Regional Integration Agenda for SADC "Caught in the winds of change" Problems and Prospects.

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Abstract: This paper seeks to elaborate on the difficult path the Southern Africa Development Community (hereinafter called SADC) finds itself in, while trying to push for a regional integration agenda that is development-oriented and globally relevant. The institutional framework of the organisation was previously oriented a cooperative, and not on an integration approach. For this reason institutional challenges remain. There is still a huge gap between SADC regional initiatives and the member states' national objectives. The set out agenda for transformation to a Free Trade Area in 2008, Customs Union in 2010, Common Market in 2015, Monetary Union in 2016 and regional currency in 2018 is very ambitious under the current environment. Lack of resources weakens the organisation and over donor dependence is a clear problem. The paper concludes with recommendations to resolve these problems.

1. Introduction

The Southern African Development Community[1] is set to launch a Free Trade Area (FTA)[2] on the 17th of August 2008. The path to integration does not end with the creation of a FTA. According to the Regional Indicative Strategic Plan[3], SADC plans to follow this up with a Customs Union in 2010, a Common Market in 2015, a Monetary Union in 2016 and a single currency in 2018. private sector and politicians in the region strongly support the promotion of intra-SADC trade and investment. However they disagree on the sequence and intensity of the integration agenda. The private sector is of the opinion that it is unrealistic to introduce a Customs Union[4] until the FTA has been fully and successfully implemented[5]. There is disagreement among member states on the best way of achieving an integrated market for the region as was evident in the SADC meeting of July 2008. These bottlenecks are only a symptom of the ever present problem of a failed institutional transformation from SADCC to SADC in 1992. This transformation saw the redefinition of regional cooperation from a loose association towards a legally binding arrangement that seeks integration. This transformation was not accompanied by appropriate institutional framework for integration. This paper seeks to expose the extent of the difficult path SADC is on in trying to achieve integration objectives. The aim is to reach a conclusion that under the prevailing scenario an integrated market for the region is unachievable.

2. Background

The SADC is made up of fourteen member states[6]. Before the formation of the SADC in 1992, the block was called SADCC[7], whose focus was on functional cooperation in key sectors. The main objective of SADCC was to reduce dependence on apartheid South Africa. This cooperation was dominated by the frontline states whose focus was political liberation of the region[8]. SADCC had decentralised structures, with different sectors allocated to each member state. The institutional framework of the organisation comprised of the Summit, Council, and Standing Committee of officials and a Secretariat. This structure was oriented towards a cooperative and not integration approach.

The 1992 SADC Treaty redefined SADCC to SADC changing the organisation from a loose association towards a legally binding arrangement. Geopolitical changes included the independence of Namibia from colonial rule as well as the promise of a new dawn of democracy in South Africa. From a distance the end of the cold war

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[1] Hereinafter referred to as SADC
[2] Hereinafter referred to as FTA
[3] Hereinafter referred to as RISP
[4] Hereinafter referred to as CU
[5] Paul Kruger- TRALAC Available at www.tralac.org. Accessed 30/07/08
[6] These are Angola, Botswana, Democratic Republic of Con Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe. Seychelles has withdrawn its membership but Madagascar was awarded "candidate membership status" at the 2004 Summit in Mauritius.
[7] Southern African Coordination Conference
[8] The frontline states were Angola, Botswana, Mozambique Tanzania and Zambia

meant that there was need to focus on responding to challenges of globalization, competitiveness and enlarged regional markets. The treaty of establishing the African Economic Community had just been concluded in 1991 and Regional Economic Communities (RECS) were perceived as a key development strategy.

The organisation started to address the agