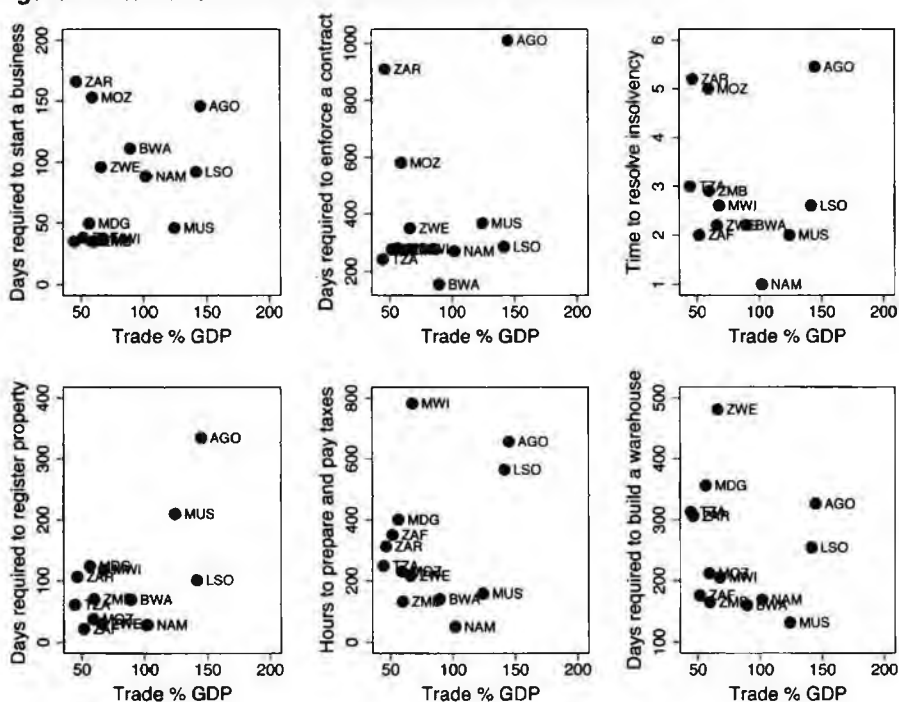
The SADC average is close to that of the sub-Saharan region and thus trade costs are higher both in monetary terms and time-wise than those for developing countries in Asia and the Americas. The ease with which the international market can be reached depends on the avail-

Table 6. Trade costs compared

Region/ Economy	Exports		Imports	
	Time (days)	Cost (US\$ per container)	Time (days)	Cost (US\$ per container)
East Asia & Pacific	24	885	26	1 037
Latin America & Caribbean	22	1 068	28	1 226
South Asia	34	1 236	42	1 495
Sub-Saharan Africa	40	1 561	52	1 947
SADC average	41	1 596	50	1 829

Source: *Doing Business Database (World Bank)*

able infrastructure, linkages to foreign technology and distribution networks and the time spent on having goods passing regulations (e.g. sanitary and phytosanitary measures) and customs. The Doing Business database of the World Bank provides objective measures of business regulations and their enforcement.

Figure 7. International trade and business climate constraints

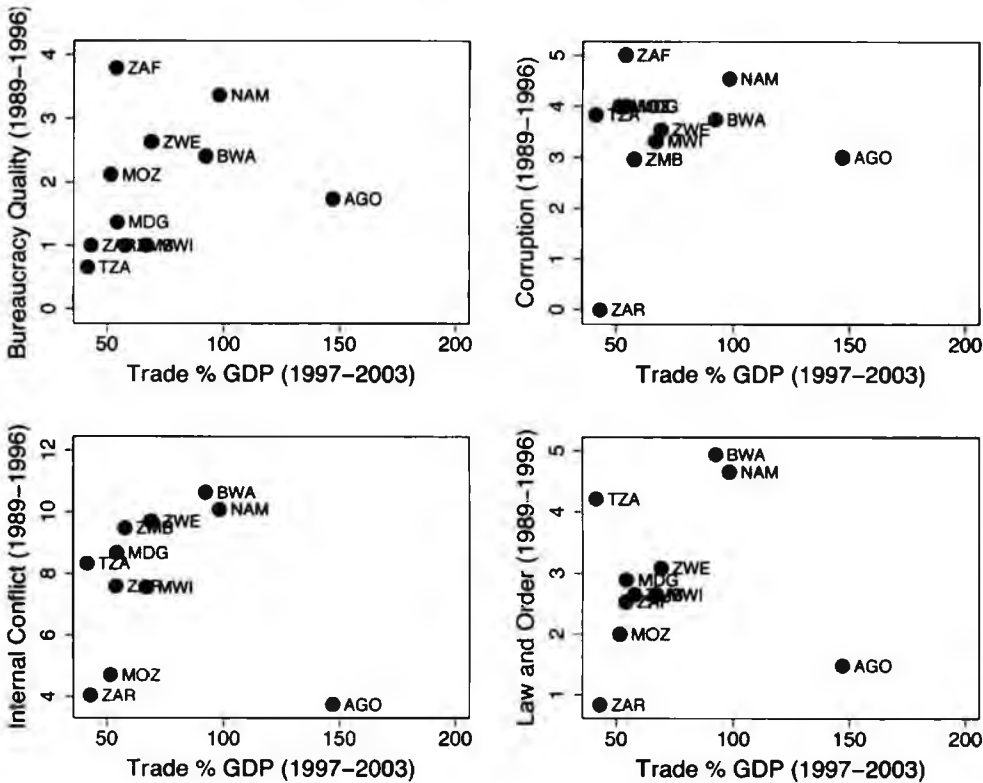
For the SADC countries it seems that countries where operations associated with cross-border trade are less demanding in terms of time will trade more. The exception is Angola, where oil is the main driver of the economy, and also to some extent Lesotho. Making the business climate attractive by simplifying and speeding up procedures renders a country more competitive in terms of international trade. Other constraints on doing business in the SADC area include lack of finance, high tax

rates, policy uncertainty, corruption and the quality of utilities (electricity).⁶ A last element emphasised in UNCTAD (2005) is the quality of institutions as a determinant of export performance.

In Figure 8 we have depicted the relationship between trade (1997–2003 average) and selected institutional indicators (1989–1996 average). The institutional indicators are given higher values for better performance and we see that more law and order, less internal conflict, less corruption and higher bureaucratic quality are positively associated with the trade volume (trade as a percentage of GDP) in the following period. We also see that Angola has a high share of trade as a percentage of GDP despite its poor performance with respect to institutional quality.

In this section we have identified some challenges for developing countries in general and SADC members in particular. The next section discusses the role SADC can play in facilitating the exploration of opportunities offered by, and cushioning the negative impacts from, trade liberalization amongst member countries.

Figure 8. Institutional indicators and trade, SADC



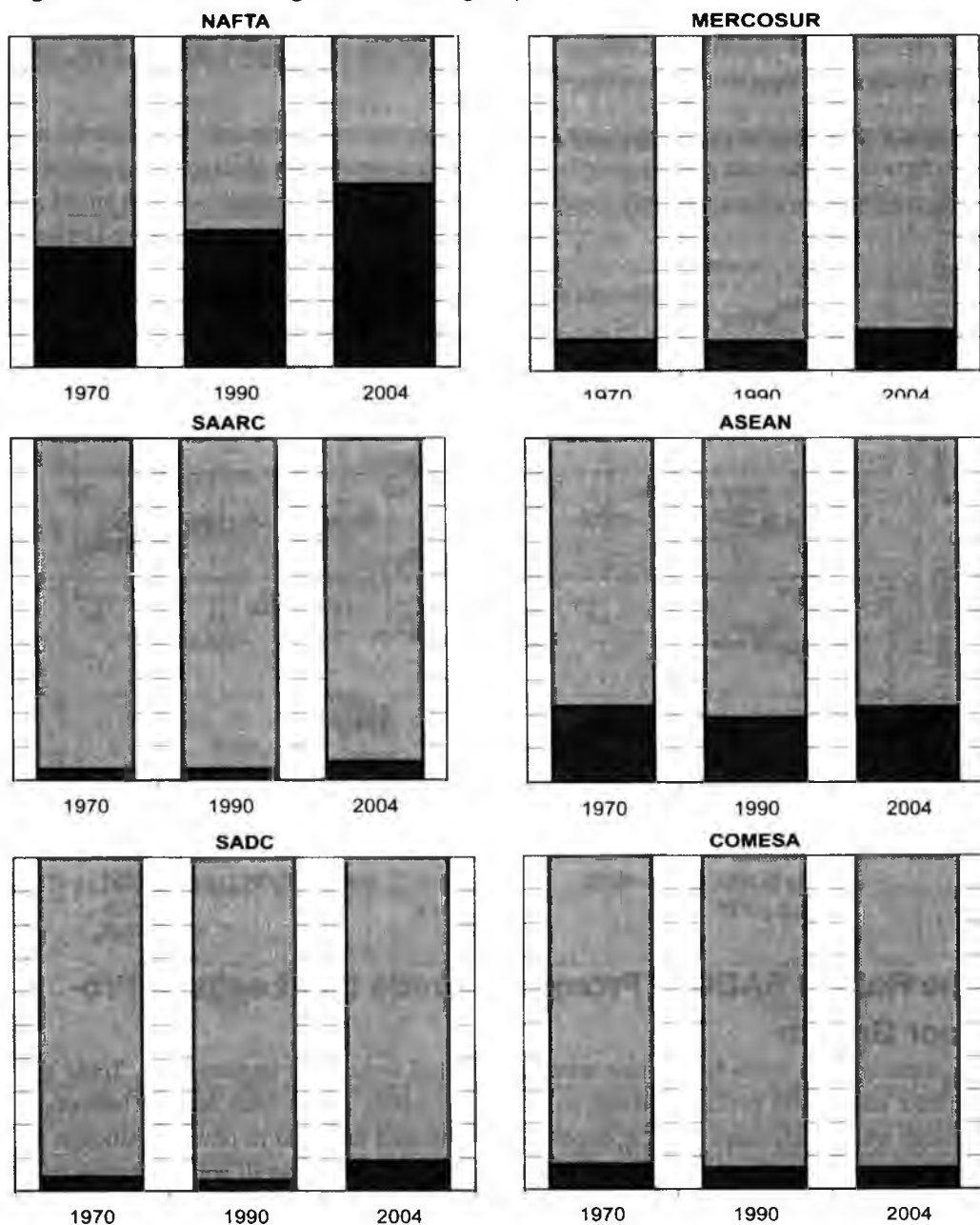
The Role of SADC in Promoting Trade that Leads to Pro-poor Growth

Economic growth arises from factor accumulation and technology improvement. Trade may facilitate this growth process, through its impact on inputs, productivity and the institutions through which trade takes place. Economic growth in turn may lead to poverty reduction depending on its impact of distribution. In SADC, poverty is widespread and increasing trade represents one possible route to poverty reduction. This route has been quite successful for many East Asian countries. The main challenge for SADC is thus to enable member countries

to reap the benefits from liberalization by removing trading costs, facilitating infrastructural development, improving institutions and reducing tariff barriers without hurting the poor.

When comparing the importance of intra-SADC trade to that taking place in the Asian or Latin American trade organizations, we see that NAFTA and ASEAN appear to be more successful. However, the establishment of SADC might have had a positive effect. Intra-trade has increased as a share of total trade since 1980 (see also Maitetso and Sekolokwane, 2007). The exact impact is hard to assess as we do not know what the share would have been had SADC not been established.

Figure 9. Intra-trade of regional or trade groups



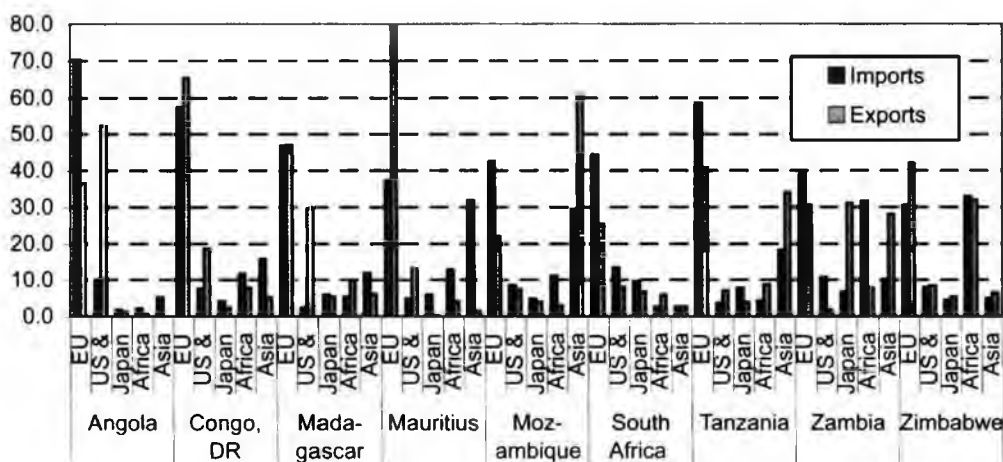
Source: UNCTAD (2006, Table 1.4)

From Figure 10 we see that not only have the countries constituting SADC gained importance as trading partners for member countries but also that this holds true for the whole continent. Trade shares of imports from and exports to other African countries have increased over time for the individual member countries of SADC. Only Madagascar did not increase its share of imports and exports from the African continent from 1990 to 2004. It might also appear that South Africa has not increased its share; however, the data are not wholly compatible as the volumes for 1990 include the South African Customs Union whereas the 2004 data refer to shares of South Africa alone.

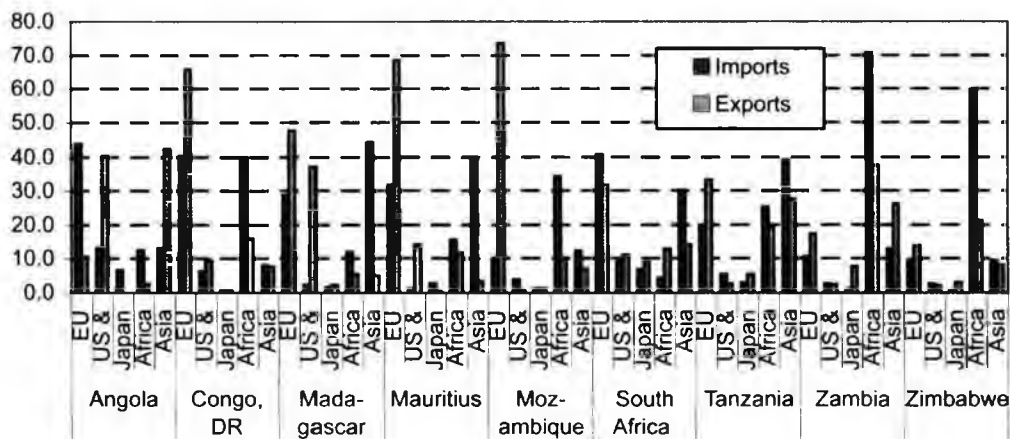
Yang and Gupta (2005) claim there is limited potential for increasing intra-regional trade in SADC as there is a lack of complementarities or similarities between the export basket of one member country and the import basket of another member country: their external trade tends to be dominated by the traditional North-South trade. There are many problems with their approach. One problem is related to the issue of 'corner solutions': the current lack of

Figure 10. Development in Import and Export Shares by Country of Origin and Destination, SADC 1990 – 2004

(a) 1990

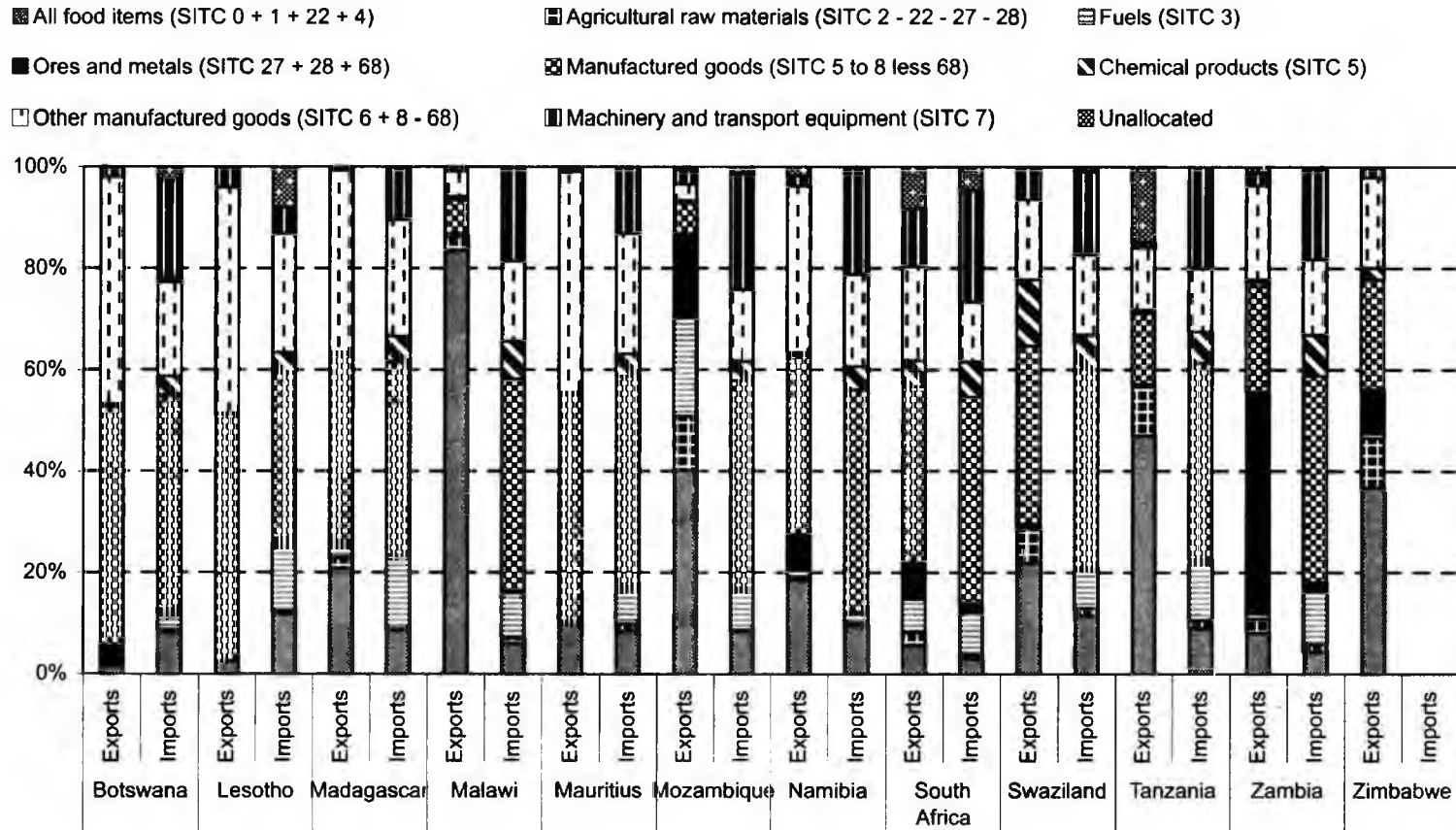


(b) 2004



Source: UNCTAD (2006, Table 3.1).

Figure 11. Composition of trade by commodity, SADC



Source: UNCTAD (2006, Table 4.1)

trade flows may stem from the high costs of trading (which are severe in SADC as shown in Table 7, because of other infrastructural constraints or because of a prohibitive tariff structure. For example, the export cost per container is USD 885 for East Asia and Pacific and USD 1,596

for SADC; import cost per container, USD 1,037 and USD 1,829, respectively (see p. 184). In the first case complementary measures are important in order to facilitate trade. In the second, tariff barriers need to be reduced while complementary policies may also be needed (if tariff reduction hurts the poor).

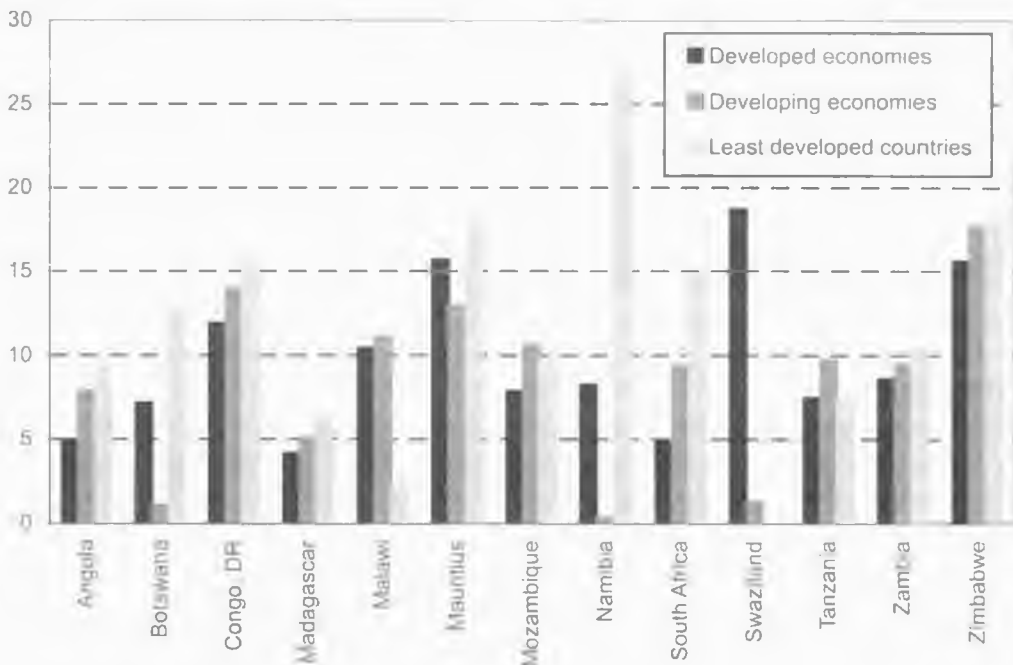
From Figure 11 we see that trading patterns are not completely equal. In some countries agriculture constitutes a large share of exports while other countries in the region are net importers. Malawi, Mozambique, and Tanzania all have very low shares of manufactured goods in exports. South Africa has a different export structure from the other countries. However, to assess the potential for increased trade one needs to be even more specific and analyse trade patterns down to the product category level.

The tariff rates applied by the countries in the SADC region are higher for products from the least developed and other developing countries than from the developed nations. Thus there is a potential for a reduction in tariffs to spur intra-regional trade. A closer look at the trade pattern at the product level might reveal which have potentially higher gains from liberalization, and what product categories might pose a problem.

One needs to identify where the potential for intra-regional trade is greatest. However, it becomes more difficult if the potential is highest for those products categorised as sensitive by member countries.⁷ It is also of concern if increasing trade is accompanied by increasing inequality, as its impact on poverty reduction reduces (but we find no evidence on this).

The reduction of intra-regional tariffs is an important task for SADC. SADC member countries protect different sensitive products, making harmonization of tariff schedules difficult, particularly because the selection of products in the first place is related either to poverty (or security of food supply) impacts or to a significant potential loss of tariff revenue. Such revenue plays an important role in a country's general tax revenue. A loss of tax revenue from international

Figure 12. Average applied import tariff rates on non-agricultural and non-fuel products



trade might be particularly hurtful for poor countries as tariffs constitute a significant and reliable source of government revenue and it takes a long time to develop a more regular taxation system that relies more heavily on taxing firms' profits and households' income. The problem is exaggerated by the fact that South Africa is a member of SACU, has a free trade agreement with the EU and is negotiating an EPA with the EU. South Africa is protecting an industrial sector that BLNS countries do not have (see Stevens and Kennan, 2007).

In addition to reducing tariff barriers, SADC can play an important role in easing the costs of trading and decreasing supply side constraints. SADC can facilitate funds derived from various sources of 'aid for trade' or from its own sources. With lower trading costs, member countries could more easily participate in global supply chains, leading to increasing trade. Trade costs and supply constraints make it difficult to reap the benefit of freer trade. The subsection "Reaping the Gains from Liberalization: Developing Country Challenges" has illustrated this on p. 182. Several empirical studies have shown that *trade facilitation measures* such as reducing the costs of logistics, inventory and customs clearance are significant, and in many cases more important ways of reducing barriers for developing countries than lowering tariffs (e.g., Wilson *et al.*, 2003; Rauch, 2001).

Similarly, studies that looked at the relationship between trade and infrastructure have found a positive and significant impact of quality of infrastructure on trade (Clark *et al.*, 2004; Wilson *et al.*, 2003). A high proportion of SADC countries are landlocked with small markets and low-skilled labour forces; moreover, they are surrounded by similar countries. Their small markets make import substitution an unattractive option and, together with their physical difficulties, make autonomous export development hard. Recent research by UNCTAD, for example, estimates the share of import value accounted for by international transport costs at 20.7% for landlocked African countries against a 12.7% average for African countries and a world average of 5.1% (see Stevens and Kennan, 2006).⁸ Similar proportions are likely for their exports.

SADC has an important role to play in supporting infrastructural development within the region.⁹ SADC should address transport and infrastructure development in the remote rural areas, growth triangles/corridors, trade in services and regional interconnectivity (in power supply, telecommunications, air transportation, waterways for the landlocked, etc.)

Cooperation within SADC may also reduce adjustment (for instance if no EPA agreement is achieved) and *implementation* costs. As has been pointed out in both empirical studies and predictions of Doha effects, trade liberalization has *adjustment costs*. These are related to preference erosion, tax erosion and the loss of jobs in some parts of the economy. Such adjustment costs are sector specific more than country specific. Those sectors adversely affected by trade liberalization may also be the ones that employ poor (unskilled) people.

Conclusion

In this paper we have presented an overview of empirical work on the trade-poverty relationship. There is no conclusive evidence on the trade, growth and poverty relationship in the literature. The general impression though is that trade holds the potential to contribute to economic growth and poverty reduction. We find that for the SADC countries the case seems that increasing trade is associated with less poverty and there is no negative impact on income distribution. Preference erosion and reduced income from tariffs pose a problem, particularly for the poorest countries. The challenge ahead is to enable the member countries to exploit the potential of trade liberalization. Important constraints for doing so are identified as high

internal tariffs, lack of harmonization of trade policy and high trade costs in the SADC countries. Cooperation is needed to improve the business environment and upgrade and develop trade related infrastructure.

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Notes

- ¹ See Winters *et al.* (2004) and Nissanke and Thorbecke (2007) for more comprehensive overviews of the relationship between trade and poverty.
- ² Barro, R. J. and X. Sala-i-Martin (2004) provide an extensive list of variables commonly employed in growth regressions (pp. 535–536). Durlauf *et al.* (2004) provides a list of determinants and studies where these have been employed.
- ³ This research ran more than two million growth regressions, including no less than seven explanatory variables in each regression. Trade was not among the 18 variables that most often appear as significant (robust).
- ⁴ Doubling one apple and ten apples keeps relative inequality stable but the absolute difference has increased significantly more.
- ⁵ [http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20749135~pagePK:64257043~ piPK:437376~theSitePK:4607,00.html?](http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20749135~pagePK:64257043~piPK:437376~theSitePK:4607,00.html?)
- ⁶ Enterprise Surveys (2006): <http://www.enterprisesurveys.org/>
- ⁷ We have just initiated a new project under the FOPRISA umbrella in which we identify the tariff structure and production and consumption patterns of some products that are important for the poor (agricultural products such as sugar, flower, beef and maize).
- ⁸ http://www.saldru.uct.ac.za/trade/trade_stevens&kenman.pdf
- ⁹ We are currently addressing this issue in a separate FORPRISA project.



SOUTHERN AFRICAN DEVELOPMENT COMMUNITY TRADE INTEGRATION: THE CHALLENGE FROM ECONOMIC PARTNERSHIP AGREEMENTS

CHRISTOPHER STEVENS AND JANE KENNAN

Economic Partnership Agreements – will they help or hinder regionalism?

This paper asks the question: will the creation of Economic Partnership Agreements (EPAs) in the Southern African Development Community (SADC) alongside the existing Trade, Development and Cooperation Agreement (TDCA) assist or hinder trade integration in the region? The European Union (EU) justifies EPAs partly on the grounds that they will foster regional integration – but this has yet to be seen. Under one scenario they would indeed provide an external stimulus to the adoption of common external trade policies and the removal of barriers to trade between neighbours. But there exist other scenarios producing very different results.

Until a set of EPAs, with known membership and provisions, exist *and are implemented* it cannot be certain which of the alternative scenarios are the more likely to be played out. The greatest delay in observing the effects of what is agreed arises because governments will alter their policies only over a period of perhaps 20 years, and the impact on regional integration will be determined by what is actually done rather than by what governments say they are intending to do.

The key assumption: what the WTO requires

This paper provides empirical evidence to illustrate what would happen if one or more of the 'anti-regionalism' scenarios came to pass. It does so by constructing a framework for analysis using a set of explicit assumptions on the details of what may be in the EPAs when these are agreed. These build plausibly on the analyses made of other EU agreements (such as Fasan, 2004; Rudloff and Simons, 2004b; Szepesi, 2004a,b,c; Ullrich 2004); and they can be altered in the light of what is discovered in the accords when they finally emerge.

Whilst the Cotonou Agreement lasts until 2020, its trade component is due to be replaced by the end of 2008 with a set of EPAs. The 2008 deadline relates to the World Trade Organization (WTO), which is a catalyst to the whole process. By offering preferences to the ACP under Lomé and Cotonou, the EU is necessarily discriminating against other countries that do not have equally favourable access to its market. Since non-discrimination between members is a fundamental tenet of the WTO, such behaviour can occur only if it is justified by being 'hung' on one of the 'pegs' that permits exceptions, or if the victims of discrimination choose to acquiesce. For most of last 30 years it has been the latter that has allowed the discrimination in favour of the ACP to occur, but since the mid-1990s the GATT/WTO environment has changed. Increasingly, countries that suffer the consequences of this discrimination have shown a willingness to challenge the EU's preference agreements – and to win their cases in the GATT/WTO.

Cotonou is currently justified within the WTO by a 'waiver' that expires at the end of 2007.

Unless the waiver is renewed or the regime hung on an alternative peg, the EU's trade preferences for the ACP could be subject to challenge from 2008.¹ EPAs have been proposed as the answer to this problem. The WTO allows members that are creating a free trade area (FTA) or customs union (CU) to discriminate in favour of their partners and against outsiders, provided that certain conditions are met. Those conditions relating to market access for goods are covered by Article XXIV.² Two key requirements are that in order to be covered, and hence to be protected from challenge, EPAs must result in the liberalization of 'substantially all' trade between the ACP and the EU, and this must be accomplished within 'a reasonable length of time'.

These requirements set the scene for a core feature of any EPA. Depending upon the outcome of the negotiations, they may include many things (such as provisions to liberalise services, on government procurement, on competition policy and on development cooperation), and the details of each one may differ from the others. But one element that must be present in all EPAs is the reciprocal removal of tariffs on 'substantially all' trade within 'a reasonable period', for otherwise the accords will not meet the requirements of Article XXIV and will not provide a defensible peg on which to hang ACP preferences in the WTO once the waiver has expired.

These requirements are vague, but through its other trade agreements and its statements in the WTO, the EU has a track record on how it believes they are to be interpreted. It is on the basis of these precedents that the EPA provisions on market access can be predicted and their potential side effects identified. 'Substantially all' is clearly not 'all', and so some ACP imports will not need to be liberalised in an EPA. Based on precedent, it looks likely that the ACP will be able to exclude from any liberalization a basket of goods that accounts for around 20 percent of the value of their imports at present from the EU – and possibly slightly more (Maerten, 2004; Stevens, 2000). It seems probable that they will have up to 20 years to complete the process.

Implications for SADC

These two dates – 2008 when the EPAs are to be agreed and around 2028 when they will be completed – pose a particular problem for SADC. The heads of government have called for the SADC CU to be completed by 2010. Were this date (or anything like it) to be achieved, the countries of the region would have no difficulty agreeing a common position in an EPA. The problem is that any EPAs will be agreed, on the current timetable, before the CU. The EPA tails might wag the CU dog – or inconsistencies in the commitments made by SADC states in EPAs may add to the problems encountered in agreeing common tariffs for the CU.

The term EPAs is given in the plural because, of course, the SADC states are negotiating with the EU in two separate groups. Even within the same group, however, there are likely to be differences between countries both over the products favoured for exclusion from liberalization and also over the number of such products. The reason for the first difference is clear: countries have different priorities for the sectors they wish to protect from import competition and the goods on which they wish to raise tariff revenue. The second arises because the composition of each country's imports from the EU varies and so the excludable proportion is calculated by each state against a different base. Take the case of Lesotho and Botswana. As members of the Southern African Customs Union (SACU) they have identical tariffs. Even so, if both chose to exclude from liberalization the items they imported from the EU in 2003 that faced the highest tariffs, Lesotho would not need to liberalise on anything as over 80 percent of its imports already face zero tariffs, but Botswana would have to remove tariffs as high as 42.5 percent (Stevens and Kennan, 2005a).

This raises the possibility that each member of an EPA may select different products on which to liberalise and, even where their choices overlap, select a different phasing plan. The next main section uses a set of plausible assumptions to identify the possible market access provisions of one EPA to determine the probability of such an outcome; the rest of this one considers how any such differences might affect regionalism.

Enter the EU

One complaint is that countries belong to too many groups: they sign up to mutually incompatible accords, which demonstrates a lack of real resolve since co-existence is possible only as long as the agreements remain partly unimplemented (Hess and Hess, 2004). Under the East African Community (EAC) transition arrangements, for example, Uganda and Tanzania are permitted to charge higher tariffs on goods imported from their partner Kenya than they do on those sourced from other Common Market for Eastern and Southern Africa (COMESA) or from SADC states (Charalambides, 2005:4). Tanzania is a member of SADC (and hence subject to the 2010 deadline to participate in the SADC CU) but also to EAC, the other two members of which are not in SADC. Swaziland belongs to both COMESA and SADC as well as to SACU and so, in theory, has a choice of three CUs to which it could eventually belong.³ Whilst a country can belong to more than one FTA, it cannot by definition belong to more than one CU.

How might the insinuation of the EU into this faltering process via EPAs affect the outcome? The EU's stated aim is to reinforce the process. Although the EU justifies its desire for EPAs on several grounds, support for regional integration has been a constant. It was central to the original Green Paper that unveiled the EPA concept and it is prominent in the European Commission's most recent pronouncements (CEC, 1997; CEC, 2005; ICTSD, 2005).

Potential effects of all EPAs

The impact could indeed be positive as the EU hopes: if EPAs result in liberalization intra-regionally as well as with the EU, it would increase the cost of recidivism. A state that failed to alter its tariffs at the agreed time would fall foul not only of its neighbours but also of the EU. It would face the possible sanction of losing preferences on its exports to the EU and, perhaps, aid as well. By making 'locking in' more plausible, it could be argued that EPAs would enhance the gains from integration, not least by increasing predictability.

But equally the impact could be negative. By increasing the stakes, EPAs may make regional liberalization less likely. Some countries willing to remove barriers to imports from their neighbours with similar economies may be unwilling to offer the same terms to highly competitive (and possibly dumped) EU imports. Regional groups may splinter between those willing to liberalise towards the EU and the others.

Within SADC, EPAs have had a negative effect already by provoking a regional split between those states that are negotiating with the EU under the banner of Eastern and Southern Africa (ESA) and the rest (the four non-South African members of SACU, Angola, Mozambique and Tanzania) that are negotiating a completely separate EPA. The three EAC states are split between these two groups.

The additional problem of the TDCA

Further problems are being caused because the SACU states are covered *de facto* although not *de jure* by the TDCA between the EU and South Africa. A whole set of questions have arisen,

none of which had been answered at the time of writing this paper even though they are of central importance and the formal EPA deadline is less than nine months away. They include the following:

1. Will South Africa be a formal member of the same EPA?
2. If so, will all five SACU states have the same market access regime for imports and exports, and, if so:
 - (a) will the TDCA liberalization schedule (with its 2012 deadline for completion) be applied to Botswana, Lesotho, Namibia and Swaziland (BLNS) without change – meaning that the latter can do nothing to protect specific domestic interests;
 - (b) which of the three possible options will dominate the treatment of exports:
 - (i) for the EU regime on imports from South Africa to be ‘upgraded’ to the Cotonou regime as it applies to BLNS (or as it might apply in a ‘normal’ EPA);⁴
 - (ii) for the FU regime on imports from BLNS to be ‘downgraded’ to the current TDCA;
 - (iii) for the EU to treat imports differently, maintaining the TDCA for South Africa, and maintaining or improving Cotonou treatment for BLNS?
3. How will all of this be applied to Angola, Mozambique and Tanzania if they were to join the same EPA?

Providing empirical guidance

The import problem for SADC

In a sense, the answer to question 1 alters only the legal rather than the practical outcomes for questions 2 and 3. Regardless of whether or not the TDCA (in its current form or as revised through the EPA process) is adopted *de jure* by the BLNS, it applies to them *de facto* unless they leave SACU. Not much more can be said at the present time regarding question 2(b). Options (b)(i) and (b)(ii) are under negotiation, and previous research has shown that option (b)(iii) (which could be a compromise) is perfectly feasible logistically (Stevens and Kennan, 2005b).

This paper deals with question 2(a) and the implications of the potential outcome for question 3. A SADC CU would formally require members to have only a common most-favoured-nation (MFN) tariff; in theory, members could have different preferential trade regimes for the EU (and other favoured sources of supply); whilst the SADC Trade Protocol remains in force, even the need for a common MFN is dispensed with. But in practice there would be little point having MFN tariffs much higher than those applying to the EU except for goods in which Europe is substantially non-competitive since this would result only in trade diversion. In practice, therefore, any SADC common external tariff would tend to mirror the EPA regime for many products.

Nature of the problem

Hence, the partners of BLNS in any SADC EPA (and in any future SADC CU) would, effectively, be accepting the TDCA import regime that South Africa has agreed with the EU (as amended,

if at all, through the EPA process), unless they retain robust border controls to filter out EU-originating goods. Retention of robust border controls will, in turn, hinder intra-regional trade. This could make membership of a SADC EPA (and, in due course, a SADC CU) less attractive to the non-SACU states.

In other words, there are two separate dangers for regionalism. One is that existing groups may splinter. The other is that as the EPAs are implemented they may provide new reasons not to remove intra-regional border controls. For example, if country A excludes flour from liberalization and maintains a 100 percent tariff but its neighbour, B, removes all duties, traders may circumvent A's restrictions by transporting EU goods across the border from B. To avoid this, both the tariff difference between A and B must be sufficiently small to make such trans-shipment commercially unviable, or rigorous border controls must be maintained to prevent trans-shipment (that would undermine A's milling industry).

The latter will hurt intra-regional trade in the process. There is evidence that it is the paraphernalia associated with physical barriers at land borders that are the most serious constraint on intra-regional trade, rather than differences in trade policy *per se*, although of course the latter underpin the former (Charalambides, 2005; Hess 2000; Visser and Hartzburg, 2004:3). Customs procedures, the delay they create and the opportunities for corruption are more important than the fact that a tariff may be payable. If for any reason EPAs require members to maintain rigorous checks that might otherwise have been relaxed, they will tend to make even harder the task of reducing the barriers to intra-regional trade. Rules of origin are also a problem, particularly in SADC (Kalenga, 2004: 4). They may become a greater barrier if different rules apply to EU originating and regionally originating goods. Such barriers may, in turn, impact on investment (Wolf, 2002).

Potential incidence

A potential problem exists in all cases where one country liberalises and another does not. As no EPA exists, even in embryonic form, no direct measurements can be made of the problem. But it is possible to set up plausible assumptions about what might be in an EPA, and what sort of goods might be spirited across borders if the tariff rates were different. The mismatch in neighbours' liberalization schedules may be permanent, in the sense that one country has excluded the product altogether from its 'liberalization basket', or temporary, in that it has deferred for 12 years or so liberalization of a good that its neighbour has made duty free on day one. The article concentrates on the permanent mismatches.

In many cases the potential will not be realised. Intra-regional integration is unlikely to be hurt by concern over EU corrugated sheets being shipped across sub-Saharan African (SSA) borders because there is a tariff of 10 percent in one country and of 0 percent in the other. But the situation could be different if the price difference is large, the product easily transportable, and one country has a powerful domestic producer lobby likely to fight its corner against indirect imports.

Standard assumptions

A number of assumptions must be made for any attempt in any EPA region to create a picture of the likely scale of the problem; in the case of SADC an additional set of assumptions are required.

One of the standard assumptions concerns how much trade must be liberalised. The assumption used to produce the results reported here is that each SADC member of an EPA will have

to reduce to zero its tariffs on a basket of goods that accounted for 76 percent by value of its imports from the EU in 2003.⁵

A second assumption concerns the choices that governments will make when selecting the products to include and exclude from the liberalization basket. There is plenty of scope for country-level research to follow up on the possible choices that will be made. But at a cross-country level the only reasonable standard assumption that can be made at this juncture is that countries' current trade policy reflects their priorities. On this assumption the products currently facing the highest applied tariffs are the ones for which governments most want to keep tariffs (whether for protectionist or revenue-raising purposes). Once this assumption has been made, it is possible to identify which goods would be excluded from liberalization for any given threshold of 'substantially all' trade.

A third assumption is required to identify which tariff differences between which countries might cause problems for intra-regional trade that would not otherwise arise.⁶ Countries that have land borders might do things differently if they fear trans-shipped EU goods than they would if there were no such concern. It is differences in reciprocity schedules between geographically contiguous states that are most potentially problematic. A cut-off of 20 percent has been used for the tariff difference; i.e., it is assumed that there is a potential for cross-border trade if the maximum tariff on a non-liberalised product in one country is over 20 percent,⁷ and if it is being liberalised in its neighbour.

These standard assumptions have been applied to primary data and then additional, SADC-specific, assumptions have been introduced. Information on the value of the EU's exports to ACP states for the three most recent years available has been derived from national data (in the case of BLNS) and Eurostat's COMEXT database (in the case of Angola, Mozambique and Tanzania). The applied tariffs of the ACP have been obtained from the United Nations Conference on Trade and Development (UNCTAD) Trade Analysis and Information System (TRAINS) database. By combining the data on the value of exports to each ACP state and its applied tariffs, it is possible to construct a basket of those items facing the highest tariffs that account for 24 percent of import value.

SADC-specific assumptions

In the absence of the TDCA the assumption would be that the items in this basket would be the ones excluded from liberalization. But BLNS do not have a free hand in the matter. What happens when the application of the 'standard' assumptions produces a good that a BLNS state would choose to:

- include in liberalization but which South Africa has excluded under the TDCA;
- exclude from liberalization but which is to be liberalised (or already has been) by South Africa under the TDCA?

In practice, there are limits to the extent to which their import regime can differ from that of South Africa under the TDCA and these differ according to which of the above situations apply.

- If a BLNS state applied a higher tariff than is in the TDCA (i.e., by attempting to exclude an item that has been or will be liberalised under the TDCA) then either the EU would have to agree to a revision of the TDCA or two separate tariff regimes would apply. The first of these is implausible. In the second, importers would simply declare the

destination for the goods as South Africa, where they would be broken down and some transhipped to BLNS; checking such goods and applying the 'extra' duty on them would require a substantial increase in intra-SACU border controls and/or slow down legitimate trade.

- If a BLNS state applied a much lower tariff than is in the TDCA (i.e., by liberalising a good that is excluded), South Africa would have a clear interest in checking imports to weed out EU-originating goods. This would have the same disruptive effect on intra-SACU trade but the costs for South Africa would be much smaller than would apply to BLNS in situation 1 (given the disparity in their levels of bilateral trade).

In other words, it is plausible that a BLNS country *could* exclude from liberalization something that is being liberalised under the TDCA, even though such a unilateral exclusion may have no practical effect it will have an impact on the country's EPA schedules; and hence the trade regime with which its EPA partners will have to cope. It is not plausible that a BLNS state can liberalise a good that has been excluded from liberalization under the TDCA. This is because it is assumed that South Africa will put pressure on the country not to liberalise a good that it wishes to protect, e.g., motor vehicles.

Given this, it has been assumed for the BLNS that:

- they must exclude from liberalization under an EPA all the goods that are excluded from liberalization under the TDCA;
- they can, in addition, exclude goods that are sensitive (according to the standard assumptions) up to the point at which their total list of exclusions reaches 24 percent of their imports from the EU.

None of this applies to Angola, Mozambique or Tanzania, the hypothetical 'exclusion baskets' of which will be determined by the standard assumptions. This produces seven, potentially different, schedules – one for each country. Of these differences it is those of 20 percent or more between geographical neighbours that are of primary concern. In other words, it is differences between Namibia and Angola or Botswana, and between Mozambique and Swaziland or Tanzania that are critical.⁸

The results

National schedules

The extent to which the 'EPA exclusions' of BLNS are dominated by the need to accommodate the TDCA is shown in Table 1 overleaf. In the extreme case of Swaziland, the TDCA exclusions by themselves exceed the limit of goods that the country can exclude (assumed to be 24 percent of its imports from the EU) leaving no 'space' for nationally selected exclusions! For the other three countries, the situation is not so bad: the goods that have to be excluded because of the TDCA account for between 12 and 17 percent of imports (leaving 'space' for between 7 and 12 percent of a country's imports to be excluded to suit national sensitivities).

In all seven cases we have calculated what we call the 'marginal tariff'. To recap, we assume that countries choose to exclude the products facing the highest applied duties (with all specific duties assumed to be high), and to continue excluding until the exclusion basket accounts for 24 percent of imports. The 'marginal tariff' is the highest tariff applied to any good that *will not be*

Table 1. BLNS exclusions

	Botswana		Lesotho		Namibia		Swaziland	
	Share of import value	Number of items (HS6)	Share of import value	Number of items (HS6)	Share of import value	Number of items (HS6)	Share of import value	Number of items (HS6)
Items which must be excluded because SA is excluding	12.3%	314	17.2%	876	15.5%	957	25.6%	964
Items which it is assumed can be excluded even though SA liberalising:								
All items with specific duties	0.0%	16	0.0%	54	3.5%	58	—	—
Other high-tariff items up to the 24% maximum	10.1%	469	5.6%	719	5.0%	757	—	—
Total exclusion basket	22.5%	799	22.7%	1 649	23.9%	1 772	25.6%	964

excluded as a result of this process (because the exclusion basket is 'full' of higher-tariff items).⁹ It provides a very rough, first approximation of the extent to which an EPA will require adjustment by domestic producers to increased competition from EU goods. If the marginal tariff is, say, 25 percent, this adjustment effect will be large: by the end of the implementation period, EU goods will be 25 percent cheaper than they would otherwise have been. If, by contrast, the marginal tariff is only 5 percent, the 'adjustment cost' is likely to be trivial.¹⁰

The marginal tariff of each of the seven SADC minus states (on the assumptions used) is set out in Table 2. Interestingly, despite having to accommodate TDCA provisions, three of the BLNS states end up with generally lower marginal tariffs than the others. Both Tanzania and Mozambique would have to remove tariffs (by the end of the implementation period) of up to 25 percent. The exception is Swaziland, which faces the highest marginal tariff of 55 percent.¹¹

Table 2. Marginal tariffs^a

Country	Marginal tariff
Angola	15%
Botswana	15%
Lesotho	14%
Mozambique	25%
Namibia	15%
Swaziland	A specific duty (<i>ad valorem</i> equivalent unknown) or 55% simple <i>ad valorem</i> ^b
Tanzania	25%

Notes:

(a) The highest tariff applying to any item which must be liberalised.

(b) See footnote 161. XXX

Regional coherence

Table 3 shows the extent of any incoherence (on the assumptions made) between geographical neighbours. In most cases it is high. Of the 116 items that Angola is assumed to exclude

and which currently face a tariff of over 20 percent, for example, only half (58) would also be excluded by Namibia. In half of the eight country combinations listed in the table, 50 percent or less of the exclusions by one country would also be excluded by another. Excluding the case of Botswana (which is artificially low – see footnote 8), there is only one case of a very high level of overlap: of the 678 items facing a tariff of over 20 percent that Swaziland would exclude, only 52 are not also being excluded by Mozambique. In all other cases where a SACU and a non-SACU state share a border, the overlap is small.

In total there are as many as 2,170 items (at HS6) for which neighbours' tariff schedules would be incoherent on the assumptions made. What are these goods that neighbours are treating differently? Table 4 aggregates these to the HS2 digit level in order to provide a flavour of the goods involved. The table is arranged in declining order of the figure in column 3. This shows the number of HS6/neighbour combinations for which there are incoherent schedules on the assumptions made.

Table 3. (In)coherence between neighbours' schedules (number of items)

Excluding country	Exclusions ^a		Number of HS6 items from (2) NOT also being excluded by:						
	1	2							
	Total	Tariff >20% ^b	Angola	Botswana	Lesotho	Mozambique	Namibia	Swaziland	Tanzania
Angola	1 071	116					58		
Botswana	799	310 ^b					0		
Lesotho	1 649	788 ^b							
Mozambique	1 862	1 862						1 126	209
Namibia	1,72	718 ^b	427	547					
Swaziland	964	678 ^b				52			
Tanzania	2 177	2 177				524			

Notes:

^aAll BLNS specific tariffs are assumed to be greater than 20 percent ad valorem equivalent.

^bIncludes items (7 for Botswana, 28 for Lesotho, 26 for Namibia and 25 for Swaziland) for which the tariff is not known, but which are known to be excluded from liberalization under the TDCA and which have therefore been assumed to be high.

Table 4. The main products on which there is incoherence

HS2	Description	Total number of HS6/ neighbour combinations
52	Cotton electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles	155
85	parts and accessories of such articles	152
55	man-made staple fibres	130
48	paper and paperboard; articles of paper pulp, of paper or of paperboard	103
02	meat and edible meat offal	85

Table 4 (continued)

HS2	Description	Total number of HS6/ neighbour combinations
60	knitted or crocheted fabrics	84
73	articles of iron or steel	74
54	man-made filaments	71
07	edible vegetables and certain roots and tubers	70
20	preparations of vegetables, fruit, nuts or other parts of plants	69
08	edible fruit and nuts; peel of citrus fruits or melons	67
71	natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin	67
61	articles of apparel and clothing accessories, knitted or crocheted	63
39	plastics and articles thereof	62
90	optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof	62
62	articles of apparel and clothing accessories, not knitted or crocheted	59
96	miscellaneous manufactured articles	58
68	articles of stone, plaster, cement, asbestos, mica or similar materials	57
63	other made-up textile articles; sets; worn clothing and worn textile articles; rags	56
91	clocks and watches and parts thereof	53
58	special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery	51
37	photographic or cinematographic goods	50
44	wood and articles of wood; wood charcoal	49
92	musical instruments; parts and accessories of such articles	46
04	dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included	45
95	toys, games and sports requisites; parts and accessories thereof	45
40	rubber and articles thereof	43
09	coffee, tea, mate and spices	41
11	products of the milling industry; malt; starches; insulin; wheat gluten	40
22	beverages, spirits and vinegar	39
82	tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal	39
87	vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	39
94	furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; prefabricated buildings	39
19	preparations of cereals, flour, starch or milk; pastry cooks' products	38
59	impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use	37
84	nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	37
64	footwear, gaiters and the like; parts of such articles	34

Table 4 (continued)

HS2	Description	Total number of HS6/ neighbour combinations
03	fish and crustaceans, molluscs and other aquatic invertebrates	31
51	wool, fine or coarse animal hair; horsehair yarn and woven fabric	26
21	miscellaneous edible preparations	25
83	miscellaneous articles of base metal	25
16	preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	23
69	ceramic products	23
93	arms and ammunition; parts and accessories thereof	23
15	animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes	22
25	salt; sulphur; earths and stone; plastering materials, lime and cement	22
70	glass and glassware	21
74	copper and articles thereof	21
01	live animals	20
33	essential oils and resin oils; perfumery, cosmetic or toilet preparations	20
05	products of animal origin, not elsewhere specified or included	19
17	sugars and sugar confectionery	19
24	tobacco and manufactured tobacco substitutes	19
56	wadding, felt and non-wovens; special yarns; twine, cordage, ropes and cables and articles thereof	17
65	headgear and parts thereof	17
76	aluminium and articles thereof	17
34	soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles	16
10	Cereals	14
12	oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	14
57	carpets and other textile floor coverings	14
88	aircraft, spacecraft, and parts thereof	14
38	miscellaneous chemical products	13
32	tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks	11
27	mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	10
72	iron and steel	10
18	cocoa and cocoa preparations	9
49	printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans	9
66	umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof	9
67	prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair	8
97	works of art, collectors' pieces and antiques	7

Table 4 (continued)

HS2	Description	Total number of HS6/ neighbour combinations
43	fur skins and artificial fur; manufactures thereof	6
53	other vegetable textile fibres; paper yarn and woven fabrics of paper yarn	6
06	live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	5
29	organic chemicals	5
36	explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	5
46	manufactures of straw, of esparto or of other plaiting materials; basket ware and wickerwork	5
50	silk	5
75	nickel and articles thereof	5
23	residues and waste from the food industries; prepared animal fodder	4
35	albuminoidal substances; modified starches; glues; enzymes	4
89	ships, boats and floating structures	4
13	lac; gums, resins and other vegetable saps and extracts	2
28	inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes	2
78	lead and articles thereof	2
79	zinc and articles thereof	2
80	tin and articles thereof	2
30	pharmaceutical products	1
42	articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut)	1

The most frequent occurrences of incoherence are in relation to cotton and textiles and electrical machinery (partly reflecting the large number of HS6 sub-heads for this sector). Paper, meat, iron and steel articles and vegetables are also frequently encountered problem items, as are precious metals. In addition, a range of typical import substitution processing and light manufacturing are to be found scattered throughout the table.

This broad picture is not unexpected. South Africa is protecting under the TDCA a manufacturing sector that many other SADC states do not have, and it is liberalising areas of agriculture that are sensitive for many SADC states. In a sense, therefore, the problems of dealing with potential incoherence thrown up by the EPAs are simply one manifestation of the same problems that will arise when it comes to agreeing a common external tariff in the SADC CU.

Conclusions

The impact that the EU's (largely unwelcome) initiative on EPAs actually has on regional integration will depend on how far countries make similar or different choices in practice (i.e., as implemented over a 20-year period). In 2008 SADC will have four options:

- to accede to a single EPA;
- to accede to several EPAs;

- to utilise other, non-Cotonou trade regimes of the EU (which in practice means EBA for LDCS and the TDCA as it currently stands for South Africa and, in principle, BLNS); or
- to export under the EU's Standard GSP which means, in practice, on less favourable terms than many of their competitors (Stevens and Kennan 2007).

Different SADC states may choose different options. Depending on which option is chosen, by whom, the EU's initiative could have one of four effects.

- It might provide the pressure to accelerate the leisurely pace of implementation of the SADC Trade Protocol and help force the pace of the CU.
- It might, by contrast, reinforce internal barriers between countries even whilst they liberalise towards the EU.
- It might have no effect on regional integration (if no state joins an EPA) though this might result in a deterioration in access to the EU market for some states.
- Finally, and perhaps most likely, it may result in some countries becoming more integrated, others joining the same EPA but reinforcing their internal borders, others join a different EPA, and yet others remaining outside any.

The first and third will be the least disruptive to current integration efforts. By definition the first would enhance them, and the third would be a continuation of the *status quo*. The adverse implications of the second outcome have been described above. What about the fourth outcome, and the links between states that do and those that do not join an EPA?

There is no intrinsic reason why a barrier should be created between neighbours that join and do not join, but in practical terms little would be achieved by staying outside an EPA unless a country does erect a barrier against its neighbour. The principal reason to remain outside an EPA would be to avoid reciprocity. But this goal would be undermined by cross-border trade if the outsider also participated in an effective FTA/CU with countries that were EPA members. The problems of incompatible trade policy described above would arise *a fortiori* for countries that were not liberalising on any product.¹²

The lists underpinning Table 4 have been produced by the mechanical application of a set of assumptions; they leave no room for compromise and negotiation between the SADC minus states (although, by the same token, nor do they make allowance for hard-nosed negotiation tactics on the part of the EU). Reality will certainly be different from the picture painted by this paper. The extent of incoherence may well be reduced substantially *provided that* countries have sufficient time to consider each others' position and seek ways to accommodate any differences.

But the words in italics are the critical ones. The conclusion to be drawn from this paper should not be that an incoherent response is inevitable. Rather it should be that there is a lot to negotiate and compromise about. Finding an accommodation between differing SADC minus interests (let alone between these and the SADC states negotiating under ESA) will be a substantial task. It will take time. But, on the current timetable, time is something that SADC does not have.

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Notes

- ¹ Aspects of the preferences could be challenged before the waiver expires and, if found not to be covered by the phraseology used, the complaint could be upheld. This happened with bananas in 1997 (see Stevens, 2000). But it is considered more likely that there will be a successful challenge after the waiver expires.
- ² Article XXIV of the General Agreement on Tariffs and Trade 1994 and the 'understanding' of this Article in Annex 1A of the Marrakech Agreement Establishing the World Trade Organization.
- ³ Although it does not at present belong to the COMESA FTA.
- ⁴ There is an expectation that the EU will agree duty-free and quota-free access (DFQF) for all EPA exports.
- ⁵ There is a view that the LDCs should not have to remove any tariffs on imports from the EU. This is accommodated in the analysis in the section dealing with what happens if some states in a region join an EPA and others do not. As far as the level of (in)coherence between neighbours' tariff schedules is concerned there is no difference between what would happen if a SADC LDC was in an EPA but liberalised on nothing or was outside an EPA.
- ⁶ A final assumption concerns how great a price difference there must be (and how easily transportable the product) for it to attract the interest of smugglers on a large scale. There is little guidance for such assumptions. In previous research (Stevens, 2006) differences in unit value had relatively little effect on the number of goods selected for analysis. Given the complexities already introduced for SADC by the TDCA, this paper has ignored for the present the additional ones required to distinguish between different valued goods.
- ⁷ Under the Harmonised System (HS), all traded goods are allocated to a group of similar items which is given a unique statistical code. The larger the number of digits to the code the more precise the product group (e.g., HS 08 covers edible fruit and nuts, HS 0805 citrus fruit, and HS 080520 mandarins, satsumas, clementines, etc.). The composition of 2-, 4- and 6-digit groups is common to all states using the HS, but they are allowed to apply further sub-divisions (given 8 or 10 digits) of their own devising: for example, the EU Combined Nomenclature (CN) code 08052010 covers clementines, CN 08052030 minneolas and satsumas, CN 08052050 mandarins and wilkings, CN 08052070 tangerines, and 08052090 tangelos, ortaniques, malaquinas and similar hybrids. Countries normally do this only if they want to target very specific products for 'extra protection'. Because tariffs may be set at the national 8- or 10-digit level, and import data can be compared only at the 6-digit level (the highest common level of desegregations), a range of tariffs may apply to different sub-elements of an HS6 product group. Where this is the case, the highest tariff in the range has been used.
- ⁸ The tables that follow provide only a first approximation, partly because of the assumptions made (which cannot mirror actual decisions) but also because the national data of Botswana on the one hand, and Lesotho, Namibia and Swaziland on the other, are different. The Botswana data cover only items actually imported from the EU in any of the three years; those for the other three states cover all items (imported or not). Consequently Botswana has far fewer items in its exclusion basket than the others, the exclusion lists of which were swelled by high-tariff items not imported (and therefore contributing nothing to the 24 percent).

In addition, all of the countries except Mozambique have some codes in the trade data for which no tariff information could be found (either because the codes do not appear in the tariff schedules or because no tariffs are listed for them). The number of such codes ranged from 12 (for Tanzania) to 398 (for Lesotho). However, for some of the BLNS codes in question TDCA treatment is known, and where an item was known to be excluded from liberalization under the TDCA it was included in the exclusion baskets. The remaining codes with missing tariff data, and some for which TDCA treatment could not be established, were omitted from consideration for the exclusion baskets. The proportion of trade value not taken into consideration because of missing data ranged from 0.01 percent (for Tanzania) to 2.1 percent (for Botswana).
- ⁹ In cases where many goods face the same tariff, the first to be excluded are those imported to the lowest value – in order to be able to exclude more products. So, for example, if the marginal tariff is 15 percent, this will often mean that some goods facing a 15 percent tariff and imported to lower values have been excluded (together with other goods facing a tariff in excess of 15 percent), but that not all of the goods facing a 15 percent tariff can be absorbed in the exclusion basket without breaching the 24 percent of imports limit.
- ¹⁰ Note that this takes no account of the loss of tariff revenue which will be a major cost of EPAs – the calculations relate solely to 'adjustment costs' for domestic producers of goods that compete with imports.
- ¹¹ The uncertainty over the marginal tariff for Swaziland is because, as the country's permitted proportion of exclusions is entirely accounted for by items excluded under the TDCA, none of its 'own' sensitive items can be taken into consideration. These are assumed to be all those with specific duties (the *ad valorem* equivalents of which are not known) and those with the highest *ad valorem* tariffs. In addition, because this exercise has had to be

undertaken at HS6 level (because of the need to compare the exclusions of the seven states – as well as the lack of more disaggregated national data), and tariffs are set at 8-digit level, in many cases more than one tariff may apply to different items within an HS6 sub-head. In compiling the exclusion lists, the highest tariff that may apply has been used. Similarly, where different TDCA treatments apply to different 8-digit items, the most illiberal has been used.

¹² Exactly the same will apply to countries that are in an EPA but have managed to avoid reciprocity.

COUNTRYWISE REVIEW OF THE IMPLEMENTATION OF THE SADC TRADE PROTOCOL

JOHNSON TSORO MAIKETSO AND KHUTSAFALO SEKOLOKWANE

Introduction

The Southern African Development Community (SADC)¹ member states have committed themselves to deepening regional integration among themselves (SADC Secretariat, undated; SADC Secretariat, 1996). This is seen as a viable strategy to promote growth and in turn reduce poverty. In order to attain these objectives, a Protocol on Trade was signed in 1996 but began in 2000 with timelines as presented in Table 1 below. Previous work on the assessment of implementation raises a number of issues that point to somewhat mixed impressions concerning adherence to implementation schedules, with some authors concluding that there is sluggishness on the part of some member states (Kalenga, 2004; The Services Group, 2004; Chipeta, 2005).

Table 1: Notable Regional Integration Targets Set by SADC (2008 – 2018)

Year	Targets
2008	Free Trade Area; Inflation Rate Single Digit, 5% by 2012 and 3% by 2018; Ratio of budget deficit to GDP not exceeding 5%
2010	Completion of Negotiations of the SADC Customs Union
2015	Completion of Negotiations of the SADC Common Market
2016	Establishment of a SADC Monetary Union
2018	Launching of a regional currency for the SADC Monetary Union

Source: SADC Regional Indicative Strategic Development Plan

The purpose of this study is to review progress made so far by SADC member countries in the trade liberalization process. The study also identifies constraints that individual member states might be experiencing in the process of elimination of customs duties and non-tariff barriers (NTBs) with a view to identify possible action to ensure the liberalization schedule stays on course. The study is arranged as follows: the next section deals with a brief overview of the intra-SADC trade and draws some impressions about whether the Trade Protocol has had a discernable impact on trade flows; this will be followed by an assessment of past reviews of the Trade Protocol on the implementation of tariff reduction schedules and the rules of origin; subsequent sections will review the implementation of the tariff reduction schedules vis-à-vis the individual member states' tariff offers made in 2000; this is then followed by an assessment of the implementation of the non-tariff barriers; and the final section concludes.

Data Issues²

Sourcing the data for the analyses of intra-SADC trade flows has been difficult. The data that have been used in this paper have some serious gaps where some countries' trade figures are unavailable, which makes assessments about the overall picture of trade flows in the region

indicative rather than conclusive. The database is compiled using trade flow data (exports and imports) submitted to the Trade and Industrial Policy Strategies (TIPS) by individual countries. For countries that do not submit required information their figures are not available and thus there are blanks which affect total intra-regional trade flows as well as those for the countries with the data shortfalls. Nevertheless, without any alternative and better data sets, we have undertaken to use the data and believe that they are somewhat satisfactorily indicative of the trends of trade within the SADC region.

Overview of the Intra-SADC Trade

The SADC tariff phase down started in 2000, which is now retrospective and therefore makes it important to assess the impact that such liberalization or its lack thereof (perhaps due to lack of implementation) has had on intra-regional trade. The logical expectation is that the successful or satisfactory implementation of the Protocol should, even though with some lag, result in the improvement of intra-SADC trade flows. The opposite should be that non-implementation would result in minimal success. These observations are highly dependent on the structures of the offers themselves in as far as the products that are available for tariff liberalizations are concerned and the timing of such liberalization. Further, the implementation of the Trade Protocol should be viewed to include the elimination of the NTBs as well as the rules of origin. The NTBs and the rules of origin are discussed in the subsequent sections of this paper.

Intra-SADC Exports and Imports

The general pattern of trade for the SADC countries would depict well developed and nurtured trade ties between SADC and countries outside the region in the traditional, static comparative advantage north-south trade. Table 2 shows that intra-SADC exports are a significantly smaller proportion of total SADC exports. In 2000, intra-SADC exports accounted for about 13% of total SADC exports. The proportion of intra-SADC exports to total SADC exports increased to about 15% in 2002 as a result of an increase in intra-SADC exports (from US\$4,934 million in 2000 to US\$5,276 million in 2002). But this was associated with a decrease in total SADC exports (from US\$38,838 million in 2000 to US\$ 36,110 million in 2002). In 2004, the proportion reverted to a decrease of about 12%. Notwithstanding that intra-SADC exports increased in absolute terms, the increase in total SADC exports was more significant. That is, while there is growth of intra-SADC exports, total SADC exports are on the other hand growing more rapidly, suggesting that a larger proportion of the export growth is destined for countries outside the region. This can be explained in part by the type of products that the SADC countries export, which are, by and large, primary products, which are raw or semi-processed and which undergo further processing in the developed countries. The analysis of exports also depicts the dominance of the South African economy within the region. In 2000, South Africa's exports to the region accounted for 59% of intra-regional exports; in 2002, the proportion of South Africa's regional exports declined to 53%, even though the absolute value of exports decreased by only US\$100 million. South Africa's regional exports increased significantly in 2004, resulting in its proportion of intra-regional trade increasing to about 75%. South Africa's economic dominance is even more manifest in total SADC exports. In 2004, South Africa accounted for about 80% of total SADC exports. This shows the superiority of the South African economy in terms of size, level of development and capacity to supply foreign markets, beyond the region.

Table 2: SADC Exports during 2000, 2002 and 2004 (US\$ million)

	2000		2002		2004	
	Intra-SADC	World	Intra-SADC	World	Intra-SADC	World
Angola	– (–)	– (–)	– (–)	– (–)	– (–)	– (–)
Botswana	315 (6.4)	2 799 (7.2)	241 (4.6)	2 496 (6.9)	470 (6.7)	3 510 (6.2)
DRC	– (–)	– (–)	– (–)	– (–)	– (–)	– (–)
Lesotho	93 (1.9)	335 (0.9)	150 (2.8)	355 (1.0)	– (–)	– (–)
Madagascar	– (–)	– (–)	– (–)	– (–)	– (–)	– (–)
Malawi	65 (1.3)	384 (1.6)	74 (1.4)	376 (1.0)	113 (1.6)	456 (0.8)
Mauritius	21 (0.4)	1 488 (3.8)	34 (0.6)	1 725 (4.8)	45 (0.6)	1 916 (3.4)
Mozambique	130 (2.6)	364 (0.9)	177 (3.4)	682 (1.9)	295 (4.2)	1 492 (2.6)
Namibia	442 (9.0)	1 320 (3.4)	516 (9.8)	1 267 (3.5)	– (–)	– (–)
South Africa	2 912 (59.0)	29 958 (77.1)	2 812 (53.3)	26 571 (73.6)	3 855 (55.1)	45 397 (79.7)
Swaziland	688 (14.0)	896 (2.3)	911 (17.3)	1 138 (3.2)	1 351 (19.3)	1 781 (3.1)
Tanzania	20 (0.4)	441 (5.9)	45 (0.8)	607 (1.7)	140 (2.0)	950 (1.7)
Zambia	248 (5.0)	853 (2.2)	316 (6.0)	894 (2.5)	727 (10.4)	1 461 (2.6)
Zimbabwe	– (–)	– (–)	– (–)	– (–)	– (–)	– (–)
Total	4 934 (100)	38 838 (100)	5 276 (100)	36 110 (100)	6 995 (100)	56 963 (100)
Excl. RSA	2 022 (41.0)	8 880 (22.9)	2 464 (46.7)	9 539 (26.4)	3 140 (44.9)	11 567 (20.3)

Source: TIPS.

Note: The figures in parenthesis are the proportions of the totals.

Other SADC countries do not show any significant developments in their exports. Except for Swaziland, all the other individual SADC countries accounted for less than 10% of intra-SADC exports. Swaziland shows a steady increase in intra-regional exports (both absolutely and proportionately) and accounted for 14% of total intra-SADC exports in 2000; in 2004 the proportion had increased to 19%. This exceptional performance can be attributed to its involvement with a single product, the export of sugar, and the provision in the SADC Trade Protocol that governs the trade of sugar within the SADC region (TRALAC, 2004).

During the three years, 2000, 2002 and 2004, all the other SADC countries (excluding South Africa) accounted for less than 50% of intra-SADC exports. However, a generally positive growth of intra-regional exports is observed for all the SADC countries. Zambia and Swaziland in particular experienced a phenomenal growth. In 2000, Zambia's intra-SADC exports stood at US\$248 million and this figure had increased almost three-fold in 2004. Swaziland's intra-SADC exports figure had almost doubled in 2004, having increased from US\$ 688 million in 2000 to US\$1,351 million in 2004. For other countries, even though the absolute figures of their intra-SADC exports were proportionately small, the increase between 2000 and 2004 was significant (see Table 2).

The positive picture depicted by the performance of SADC countries' intra-regional exports should, however, be understood against the background of a marked increase in total SADC exports. The picture may suggest lack of ease of trading within the SADC region as opposed to trading with other countries, especially overseas. Some SADC countries have fairly developed manufacturing sectors, but the export destinations for their manufactures are influenced by the existing trade arrangements with the developed countries, notably the Cotonou Agreement

between the European Union (EU) and the Africa, Caribbean and Pacific (ACP) countries and the Africa Growth and Opportunity Act (AGOA) of the United States, which allows a long list of selected products from African countries duty-free access into the US market. The question that arises is whether it is easier for SADC countries to access these developed countries' markets than the SADC market.

The picture on imports shows that South Africa sources most of her products from outside the SADC region (see Table 3). South Africa's imports from the SADC region, however, have increased (in absolute terms) steadily between 2000 and 2004. In 2000, South Africa imported goods worth only US\$359 million, but in 2004, the figure had increased to US\$1,178 million. On the other hand there was a significant jump in South Africa's total imports in 2004: from US\$ 26,221 million in 2002 the value of imports rose to US\$ 47,774 million in 2004. The major explanation for this phenomenon could be that the SADC region does not have capacity to supply the South African market. The weakness of the data, for example, that trade figures from other SADC countries, especially Zimbabwe are not available, has some bearing on these results. Zimbabwe is South Africa's major traditional regional trading partner and its trade figures' absence in the data should be expected to have some effect. However, it should be appreciated that over the past few years, Zimbabwe's exports, both to the region and the rest of the world have decreased significantly, such that the picture shown by the available statistics from other SADC countries should be roughly indicative of the value of South Africa's imports from the region.

Table 3: SADC Imports During 2000–2004 (US\$ million)

	2000		2002		2004	
	Intra-SADC	World	Intra-SADC	World	Intra-SADC	World
Angola	– (–)	– (–)	– (–)	– (–)	– (–)	– (–)
Botswana	1 517 (22.8)	1 871 (4.9)	1 990 (28.5)	2 384 (6.2)	2 848 (31.5)	3 346 (5.3)
DRC	– (–)	– (–)	– (–)	– (–)	– (–)	– (–)
Lesotho	531 (8.0)	613 (1.6)	616 (8.8)	792 (2.1)	– (–)	– (–)
Madagascar	– (–)	– (–)	– (–)	– (–)	– (–)	– (–)
Malawi	291 (4.4)	545 (1.4)	399 (5.7)	696 (1.8)	529 (5.9)	925 (1.5)
Mauritius	330 (5.0)	2 092 (5.5)	298 (4.3)	2 156 (5.6)	346 (3.8)	2 784 (4.4)
Mozambique	475 (7.1)	1 160 (3.0)	356 (5.1)	1 263 (3.3)	1 015 (11.2)	2 035 (3.2)
Namibia	1 244 (18.7)	1 428 (3.7)	1 008 (14.4)	1 289 (3.3)	– (–)	– (–)
South Africa	359 (5.4)	27 050 (70.5)	533 (7.6)	26 221 (68.0)	1 178 (13.0)	47 774 (75.7)
Swaziland	1 036 (15.5)	1 105 (2.9)	856 (12.2)	996 (2.6)	1 636 (18.1)	1 789 (2.8)
Tanzania	289 (4.3)	1 630 (4.2)	208 (3.0)	1 646 (4.3)	360 (4.0)	2 427 (3.8)
Zambia	594 (8.9)	864 (2.3)	726 (10.4)	1 095 (2.8)	1 127 (12.5)	2 020 (3.2)
Zimbabwe	– (–)	– (–)	– (–)	– (–)	– (–)	– (–)
Total	6 666 (100)	38 357 (100)	6 989 (100)	38 538 (100)	9 039 (100)	63 099 (100)
Excl. RSA	6 307 (94.6)	11 307 (29.5)	6 457 (92.4)	12 317 (32.0)	7 861 (87.0)	15 324 (24.3)

Source: TIPS.

Note: The figures in parenthesis are the proportions of the totals

Table 4, below, shows the proportion of SADC countries' imports that are sourced from the region. The picture portrayed implies that apart from Mauritius, South Africa and Tanzania,

most of the SADC countries source their imports from within the SADC region, and mainly from South Africa. The region accounted for an average 2% of South Africa's total imports during the period 2000–2004: the proportions for Mauritius and Tanzania are 14.0% and 14.2% respectively. Table 4 also shows the effect of the Southern African Customs Union (SACU) on regional trade and further manifests the dominance of South Africa in the whole SADC region, but more on the Botswana/Lesotho/Namibia/Swaziland (BLNS) states. All the BLNS countries have more than 80% of their imports from the SADC region; almost their entire imports are from South Africa.

Table 4: Intra-SADC Imports as a Proportion of Total Imports (2000–2004)

	2000	2001	2002	2003	2004	Average
Botswana	81.1	80.9	83.5	88.3	85.1	83.8
Lesotho	86.7	97.0	77.7	82.6	N/A	86.0
Malawi	53.5	57.1	57.3	57.5	57.2	56.5
Mauritius	15.8	14.8	13.8	13.2	12.4	14.0
Mozambique	41.0	35.1	28.2	39.5	49.9	38.7
Namibia	87.1	86.2	78.2	82.4	N/A	83.5
South Africa	1.3	2.0	2.0	2.2	2.5	2.0
Swaziland	93.8	86.2	86.0	87.6	91.5	89.0
Tanzania	17.7	12.2	12.6	13.5	14.8	14.2
Zambia	68.8	67.6	66.3	65.8	55.8	64.9

Source: TIPS.

There are a number of observations that emerge from the foregoing. On the whole intra-SADC trade grew during the period 2000–2004. However, there are a few other observations that need to be brought out. Firstly, the higher average growth rate of total trade within the SADC region during the period was against the backdrop of increased overall growth in trade by SADC countries with the rest of the world. While intra-SADC trade increased by about 10%, total SADC trade increased by 13% during the same period. The increase in intra-SADC trade during the period cannot be wholly attributed to the impact of the liberalization process. Factors that accounted for the overall growth in trade, which are most probably independent of the implementation of the SADC Trade Protocol might also explain the growth in intra-SADC trade.

Secondly, the growth in intra-SADC trade was not coupled with any significant change in the structure of the member states' trading patterns. The individual SADC countries' regional trading partners have remained more or less the same, and this shows that the established trading relationships with the developed countries, and to some extent with South Africa in the region, may have been maintained despite the SADC Trade Protocol. Recognising that liberalization is delayed on finished products that SADC countries sourced mostly from the developed countries, it might take much more time before the full effect of the protocol can be realised.

Thirdly, there is a marked lack of diversification of the basket of the goods that are traded within the SADC region, which shows that the SADC countries continue to depend on sources of imports outside the region and continue to supply markets outside the region. This also

brings to question the extent to which the implementation of the Trade Protocol has been achieved, especially on tariff reduction on the intermediate (category B) products.

While the trade flows would be indicative of the state of implementation of the trade protocol, it is somewhat an indirect assessment, as the protocol is still being implemented. The impact of the implementation of the protocol should be expected to take effect with a lag, so the change in the trade patterns takes some time to be realised. It is possible, however, that the observed increase in trade within the region could still be accounted for in part by the implementation of the trade protocol, if the effects of data flaws are not significant.

Observations from the Past Reviews of the Protocol

The year 2004 was the mid-point of the implementation of the SADC Trade Protocol. It was necessary to take stock of what had been achieved during the four years of implementation and to gauge the likely momentum during the remaining four years to 2008, when the SADC FTA is supposed to be launched. Both commissioned and non-commissioned research work was undertaken to assess the implementation of the trade protocol. Work undertaken by The Services Group (2004) covered both the tariff phase down implementation and elimination of NTBs. Further work by Brenton, Flatters and Kalenga (2005) and Kalenga (2004) focussed on Rules of Origin, while Imani Development Austral (2004) produced a synthesis report on NTBs in the SADC region.

Implementation of the Tariff Phase Down Schedules

Based on the principle of asymmetry, it is observed that the original offers vary across countries and products according to the individual countries' concerns to be accorded 'policy space'. The adjustment costs that were taken into account mainly included the loss of tariff revenue collections and falling away of protection to domestic industries that are considered to be of national importance but vulnerable to external competition that would result from regional integration. In the light of this, member states were to be accorded tariff phase-down schedules according to their level of development, such that the least developed countries were to be allowed to offer longer phase-down schedules.

An assessment of the tariff phase-down schedule against intra-SADC trade, however, might reveal the failure by the member states to successfully liberalise 'substantially all trade', that is 85% of intra-SADC trade (measured by trade values), by 2008. The reason would be that it is generally the most traded goods whose tariff liberalization would be delayed according to the offers. It is feared that the application of SADC's highly restrictive rules of origin and the introduction of periodic import bans, imposition of additional import levies and other forms of import controls will further result in less intra-regional trade being liberalised by 2008.

While the offers in their original form would not seem to make possible liberalization of a substantial proportion of intra-SADC trade by 2008, this is further compounded by failure of some member states to implement their tariff offers. In addition, as mentioned above, the continued use of restrictive rules of origin and NTBs are likely to further make it difficult to achieve the intended objectives of the protocol. An assessment by The Services Group (2004) is that in 2004, only Mauritius, Mozambique and the SACU countries were on schedule with respect to their tariff reduction schedules; Tanzania was said to be slightly behind schedule and Malawi, Zambia and Zimbabwe were significantly behind in implementing their schedules. Malawi and

Zambia raised the government revenue constraints as the reason for non implementation. We analyse the offers and their implementation in subsequent sections of this paper.

Implementation of Rules of Origin

The purpose of the rules of origin is authentication in order to ensure that countries that are not signatories of the FTA do not enjoy the preferences offered by the agreement. However, if they are too restrictive they can have the effect of retarding intra-regional trade (within the FTA) by making it difficult for the member states to source raw materials for production. Different authors use, among other terms, 'complex, restrictive, cumbersome and, costly' to describe the SADC rules of origin (Brenton, Flatters and Kalenga, 2005; Brenton, Flatters and Kalenga, 2004; Erasmus, Flatters and Kirk, 2004; Kalenga, 2004). It is clear from the literature that rules of origin have become contentious and will play a significant role in negatively affecting the implementation of the SADC Trade Protocol. The original rules of origin, which were less restrictive and less complex are said to have been replaced by the current set of rules, which are product-specific.³ These rules of origin are said to be similar to the rules applied by the EU on ACP countries under the Cotonou Agreement. Ironically, the ACP countries, of which SADC member states are part, have repeatedly complained about the restrictiveness of the same rules of origin and their negative impact on the achievement of the intended objectives of the Cotonou Agreement.

The implementation of the rules of origin is governed by the same rules that apply to the implementation of the tariff phase down schedules. Member states are required to gazette the SADC rules of origin and subsequently implement them. During the mid-term review in 2004, there were some reports of failure by member states to gazette the rules of origin. Some member states, which had not gazetted the rules of origin, were claiming to be implementing the same. The other required procedures are that the member states should notify the SADC Secretariat of the names of institutions authorised to issue Certificates of Origin as well as specimen signatures of officials authorised to sign the certificates and the impression of official stamps to be used for that purpose (see paragraph 6 of Rule 10 of Annex 1 in the Trade Protocol).

In recognition of the restrictiveness of the SADC rules of origin and the increasing need to make them as trade promoting as possible, the SADC member states have undertaken to review them. The review process is ongoing and it is hoped that the outcome will be a set of rules of origin that is suited for the region taking into account the level of development of most of the member states. The member states, it would seem, have appreciated the negative impact of the current rules of origin that are highly restrictive and practically cumbersome to implement. It would be logical that member states agitate for the reinstatement of the original set of the rules of origin.

Review of Implementation of Tariff Reduction Schedules

In this section, we address the implementation of the tariff reduction schedules by the member states.

In 2000, when the Protocol on Trade came into effect, 11 member states (the five SACU countries, plus Malawi, Mauritius, Mozambique, Tanzania, Zambia and Zimbabwe) were already signatories to it. Angola did not accede to the protocol and is still to submit its tariff offers. The DRC did not accede to the protocol, has not yet acceded and thus has not submitted offers. Madagascar only joined SADC in 2005 but has already submitted offers for consideration.

The data used in the analysis of the implementation of the tariff phase down were obtained from the SADC Secretariat. The failure to obtain the most recent schedules in some cases has dictated that the available 2005 schedules be used instead. Even so, these were only available for the SACU countries, Madagascar, Mozambique, Tanzania and Zimbabwe. These serious gaps in data have made it impossible to do a comprehensive analysis for all the SADC countries in order to ascertain implementation of the Trade Protocol according to the tariff reduction schedules of 2000. We have undertaken to proceed with the analysis for countries whose data were available, which makes the results somewhat inconclusive, until data gaps are eliminated and the analysis repeated.

General Overview of the Offers

The most favoured nation (MFN) tariff schedules show that SADC countries were at significantly varying levels of liberalization in 2000 when the Trade Protocol came into force. According to Table 5, the SACU countries, Mauritius and Zambia had substantially higher proportions of duty-free tariff lines. For Madagascar, Malawi, Mozambique, Tanzania and Zimbabwe the duty-free tariff lines made up less than 5% of their tariff lines. When looking at the simple average ad valorem tariff rate, however, SACU was significantly ahead in liberalization, with a simple ad valorem average of only 7%, compared to over 13% for the other countries. Also worth noting is the structure of the tariff schedules. SACU has a significant number of non-ad valorem tariff lines, which makes it problematic to analyse the tariff lines without first estimating the ad valorem equivalents. This might have had an effect by portraying a lower simple average for SACU because only the ad valorem tariff lines would be used to generate the averages.

The SADC member states made their Trade Protocol tariff offers using the 1996 Harmonization schedule (HS) 8 tariff schedules. The tariff offers were asymmetrical, with less developed coun-

Table 5: Status of SADC Countries' Tariffs Prior to the SADC Trade Protocol Commitments and the Categorization of the Tariff Offers, 2000

	No. of Tariff Lines	%				% Non-Ad valorem		% Duty Simple	
		Cat. A	Cat. B	Cat. C	Cat. E	Free	Ave.	Max AV.	
SACU	7802	63.3	35.9	0.4	0.4	25.5	42.2	7.2	55.0
Malawi	5443	33.4	51.9	14.3	0.6	0.0	2.4	16.0	30.0
Madagascar	6162	83.1	3.0	13.3	0.6	0.3	1.6	13.7	20.0
Mauritius	5479	69.4	21.1	9.5	0.0	0.0	27.5	24.4	80.0
Mozambique	5246	30.1	63.9	5.7	0.3	0.0	1.3	15.9	35.0
Tanzania	6215	17.5	68.8	13.0	0.7	0.0	0.4	23.8	30.0
Zambia	6066	54.2	41.7	4.1	0.0	0.0	20.9	14.0	25.0
Zimbabwe	7167	30.6	62.4	5.7	1.2	1.1	4.8	20.1	100.0

Source: SADC Secretariat

Notes:

- The variables were computed inclusive of the category E tariffs
- Tariff phase down commitments were made based on 1996 HS 8 tariff schedules.
- Madagascar made offers in 2006 and was due to start implementation in November 2006.
- The schedule for Tanzania does not show the MFN tariffs that precede the 2000 commitments. The tariffs begin with 2001. It is assumed that the tariffs reported in 2001 were the MFN tariffs

tries being allowed longer periods to eliminate tariffs. The tariff lines are divided into four categories; A, B, C and E. Category A comprises products whose MFN tariffs were already zero or were significantly low at the time the offers were made. The significantly low MFN tariffs on products of this category were to be eliminated immediately and the ones that were already zero maintained as such. Most of the products in category A are raw materials and other inputs. Category B comprises mostly intermediate products while category C⁴ consists of 'sensitive' products, mostly finished products with the highest tariffs that countries make most tariff revenues from. These tariffs are supposed to be liberalised by 2012. Category E⁵ was supposed to cover arms and ammunition, whose tariffs were not to be liberalised.

Table 5 shows the SADC countries' tariff phase down commitments that were made in 2000.⁶ According to the commitments, countries would have liberalised immediately varying proportions of their tariff lines. Mauritius and SACU countries would have liberalised 69.4% and 63.3% of their tariff lines, respectively, and Zambia would have liberalised 54.2%. Malawi, Mozambique and Zimbabwe would have liberalised just over 30% of their tariff lines. Madagascar would immediately liberalise a substantial proportion (83.1%) of tariff lines in November 2006.

The countries whose liberalization schedules were less ambitious were faced with having to implement tariff elimination for more tariff lines (category B tariff lines) over the 8-year period between 2000 and 2008. Malawi, Mozambique, Tanzania and Zimbabwe have to liberalise over 50% of their tariff lines over the 8-year period while the SACU countries and Mauritius have to eliminate about 36% and 21% over the same period. By 2008, all the countries that made commitments under the Trade Protocol are expected to have liberalised over 85% of their tariff lines.⁷ The SACU countries, Mauritius, Mozambique, Zambia and Zimbabwe should have liberalised more than 90% (categories A + B) of their tariff schedules. Madagascar, Malawi and Tanzania should have liberalised over 85% of their tariff lines.

Based on the tariff reduction offers, the simple averages of the ad valorem tariffs during 2000–2012 are shown in Table 6. These show the level of ambition of individual member states' liberalization of tariffs. However, it should be noted that the averages may be influenced by the structures of the member states' MFN tariff schedules prior to the beginning of the liberalization process as well as the categorization of the tariff offers at the time the offers were made in 2000. As a result, member states which had generally higher tariffs in their MFN schedules are likely to depict higher simple averages, especially during the earlier years of liberalization. Also,

Table 6: Simple Average Ad Valorem Tariffs According to the Tariff Phase Down Schedules

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
SACU	6.9	5.3	3.7	2.8	1.6	0.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Madagascar	N/A	N/A	N/A	N/A	N/A	N/A	13.7	2.6	2.6	1.2	0.6	0.0	0.0
Malawi	N/A	12.5	12.5	9.6	7.6	5.4	4.2	2.9	2.9	2.0	1.5	0.9	0.0
Mauritius	14.4	12.5	10.6	8.7	6.9	5.0	5.0	5.0	4.0	3.0	2.0	1.0	0.0
Mozambique	N/A	12.4	12.4	10.7	10.7	10.7	9.1	5.1	1.0	0.7	0.5	0.3	0.0
Tanzania	N/A	19.5	19.5	16.4	13.7	10.6	7.9	6.2	2.6	1.9	1.3	0.6	0.0
Zambia	N/A	9.5	8.3	6.3	5.1	3.0	0.9	0.9	0.9	0.6	0.4	0.2	0.0
Zimbabwe	N/A	16.0	13.6	10.3	7.7	5.7	4.3	3.0	1.5	1.0	0.6	0.3	0.0

Source: SADC Secretariat and authors' calculations

Note: Category E Tariffs were excluded when computing these simple averages

countries whose liberalization schedules were highly back-loaded would depict higher simple average tariff rates over a longer period towards full liberalization.

It is important to note that the extent of liberalization of the tariff schedules as depicted by the downward progression of the simple averages will not necessarily translate into subsequent liberalization of intra-SADC trade. The products that are mostly traded would in some cases still be subjected to higher tariffs, depending on the categorization of the offers by individual member states. This in some cases is further compounded by failure by some member states to honour their obligations in terms of lack of or delayed implementation.

'Sensitivity' and Category C Offers

According to the Trade Protocol, offers classified under category C were to include 'sensitive' products that were to be liberalised at a slower pace in order to grant the member states the necessary and required policy space. Looking at the offers, it shows that there was no imposed 'yardstick' *per se* to regulate what could be in category C. The expectation is that products that should be in category C should include those that needed some protection from external competition and those from which the concerned member states obtained most of their tariff revenue.

One feature that is worth mentioning is the varying sizes and contents of category C across the member states (see Table 7). For some countries, their category C is proportionately huge while for others it is very small. Some have a whole range of HS chapters included in this category while others have very few products included. SACU has only 31 products (0.4% of the entire tariff schedule) and all the products are from Chapter 87 of the HS, which includes vehicles and their parts and accessories. On the other hand, Madagascar has 819 products (13.3% of its entire tariff schedule); Tanzania has 810 products, which make 13% of its tariff schedule. Malawi, Mauritius, and Zambia have 719, 520, and 251 products, which translate to 14.3%, 9.5%, and 4.1% respectively of their offers in category C while Mozambique and Zimbabwe both have 5.7% of their tariff offers classified under category C.

An analysis of the products for which countries would want to delay liberalization would suggest that agriculture and textiles and clothing are very important to most SADC countries' economies. When cotton is included, Madagascar, Malawi and Mozambique have agricultural products making significant proportions of their category C list. Textiles and clothing products are more important for Tanzania and Zambia. SACU countries, Mauritius and Zimbabwe are exceptions. SACU countries have offered to delay liberalization on only few products and their list excludes agricultural and textiles and clothing products, but only covers 31 products, which are parts and accessories for vehicles. Mauritius' list of category C is also quite different: only about 22% of the products are agricultural and the rest of the products' list is very diverse, covering mostly finished products. Zimbabwe's category C consist of 20% of agricultural products and 47% of base metals and their related products and the rest of the products are diverse and are mostly finished products.

The sizes of category C across countries are an indication of the pace of liberalization, especially after 2008, towards the achievement of a customs union.⁸ The big sizes of category C for some countries also imply the extent of diversity of the tariff structures of the SADC countries, which will exist beyond 2010 when a customs union is launched.

Table 7: HS Chapters Included in Category C of the Tariff Offers

Country	# of products and HS Chapters Included	Comments
SACU	<ul style="list-style-type: none"> • 31 products (0.4% of the tariff schedule) • Chapter 87 	<ul style="list-style-type: none"> • Only 31 products from one chapter (Chapter 87). All the products are parts and accessories for vehicles.
Madagascar	<ul style="list-style-type: none"> • 819 products (13.3% of the tariff schedule) • 01–04; 06–13; 15–22; 24–25; 33–36; 39; 46; 48; 52; 63–64; 71; 73; 76; 79; 85; 87; 93–94; 96–98 	<ul style="list-style-type: none"> • Covers a wide range of products including agricultural products, raw materials, equipment and finished products. Over 50% of the product lines are agricultural. Other products include minerals, products, chemical products, plastic and rubber products, vehicles, electrical machinery and equipment, equipment components and furniture.
Malawi	<ul style="list-style-type: none"> • 719 products (14.3% of the tariff schedule) • 01–24; 27; 36; 41–42; 48; 52; 60–61; 63; 73; 87 	<ul style="list-style-type: none"> • A wide range of products are included, covering agricultural products, raw materials, and finished products. Over 75% of the tariff lines cover agricultural products. Other products include mineral fuels and related products, paper and paper products, fabrics, clothing, steel products and vehicles.
Mauritius	<ul style="list-style-type: none"> • 520 products (9.5% of the tariff schedule) • 02; 04; 08–09; 11; 15–25; 31–36; 38–40; 42–44; 46; 48–49; 56–57; 61–64; 66–68; 70–73; 76; 82–85; 87; 89–90; 94–96 	<ul style="list-style-type: none"> • Covers a wide range of products including agricultural products, intermediate inputs and finished products. Only about 22% products are agricultural. Other products include chemical products, plastic and rubber products, paper and related paper products, textiles and clothing, footwear, products of stone, ceramic, glass etc, precious stones, pearls, jewellery etc, base metals and their articles thereof, machinery and equipment, including vehicles.
Mozambique	<ul style="list-style-type: none"> • 299 products (5.7% of the tariff schedule) • 02; 04; 07–08; 10–11; 15–17; 19–20; 22–25; 27–28; 32; 34; 39–40; 48; 52; 63; 68; 70; 72–73; 76; 79; 83–85; 87; 94 	<ul style="list-style-type: none"> • Covers a wide range of products including agricultural products, raw materials, equipment and finished products. Over 30% of the tariff lines are agricultural. Other products include cotton, which accounts for about 25%; some chemical products, plastic and rubber products, textiles, base metals and their related products and machinery, equipment etc. including vehicles.
Tanzania	<ul style="list-style-type: none"> • 810 products (13% of the tariff schedule) • 04; 06–11; 15; 17; 19–25; 34; 36; 39; 40; 48; 52; 54; 55; 58; 59; 61–63; 70; 72; 73; 85; 87; 96 	<ul style="list-style-type: none"> • Covers a wide range of products including agricultural products, raw materials (especially for textiles and clothing), finished products (mostly textiles and clothing). Over 60% are inputs for textiles and clothing and finished products of textiles and clothing; when cotton (chapter 52 is included this proportion exceeds 70%.

Table 7 (continued)

Country	# of products and HS Chapters Included	Comments
Zambia	<ul style="list-style-type: none"> • 251 products (4.1% of the tariff schedule) • 02; 04; 07; 09; 11; 17; 25; 27; 36; 48; 61–64; 87; 96 	<ul style="list-style-type: none"> • Includes a few agricultural products, cement, mineral fuels, garments and footwear and vehicles. About 64% of the tariff lines are for clothing, apparel and footwear. Agricultural products account for only 11% of the tariff lines. Other products are mineral products, including mineral fuels, vehicles and some products of base metals.
Zimbabwe	<ul style="list-style-type: none"> • 410 products (5.7% of the tariff schedule) • 07; 11; 19; 22; 24; 27; 30; 36; 38; 48–49; 69; 71; 73; 76; 82; 84–85; 87–89 	<ul style="list-style-type: none"> • Covers a wide range of products including agricultural products, raw materials, equipment and finished products. Products of base metals, particularly those of iron and steel make up 47% of the tariff lines. Agricultural products make only 20% of the tariff lines. Other products include pharmaceuticals, mechanical appliances, electrical equipment, vehicles and boats.

Source: SADC Secretariat

The products in category C are likely to be accounting for the bulk of trade in the member states, thus significant proportions of trade would only start being liberalised after 2008 and full liberalization will only be expected in 2012. Failure by some member states to fully implement their tariff reduction offers according to the set schedules could cast doubts on whether the timeliness for full liberalization in 2012 will be achieved.

Exceptions to the Protocol under Category E in the Offers

According to the nature of the tariff offers, category E was supposed to include goods that should be exempted from liberalization based on the provisions of Articles 9 and 10 of the Trade Protocol (SADC Secretariat, 1996). Such goods would include firearms and ammunition and will not be subjected to any tariff reduction schedule (see Chipeta, 2006; The Services Group, 2004; Kalenga, 2004). Accordingly, therefore, the goods that were to make up category E would include those of Chapter 93 in the HS codes, which is 'arms and ammunition; parts and accessories thereof'. Article 9, however, is broader and would include other exceptions apart from arms and ammunition and perhaps this could explain the inclusion of some diverse products under category E by some member states (see Annex 2).

All the member states have listed very few products under category E. While the numbers of products listed under this category are generally low and negligible, it is important to underscore the principle governing product lists that are supposed to be found in category E. Category E was to include arms and ammunition and their related accessories, which by definition would be products of Chapter 93 of the HS schedule. Contrarily, the following are observed concerning the offers under this category across the member states:

- Some countries did not include Chapter 93 in their original offers schedules altogether and did not have category E in their offers (Malawi and Zambia).

- Some countries listed Chapter 93 under other categories (SACU countries, Madagascar and Mauritius).
- Some member states listed other products other than those of Chapter 93 under category E, effectively excluding them from tariff liberalization (SACU countries, Mozambique and Zimbabwe). Zimbabwe in particular has 62 tariff lines included in category E. The SACU countries have 31 and Mozambique has only 2 such tariff lines.

The above heterogeneity in the listing of category E suggests the need for uniformity. It would appear that there may not be a common understanding of the purpose that category E was intended to serve as there does not seem to be any particular reason why some countries would not offer motor vehicles (in case of Zimbabwe) or equipment components for automobiles (in case of the SACU countries) for liberalization.

(Non-)Implementation of the Tariff Reduction Schedules

The (non-)implementation of the tariff reduction schedules is a very crucial issue in this paper but whose analysis is highly hampered by the serious unavailability of the latest tariff reduction schedules for the individual member states. The latest tariff schedules were available for SACU, which has five members, and three other countries, Mozambique, Tanzania and Zimbabwe. In the analysis, based on such limited data, it needs to be acknowledged that no conclusive picture will be possible without the availability of the complete data.

Table 8: Comparison of 2005 Tariff Offers with the 2005 Schedules

	No. of Tariff Lines		% Non-Ad valorem		% Duty Free		Simple Average		Max AV.	
	2005 Offer	2005 Schedule	2005 Offer	2005 Schedule	2005 Offer	2005 Schedule	2005 Offer	2005 Schedule	2005 Offer	2005 Schedule
SACU	7802	6955	0.4	0.1	94.7	94.8	0.5	0.5	20.0	27.0
Malawi	5443	N/A	0.0	N/A	33.4	N/A	5.4	N/A	30.0	N/A
Mauritius	5479	N/A	0.0	N/A	90.5	N/A	5.0	N/A	80.0	N/A
Mozambique	5246	5369	0.0	0.0	30.0	30.2	10.7	10.8	25.0	25.0
Tanzania	5619	5333	0.0	0.0	40.6	39.8	10.0	9.6	30.0	25.0
Zambia	6066	N/A	0.0	N/A	54.2	N/A	3.0	N/A	25.0	N/A
Zimbabwe	7167	5979	0.4	0.5	72.2	60.9	5.7	6.5	100.0	100.0

Source: SADC Secretariat; TIPS; Government of Zimbabwe

Note: Zimbabwe's latest tariff schedule is for 2006 and analysis for Zimbabwe is based on this schedule vis-à-vis her 2006 offers

SACU's Implementation of Tariff Liberalization

The 2005 SACU tariff schedule differs with the 2005 offers as submitted in 2000. Firstly, notably, the number of HS 8 tariff lines has been reduced from 7,802 to 6,955. This difference can be explained in part by the change of the tariff schedule from use of HS 1996 to HS 2002. For

instance, the products that fall under 4101 would consist of 21 sub categories at HS 6, but consists of only 3 sub categories under the HS 2002 version (World Customs Organization, 2004). Secondly, the proportion of non-ad valorem tariff lines to the total tariff lines has been reduced from 0.4% to 0.1%. It is interesting to note that some of the products, which in the 2005 offers were in category E and their tariffs were non-ad valorem in 2005 had ad valorem tariffs thus reducing the proportion of non-ad valorem tariffs in the schedule. This is a welcome development in that it makes working with the tariff schedule easier.

On the whole, SACU has stayed on course in terms of implementation of the tariff liberalization according to the tariff offers submitted in 2000. Looking at the simple averages and the proportion of duty free tariff lines to total tariff lines, one would conclude that SACU has managed to implement the tariff phase down process according to the schedule it set in 2000. However, in 2005 the maximum ad valorem was 27% against the expected 20%. This resulted from the inclusion in the schedule of some products which were originally in category E in the offers. These products (9 in total) were subjected to tariff reduction and attracted 27% duty. The same scenario applies to sugar and sugar confectionery products, which in the 2005 offers were in category E, attracted non-ad valorem tariff rates and not subjected to tariff reduction. In 2005, some of these products had their tariffs converted to ad valorem tariffs and subjected to tariff liberalization, with some of them (12 in number) already fully liberalised.

Mozambique and Tanzania's implementation of Tariff Liberalization

The number of tariff lines for Tanzania has changed from 5,619 at the time of the offer to 5,333 in 2005. The explanation for SACU's reduction in number of tariff lines would apply. When the tariff offers were submitted in 2000, Mozambique had 5,246 but the number had increased to 5,369 in the 2005 schedule. The opposite of the explanation for the decrease in the number of tariff lines in the SACU tariff schedule could be true for Mozambique. The change from HS 1996 does not only lead to the deletion of tariff lines but in some cases to the creation of new tariff lines or expansion of the already existing ones. Mozambique has maintained her ad valorem tariff lines and this makes it easier to analyse the tariff schedule.

Looking at all the variables used to assess implementation of the tariff reduction schedule (proportion of duty free tariff lines to total tariff lines, simple average tariff rate, and maximum ad valorem tariff rate), Mozambique and Tanzania have successfully implemented the schedule according to their 2005 offers (see Table 8).

Zimbabwe's Implementation of Tariff Liberalization

Zimbabwe had the number of tariff lines being reduced in the 2006 tariff schedule compared to the offers (see Table 8). The explanation for the SACU schedule concerning the change from use of HS 1996 to HS 2002 would also hold for Zimbabwe. The proportion of non-ad valorem tariff lines to total tariffs has increased from 0.4% in the 2006 offers to 0.5% in the 2006 tariff schedule. This is however a negligible difference, and may be explained in part by the significant reduction of the total number of tariff lines.

Generally, Zimbabwe has not successfully implemented the tariff reduction schedule. According to the 2005 offers, the proportion of duty free tariff lines to total tariff lines should have been 72.2% but Zimbabwe had managed only 60.9%. The simple average tariff rate should

have gone down to 5.7% in 2006, but was still 6.5%. In order to find out the reasons for non-implementation of the tariff reduction schedule, it is important to do some sectoral tariff analysis in order to establish the tariff lines that were not liberalised. Table A3 shows the sectoral analysis and may establish the sectors that have not yet liberalised according to the tariff offers. Except for tobacco, when assessed against the variables in Annex 3, all the sectors considered have somehow not liberalised according to the offers.

Assessment of the Implementation of Tariff Liberalization

From the foregoing, in the absence of the current schedules for other countries (Malawi, Mauritius and Zambia), it is not possible to do an analysis on the assessment of these countries' implementation of the schedules. Based on the analysis done on the schedules for SACU countries, Mozambique, Tanzania and Zimbabwe, we can observe that, except for Zimbabwe, the implementation of the tariff liberalization is satisfactory. The previous assessment by The Services Group (2004) concluded that Mauritius was also on schedule in terms of implementation. Malawi, Zambia and Zimbabwe, according to The Services Group (2004), were significantly behind their schedules in 2004. There is no indication in the literature that Malawi and Zambia have gone back on track on implementation and in this analysis, Zimbabwe is still behind schedule. Unless the three countries are persuaded to get back on track in implementation, they pose a negative impact on the progress towards the establishment of a SADC FTA in 2008 and the subsequent milestones in the following years.

(Non-)Implementation of Elimination of Non-Tariff Barriers

This section reviews NTBs in SADC. The review is intended to gauge progress made on the elimination of non-tariff barriers and identify constraints and reform areas to ensure the SADC trade liberalization process stays on course. The review is based on two prior reports by The Services Group (2004) and Imani Development Austral (2004) supplemented by information from the WTOs Trade Policy Reviews (TPRs) for member countries. The TPRs are not as periodic as would be desirable, so that the information obtained is potentially outdated to be relevant and do not necessarily have a regional focus. These restrictive information sources therefore are sources of limitations for the review.

NTBs are defined as all measures that restrict international trade. These include government legislation, regulations, requirements, policies, conditions, restrictions, prohibitions, etc. Reasons for imposing non-tariff barriers vary from country to country, but often range from the need to protect domestic industries from foreign competition to the need to ensure the safety of citizens. Despite their widespread use, they could be perceived to be increasing as tariff barriers decline, which raises a concern that they should be eliminated because they have an adverse impact on trade.

SADC's commitment to eliminate non-tariff barriers is reflected in Articles 6, 7 and 8 of the Trade Protocol. The Trade Protocol recognises the role that NTBs can play in impeding intra-regional trade. Article 6 of the Protocol commits the member states to "adopt policies and implement measures to eliminate all existing forms of NTBs" and "refrain from imposing any new NTBs". However, besides the commitments in the Trade Protocol, the SADC member states have not put in place any modalities to kick start the process of implementing the elimination (or reduction) of NTBs.

Overview of SADC Countries' General NTBs Profiles⁹

Imani Development Austral (2004), posits that NTBs in the SADC region have over the years been significantly reduced, such that they "...have become considerably less identifiable...". It is, however, acknowledged that NTBs of whatever form, ranging from administrative requirements to inefficiencies of bureaucrats and lack of transparency on procedures, can seriously hamper international trade. Perhaps most of the NTBs identified in the SADC region are of this nature. It is in the nature of countries to institute NTBs as the tariffs are progressively eliminated in order to maintain some form of protection. The Services Group (2004), assert that the SADC region is no exception to this trend.

Although the SADC Trade Protocol commits member states to put in place measures to eliminate existing NTBs, most countries have not started to eliminate these barriers. It appears there is a lack of harmonization in various trade procedures in the following areas: registration and documentation requirements; levies, taxes and charges, and; sanitary and phytosanitary (SPS) measures and other internationally recognised standards as well as licensing procedures. Imports of certain products (especially agricultural products) still face serious restrictions (or prohibitions) and these are imposed mainly for protection purposes. Other obstacles include: complicated or cumbersome visa requirements; poor infrastructure; and high transit fees and other transaction costs in some member states. These NTBs impinge on intra-SADC trade by imposing unnecessary costs on business and consumers and hence distorting regional trade. Some countries have, however, taken a step towards liberalization by taking the following measures: eliminating or gradually reducing the implementation of pre-shipment inspection (PSI); automation of customs procedures through the adoption of the Automated System for Customs Data and Management (ASYCUDA); harmonization of customs procedures through the use of a single administrative document; and the adoption of Brussels definition of Value¹⁰. The adoption of these measures would lead to desirable developments such as an increase in the volume of intra-SADC trade and better regional harmonization.

Conclusions

The SADC Trade Protocol has been in force since 2000. The past reviews of the Protocol, though casting some doubts on the success of implementation, report some progress, although some member states show some sluggishness and in some cases complete failure to implement.

In this study, we have used, firstly, intra-SADC trade flows as a crude measure of the extent of the impact of the implementation. Though suffering from serious data problems, the results show some growth of intra-regional trade for some selected countries. For most countries, the established trading relationships with the developed countries, it would seem, still take precedence over intra-regional trade. Comparing the growth of intra-SADC trade with the overall trade by the SADC region, however, has shown that perhaps other factors than the implementation of the Trade Protocol may be credited for the somewhat improved intra-regional trade. The growth in total SADC trade overshadows the growth in intra-SADC trade, indicating that the intra-regional trade may not have been the major beneficiary of the overall improvement in trade flows. Intra-SADC trade has generally improved and we conclude that the implementation of the Trade Protocol partly accounts for such an improvement.

The analysis of the implementation of the tariff reduction schedules of the Trade Protocol, which is the crux of this study, has also been hampered by lack of current tariff schedules for Malawi, Mauritius and Zambia. For the countries for which analysis was possible, it is evident

that the SACU countries, Tanzania and Mozambique have successfully stayed on course in implementing their tariff reduction schedules.

Zimbabwe has not been as successful as the SACU countries and Tanzania and Mozambique in the implementation of her tariff reduction schedule. A look at some specific sectors shows that there are a number of products for which Zimbabwe has not been able to implement the tariff reduction schedules. Some possible reasons have been advanced for this, including the need to raise revenue. Perhaps an interaction with Zimbabwean authorities would help answer some of the questions concerning the failure by Zimbabwe to fully implement the tariff reduction schedules.

The SADC rules of origin are in some commentators' description, 'complex', 'restrictive', 'cumbersome' and 'costly'. It is noted that these rules of origin are currently under review. Given the negative impact member states have experienced from the existing rules of origin, the review would likely yield better rules of origin for the region.

The assessment of the implementation of the NTBs reveals that the common ones in the SADC region are those involving issues of administrative requirements and it is not clearly evident that other measures such as technical standards and SPS measures are being used wrongly to curtail trade. Some countries still require numerous and extensive documentation, especially for importation. Harmonization of regional customs and trade documentation procedures is crucial in dealing with this problem. While the Trade Protocol commits to achieve the cooperation in customs matters (Article 13) and simplification and harmonization of trade documentation and procedures (Annex 3), there is little progress on that front.

The difficulty to obtain up-to-date data for the region is a cause for concern and needs to be addressed as a matter of urgency. It makes it very difficult to do any meaningful assessment of the progress made on the implementation of the Trade Protocol. Measures should be put in place to avert this serious problem.

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Annex 1: Goods Traded Within SADC

Table A1: Intra SADC Goods Trade during 2000–2004 (percentage shares)

	2000		2001		2002		2003		2004	
	E	I	E	I	E	I	E	I	E	I
Animals (live) and animal products	3.4	3.2	4.3	3.1	3.5	3.0	3.6	3.0	1.5	2.6
Vegetable products	3.5	5.3	3.6	4.9	6.4	7.2	5.5	6.3	5.0	4.9
Fats and Oils (animal or vegetable)	0.9	1.1	0.7	1.1	0.7	1.2	0.7	1.1	0.6	1.0
Prepared foodstuffs; beverages; and tobacco	13.0	8.1	17.1	8.1	11.0	7.3	12.4	7.8	10.5	6.9
Mineral products	14.1	13.8	13.8	13.0	8.5	12.3	9.3	12.8	12.2	19.7
Chemical products	12.2	8.3	10.9	9.1	16.9	9.8	15.2	9.9	15.5	9.4
Plastics and Rubber	3.6	4.3	3.6	4.5	3.7	4.3	3.7	4.4	4.1	4.6
Leather products	0.2	0.2	0.3	0.2	0.5	0.2	0.2	0.2	0.1	0.2
Wood products	0.9	1.5	0.9	1.8	0.8	1.4	0.9	1.5	1.1	1.3
Paper products	6.5	5.0	4.9	5.0	4.3	3.9	5.8	4.8	4.7	5.1
Textile products	5.2	5.5	6.3	5.4	7.1	5.5	8.3	5.1	8.0	5.1
Footwear; headgear; and umbrellas	0.9	1.1	1.0	1.1	0.8	1.1	0.5	1.1	0.2	0.8
Stone; cement; and glass products	0.9	1.9	0.9	1.8	1.0	1.8	0.9	1.8	0.8	1.3
Pearls and precious stones	1.7	0.3	1.4	0.8	3.1	0.5	1.3	0.6	1.8	0.6
Metal products	11.9	8.6	10.4	8.6	11.6	9.7	11.7	8.5	14.2	9.7
Machinery	12.2	15.8	10.8	15.6	10.2	15.2	10.8	15.9	11.6	13.8
Vehicles; aircraft; and vessels	6.1	10.9	6.3	10.8	7.5	11.2	6.6	9.8	6.0	9.3
Photographic; clocks; and musical instruments	0.7	1.1	0.7	1.3	0.7	1.2	0.7	1.2	0.8	1.5
Arms and ammunition	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.0
Furniture; toys; etc	1.4	2.5	1.5	2.4	1.5	2.3	1.7	2.4	1.3	1.8
Works of art and antiques	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.2	0.0	0.0
Commodities n.e.s.	0.7	1.4	0.6	1.4	0.2	0.9	0.2	1.5	0.2	0.4

Source: TIPS.

Note: E = Export, I = Import

Annex 2: Products Included/Excluded from Category E

Table A2: Goods included/excluded from Category E

Country	Features of category E	Comment
SACU	<ul style="list-style-type: none"> • 5 tariff lines of 6309 (second hand clothing and textiles) • 17 tariff lines of Chapter 17 (sugar and sugar confectionary) • 9 tariff lines of Chapter 98 (original equipment components for automobiles) 	<ul style="list-style-type: none"> • The list is unrelated to the provisions of Articles 9 & 10 • Chapter 93 (arms and ammunition) is listed in the schedule under categories A and B and subjected to tariff reduction schedule for full liberalization in 2004
Madagascar	<ul style="list-style-type: none"> • Category E is not listed in the tariff schedule • The schedule lists 17 tariff lines of Chapter 93 (arms and ammunition) under category C, which are subjected to the tariff reduction schedule and will be fully liberalised by 2011 	<ul style="list-style-type: none"> • The tariff reduction schedule contravenes Articles 9 and 10 of the Trade Protocol by subjecting arms and ammunition to tariff liberalization
Malawi	<ul style="list-style-type: none"> • Category E is not listed in the tariff schedule • Chapter 93 is not in the schedule 	<ul style="list-style-type: none"> • There exists an element of lack of transparency in the schedule
Mauritius	<ul style="list-style-type: none"> • Category E is not listed in the tariff schedule • The schedule lists 17 tariff lines of Chapter 93 (arms and ammunition) under category B, which were subjected to the tariff reduction schedule and will be fully liberalised by 2005 	<ul style="list-style-type: none"> • The tariff reduction schedule contravenes Articles 9 and 10 of the Trade Protocol by subjecting arms and ammunition to tariff liberalization
Mozambique	<ul style="list-style-type: none"> • 2 tariff lines of 0507 (ivory etc) • 17 tariff lines of Chapter 93 (arms and ammunition) 	<ul style="list-style-type: none"> • It is not clear why tariff lines of 0507 are listed under category E, but this could perhaps be covered by paragraphs e, f, h or i of Article 9 of the Protocol
Tanzania	<ul style="list-style-type: none"> • 8 tariff lines of chapter 05, including ivory, elephant tusks, hippo teeth, rhinoceros horns and tortoise shells • 1 tariff line of chapter 13 (opium) • 1 tariff line of chapter 36 (propellant powders) • 33 tariff lines of chapter 93 (arms and ammunition) 	<ul style="list-style-type: none"> • It is not clear why the 10 tariff lines other than those of chapter 93 (arms and ammunition) are included in category E
Zambia	<ul style="list-style-type: none"> • Category E is not listed in the tariff schedule • Chapter 93 is not in the schedule 	<ul style="list-style-type: none"> • The schedule could constitute existence of lack of transparency
Zimbabwe	<ul style="list-style-type: none"> • 5 tariff lines of 2710 (petroleum oils and fuel obtained from bituminous minerals) • 7 tariff lines of 2844–45 (uranium and its compounds, radioactive isotopes and heavy water) • 9 tariff lines of 4012 (used and re-treaded tyres of rubber) • 4 tariff lines of 7108 (gold and gold-related products) • 37 tariff lines of 8701–04 and 8716 (motor vehicles) • 26 tariff lines of Chapter 93 (arms and ammunition) 	<ul style="list-style-type: none"> • It is not clear why all the other tariff lines, except those of chapter 93 are listed under category E. Tariff lines of 2844–45 and 7108, however, could perhaps be covered by paragraphs e, f, h or i of Article 9 of the Protocol

Source: SADC Secretariat

Annex 3: Sectoral Tariff Analysis for Zimbabwe

Table A3: Sectoral Tariff Analysis for Zimbabwe

	# of Tariff Lines	% Category A	% Category B	% Category C	% Non-AV	Simple Average	Max. AV	% Duty Free
Tobacco								
2006 Offers	31	19.3	0.0	80.6	0.0	63.2	100.0	19.3
2006 Schedule	31	N/A	N/A	N/A	0.0	55.2	100.0	25.8
Beverages and Spirits								
2006 Offers	66	3.0	21.2	75.8	18.2	41.7	100.0	19.7
2006 Schedule	69	N/A	N/A	N/A	28.9	22.1	90.0	1.4
Sugar and Sugar Confectionery								
2006 Offers	25	0	100	0	0	1	10	92
2006 Schedule	16	N/A	N/A	N/A	0	8	25	0
Pharmaceuticals								
2006 Offers	42	54.8	9.5	35.7	0.0	7.0	20.0	64.3
2006 Schedule	39	N/A	N/A	N/A	0.0	1.3	10.0	87.2
Electric Machinery								
2006 Offers	330	18.8	73.9	7.3	0.0	3.5	30.0	80.0
2006 Schedule	296	N/A	N/A	N/A	0.0	7.5	50.0	64.2
Leather, Rubber, Footwear and Travel Goods								
2006 Offers	206	25.2	73.8	1.0	0.0	6.0	30.0	67.5
2006 Schedule	194	N/A	N/A	N/A	3.1	6.6	25.0	58.8
Non-Electric Machinery								
2006 Offers	677	54.7	40.8	4.6	0.0	1.6	30.0	91.4
2006 Schedule	573	N/A	N/A	N/A	0.0	2.5	50.0	86.9
Transport Equipment								
2006 Offers	180	42.8	47.2	10.0	0.0	2.4	30.0	90.0
2006 Schedule	154	N/A	N/A	N/A	0.0	5.1	25.0	63.6

Source: SADC Secretariat

Annex 4: Status of Non-Tariff Measures by SADC Member States

Table A4.1: Measures Affecting Imports

NTM	ANG	BOTS	LES	MAD	MAL	MAU	MOZ	NAM	RSA	SWA	TAN	ZAM
Est. Clearing Time	1 day	Few hours	2-3 days	?	2-3 days	1 hour	?	?	1 day	?	1 day	Few hours
PSI	Yes	No	No	Yes	Yes	No	Yes	No	No	No	Yes	No
ASYCUDA	Yes	Yes	No	Yes	Yes	No	No	Yes	No	No	Yes	Yes
S.A.D.	Yes	Yes	?	?	?	?	Yes	Yes	?	?	?	?
C.V.M.	BV	BV	BV	BV	TRV	TRV	BV	BV	BV	BV	BV	TRV
VAT Rate	15%	10%	14%	20%	17.5%	10%	17%	15%	14%	14%	20%	17.5%
Prohibitions & Licensing	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Sources: Trade Policy Reviews published by the WTO; (<http://www.asycuda.org/countrydb.asp>)

Notes:

- *NTM stands for Non-Tariff Measure*
- *SAD. stands for Single Administrative Document*
- *PSI stands for Pre-shipment Inspection*
- *ASYCUDA stands for Automated System for Customs Data and management*
- *CVM. stands for Customs Valuation Method*
- *BV stands for Brussels Definition of Value Method*
- *TRV stands for Transaction Value Method*
- *Mauritius has adopted TradeNet in place of ASYCUDA*

Some of the imports are not allowed altogether while others need to have permits to be imported. Most import prohibitions are on agricultural products (for SPS reasons). Other prohibited imports are for reasons of health, moral and security. Mauritius also prohibits imports of sugar, chocolate, motor vehicle spare parts and accessories etc.

Table A4.2: Measures Affecting Exports

NTM	ANG	BOT	LES	MAD	MAL	MAU	MOZ	NAM	RSA	SWA	TAN	ZAM
SAD	Yes	Yes	Yes	?	?	?	Yes	Yes	?	?	?	?
Export charges	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	No	No
Prohibitions & Licensing	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
EPZs	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Export Subsidies	No	Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes

Sources: WTO Trade Policy Reviews (various years and countries)

Notes:

- *NTM stands for Non-Tariff Measure*
- *EPZs stands for Export Processing Zones*
- *Export charges, where they are applied are on only a few products, in some cases on only one product*
- *Export Prohibitions and licensing are also on very few selected goods for specific reasons*

Notes

- ¹ SADC comprises Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. Seychelles has recently rejoined SADC about one year after she had quit. This report does not cover Seychelles.
- ² The data used in this analysis were obtained from the SADC Trade Database, which is developed and maintained by the Trade and Industrial Policy Strategies (TIPS) of South Africa. It is available on CD ROM and online at <http://data.sadctrade.org>. Angola, DRC, Madagascar and Zimbabwe have not reported their trade flows. Lesotho and Namibia had not yet reported the 2004 figures.
- ³ The current set of rules of origin is characterised by 'made-to-measure' sector-specific rules, which differ across chapters, headings and subheadings. They have multiple detailed transformation and production processes. Also, their value added requirements are significantly higher and their permissible levels of import content low. They are therefore significantly more restrictive (see Brenton *et al.*, 2005).
- ⁴ There are vast differences across countries on the proportions of tariffs in category C as well as the actual products in this category, implying the big differences across member states on the definition of 'sensitive' products. These differences have a bearing on the pace of liberalization and progress towards the realization of a customs union in 2010.
- ⁵ Some member states have for unclear reasons included in category E, products other than arms and ammunition.
- ⁶ Angola and the Democratic Republic of Congo have not yet submitted their tariff phase down schedules. Madagascar joined SADC in 2005 and only submitted her tariff phase down commitments in 2006. Implementation was expected to start in November 2006.
- ⁷ The Trade Protocol commits the member states to have liberalised 85% of intra-SADC trade by 2008 when the SADC FTA comes into effect. This, therefore, requires that liberalization of categories A and B should translate into 85% of the intra-SADC trade by 2008. So that, by 2008, 85% of intra-SADC trade (not necessarily 85% of member states' tariff lines) should be fully liberalised (see The Services Group, 2004).
- ⁸ Most of the member states will only start phasing down tariffs of category C after 2008. Some start liberalising some of the tariffs earlier, but leaving a significant proportion until after 2008 as well.
- ⁹ A complete inventory of the profiles of the NTBs in the SADC Member States is presented in Tables A4.1 and A4.2 in Annex 4. We only attempt to give an overview of the NTBs and comment on their implications on intra-regional trade.
- ¹⁰ The Brussels Definition of Value is a method of assessment of customs duties that was used in most countries starting from the 1950s. This method uses the normal market value which is defined as the price the merchandise would fetch if sold on the open market under fully competitive conditions for export to the country of importation. See Rege (2002) for a detailed description.

MACRO-ECONOMIC CONVERGENCE



MACRO-ECONOMIC CONVERGENCE POLICY IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY: PROSPECTS AND CHALLENGES

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Introduction: Motivation, Objectives and Approach

In the last two decades, the subject of regional integration has featured prominently in the agenda of (and policy research on) most developing countries. The Southern African Development Community (SADC) is one of the prominent blocs¹. SADC was formed in 1992 and currently consists of 14 member countries with a total population of about 200 million, and a combined gross domestic product (GDP) of about US\$ 190 billion. The key objective of SADC is to deepen integration of its member countries as a strategy to attain high economic development necessary for reducing poverty. To implement this goal, the member countries have jointly drawn the Regional Indicative Strategic Development Plan (RISDP) which sets a road map to consolidate the regional bloc. According to the schedule, the bloc should become a free trade area (FTA) by 2008, followed by a Customs Union in 2010 and common market by 2015. Eventually, the member countries aspire to form into a monetary union in 2016.

To ensure successful integration and economic stability for development, it is necessary to harmonise macroeconomic policies. That is why SADC aims to achieve macroeconomic convergence (MEC). The SADC Memorandum of Understanding (MoU) on MEC was signed in 2001 and outlines action towards convergence to be undertaken by member states. MEC is a necessary step to achieve SADC's ultimate aim of reducing development obstacles inherent in small market size and economic instability by achieving high rates of investment, and trade growth so that they will be able to participate gainfully in the regional and global economy.

There are many advantages of MEC elaborated in the literature. Most important of all, MEC is seen as a catalyst of regional integration. The convergence hypothesis asserts that a set of countries undergoes a process that brings their levels of output (productivity), economic development, and macroeconomic behaviour increasingly closer to one another (Baumol *et al.* 1994). Through convergence, the more advanced member countries provide the environment for economically backward countries to advance, hence the 'catching up' process.

In the case of SADC, however, some policy analysts and policy makers in the region have been rather sceptical, while others have been optimistic about the feasibility of SADC attaining these targets. Their basis for scepticism is that SADC economies are too diverse and are at very different levels of economic development; and the time frame is very short relative to the progress made so far on the ground. Advocates agree that it is feasible for SADC to achieve convergence/integration. First, SADC can learn from the successful regional blocs such as ECOWAS, WAEMOA and the EU. Second, within SADC, the SACU sub-region has shown great success through its monetary integration, and may be a positive motivation for greater SADC integration (a convergence club² for SADC). Finally, SADC has already made some progress by establishing convergence targets and institutional framework for its implementation by member countries.

Divergent views notwithstanding, there is a general agreement that almost all SADC countries, with the exception of Zimbabwe and DRC, are experiencing increasing growth and stabilization, and that convergence is considered key for SADC to achieve the RISDP. However, there are hardly any empirical studies for assessing MEC or evaluating its impact on regional integration, except the recent reports that were commissioned by the Fredrick Ebert Stiftung (FES).³ However, these are individual country case studies and do not provide a comprehensive, region-wide analysis. This is a serious gap in knowledge, which this study seeks to fill. The key objective for the study is to review and examine macroeconomic policy and institutional frameworks and assess the performance of indicators (including prospects and feasibility of each) for which convergence can practically be pursued in the region.

As we aim to review the existing literature and information (that is useful in identifying the current status and knowledge gap) on MEC in SADC, our study is expected to provide the basis for future empirical studies or policy analysis. The key input in the analysis of conditions for convergence will be consultations with key government officials and regional institutions, especially in reviewing regional macroeconomic policies for achieving convergence. The study utilises both the qualitative and the quantitative approach in analysing the prospects for achieving MEC in SADC. The key focus of the qualitative approach is the assessment of the MEC indicators in order to determine the prospects for achieving the targets.

The quantitative aspect of the study uses econometric methodology to assess convergence prospects. Four countries were selected on which to focus the analysis. These countries were selected with the objective of ensuring a mix of key economic variables (macroeconomic stability, income, and growth). The countries are Tanzania (stable but low income), South Africa (stable and high income), Madagascar (Low income but high growth) and Botswana (stable and high income). In the quantitative analysis, the study also covered Zambia (unstable, low growth and low income) in place of Madagascar (for which there was not sufficient data). The source of data for analysis was mainly secondary data sets from statistical publication and previous studies/reports (such as the FES country case studies) and annual series from International Financial Statistics (of the UN) and World Development Report (of the World Bank).

Concept of Convergence

One of the key properties of the neoclassical growth model is its prediction of conditional convergence, which implies that, over time, income levels and growth rates for different countries will converge. However, convergence is a process since, at any one time, countries will exhibit differences in productivity even if they have access to the same set of technologies (Acemoglu and Zilibotti, 2001). Baumol and Wolff (1988) and Baumol *et al.* (1994) explain the convergence hypothesis by citing a restricted set of countries (members of a convergence club), that are undergoing a process that brings their levels of output performance (productivity), economic development and macroeconomic behaviour increasingly closer to one another.

Nevertheless, the economic literature on the convergence hypothesis is also complex, confusing and multifaceted since the term convergence may be used in different contexts to mean different things, implying that there are different issues involved in the concept. The literature refers to alternative concepts but does not distinguish between convergences in its different contexts. For instance, Dowrick and Nguyen (1989) argue that there is a crucial distinction between convergence and 'catching up'. Thus, the term convergence may be interpreted in many different ways. Bezuidenhout (2002) examines the alternative concepts of convergence

by referring to seven different concepts (measures) of convergence advanced by Baumol *et al.* (1994). These are reproduced in Box 1 of Annex 1.

It is also important to note that there are different types of convergence. Varblane and Vahter (2005) distinguish between real, nominal and institutional convergence. Real convergence describes the convergence of income levels, while nominal convergence reflects convergence of price levels. Institutional convergence refers to harmonization of policies and legislation. In addition, some literature also refers to convergence of business cycles, consumer behaviour and social stratification. Other dichotomies exist in the literature regarding the concept of convergence. These include, convergence of: economic growth vs. income level; beta vs. sigma; unconditional (absolute) vs. conditional; global vs. local (or club); income vs. total factor productivity (TFP), and deterministic vs. stochastic convergence. These will be defined or context of their use made clear as and when are used in the text.

In the context of this study, a combination of real, nominal and institutional variables are used to examine the prospects of convergence in SADC, since all are important in assessing the efficacy of convergence in enhancing regional integration.

However, it is important to ask what the significance of testing for convergence is. The analysis of the mechanism of convergence enhances the importance of the underlying factors of economic growth as well as the pattern it exhibits in the world economy. It provides a key for the evaluation of the world or regional economy and indicates the growth differences between countries. Another reason for testing convergence is that it provides information for policy makers. World economies are linked in such a way that policies adopted in one country affect the economic performance of other countries. Policy decisions in one country are transmitted to another country.

Convergence in Growth Models

A large number of existing convergence studies are premised around the developments of growth models and others on regional integration. The former type of convergence studies are based on the neoclassical theory that an economy converges towards a steady state due to diminishing returns to investment in physical capital. In this framework, it is assumed that countries are equal in all aspects except their initial per capita (physical and human) capital; and that poor countries have higher marginal capital productivity than rich countries. Consequently, poor countries will grow much faster than richer countries, a process that is anticipated to end when countries' per capita output equalises. This is known as the *absolute* or *unconditional* convergence hypothesis. Unfortunately, empirical studies so far have not substantially supported this hypothesis (Varblane and Vahter, 2005:9). This neoclassical growth theory is based on the argument that growth is solely determined by technological change, which is expected to be exogenous. These models suggest that the convergence hypothesis may hold for countries with similar starting positions, or those with similar socio-economic circumstances.

However, according to the Solow growth model, changes in economic policy will have only a temporary effect on economic activity but cannot drive long-term growth, and technology is available freely (a public good). According to this model, opening up the country or region accelerates the convergence process since capital flows freely from capital rich to capital deficient countries to benefit from high returns. This argument was put forward by Viner (1950) in his theory of custom unions. The model emphasises the convergence of income and growth of member countries of a regional block when customs unions lower trade barriers to increase trade and factor mobility among them.

In the mid 1980s, a new theory of economic growth (endogenous growth models) was developed by Romer (1986, 1990) where technology, that had been considered exogenous, now became endogenous and subject to firms' decision making process, including deciding whether or not to invest in R&D which would have protected rights, hence monopoly power. According to the new growth theory, the creation of the new enlarged market allows better utilization of the economies of scale effect, which has positive effect on growth. Furthermore, it is argued in the new growth theory (Abramowitz, 1986) that not only is there a need to have absorptive capacity for utilising technology, but also social capability is needed, which includes human capital, infrastructure and institutions. According to this line of thought, lack of adequate social capability can be a serious barrier to convergence, so that under new growth theory convergence is not directly consequential. Such conditions as investment in human capital and R&D expenditure are critical drivers of growth (Lucas, 1988), where differences thereof can cause wide inequality between countries in a particular regional bloc.

Although important, the convergence framework used in this study does not address the discourses on growth models, but rather the institutional framework upon which macroeconomic policy harmonization may occur to facilitate regional integration in SADC. Macroeconomic policy harmonization is imperative for the country or region to accelerate the convergence process in which capital flows freely from capital rich to capital deficient countries to benefit from high returns.

Measurement of Macroeconomic Convergence

There are two major strands of macroeconomic convergence literature, both of them based on the concept of the optimal currency area: correlation and co-integration approaches. In both, the basic question that is sought to be addressed is whether prospective members aspiring to join the economic integration would form an optimal currency area. In the case of an already existing economic grouping, measurement of MEC seeks to examine whether (macro) economic policies of member countries are executed in such a way that the group constitute an optimal currency area.

The correlation approach measures macroeconomic convergence by examining the correlation of member countries' supply and real and demand shocks (see, for example, Bayoumi, T. and B. Eichengreen (1993)). Usually GDP is used to measure real shocks and inflation, money supply, etc. are used as measures of demand shocks. The magnitude and significance of the correlations are usually used to determine whether there is macroeconomic convergence. Thus, high and significant correlation between countries supply and demand shocks is interpreted to indicate the existence of macroeconomic convergence. If a country's supply and demand shocks are correlated with those of the group, then it should be beneficial for that country to belong to the group. Such a country stands to gain in terms of lower transaction costs in trade and investment with other countries constituting the group.

The other strand (also based on the concept of optimal currency area) measures macroeconomic convergence by examining whether the (prospective) member countries' macroeconomic variables, such as GDP and inflation, are co-integrated. The main difference between this approach and the correlation approach is that the co-integration approach captures both short and long run tendencies towards convergence. In contrast, the correlation approach, which uses *de-trended* data to avoid spurious correlation, only captures the short-run aspect of macroeconomic convergence.

One main methodological issue that emerges in both strands of measurement of MEC is

the question of whether to measure macroeconomic convergence using policy variables or outcome variables. For instance, when using demand (monetary) variables to determine the existence of macroeconomic convergence, the question would be whether to use money supply (which is a policy variable), or inflation (which is an outcome variable). This is an important issue in discussing the link between coordination of member countries' policies and the actual macroeconomic convergence. The study uses the co-integration approach to the measurement of macroeconomic convergence. The single important reason is that the approach is able to capture both the short and long-run aspects of the convergence.

Existing Empirical Evidence

The subject of convergence, whether discussed in the context of growth models or regional integration process has received significant research effort, producing large amounts of empirical evidence either in support, explanation/description, or refutation of the convergence hypothesis for a given country or group of countries (regional bloc). The most recent work by Varblane and Vahter (2005) provides an updated literature review, but also some of the latest empirical evidence on the subject using a case study of transition countries. This review of empirical evidence is intended to be a pointer to these works, describing the status of the debate or empirical evidence and showing the existing gaps where this study wants to contribute.

One of the renowned forefathers of the empirical studies of convergence is Baumol (1986) who, based on evidence of 16 OECD countries, supported the existence of absolute (unconditional) convergence. He showed that absolute convergence depended on the sample used. Subsequently, in Baumol *et al.* (1994), the outcome of using same methodology over a sample of 70 countries rejected existence of absolute convergence, but support the idea of *club* convergence. Other studies, for instance by the World Bank, report evidence on existence of unconditional convergence (Barbone and Zalduendo, 1996). A series of other studies endeavoured to test for existence of conditional convergence by adding other factors that can determine it in addition to regressing growth on initial level of income. Most of these are described in Varblane and Vahter (2005). In the early 1990s, substantial work on convergence concentrated on the new growth theory by including in the models human capital and innovation indicators.⁴ This provided further evidence and verification of conditional convergence. However, evidence based on this framework tended to vary according to the type of "additional" variables added.

Another set of empirical literature combines growth with integration models. This framework substantially began with the work of Landau (1994) that focused on cross-sectional analysis of the beneficial impact of EU accession of new members. These studies later moved from cross-sectional to panel data analysis of *extra* growth emanating from joining the regional bloc. Even with these developments, evidence regarding existence of convergence and the hypothesis about scale effects caused by integration on economic growth was accepted in some studies (e.g., Henrekson and Torstensson, 1998, on the European Community Free Trade Area), and rejected in others (e.g., Vanhoudt, 1999, on 23 OECD countries).

Other regions than the EU have also featured in the empirical analysis. Varblane and Vahter (2005) conclude that New EU Members (Ireland, Greece, Spain and Portugal) have been much more successful in their convergence process compared to previous entrants. Investigation of convergence and dynamic effects of human and physical capital on growth in WAEMU (West African Economic and Monetary Union) countries, using panel data analysis, found that growth is explained significantly by changes in literacy rates and factor accumulation and not TFP; and that

convergence between low and high income member countries converge when economic policies are similar, hence the opportunity for policy makers to influence growth and convergence.

Kocenda (2000) analysed performance of the Central and Eastern European (CEE) transition economies in terms of their convergence, and found evidence in support of convergence in macroeconomic fundamentals among the CEE countries. The paper showed that common institutional attributes and economic policies tend to correlate with higher degree of convergence. Quah (1995) analysed convergence in the United States of America, relating it to income distribution dynamics. The study found evidence to support existence of convergence clubs, as the rich get richer and the poor get poorer with integration. It also appears that growth and convergence of prosperity across a currency union depend on the appropriate macroeconomic policy institutions, limitations among which have constrained growth and convergence in the European Monetary Union (EMU).

Studies on SADC Convergence Process

From the literature review conducted so far, empirical studies on SADC region are few, mostly descriptive and unpublished. Grandes (2003) used econometric analysis to investigate the macroeconomic convergence in the rand zone. The study shows that the Common Monetary Area (CMA) forms an optimal currency area given the existence of common long-run trends in their bilateral real exchange rates. The more open and similarly diversified economies are, the higher the benefits they will reap from having joined the CMA. Bezuidenhout (2002) examines the degree of convergence existing in southern Africa based on SADC member states, and concluded, using a limited number of indicators, that only a certain degree of convergence exists in SADC, much of which is a result of permitted economic policy. It is on this basis the study recommended the need for African policy makers to consider expanding SACU or the formation of a free trade area, as is shown to be eventually crucial for convergence.

In reviewing the literature, we can make four general conclusions. First, the evidence on convergence shows mixed results, with some studies confirming and others rejecting the existence of convergence. In this case, absolute convergence seems to depend largely on the sample size, while results of conditional convergence depend on factors included in the analysis. Nevertheless, in the context of the new growth models, human capital, institutions and economic policy seem to unambiguously important factors for convergence.

Second, although the main focus of literature in testing for convergence seems to be either on growth or regional integration models, the results of the latter models can generally be considered more consistent than the former, which vary significantly.

Thirdly, despite many studies noting the importance of economic policy and institutions in achieving convergence, it is surprising to note that little focus in the literature is given to studying the policy and institutional conditions for convergence. Instead, a significant number of studies has concentrated on testing for the existence of technical convergence. However, regional integration alone, without convergence, does not contribute to economic growth.

There is little empirical evidence on macroeconomic convergence in SADC, and further research is required to assess its manifestation and the conditions required for its attainment.

Qualitative and quantitative assessment of macroeconomic convergence

This section provides both qualitative and quantitative analysis of macroeconomic convergence.

The qualitative part is intended to provide the context upon which to interpret (hence complement) the results from quantitative analysis. The latter section reviews the implementation of MEC policy for SADC by outlining the selected indicators and targets for MEC program, and assessing its implementation in the context of selected countries. Two methodological remarks are in order. First, due to difficulty in covering many SADC member countries in a single report, we confine ourselves to four countries according to the criteria outlined in the introductory section. Although Zambia is not included here for lack of reliable information (but covered later in the quantitative analysis), we opt to cover Madagascar whose information was largely available from the FES reports. The motivation is her relatively new membership status in the region and geographical distance from the hinterland.⁵ As part of the qualitative analysis, we examine the trends in individual indicators across the selected countries in order to demonstrate the prospects for attaining convergence.

The quantitative⁶ part uses co-integration analysis to investigate macroeconomic convergence in the SADC region. Ideally, it would have been preferable for the analysis to cover all the fourteen member countries. However, given the short period for sampling, it was difficult to include all the countries in the analysis. In addition, difficulties in getting consistent time series for the fourteen member countries necessitated the inclusion of only a few countries in the analysis. For these reasons, only four countries, namely, Botswana, South Africa, Tanzania and Zambia, are included in the sample. Time series data from 1980 to 2005 are used. Three factors have been taken into account in determining the sample period. First is the need of having a sample period which is fairly long to have reasonable co-integration results. Secondly, we need to cover the period for which SADC has been in existence. Finally, given the requirement for a reasonable number of degrees of freedom, we only cover variables whose number of observations is at least 15 in more than one country. However, this necessitated including additional variables to those listed by the SADC MoU. Overall, the variables selected for analysis include GDP, GDP per capita, inflation, and money stock (broadly defined). The main source of data is the *International Financial Statistics* (IFS) for various years.

Qualitative Assessment: The Focus of Macroeconomic Convergence Policy, Targets and Indicators

SADC is determined to pursue and eventually achieve macroeconomic stability as a basis for enhancing higher economic growth and sustainable development in the member countries. The MoU (SADC, 2002) for MEC states that:

“...In order to achieve and maintain macroeconomic stability, the member states need to converge on stability-orientated economic policies implemented through a sound institutional structure and framework...”

The stability-orientated economic policies are standard, and include: achieving low levels of inflation, (monetization of) fiscal deficits, and public debt; avoiding large financial imbalances in the economy; and minimising market distortions. These indicators are specified in the SADC MoU with their respective benchmarks which member states pursue in their respective macroeconomic policies during specified time periods as shown in Table 1 overleaf. Thus, SADC's MoU on MEC employs the same convergence concepts described in most literature with nominal convergence reflecting convergence of price levels, and institutional convergence reflecting harmonization of policies and legislation.

Table 1: Targets of Macroeconomic Convergence Indicators in SADC

S/No	Target Indicators (and Annual Changes)	2018		
		2008 (FTA)	2012 (CU)	(RCM&MU)
1	Core Inflation in % p.a.	9	5	3
2	Budget Deficit as % of GDP	5	3	1
3	External Debt as % of GDP	60	60	60
4	Current Account Deficit as % of GDP	9	9	3
5	Economic Growth Rate	7	7	7
6	External Reserves (Import Cover in Months)	3	6	6
7	Central Bank credit to Government as % of GDP	10	5	5
8	Domestic Savings Rates as % of GDP	25	30	35
Other Target Indicators (Annual)				
9	Raising Domestic Investment as percentage of GDP	30% of GDP		
10	The Interconnection of Payments and Clearing System	Interconnected		
11	Currency Convertibility	Full Convertible		
12	Legal and Regulatory framework for dual and cross listing of shares on regional stock exchanges	Operational Framework		
13	Exchange Controls on Current Account Transactions	Fully Liberalised by 2006		
14	Exchange Controls on Capital Account Transactions	Fully Liberalised by 2010		

Source: *Regional Indicative Strategic Development Plan*

As depicted from Table 1, the SADC core inflation rates are prescribed to decline at about 1% annually during 2008 – 2013 and remain stable between 3 - 4% during 2014 – 2018 periods. The SADC countries' economic growth is prescribed to stabilise at 7%. Stability in economic growth assumes slowing growth in a country's monetary aggregates. For macroeconomic convergence to be achieved, member countries ought to adopt common targets towards reducing external debt and/or aid surges to a sustainable level. As percentages of GDP, both budget deficit and current account deficits would demonstrate a declining trend at the rates of 3% and 7% respectively, while external debt to GDP ratio would stabilise at 60%. Logically, the increased government budget deficit is associated with larger deficit of current international payments, implying a faster build-up of both government and external debt. Since both the budget deficit and current account deficits would be declining, there is a possibility for countries to stabilise the external debt-to-GDP-ratio during the forecast period, 60% being the prescribed target. Both the external reserves and saving rates need to rise in order to meet the domestic consumers' requirements of the goods whose prices are likely to increase by the inflation rate. The trend in external reserves and domestic savings are expected to increase at their respective average rates of 30% and 5% during 2008–2018.

Institutional Arrangements for Implementing MEC Policies

SADC has created various institutions, formulated the medium-term objectives and steps to coordinate and monitor implementation of the MEC criteria. The approved institutions include the Committee of Ministers for Finance and Investment CMFI and the Committee of Central Bank Governors (CCBG). The CMFI is responsible for: (a) establishing and reviewing procedures and targets with which to monitor implementation of macroeconomic convergence program

and provide advice on corrective actions; (b) evaluating and monitoring annual convergence programmes submitted by the member states, and making appropriate recommendations or amendments; and (c) issuing a communiqué to the member states explaining their assessments and recommendations.

The CCBG is responsible for formulating, implementing and coordinating appropriate fiscal and monetary policies that are transparent, consistent to the MEC objective and minimises the negative spill-over effects on other member states. The CCBG also fosters interconnection of payments and clearing system, and harmonises banking and financial supervision practices. Furthermore, the committee undertakes assessment of the MEC progress as part and parcel of preparing the region for monetary union, and hence a common central bank (with common currency and exchange rate mechanism).

The member states are responsible for several functions, including: (a) approving provision of annual reports with acceptable information/data (in accordance with IMF standards); (b) formulating necessary protocol on finance and investment matters in accordance with the treaty; (c) identifying common guidelines for implementing each of the MEC and other complementary indicators; and (d) reviewing and/or (if necessary) terminating any member state's participation in the MoU. Thus, all the member states are supposed to address those areas to reach and maintain high level of convergence.

Performance of Selected SADC Countries

In this section we allude to country background and trends in the selected macroeconomic indicators for implementing MEC policy in the SADC region. Countries covered include Tanzania, Botswana, South Africa, Madagascar, and, in some instances, Zambia.

Tanzania

Tanzania's development strategy is enshrined in the National Strategy for Growth and Reduction of Poverty of 2004. Four key aspects of Tanzania's development strategy are: accelerating growth, reducing income poverty; improving human capabilities; enhancing survival and social well-being; and, containing extreme vulnerability. To realise these broad objectives, the government of Tanzania is pursuing certain policy approaches and priorities. For example, Tanzania follows prudent fiscal and monetary policies consistent with poverty reduction objectives. The government targets fiscal deficit before grants not exceeding 10% of GDP. Thus, it continues to undertake tax policy reforms, strengthening tax administration and improving expenditure management. In terms of monetary policy, the Bank of Tanzania (BT) is committed to a prudent monetary policy capable of maintaining core inflation below 5%, maintaining official foreign reserves to cover at least four months of imports, and, deepening of financial markets. In keeping inflation below 5%, BoT may reduce velocity of money supply by 10% and also targets the broad money (M3) to grow by 23%.

Along with a sound fiscal and monetary policy, Tanzania also undertakes certain trade and labour policies commensurate with its growth needs and priorities. As such, the country's main focus is to create a competitive export-led growth economy. With ambitious targets enshrined in its National Trade Policy, the government intends to influence the direction and pattern of trade developments through tariff and non-tariff measures (taxation, import licensing, customs valuation, etc), trade defence mechanism (subsidies, safeguards, anti-dumping, etc), trade development policy instruments (investment code and rule, EPZs etc) and international

trade policy instruments (regional trade associations, WTO, etc). Also, among others, the key strategies for labour policy include: modernising industry and trade to increase capacity for wage employment; modernising agriculture through use of appropriate technologies; provision of training and re-training of the labour force; as well as promoting self-employment through facilitating access to credit and removal of business development bottlenecks.

Tanzania is making good progress towards achieving SADC macroeconomic convergence targets. In particular, inflation is within the targets (4.5% by end of June, 2005; and 5.6% by June 2006). External reserves increased to eight months of imports in 2005, but declined to six months' cover by June 2006. Furthermore, the Government has abstained from recourse to domestic central bank borrowing for funding budget deficits and has completed liberalization of foreign exchange controls (with its managed floating exchange rate regime).

There are also areas where Tanzania is making some progress but is not yet within the SADC macroeconomic convergence targets. Before grants, budget deficits are still nearly 5% short of target. External debt, although benefiting from Highly Indebted Poor country (HIPC) debt relief, is about 40% higher than the target. Current account deficits, excluding external transfers, are approaching convergence targets and should be within the required threshold by 2008. Domestic investments are nearly half SADC convergence targets. Real economic growth is gathering momentum and should be within the SADC convergence threshold by 2008.

Implementation of other macroeconomic convergence targets appears to show little progress. In particular, interconnection of payments and clearing system; finalization of the legal and regulatory framework for dual and cross listing in the regional stock exchange, and liberalization of current account transactions between member states. Progress in these areas appears to be constrained by the need to synchronise requirements of the various groupings where Tanzania is a member.

Botswana

Botswana's development policy is enshrined in the Vision 2016 that outlines the country's objective to achieve sustainable development by enhancing high economic growth, diversified and competitive economy that will increase its beneficial integration into the regional and global economy. As a result of this goal, and given its small size, the Botswana Government, through its National Development Plan 9, has been supporting efforts aimed at increasing the supply of educated and trained manpower, intensifying research and development, and fostering the development of financial markets. It also recognises sound macroeconomic policies as prerequisites for effective engagement in the international market.

To realise these broad goals, the government of Botswana has been undertaking certain policy approaches and priorities. The government seeks to maintain favourable macroeconomic conditions, including, *inter-alia*, a competitive exchange rate, low tax rates, easy access to credit and price stability. With a primary objective of creating an environment conducive for private sector development, the key element of Botswana's macroeconomic strategy has been the accumulation of government savings by re-investing most of the returns from the mining sector to develop the rest of the economy, including human resources and infrastructure.

The government of Botswana targets to balance the budget over the medium term. Thus, year-to-year variation in government revenue is taken into account, such that in good years (fiscal surplus), the extra revenue is saved and made available during difficult years (fiscal deficit). In terms of monetary policy, the government seeks to achieve a rate of inflation below that of its major trading partners, alongside maintaining prudent and healthy levels of international reserves.

The country's trade policy highlights accessibility to export and service markets, and enabling producers and consumers to have access to wider choice of international goods and services on the best possible terms. Regional integration arrangements are vital and Botswana is a member of SACU and SADC. The country exploits the opportunity of belonging to these arrangements by negotiating better trade terms for Botswana's exports.

Generally, Botswana has been successful in achieving all macroeconomic convergence targets for deepening integration in SADC. The only problem area for Botswana is GDP the growth rate. While prior to 1992, Botswana was able to achieve an average annual rate of growth of GDP in excess of the SADC target, recent years have seen a slow down in the average growth rate to below 5%. This is not only below the SADC target, it is also far below Botswana's Vision 2016 target. Projections for GDP growth from the NDP 9 Mid-Term Review for 2006/07, 2007/08 and 2008/09 are 4.3%, 4.4% and 4.4% for the respective years. In addition, if Botswana's economy does not grow faster, it may face difficulties in sustaining the record it has on the other MEC targets.

Madagascar

The Poverty Reduction Strategy Paper (PRSP) of 2003 guides Madagascar's development strategy. This strategy is founded in the country's vision, which aims at facilitating the transition from the country's current situation of subsistence economy to that of the market economy. To achieve this broad milestone, the country's development strategy is geared towards attaining a growth rate of 8 % to 10 %; investment rate of 20 %; participation of private sector from 12 to 14 % in the investment rate and further opening of the economy.

To contain the inflation rate and ensure price stability, the Central Bank of Madagascar (BCM) controls money supply through regulation of banking assets (i.e., interest rate and reserve requirement). Also, the country has a free exchange rate system with BCM intervention to influence the exchange rate and enhance connectivity between monetary and exchange rate policies. Madagascar also purses prudent fiscal policy with emphasis on improving the efficiency of public spending. Program budgeting has been adopted in which resources are allocated to specific activities necessary to achieve the program objectives. With the country's concern being economic recovery, fiscal policy directs the need to streamline tax rates, simplification of tariffs and reform of tax administration. To that end, tax relief is being given to capital expenditures, and there has been revision and simplification of tax rates and tariff structures in line with regional and international integration standards.

The trade policy focuses on the elimination of all trade barriers. Madagascar has measures to eliminate export limitations and reduce non-tariff barriers to trade. Although import duties account for nearly 52% of government revenue, policy strategies are directed towards opening up the economy through reduction in levy rates on imports and capital. The country also intends to exploit opportunities arising from regional integration initiatives.

In terms of labour and employment, Madagascar's priority is given to favouring an environment convenient to growth, investment and employment. Therefore, it is supporting the private sector, improving the access of the informal sector and the rural sector employees to education and to vocational training for better productivity. Also, it is developing income-generating activities and ensuring the access of vulnerable social groups to the labour market. A study carried out by the World Bank (2005) analyzed the probability of Madagascar realising macroeconomic convergence objectives. It showed that most indicators have had a high probability of reaching the set targets except for the budget deficit and savings.

South Africa

South Africa is the most developed economy in Africa, with all characteristics similar to the emerging economies such as Malaysia and Thailand. South Africa's development strategy, the Growth, Employment and Redistribution (GEAR, 1996)⁷ sets out clear goals and objectives for benchmarking economic performance. These include:

- GDP growth of 6% per annum between 1996 and 2000;
- accelerated employment growth reaching 400,000 jobs annually after the year 2000 and reverse unemployment;
- an inflation rate of below 10% throughout the period;
- average annual real non-gold exports growth of 8.4% during the five year period;
- rise in gross domestic savings from 18% to 22% of GDP;
- increase gross domestic investment from 20% to 26% of GDP in the year 2000, with an average annual real private investment growth of 11.7%; and
- inflows of foreign investment of about 4% of GDP.

With the above objectives, South Africa pursues prudent fiscal policy consistent with growth and redistribution objectives. The government targets deficit reduction, income tax revision, and decrease in government spending as well as increase in tax to GDP ratio. SARB also undertakes tight monetary policy, relaxation of exchange controls and access to credit by foreign investors. To maintain price stability, the South Africa Reserve Bank (SARB) does not target velocity of money supply, but rather the consumer price index (CPIX) as a measure of inflation (without effects of rental prices and mortgages).

Along with fiscal and monetary policy, South Africa also undertakes certain trade and labour policies for growth and redistribution priorities. As such, the country's trade policy focuses on further steps in the gradual relaxation of exchange controls; a reduction in tariffs to contain input prices and facilitate industrial restructuring, compensating partially for exchange rate depreciation; tariff reforms, replacement of quantitative restrictions with tariffs, etc; along with labour policy. The Government also offers tax incentives aimed at stimulating new investment and creating jobs; reducing indirect wage costs; increasing incentives for more shifts, job sharing and increasing job flexibility; productivity linked wage increases; wage moderation; and flexible regulatory labour market framework.

South Africa has shown reasonable performance towards achieving SADC macroeconomic convergence targets. The policy variables (budget deficit, external debt, external reserves, and central bank credit to the government), in particular, are very well within the limits set by the memorandum of understanding on macroeconomic convergence. This reflects the prudence and ability of South Africa's macroeconomic managers: the national treasury, the central bank and the department responsible for the macro economy. The outcome variables (savings rate, growth rate, current account deficit) are much harder to control and these are the targets that South Africa will struggle to meet, with the probable exception of the current account deficit.

Trends in Selected Indicators

In this section, we present trends of selected macroeconomic variables of the selected countries

in order to investigate the trends, and, if possible, to identify the underlying factors, and to compare the trends across countries.

GDP Growth Rate

Generally, the rate of growth of GDP for Botswana has been relatively high, compared to the other countries. This is partly explained by the fact that Botswana, which is a small economy, is endowed with abundant mineral resources, and since independence it has pursued economic policies that are conducive to growth. In addition, it has enjoyed political stability all along.

South Africa's GDP growth has been low partly because it is relatively a large economy. Another possible reason is that the apartheid policy pursued by the country before 1991 isolated the country denying it the opportunity to exploit its potential for accelerated economic development. Tanzania, another small economy, experienced low growth particularly in the early 1980s as a consequence of both domestic (such as import substitution policies that discourage exports) and external factors such as the rise in oil price, collapse of the East African Community, and the war with Uganda. However, economic reform measures which the country started implementing since the mid-1980s have resulted in significant improvement in economic performance. Since 1995, the trend of economic growth has been rising almost consistently.

From these trends, a number of salient features can be noted. First, improvement in performance of countries, such as Madagascar, Tanzania, and Zambia, which in the past have been performing poorly, shows that there are good prospects of achieving macroeconomic convergence in the long run. Second, the turning points of GDP growth differ across countries. This suggests that there is still some distance to cover to achieve macroeconomic convergence.

Per Capita GDP

Analysis of GDP performance as an indicator of macroeconomic convergence is important. However, GDP does not give a reliable measure of the potential of a country's ability to offer its citizens better living conditions. Although per capita GDP is not the best measure of welfare, it can be used to indicate the *potential* for peoples' welfare.

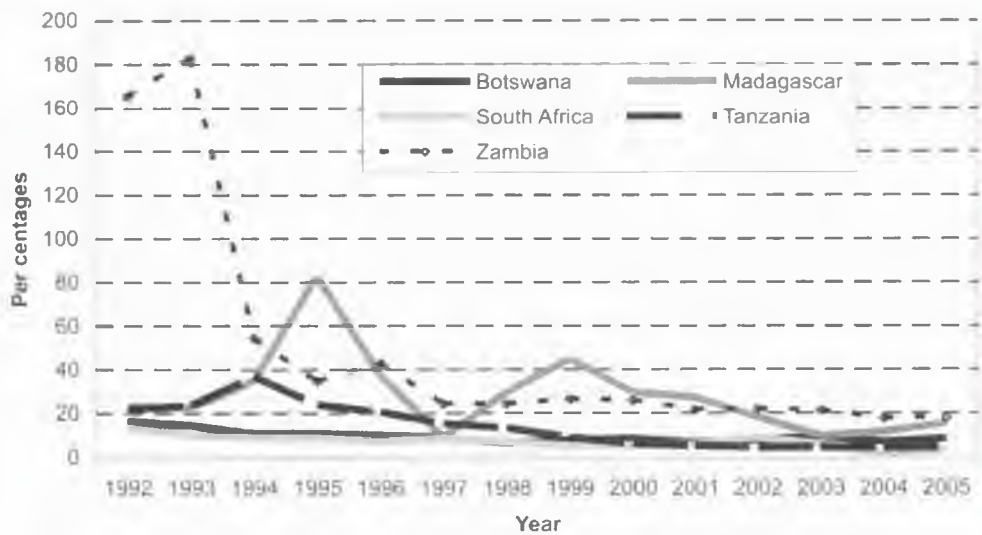
Botswana had the highest growth rate of per capita GDP during the period 1985 to 1990. Even though the rate has decreased somewhat since 1991, it is still higher than South Africa's and Tanzania's (see Figure 1 overleaf).

For South Africa, this trend is still good, because South Africa has a relatively large economy. In the case of Tanzania, which has a small economy, the growth in per capita GDP is quite low for there to be a convergence of the country's potential welfare with that of other member countries. Tanzania and other countries in a similar position need to accelerate the rate of economic growth in order to catch up with the current good performers like Botswana and South Africa.

Inflation

The rate of inflation has for a long time been fairly low in Botswana and South Africa. In these two countries, the rate of inflation has been about five percent on average. Before 1995, Tanzania and Zambia (and other similar SADC countries) had very high rates of inflation. For instance, in 1993 inflation reached 36% in Tanzania and over 40% in Zambia. However, the rate of inflation has since 1995 been falling consistently as a result of prudent monetary policy and improvement in economic performance (especially increased production of food). In the 2000s, inflation rates in these countries were in single digits.⁸ This is a sign that there are good prospects for convergence among member countries.

Figure 1: Per Capita GDP Growth



Money Stock

The trend in growth rates of the money stock in both South Africa and Tanzania has been constant over the period 1985–2005. The rates have been fluctuating around eight percent. For most of the period the growth rate has been relatively higher in Tanzania.

The growth rate in Tanzania was higher than 10 percent during 1985–1995, and declined during 1996–2004, with the growth rate ranging between 4 and 6 percent. The growth rate of money stock was relatively high during the 1980s, and decreased to low rates during the 1990–2005 period. Generally, it can be observed that, in both countries, the growth rate of money supply has been low during 1995–2004; and the turning points of growth rates in the two countries have almost been the same, showing some signs of convergence.

Observations on the SADC MEC Indicators

As noted earlier, there have been differing perceptions with regard to prospects for SADC integration. Sceptics have it that SADC economies are too diverse to integrate successfully, while advocates believe that the catching up process can enhance the chance for laggard member countries to increase their economic prosperity by integrating with prosperous members. Regardless of these differences, SADC member countries continue to advance the integration process by setting up institutional foundations and policies for greater integration. In this process, successful macroeconomic convergence is considered a necessary foundation. Below we provide anecdotal assessment of the prospects for convergence based on perceptions about the contributing performance of selected indicators. The hypothesis is that the indicators play different roles towards achieving convergence. Some have more potential than others. Identifying this provides motivation for their prioritization and hastens implementation.

Each indicator should be assessed in relation to the expected impact on MEC targets based on the following proposed criteria. First is *absolute* performance of each indicator. This is a straightforward criterion that aims to evaluate the extent to which the particular indicator has performed in relation to the set target. Possible outcomes are for indicators to be *within* or

under the set target. In some cases, an indicator can outperform the set target.

Second is *diversity* of country performance on a given indicator. The key issue on this criterion is the extent to which performance of the indicator in question has varied across the member countries. The extent to which countries differ in the performance of a particular indicator determines the prospects for those countries to converge. If the difference between top and bottom performance is very large, this may affect the prospects for catching up, and vice versa if it is reasonable.

Finally, the third criterion is the *viability* of indicator to be achieved. Unlike in the previous criteria, we examine each indicator's consistency with countries' macroeconomic policy to judge the viability for it to achieve the set target. Consequently, if member countries have problems in achieving a particular indicator, one should accord it lower probability for bringing about convergence. Conversely, if countries typically have better score for particular indicators, logically the region should emphasise such indicators as key to the success of convergence. Below we report results of this analysis.

Absolute performance of MEC indicators

Based on available data from statistical publications, one can conclude that the MEC indicators for SADC have experienced different performance over the recent years. As shown in Table 2 overleaf, three indicators are perceived to be within the SADC MEC objective. These are: current account deficit (as a percentage of GDP), growth of real GDP, and Investment flow (as a percentage of GDP). In addition to these, nearly half of all the MEC indicators have performed far above the target and have mostly reached the set target before the medium-term period (in 2008). However, the critical challenge is for individual member countries and the Secretariat to devise a strategy for sustaining the achieved targets.

Nevertheless, the MEC objective may be hampered by the laggard indicators that have performed below the set targets. These are: budget deficit, external debt, domestic savings, and capital account liberalization. Some SADC countries are still facing the challenge of containing aid-financed expenditure amidst very weak tax bases and growing commitment to poverty reduction interventions. External debt has also remained high and difficult to reduce in the absence of debt forgiveness. Furthermore, the extent of domestic savings is negligible due to increased fiscal deficit and growing poverty. The low level of capital account liberalization reflects the policy stance in many developing countries to undertake cautious liberalization of foreign capital account, and SADC members are no exception.

Divergence of performance of MEC indicators across countries

We can assess MEC prospects based on this criterion by categorising the MEC indicators between divergent and comparable. The underlying hypothesis is that comparable indicators are more likely to enhance convergence than the divergent indicators. Clearly, such a dichotomy may be useful in prioritising MEC objectives or targets especially given resource constraints at regional level. Based on judgement of the performance of different indicators in recent years, the categorization is made in Table 3. Most MEC indicators are comparable except a few which show large divergence, namely budget deficit, external debt, domestic savings rate and the legal framework for cross-listing in regional stock exchanges. In these, some countries have made significant progress while others are largely left behind to the extent where catching up may not be that feasible. A single most reliable explanation for the observed divergence is the differences in the prevailing levels of socio-economic development and extent of integration in

Table 2: Performance of SADC MEC indicators relative to the set target

S/No.	Indicator	Performance relative to the set target		
		Within	Above	Below
1	Core inflation		X	
2	Budget deficit as % of GDP			X
3	External debt as % of GDP			X
4	Current account deficit as % of GDP	X		
5	Economic growth rate	X		
6	External reserves (import cover in months)		X	
7	Central bank credit to government		X	
8	Domestic savings rates			X
9	Raising domestic investment as percentage of GDP	X		
10	The interconnection of payments and clearing system		X	
11	Currency convertibility		X	
12	Framework for cross listing on stock exchanges			X
13	Exchange Controls on current account transactions		X	
14	Exchange controls on capital account transactions			X

Source: Perceptions based on literature and consultations for this study

Table 3: Divergence of SADC MEC indicators relative to targets

S/No.	Indicator	Extent of Divergence		
		High (worse)	Average	Low (better)
1	Core inflation			X
2	Budget deficit as % of GDP	X		
3	External debt as % of GDP	X		
4	Current account deficit as % of GDP		X	
5	Economic growth rate			X
6	External reserves (Import cover in months)			X
7	Central bank credit to Government			X
8	Domestic savings rates	X		
9	Domestic investment as percentage of GDP			X
10	The interconnection of payments and clearing system			X
11	Currency convertibility			X
12	Framework for cross listing on stock exchanges	X		
13	Exchange controls on current account transactions			X
14	Exchange controls on capital account transactions			X

Source: Perceptions based on literature and consultations for this study

the global economy. For instance, Botswana, Mauritius and South Africa stand out as strongest economies in the region, where domestic savings are high, capital markets are developed and external debt is not significant, whereas fiscal deficits are very low. Most SADC score negatively on these indicators.

Viability and consistency of MEC indicators across Member countries

MEC indicators also differ in the extent to which they are consistent with most member countries’ macroeconomic policies. Whereas it is desirable to embrace the regional macroeconomic policies for convergence purposes, it is not practical to pursue all at the same time in each country. For instance, while the focus of many poor countries such as Tanzania, Malawi and Zambia is on poverty reduction and macroeconomic (reforms for) stabilization, the objective for Botswana, Namibia, South Africa and Mauritius is on building competitiveness for their external sector and attracting inward and outward investment. Thus, the key common objective of macroeconomic policy may differ depending on the strategic importance of a particular policy, thus affecting commitment towards achieving convergence or harmonising policies. In Table 4, we distinguish between MEC indicators that are generally consistent with most member countries from those that are not consistent. The hypothesis is that some MEC indicators give greater or less leverage (*optional*) for member countries to diverge from set targets depending, on the stance of their macroeconomic policies while others are *universally* pursued (based on contemporary development economics). The latter implies that many countries consider

Table 4: Viability and consistency of MEC indicators across Member Countries

S/No.	Indicator	Extent of Policy Leverage (and effect on MEC)		
		Universal (better)	Average	Optional (Worse)
1	Core inflation	X		
2	Budget deficit as % of GDP	X		
3	External debt as % of GDP		X	
4	Current account deficit as % of GDP	X		
5	Economic growth rate	X		
6	External Reserves (import cover in months)			X
7	Central Bank credit to Government			X
8	Domestic savings rates			X
9	Raising domestic investment as percentage of GDP	X		
10	The interconnection of payments and clearing system			X
11	Currency convertibility		X	
12	Framework for cross-listing on stock exchanges		X	
13	Exchange controls on current account transactions		X	
14	Exchange controls on capital account transactions			X

Source: Perceptions based on literature and consultations for this study

a particular indicator strategic, and hence worth striving for, while the former implies fewer countries pursuing it as it is not considered strategic.

Key indicators that are universally pursued in SADC include macroeconomic stability, external sector competitiveness, higher investment and economic growth. However, the urgency and importance of external reserves, domestic credit and savings rate, and capital account liberalization differ amongst the countries, depending on the country's level of market development and its efficiency. (For countries with mature markets, such variables may not form the strategic focus of macroeconomic policy.) As a result, for corresponding indicators it may be relatively difficult to achieve convergence. For countries such as South Africa and Botswana with strong fiscal positions, external debt and budget deficit may not be key issues in the macroeconomic policy, but certainly are for countries such as Zambia, Mozambique and Malawi.

Below, we summarise the assessment of the three criteria by ranking the MEC indicators according to the amount of positive scores. The MEC criterion is awarded a point only when it is considered most positive (not average or negative). In the first criterion, a particular indicator may be awarded 2 points if the performance was both within and above the set target; and if the indicator scored in all the three criteria, it is awarded an additional point to distinguish it from those awarded extra points due to over performance in the first criterion. Therefore the maximum score per indicator is 5. The results are reported in Table 5.

According to the ranking results of Table 5, the most important and achievable MEC indicators for SADC are core inflation and economic growth, followed by average indicators including external reserves, domestic credit and interconnection of payments systems. The least important/achievable indicators are external debt, domestic savings rate and the framework for cross-listing on stock exchanges, followed by capital account liberalization and budget deficits. Note that the cut-off point between which to assess the indicator for a given criterion is purely subjective. More importantly, the assessment is based on qualitative assessment of opinion and informed judgement based on recent macroeconomic trends in the SADC countries.

Challenges of macroeconomic convergence in SADC

Implementation

With the MoU on MEC adopted in 2001, SADC countries have had varied performance with respect to selected MEC targets and indicators. Overall, all indicators exhibited progress towards the attainment of MEC targets in four selected SADC countries (Tanzania, Botswana, Madagascar and, South Africa). For example, assessing four years since the adoption of MoU in 2001, core inflation hovered in the range of 1.4% to 6.2% among three countries (Tanzania, Botswana and South Africa), while Madagascar recorded an exceptional 27%. Also, the ratio of budget deficit to GDP and public debt to GDP are well within target; ranging between 1.4% to 4.4% and 5% to 7.5%, respectively. Table 6 presents the average performance on core MEC targets, based on the experience of the four selected SADC countries.

Table 5: Viability and consistency of MEC indicators across Member countries

S.No.	MEC Indicator	Absolute Performance	Low Divergence	Universally Consistent	Total Score	Rank (1 highest)
1	Core inflation	X X	X	X	5	1
2	Budget deficit as % of GDP			X	1	10
3	External debt as % of GDP				0	12
4	Current account deficit as % of GDP	X		X	2	8
5	Economic growth rate	X	X	X	4	2
6	External reserves (import cover in months)	X X	X		3	3
7	Central Bank credit to Government	X X	X		3	3
8	Domestic Savings Rates				0	12
9	Raising domestic investment as percentage of GDP		X	X	2	8
10	The interconnection of payments and clearing system	X X	X		3	3
11	Currency convertibility	X X	X		3	3
12	Framework for cross listing on stock exchanges				0	12
13	Exchange controls on current account transactions	X X	X		3	3
14	Exchange controls on capital account transactions		X		1	10

Source: Perceptions based on literature and consultations for this study

Table 6: Trends⁹ in Core Macroeconomic Indicators

Target Indicator	Timeframe			Performance Assessment of MEC in the 4 Selected Countries (2001–2004)
	2008	2012	2018	
Core inflation	9%	5%	3%	<p>Inflation has remained within stability target, hovering in the range of 1.4% to 6.2% among three countries (Tanzania, Botswana and S. Africa). Only Madagascar has reported higher inflation rate far above the target level, reaching 27% in year 2004.</p> <p>Since almost all SADC countries are pursuing prudent macroeconomic policies, the possibility of attaining 3% by 2018 is high.</p>

Table 6 (continued)

Target Indicator	Timeframe			Performance Assessment of MEC in the 4 Selected Countries (2001–2004)
	2008	2012	2018	
Budget deficit as % of GDP	5	3	1	<p>Cross section of the 4 countries gives a range of 2.3% to 9.6%. While Botswana and South Africa have been able to attain this target even before 2008, Tanzania and Madagascar are still struggling to keep budget deficit as % of GDP low.</p> <p>Because of the similarity of SADC economies (e.g., weak tax base, primary sector), the probability of attaining this target over the set timeframe seems to be low.</p>
External debt as % of GDP	60	60	60	<p>Exhibits greater variability among the selected SADC countries, with Botswana and South Africa performing even better than MEC target (5% to 22.4%), while Tanzania and Madagascar situation worsening (75% to 100%).</p> <p>SADC therefore needs to pursue debt sustainability strategies for it to achieve MEC targets in the specified period.</p>
Current account deficit % of GDP	9	9	3	<p>Almost within SADC's stability target for all 4 countries, with 2 countries (Tanzania and S. Africa) recording 5.3% and 4.2% respectively, while Botswana recorded surpluses over the reference period. Despite the lack of reliable data, an improvement in domestic and foreign investment recorded in Madagascar also points to better performance in its current account.</p> <p>The good performance of this indicator is attributed to an improved investment climate, which saw substantial FDI flowing into a number of SADC countries since 1990.</p>
Growth rate %	7%	7%	7%	<p>Attainment of target growth rates is variable, ranging from 3% to 6.7% among selected SADC countries. This leaves a challenge to SADC on how to sustain other MEC targets already achieved.</p> <p>A major challenge to attaining MEC objectives is therefore the reaching of such targets. This appears to be due to different structures of SADC economies and continuously changing patterns of demand and supply in the global economy.</p>

Table 6 (continued)

Target Indicator	Timeframe			Performance Assessment of MEC in the 4 Selected Countries (2001–2004)
	2008	2012	2018	
External reserves (months)	3	6	6	Within MEC stability targets, recording a regional range of 5.5 to 23 months of import cover. Higher and exceptional performance has been attained by Botswana (23 months of import cover), which is far ahead of MEC targets and the country's own development plan.
Central bank credit to government	10%	5%	5%	Within SADC's MEC targets in the range of 0.3% to 2%. For Botswana, no central bank lending to the government for the last 40 years (i.e., since existence of the country's government).
Domestic savings rates	25%	30%	35%	Domestic savings are below the target stability level. However, Botswana has been able to achieve the stability target, attaining saving rate of 34.8% of GDP over the past ten years. For SADC to promote saving, efforts must be put on poverty reduction since at present the majority of SADC people are too poor to save. Also, strategies need to be in place for the financial systems to promote savings by the poor. This would include efforts to reduce the spread between lending and deposit rates, a gap that is so huge in many SADC economies.

In summary, there has been notable variability in the performance of some MEC targets in SADC countries, which may be explained by the inherent differences in socio-economic structures of these countries. This observation also applies to other regions whose economies have similar characteristics. Note also that the stronger economies of South Africa and Botswana show that MEC trends for most indicators are similar, whereby convergence targets are being attained even before the medium-term timeframe for such convergence, which between 2008 and 2012. However, the weaker and more fragile economies that have dominant primary sectors and tend to be more externally dependent, demonstrate a similar common pattern with regard to achievement of MEC targets. For instance, while the GDP growth rate, inflation and money supply indicators are largely within the MEC target in Tanzania, Zambia, and Malawi, the budget deficits, savings rates (hence investment) and external reserves are mostly below the target of MEC indicators to be achieved between 2008 and 2018. This pattern points to regional inequality that exists in SADC countries, and also to common challenges that face countries of similar economic structure or strength.

Summary of the Common Macroeconomic Challenges in SADC

With few intra-country differences, the SADC region faces a number of major challenges that are common. These constrain regional efforts towards macroeconomic stabilization, growth and poverty reduction. Among these are:

- (a) Weak economic structures dominated by the primary sector, characterised by low levels of agro-processing, a weak manufacturing base and little economic diversification, hence prone to unfavourable weather and trade-terms. These characteristics slow growth prospects in these economies.
- (b) Dependence on external finance for development expenditure. With few exceptions among SADC countries, external dependence has been a common feature of SADC economies. Therefore, efforts towards attaining lower levels of debt have been unsustainable.
- (c) Related to external financing is the low and weak taxation base which hampers efforts towards fiscal balance. As a result, most low-income SADC economies depend on foreign aid.
- (d) Underdeveloped basic infrastructures (transport, telecommunication, and energy). Despite recent headway in the telecommunication and transport sector, the infrastructure remains a limitation to growth of SADC economies. The economies have continued to remain uncompetitive due to high costs of energy, transport and telecommunication services. The recent trend in rising costs of imported fuel has been a force behind inflationary pressure in most SADC economies.
- (e) Inadequate access to capital and finance is a critical problem in SADC. Experience shows that countries with well-developed financial systems tend to grow faster than those with less developed systems. In many SADC countries, the cost of financing and access to finance are the main obstacles to operations and growth of enterprises.
- (f) SADC lacks the sound base of an adequately qualified and trained work force needed for rapid economic growth, effective productivity and diversification of production and export bases. Therefore, unless SADC tackles the problem of human capital and capacity, the region's aspiration for rapid economic development and stabilization will remain slim.
- (g) Increasing incidence of ill-health in SADC is becoming a major concern for growth and development. This is exacerbated by HIV/AIDS and malaria, diseases which raise the cost of doing business in many SADC countries. For example, in South Africa and Botswana, direct public spending on HIV/AIDS has risen sharply in recent years.

Quantitative assessment

As noted earlier, this study uses co-integration analysis of the non-stationary macroeconomic supply and demand variables to investigate macroeconomic convergence in the SADC region.

Although the length of time series of selected macroeconomic variables are not too convincing for most countries, we proceed to examine its application in two ways. First, to complement the qualitative analysis we provide at least some limited co-integration tests to provide preliminary indication of the existence of convergence. And secondly, we provide the methodological exposition to co-integration analysis in Annex 2 to illustrate its application when better data series are availed.

Nevertheless, the empirical results revealed that the country variables are not co-integrated. This implies that there is no macroeconomic convergence. However, such a conclusion should be interpreted with caution because a substantial part of the sample period used in this study (1980–1991) is a period when SADC did not exist. In this period, there was notable divergence in the behaviour of member countries' macroeconomic variables. This partly explains the co-integration test results. Decomposing the sample to cover the post 1992 period would imply too few observations that may compromise the reliability of the results.

The above results notwithstanding, the trends of macroeconomic variables show that the divergence behaviour that was typical in these countries before the mid-1990s has been consistently diminishing since 1995. This finding reinforces that of qualitative analysis that suggests existence of convergence for most countries for some variables. For countries with low GDP

and per capita GDP growth such as Tanzania, their growth rates have been rising, thus catching up with good performers such as Botswana. The same pattern of behaviour is observed in the case of inflation where countries which had high rates of inflation in the early 1990s (such as Tanzania and Zambia, have been experiencing consistent a fall in inflation rate in the 2000s); thus converging to favourable rates of inflation in low inflation countries such as Botswana and South Africa.

Table 7: Co-integration Test

Variable	P_2 statistic
GDP	62.829*
Per capita GDP	53.6064**
Inflation	77.42*1
Money growth rate	41.4506***

Notes: * Critical value at 5% = 183.19

** Critical value at 5% = 89.872

*** Critical value at 5% = 54.6874

Comparative experience of other regional blocks

Most regional integration arrangements have established macroeconomic convergence criteria to help their members firmly focus on economic stability as a *sine qua non* of integration and development. But due to differences in economic and political governance, it has been difficult to achieve convergence as fully as envisaged. Even where some progress had been made, policy reversals have not been impossible. This section explores the experiences of some selected regional groupings. For this purpose, we select the case of the EAC, COMESA, and the EU to examine their experiences on macroeconomic convergence.

The East African Community (EAC)

The Treaty for establishment of the EAC was signed by the three Heads of State on 30th November 1999 and entered into force in July 2000. Under the Treaty, the partner states of Kenya, Tanzania and Uganda, set out a bold vision for their eventual unification by following sequence of conventional integration steps or fast-tracking their political federation. So far, the most applauded achievement of the EAC integration agenda is the completion of negotiations of the Customs Union Protocol that was signed on 2nd March 2004 and came into effect on 1st

January 2005. However, the fast tracking agenda is a sensitive one not only to the nationalistic groups within the Community but in its own as a process. It is projected to occur through overlapping process (parallel implementation of activities) with a transition period (2006–2009) involving full implementation of the Customs Union, Common Market and Monetary Union as conditions for Political Federation by 2010. Regardless, achievement of macroeconomic convergence seems to be more of a cross-cutting issue than a stage to implement.

Macroeconomic policy and achievements in the EAC

The main constituents of MEC in EAC include currency convertibility as a basis for a single currency; harmonization of exchange rates, interest rates, and fiscal policies; and integration of banking and capital markets development as well as a range of macroeconomic development indices. The major elements that constitute criteria for macroeconomic convergence are:

- maintenance of low and stable underlying inflation to single digit rates of less than 5%;
- high and sustainable rate of growth of real GDP of 7% as the minimal target annually;
- reduction of current account deficit to GDP ratio to a sustainable level;
- reduction of budget deficit excluding grants to GDP ratio of less than 5%;
- raising national savings to GDP ratio to at least 20% in the medium term;
- building gross foreign exchange reserves to a level equivalent to 6 months of imports of goods and non-factor services in the medium term;
- maintenance of low market determined interest rates;
- maintenance of stable market determined exchange rates;
- pursuit of debt reduction initiatives to reduce both domestic and foreign debt
- maintenance of prudential norms of banking regulation, strict supervision, improved corporate governance and transparency of all financial transactions.

In general, there have been positive developments towards achieving convergence in the above-mentioned macroeconomic indicators, though the targets have so far not been exactly met. The EAC Partner States of Kenya, Tanzania and Uganda had in 2004 a collective GDP of US\$ 34.2 billion. Kenya is the largest of the three economies with a GDP of US\$ 16.1 billion, a population of 32.8 million and GDP per capita of US\$ 485. Tanzania's GDP is US\$ 10.3 billion with a population of 35.3 million, and GDP per capita of US\$ 288. Uganda's GDP is US\$ 7.8 billion with a population of 26.7 million and GDP per capita US\$ 292. Table 12 gives a summary of the key macroeconomic indicators, and their trend towards convergence for EAC economies.

There are some variations in the GDP growth experiences for the three partner states but signs of convergence are apparent. Over the past six years, Uganda and Tanzania have experienced an average growth of 5 % and 4.8% respectively while Kenya has seen a lower average growth of 1.3% per annum over the last six years. However, during 2004 Kenya's economy saw a revival with GDP growth rising to 4.3% getting closer to Tanzania's 6.7% and Uganda's 5.8%. These differences in growth are however not very significant especially when the relative sizes of the three economies are taken into consideration. Kenya's economy is the largest in the region, accounting for about 46.67% of the regional economy, with Tanzania and Uganda accounting for 30.72% and 22.61% respectively. Therefore, Tanzania and Uganda appear to be growing

Table 8: Macroeconomic Indicators and Trend towards Convergence for EAC Economies

Aggregate	EAC						
	Partners	1999	2000	2001	2002	2003	2004
GDP growth rate (%)	Uganda	7.3	5.9	5.7	6.2	4.5	5.8
	Kenya	1.4	-0.3	1.2	1.1	1.8	4.3
	Tanzania	4.7	4.9	5.7	6.2	5.7	6.7
Inflation – annual average (%)	Uganda	6.1	2.5	2	1.8	5.7	5.0
	Kenya	3.5	10.0	5.8	2.0	9.8	11.6
	Tanzania	7.8	6.0	5.2	4.5	4.4	4.2
Current account deficit as % GDP	Uganda	-9.1	-10.7	-14.3	-13.0	-12.9	-12.6
	Kenya	-2.0	-3.4	-4.3	-0.1	-1.1	-3.3
	Tanzania	-13.2	-7.4	-7.0	-3.8	-4.5	-5.5
Budget deficit (excl. grants) as % GDP	Uganda	-6.9	-9.1	-11.2	-13.0	-12.0	-12.5
	Kenya	-0.1	0.4	-5.1	-4.7	-3.9	-0.4
	Tanzania	-2.1	-5.9	-4.9	-6.4	-9.3	-8.2
Gross national savings as % GDP	Uganda	14.4	19.3	13.3	14.5	14.7	15.1
	Kenya	10.6	7.5	4.6	7.6	9.8	10.2
	Tanzania	6.9	10.6	11.0	16.5	16.8	17.1
Gross foreign exchange reserves (in months of imports of goods & non-factor services)	Uganda	4.9	4.4	6.1	6.3	6.1	6.6
	Kenya	2.9	2.9	3.2	3.4	4.2	3.5
	Tanzania	4.5	5.7	6.6	8.5	9.3	8.1

Source: EAC Database, Member Countries' Statistical Agencies and Central Banks.

faster but this growth is from a relatively smaller base compared to Kenya. While the 7% growth target has not been met by any of the EAC Partner States during the second EAC Development Strategy, the trend suggests some positive improvements towards convergence.

With regard to price stability, Tanzania and Uganda have managed to contain inflation to low levels over the past six years. The general trend is that inflation has been declining in these two economies, reaching the annual average of about 5 per cent for Uganda and 4.2 % for Tanzania but rather higher in Kenya at 11.6% in 2004. Inflation in Uganda has been fluctuating moderately at a low level while Tanzania's inflation has consistently declined over time. However, there are indications that inflation rates in these countries could rise slightly in 2005 and 2006. Kenya's inflation has been somewhat erratic, falling from 11.2 % in 1997 to 3.5% in 1999, rising again to 10% in 2000, falling to a low of 2% in 2002 but rising again 11.6 % in 2004. There are indications that inflation could decline in 2005 and 2006. With growth picking up, and the ongoing efforts to ensure political stability in the country, there are prospects for future price stability, and subsequent convergence towards levels attained by the other two partner states.

Government budget deficits for the three partner states have not fluctuated much over the past five years. Kenya's deficits as a percentage of the GDP has generally remained the lowest compared to other partner states. In 2000, the Kenyan deficit was about 2% of GDP, rising to about 5.1 % of GDP in 2001, before declining steadily to about 0.4% of GDP in 2004. Uganda's deficits as percent of GDP increased from about 9.1% in 2000 to about 13% in 2002, and in 2004 the deficit declined slightly to 12.5%. Tanzania's trend of deficits has not been very different from Uganda's, though in general, the deficits represented smaller percentages of GDP compared to Uganda's. In 2000, Tanzania's deficit was about 5.9 % of GDP, and by 2004, the deficit was 8.2% of Tanzania's GDP.

One important observation is that while ongoing reforms have led to improvements in domestic revenue collection, the revenue/GDP ratios in Tanzania and Uganda are still low, at less than 15%, and these economies continue to be heavily dependent on external finance (more than 40% of the government budget). Kenya, with revenue collections exceeding 20% of GDP, has made commendable efforts towards reducing dependence on external financing of the government budget. This poses a major challenge, especially to Tanzania and Uganda, to pay greater attention to innovative ways to mobilise domestic resources and reduce external dependence. The high levels of aid dependence in Tanzania and Uganda pose challenges of aid management and coordination and ensuring ownership and leadership in the development process. In Kenya, deficits on the current account have been maintained at reasonably low levels and foreign exchange reserves have been at comfortable levels, although the reserves are rather on the low side at 3–4 months of imports. However, the sustainability of high level of reserves in Tanzania and Uganda is facing a real threat from the rising oil prices in the world market. Current account deficits trends indicate a fairly consistent level of the current account deficit as a percent of GDP for Kenya over the past six years compared to the Uganda and Tanzania. While Uganda's current account deficit has generally remained high (above 12% of GDP) since 2001, Tanzania's deficit has been declining steadily, reaching 5.5% of GDP in 2004; largely as a result of mineral export boom which by 2004 accounted for more than half of country's export.

Common Market for Eastern and Southern Africa (COMESA)

COMESA is the largest regional economic grouping in Africa.¹⁰ It was established in 1994 as the successor to the Preferential Trade Area for Eastern and Southern Africa (PTA), in existence since 1981. Today, COMESA is one of the six regional groupings considered as the building blocks of the future African Economic Community as defined in the Abuja Treaty. However, due to COMESA's economic history and background, its main focus is on the formation of a large economic and trading unit that is capable of overcoming some of the barriers that are faced by individual states.

The COMESA Free Trade Area (FTA) was achieved on 31st October, 2000 when eight of the member states namely Djibouti, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe, eliminated their tariffs on COMESA-originating products, in accordance with the tariff reduction schedule adopted in 1992. With its 20 member states, population of over 374 million and annual import bill of around US\$32 billion, COMESA forms a major market place for both internal and external trading. The expansion of the COMESA FTA will be one of the major challenges as the region prepares to create a customs union by 2008 and a common market in 2014.

Macroeconomic policy and achievements in COMESA

The main aspect of macroeconomic convergence policy is harmonization of its monetary and fiscal policy. Monetary cooperation aims at establishing a common monetary area with a greater measure of monetary stability in order to facilitate the economic integration efforts and to provide for sustained economic development of the region. The initial MEC criteria were adopted in 1993, but were revised by the Council of Ministers at its meeting in December, 2004, in Lusaka, Zambia. The revised MEC criteria aimed at aligning the convergence target with the African Monetary Cooperation Programme spearheaded by the Association of African Central Banks (AACB); and envisaged to be achieved in three stages, each of which with different progressive target as shown in Table 9.

Table 9: Macroeconomic convergence policy targets in COMESA

S/ no.	MEC Criteria	Status	MEC Policy Targets by stages		
			Stage I (2005–2010)	Stage II (201–2015)	Stage III (2016–2018)
1.	Fiscal deficit % GDP exc. grants)	Primary	5% or less	4% or less	3% or less
2.	Annual average inflation rate	Primary	5% or less	3% or less	3% or less
3.	Central bank financing of the budget	Primary	Towards 0%	0%	0%
4.	External reserves	Primary	4 months or more	5 months or more	6 months or more
5.	Stable real exchange rates	Secondary	Achieve/maintain	Achieve/maintain	Achieve/maintain
6.	Positive market real interest rates	Secondary	Achieve/maintain	Achieve/maintain	Achieve/maintain
7.	Growth rate of real GDP	Secondary	7% or more	7% or more	7% or more
8.	Total debt as % of GDP	Secondary	60% or less	60% or less	60% or less
9.	Domestic revenue/GDP ratio	Secondary	20% or more	20% or more	20% or more
10.	Current account deficit (excl. grants) as a % of GDP	Secondary	Sustainable level	Sustainable level	Sustainable level
11.	Investment as % of GDP	Secondary	At least 20%	At least 20%	At least 20%
12.	Bank supervision and regulation	Secondary	Implement as per agreed principles	Implement as per agreed principles	Implement as per agreed principles
13.	Modernising payment and settlements system	Secondary	Implement as per agreed principles	Implement as per agreed principles	Implement as per agreed principles
14.	Progressively added criteria/target			Gradual liberalization of capital account	Full liberalization of capital account

Source: COMESA (2004)

There are extreme variations in the GDP growth experiences for member countries and signs of convergence are not apparent (Table 14). Comparing figures for the years 2000 and 2004, countries which have consistently performed well include Ethiopia, Gambia, Mauritius, Rwanda, Sudan and Uganda. However, it is only Angola, Ethiopia and Sudan which had managed to attain a growth rate of real GDP of not less than 7.0% by 2004 which was the macroeconomic convergence criteria for 2005–2010. By 2005, they had attained GDP Growth rates of 15.7%, 8.7% and 8.0%, respectively.

At the other extreme, there are countries which have consistently performed poorly in terms of growth, and these include Zimbabwe, Burundi and Malawi. These countries by 2004 had GDP Growth rates of –6.5%, 0.9%, and 1.9% respectively. In terms of inflation, the primary criterion for 2005–2010 was an annual average rate not exceeding 5% and by 2005 only five countries were within this threshold. These were the Central African Republic (3%), Djibouti (3.1%), Gambia (4.3%), and Seychelles (1%). Some five other countries had their rates above 5% but below 10% (Ethiopia, Mauritius, Rwanda, Sudan, and Uganda). Other countries still had high inflation rates including Angola (23%), DRC (21.4%), Madagascar (18.4%), and Zambia (18%). Zimbabwe was an extreme case with a rate of about 234%. Nevertheless, exploring trends using

Table 10: Trends on Selected Convergence Indicators for COMESA¹¹ Economies

Country	2000			2005		
	GDP Growth Rate	Inflation	C/A Balance as % of GDP	GDP Growth Rate	Inflation	C/A Balance as % of GDP
Angola	3.0	325.0	8.7	15.7	23.0	8.2
Burundi	-0.9	24.3	-9.9	0.9	13.6	-4.4
C. African Rep.	1.8	3.2	-3.0	2.2	3.0	-4.1
DRC	-6.9	550.0	-4.6	6.5	21.4	-4.8
Djibouti	0.4	1.6	-3.4	3.2	3.1	-4.2
Eritrea	-13.1	19.9	0.5	4.8	12.4	-0.0
Ethiopia	5.4	6.2	-4.3	8.7	6.8	-9.1
Gambia	6.4	0.9	-3.1	5.0	4.3	-13.1
Kenya	0.6	10.0	-2.3	4.7	10.3	-7.6
Madagascar	4.7	10.7	-5.6	4.6	18.4	-12.8
Malawi	0.8	29.6	-5.3	1.9	12.3	-7.7
Mauritius	6.0	5.5	-1.5	3.5	5.6	-3.5
Rwanda	6.0	3.9	-5.0	5.0	9.2	-3.9
Seychelles	4.3	6.3	-7.3	-2.3	1.0	-14.6
Sudan	8.4	8.0	-14.9	8.0	8.5	-10.7
Swaziland	2.6	7.2	-5.4	2.2	4.8	-1.4
Uganda	5.3	5.8	-7.0	5.6	8.0	-1.2
Zambia	3.6	26.1	-18.2	5.1	18.3	-10.2
Zimbabwe	-7.3	55.6	0.4	-6.5	237.8	-11.1

Source: IMF World Economic Outlook Database, 2006

the two selected indicators (GDP Growth and Inflation), there is evidence of convergence in macroeconomic fundamentals in general, but the degree of convergence differs for particular variables as well as for groups of countries.

The European Union (EU)¹²

The EU was established under that name in 1992 by the Treaty on European Union (the Maastricht Treaty). However, many aspects of the Union existed before that date through a series of predecessor relationships, dating back to 1951. The Union currently has a common single market consisting of a customs union, a single currency managed by the European Central Bank (so far adopted by 12 of the 25 member states), a Common Agricultural Policy, a Common Trade Policy, and a Common Fisheries Policy. A Common Foreign and Security Policy were also established as the second of the three pillars of the European Union. The Schengen Agreement abolished passport control, although not all EU states are signatory, and some non-members are. Customs checks were also abolished at many of the EU's internal borders, creating a single space of mobility for EU citizens to live, travel, work and invest.

Among the fundamental objectives of the EU are economic and social progress and constant improvements in living and working conditions. These aims were laid down in the Treaty of Rome which, in 1957, established the European Economic Community (EEC) which is now the

EU. Nevertheless, it is a major achievement for the EU to have become, in 50 years, the world's second largest economy with a GDP of US\$12,427,413 million and 12 countries sharing a single currency. The EU economy is expected to grow further (between 2 – 3%) over the next decade as more countries join the union — especially considering that the new states are usually poorer than the EU average, and have the capacity to grow at a higher rate.

However, the EU is now faced with the twin challenges of convergence (of macroeconomic indicators) and cohesion (rising living standards for all, social solidarity among rich and poor member states alike). The paradox however, is that these two goals may be in some ways contradictory. In order to achieve convergence, governments may be forced to cut back on measures that bolster cohesion. They may for instance, have to reduce subsidies or other economic transfers within their own borders, which is likely to aggravate existing disparities. In addition, as member states increasingly lose their autonomy as a result of EMU, they become less able to deal with regional imbalances. In such circumstances the role of the EU in promoting cohesion becomes more important.

Macroeconomic policies and achievements in the EU

In 1992, EU met in Maastricht to agree on macroeconomic convergence criteria for suitability of joining the union, hence the Maastricht Agreement on macroeconomic policies which identified five criteria as follows:

- inflation should be no more than 1.5 percentage points above the rate for the three member states with the best inflation rate over the previous year;
- The budget deficit must generally be below 3% of GDP;
- debt limit set at 60% of GDP, but a country with a higher debt-to-GDP ratio can nevertheless adopt the euro if its debt levels are falling steadily;
- the long-term interest rate should not be more than two percentage points above the rate in the three member states with the best inflation rate over the previous year;
- exchange rate stability should stay within pre-defined fluctuation margins for two years.

In assessing the level of achievements in MEC, it is useful to examine the new member states in the union with relatively weaker economies. These are Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic, and Slovenia. These countries have achieved considerable macro economic stabilization over the past decade. Together, they account for 16.1 percent of the EU's total population, but only 8.4 percent of the EU's combined GDP. Only Cyprus, Slovenia, and the Czech Republic have per-capita GDPs substantially higher than half of the EU's per-capita GDP.

However, adoption of the euro requires nominal convergence of the economies of the new member states to the euro economy. Nominal convergence will be assessed on the basis of the five *Maastricht criteria* listed above. Table 15 shows that the new member states have already achieved a substantial degree of nominal convergence. For instance, the critical value for the inflation rate is 1.5 percentage points above the rate for the three member states with the best inflation rate over the previous year. Taking the inflation rates for 2004, the critical rate falls at around 3 percent, and hence the criterion is met by some countries including Cyprus, Estonia,

Lithuania, and Malta. In 2004, nominal convergence in terms of long-term interest rates was achieved by all new member states except Hungary and Poland (Table 15). This shows that the current inflation trends are perceived as credible by the financial markets. Most of the new member states comply with the 60 percent threshold for the public debt ratio (except Cyprus and Malta), and all comply with the 3 percent threshold for the deficit ratio.

Table 11: Nominal Convergence Performance for Selected EU Member States

Country	Inflation Rates (%)		GDP Growth Rate (%)		Government Balance as % of GDP		Government Gross Debt as % of GDP		Long Term Interest Rate	
	2001	2004	2001	2004	2001	2004	2001	2004	2001	2004
Cyprus	2.0	2.2	4.1	3.9	1.1	-0.9	61.9	71.7	7.6	5.8
Czech Rep	4.8	3.2	2.6	4.7	-4.8	-1.7	25.3	30.6	6.3	4.8
Estonia	5.8	3.0	6.5	7.8	0.5	1.8	4.6	5.4	10.2	4.4
Hungary	9.2	6.9	4.3	4.6	1.1	-1.2	51.7	57.1	8.0	8.2
Latvia	2.5	5.8	8.0	8.5	-1.2	-0.2	14.0	14.6	7.6	4.9
Lithuania	1.3	0.6	6.4	7.0	-0.5	-0.5	22.9	19.5	8.2	4.5
Malta	3.2	3.0	0.3	-1.5	-2.9	-1.1	61.7	76.2	6.2	4.7
Poland	5.5	3.7	1.1	5.3	-0.7	-1.3	35.9	41.9	10.7	6.9
Slovak Rep	7.3	7.7	3.8	5.5	-2.4	-0.8	48.8	41.6	8.0	5.0
Slovenia	8.4	3.7	2.7	4.2	-1.8	-0.5	28.3	29.5	-	4.7

Source: EU Economic Forecasts (2006); IMF World Economic Outlook Data Base (2006)

Lessons Learnt

- In most regional integration areas, member countries are required to implement regional policies within national economies which in many cases are themselves underdeveloped. This creates tensions between competing priorities of promoting national prosperity while at the same time trying to reduce regional disparities.
- Examination of trends in macroeconomic variables in EAC, COMESA, and EU, there is evidence of convergence in macroeconomic fundamentals in general. However, the degree of convergence differs for particular variables as well as for groups of countries.
- It is unclear whether the achievements in MEC resulted from adhering to national or regional macroeconomic policy or simultaneous agreements between individual countries and the Bretton Woods Institutions.
- Regional integration experiences (e.g., the difficulty in the ratification of the Maastricht Treaty by some of the EU countries) shows that there is need for a sufficient degree of political commitment for macro-economic convergence to be achieved.

Conclusion and Implications

In recent years, there has been a rise in analytical and policy interest on regional integration spurred by the increasing number of cooperation and integration initiatives in developing countries as part of strategies to gainfully participate in the global economy. SADC is one amongst prominent cooperation arrangement in sub-Saharan Africa, but one that is quite diverse whose integration possibility depends on prospects for MEC. Despite the importance of MEC in informing the progress towards integration, analytical studies on convergence in the region are scanty.

This study contributes to filling this gap by reviewing MEC policy/institutional frameworks and assessing the performance of indicators (including prospects and feasibility of each) for which convergence can practically be pursued in SADC. The convergence framework used in the study does not address the discourses on growth models, but rather the institutional framework upon which macroeconomic policy harmonization may occur to facilitate regional integration. Thus, a combination of real, nominal and institutional variables is used to examine the prospects of convergence in SADC, since all are important in assessing the efficacy of convergence in enhancing regional integration. Although there are different approaches to the measurement of macroeconomic convergence, the study uses the co-integration approach given its ability to capture both the short- and long-run aspects of the convergence. Both quantitative and qualitative analyses are made using secondary data and a literature review.

Qualitative analysis indicates existence of co-integration, while quantitative analysis shows that co-integration, hence convergence, does not exist. Although findings of qualitative and quantitative aspects of the study contradict each other, overall conclusion is that the prospects for macroeconomic convergence exist. However, there is notable variability in the performance of some MEC targets or country groupings (e.g., low-income versus high-income countries). According to the qualitative analysis, the most important and achievable convergence indicators for SADC are core inflation and economic growth, followed by external reserves, domestic money supply and the interconnection of payments system. The least important/achievable indicator is external debt, the domestic savings rate and stock exchanges operation, followed by capital account liberalization and budget deficits.

Results of quantitative (co-integration) analysis show that convergence does not exist. However, such a finding is biased to the sample period that includes years (1981–1991) for which SADC did not exist (excluding this period leaves analysis with too short a period for a meaningful econometric analysis). In this period, there was notable divergence in the behaviour of member countries' macroeconomic variables, hence influencing the co-integration test results. Nevertheless, consistent with above qualitative analysis, trends in the macroeconomic variables of selected countries show that the divergence of behaviour has been consistently diminishing since 1995, moving gradually towards convergence.

The study results underscore the need for SADC to strengthen the institutional framework as basis for implementation of convergence policy. SADC may, among other steps, design policies or practices to complement/sustain progress in the tractable indicators while encouraging specific member countries undertake reforms for achieving intractable indicators. Continuous review of convergence criteria and progress is also important in providing feedback for analysis and policy making at regional and country level, thereby facilitating dialogue and a foundation for implementing the integration agenda.

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Annex 1: Concepts and Measures of Convergence

Box 1: Different Concepts or Measures of Convergence

The *first* measure of convergence is homogenization, which refers to the reduction of the dispersion among a set of countries (regions) in terms of some measure of performance. Homogenization is often referred to as convergence of real GDP per capita. However, homogenization can be applied to many other measures of a country's performance. The coefficient of variation, a sample's standard deviation as a percentage of the sample's mean, are used as a statistic to measure the degree convergence. Convergence occurs when the coefficient of variation declines over time for a country group. This implies that one country is 'catching up' with another when closing the gap.

The *second* concept is catch-up convergence. Catch-up convergence is used to determine if a narrowing in the percentage gap between the leading country's performance in the variable in question and that of the other countries in the pertinent set had occurred. It is important to note that homogenization is not catch-up convergence. Homogenization and catch-up convergence normally go hand in hand but they are not equivalent. Most policy decisions are based on catch-up convergence rather than homogenization. The *third* concept of convergence is gross convergence, which can be applied to either homogenization or catch-up convergence. It refers to those countries that are experiencing some degree of convergence in the variable in question, without correcting for the influence exercised by other pertinent variables.

The *fourth* concept of convergence is explained convergence. This refers to the statistical evaluation of the role of the pertinent and measurable variables that can reasonably be expected to influence the time path and degree of convergence experienced in some countries. The *fifth* concept of convergence is residual convergence which refers to the possibility that after a statistical removal of the effect of the variables estimated in the explained convergence calculation, the remaining, and statistically unexplained, residue in behaviour of the dependent variable will itself prove to display convergence among the countries studied. The *sixth* concept of convergence is asymptotically perfect convergence, which refers to two countries as converging when in the long run the pertinent variables for the two countries asymptotically approach precisely the same level. The *last* concept of convergence is bounded convergence. Two countries are undergoing a process of bounded convergence if the time paths of the pertinent variables are heading towards destination points that are not necessarily identical, but can be deemed to be reasonably close to another on some explicit and pre-selected criterion.

Source: Adopted from Bezuidenbout (2002:4-5)

Annex 2: Quantitative Assessment of Macroeconomic Convergence In SADC

The Co-integration Model

As noted earlier, this study uses co-integration analysis of the non-stationary macroeconomic supply and demand variables to investigate macroeconomic convergence in the SADC region. The variables are said to be co-integrated if the individual variables are non-stationary, but their linear combination is stationary. There are two broad approaches to co-integration analysis. These are the Engle-Granger (1987) approach and the Johansen's (1988) procedure.

The Engle-Granger, or residuals-based, procedure involves two steps in testing for co-integration. The first step involves estimating a static co-integrating equation. The second step involves testing whether the residuals obtained from the static co-integrating equation are stationary. If the residuals are stationary, the variables are considered to be co-integrated. And, if the residuals are non-stationary, it is concluded that the variables are not co-integrated. Simplicity in both estimation and interpretation is the main advantage of the Engle-Granger procedure. However, this procedure has three main limitations. First, it cannot identify more than one co-integrating vector when several co-integrating relations exist. Second, sometimes

the procedure's conclusions may change with changes in the choice of endogenous variable. Third, the procedure being static by excluding the dynamics, it tends to produce biased estimates and has low test power in finite sample.

Johansen's procedure is an alternative procedure that does not suffer from the limitations inherent in the Engle–Granger procedure. This procedure uses the vector auto regression (VAR) framework and, thus, it can identify more than one co-integrating vector if there are multiple co-integrating relationships. However, the main limitation of this procedure, especially when it is used in small sample, is that it utilises a substantial number of degrees of freedom. This is mainly because its framework is a system of equations.

Nevertheless, there are several variations to the Engle–Granger approach which attempt to overcome the limitations of the procedure. They mainly attempt to correct the finite sample biases and low power co-integration tests [see for example, Phillips and Hansen (1990), Phillips and Ouliaris (1990); and Saikkonen (1991)]. These variations correct finite sample biases by introducing dynamics in the co-integrating equation. A simple static co-integrating equation is used in the Engle–Granger approach:¹³

$$y_t = \alpha + \beta x_t + u_t \quad (1)$$

To control the problem of finite sample bias, Saikkonen (1991) introduced the dynamics, usually leads and lags of variables in the estimation. The dynamic equation is therefore a modified version of the static co-integrating equation, which takes the following form:

$$y_t = \alpha + \beta x_t + \sum_{i=-k}^k \varphi_i \Delta x_{t-i} + u_t \quad (2)$$

For the purpose of this study, we use a single equation residual-based test by Phillips and Ouliaris (1990) as it overcomes the problems of large finite sample bias and low test power in a small sample. This is adequate since we are simply interested in testing whether or not the variables are co-integrated (thus requiring existence of a single integrating vector), such that identifying the number of co-integrating vectors is not necessary.

However, one of the requirements of co-integration analysis, especially in single equation based approaches, is for the variables in the model to have the same order of integration. In macroeconomic applications, this will entail in most cases having a model in which all variables are integrated of order one [i.e.,]. Subsequently, the augmented Dickey–Fuller (ADF) unit root test is used to examine the order of integration of the time series. Knowing the order of integration facilitates determining the nature of data transformation. That is, the number of times variables should be differenced to achieve condition (stationarity). The ADF unit root test to be used in this study is based on the following standard equation, where the null hypothesis, $H_0 : \rho = 0$

$$\Delta y_t = \alpha + \beta t + \rho y_{t-1} + \sum_{i=1}^p \varphi_i \Delta y_{t-i} + \varepsilon_t \quad (3)$$

Co-integration analysis requires a fairly long sample period to get some meaningful results. In time series literature, at least 30 observations are recommended. In most of the applications in developing countries with short sample periods, shorter samples with 25 observations are commonly used. In order to have a fairly long sample, this study includes a period (1980–1991) in which SADC did not exist. This is likely to have an impact on empirical results, biasing the

results against macroeconomic convergence. Therefore, it is important to interpret the co-integration analysis results with caution. More specifically, co-integration analysis results should be used in conjunction with results from qualitative analysis.

Data and Scope

Ideally, it would have been preferable for the analysis to cover all the fourteen member countries. However, difficulties in getting consistent time series for the fourteen member countries has necessitated including only a few countries in the analysis. For these reasons, only four countries, namely, Botswana, South Africa, Tanzania and Zambia are included in the sample.

Time series data from 1980 to 2005 are used. Three factors have been taken into account in determining the sample period. First is the need of having a sample period which is fairly long to have reasonable co-integration results. Secondly, we need to cover the period for which SADC has been in existence. Finally, given the requirement for a reasonable number of degree of freedom, we only cover variables whose number of observations is at least 15 in more than one country. However, this necessitated including additional variables to those listed by the SADC MoU. Overall, variables selected for analysis includes GDP, GDP per capita, inflation, and money stock (broadly defined). The main source of data is the International Financial statistics (IFS) on various years.

Empirical Results

In this section we first examine time series properties of the selected macroeconomic variables. The objective is to identify the order of integration of the different series and determine the form of transformation of variables in such a way that, the order of integration of all the variables in the co-integrating equation is the same. The unit root test for GDP suggests that GDP is integrated of order one. As the table below shows, the order of integration of GDP for all the countries, except Tanzania is. Growth rates of GDP are stationary. In the case of Tanzania, GDP seems to be integrated of order two, and the growth rate is also non-stationary; being integrated of order one.

Unit Root Test for GDP

Country	Augmented Dickey Fuller (ADF) Test			Order of Integration
	Level	1st difference	2nd difference	
Botswana	-2.9669	-4.13552	-	<i>I</i> (1)
South Africa	-2.9101	-4.92845	-	<i>I</i> (1)
Tanzania	-0.7841	-1.9230	-	<i>I</i> (2)
Zambia	-2.2112	-3.0745	-	<i>I</i> (1)
Madagascar	-3.3697	-4.9708	-	<i>I</i> (1)

Non-stationarity of Tanzania's GDP growth is quite unrealistic given the fact that in most economic applications, macroeconomic time series, with the exception of the general price level (consumer price index/GDP deflator) and money supply, are integrated of order one.

Sometimes, the general price level and money supply are integrated of order two. In the case of Tanzania, we also believe that GDP is integrated of order one, and the growth rate of GDP is integrated of order zero (i.e., stationary). The unexpected results can be attributed to a structural break, as the growth rate made a sudden jump from low growth rates in the early 1980s to relatively persistent high growth rates during 1990–2005.

Unit Root Test for Per Capita GDP

Country	Augmented Dickey Fuller Test			Order of Integration
	Level†	1st difference	2nd difference	
Botswana	-1.4067	-1.9778	-	<i>I</i> (1)
South Africa	-1.0479	-2.8075	-	<i>I</i> (1)
Tanzania	-0.3064	-1.7628	-	<i>I</i> (2)

Per capita GDP is also integrated of order one, and the growth rate of GDP per capita is stationary for all counties, except for Tanzania (see Table 8). In the case of Tanzania, the growth rate of per capita GDP appears to be integrated of order one, suggesting that per capita GDP is integrated of order two. Again, this unexpected behaviour can be explained by the structural break, which is characterised by extremely low rates of growth in the early 1980s followed by relatively persistent high growth rates in the 1990s and early 2000s. Increasing the sample period, by including the period before 1985, results into the test showing that per capita GDP in Tanzania is also integrated of order one, and the growth rate of per capita GDP is stationary.

Unit Root Test for Inflation

Country	Augmented Dickey Fuller Test			Order of Integration
	Level	1st difference	2nd difference	
Botswana	-2.3440	-4.4049	-	<i>I</i> (1)
South Africa	-3.2546	-5.3545	-	<i>I</i> (1)
Tanzania	-2.4335	-5.2298	-	<i>I</i> (1)
Zambia	-2.0179	-5.2068	-	<i>I</i> (1)
Madagascar	-3.2454	-5.8457	-	<i>I</i> (1)

In the case of inflation, the first difference of the variable is stationary (see Table 9). This indicates that inflation is integrated of order one. This is not surprising given the fact that in most macroeconomic applications, all the time series are at most integrated of order one, with the exception of the general price level (the first difference of which is the rate of inflation) and money supply, which tend to be integrated of order two.

Unit Root Test for Money Stock Growth

Country	Augmented Dickey Fuller Test			Order of Integration
	Level	1st difference	2nd difference	
South Africa	-2.5750	-1.1222	-5.7042	I(2)
Tanzania	-0.7752	-0.15177	-3.8080	I(2)

In both countries, the first difference of money stock is non-stationary, and the second difference of the variable is stationary. This suggests that money stock is integrated of order two. Again, this is not surprising because in most macroeconomic applications the general price level and money stock are the exceptions which sometimes are integrated of order greater than one. The unit root tests (in Table 10) suggest that all the selected variables for each of the selected country are integrated of order one. That is, they are non-stationary. In order to investigate whether there is macroeconomic convergence, we need to examine if a linear combination of the country variables is stationary.

Because we are simply interested in addressing the question of whether there is macroeconomic convergence (that is, whether the country variables are co-integrated), and we are not interested in causal-effect direction, the decision on the choice of which variable should be treated as endogenous is not important. However, the conclusion on whether or not the variables are co-integrated sometimes tend to depend on choice of the endogenous variable in single equation-based estimators. This study employs the Phillips-Ouliaris statistic, which does not suffer from that limitation.

The co-integration test table below reveals that the country variables are not co-integrated. This implies that there is no macroeconomic convergence. However, such conclusion should be interpreted with caution because a substantial part of the sample period used in this study (1980-1991) is a period when SADC did not exist. In this period, there was notable divergence in the behaviour of member countries' macroeconomic variables. This partly explains our co-integration test results. Decomposing the sample to cover the post 1992 period would imply too few observations that may compromise the reliability of the results.

Nevertheless, consistent with above qualitative analysis, the trends of macroeconomic variables show that the divergence of behaviour has been consistently diminishing since 1995. For countries with low GDP and per capita GDP growth such as Tanzania, their growth rates have been rising, thus catching up with good performers such as Botswana. The same pattern of behaviour is observed in the case of inflation where countries which had high rates of inflation in early 1990s (such as Tanzania and Zambia), has been experiencing consistent fall in inflation rate in 2000s, thus converging to favourable rates of inflation in low inflation countries such as Botswana and South Africa.

Co-integration Test

Variable	
GDP	62.829*
Per capita GDP	53.6064 **
Inflation	77.42*1
Money growth rate	41.4506 ***

Notes: * Critical value at 5% = 183.19

** Critical value at 5% = 89.872

*** Critical value at 5% = 54.6874

Notes

- ¹ SADC countries include Angola, Botswana, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe. Other regional cooperation in Southern and Eastern Africa region include the Common Market for Eastern and Southern Africa (COMESA), SADC, the Southern African Customs Union (SACU), the East Africa Community (EAC), the Indian Ocean Commission (IOC), the Indian Ocean Rim (IOR) and the Common Monetary Area (CMA).
- ² Convergence clubs are a subset of countries to which convergence applies, *viz.* countries with similar initial human capital endowments. Members of the club, who are relatively backward, are able to take advantage of technological improvements in the front-runners, and catch up.
- ³ See Chipeta and Schade (2007) *Deepening Integration in SADC: Macroeconomic Policies and Impact (A Comprehensive Analysis of 10 Country Studies and Surveys of Business and Non-State Actors)*. Friedrich Ebert Foundation.
- ⁴ These works, according to Varblane and Vahter (2005), were led by influential authors including Barro, Sala-i-martin (1992, 1995); Baro and Lee (1993); Sala-i-Martin (1995); Nadiri (1993); and Blomström and Wolff, (1994).
- ⁵ For reasons of parsimonious analysis, we refrain from adding more countries from the current list of four in the quantitative analysis, in which Zambia is included and Madagascar is excluded.
- ⁶ Only the empirical results of the quantitative assessment are presented in this section, while the detailed methodological issues are annexed to the report.
- ⁷ GEAR is now very out of date, and generally replaced by other policy frameworks, notably the Accelerated and Shared growth Initiative for South Africa (2004) which supports halving poverty and unemployment by 2016.
- ⁸ In recent years, Tanzania has experienced an upward trend in her inflation, from about 4.5% in 2005 to about 6% in 2006. The increase is essentially explained by low supply (hence shortage) of food crops due to drought. In turn, the drought led to a serious shortage of hydroelectric power that further affected production of goods and services in the country.
- ⁹ Average for the four selected SADC countries –Tanzania, Botswana, Madagascar and South Africa. For country-specific performance, see Annexes 2 and 3.
- ¹⁰ Countries forming COMESA are: Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Burundi, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.
- ¹¹ Egypt which is also a member of COMESA has not been included in this table.
- ¹² Member countries include: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia., Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom. Acceding countries include Bulgaria, and Romania. Candidate countries include Croatia, FYR Macedonia, and Turkey. Potential candidate countries are Albania, Bosnia Herzegovina, Montenegro, and Serbia.
- ¹³ This is a simple representation, in which there is only one variable on the right hand side. It can be generalised to cases involving several variables appearing on the right hand side.

This collection of papers was presented at the 2006 FOPRISA Annual Conference held at the Polana Hotel, Maputo, Mozambique, on 28 and 29 November 2006. The annual conference brings together all the institutions and individuals participating in the research programme, and its main function is to report on research findings and discuss emerging concepts and themes.

The Proceedings of the 2006 FOPRISA Annual Conference represents the culmination of research activities undertaken during the first year of FOPRISA, from 2005 to 2006. This collection of 15 papers covers four research themes: Democratic Development (Norms and Standards of Electoral Processes); Politics, Defence and Security Cooperation (Security Cooperation); Regional Trade and its Relations to the International Trade System (Trade Policies); and Economic Harmonization, Finance and Investment (Macro-Economic Convergence).

Separate publications on the monitoring theme were produced in 2006. These are *Monitoring Economic Integration in SADC, 2005* (ISBN 99912-71-34-1/978-99912-71-34-1) by Dirk Hansohm and Rehabeam Shilimela, and *SADC and Donors – Ideals and Practices: From Gaborone to Paris and Back* (ISBN 99912-0-574-8) by Elling Tjønneland.

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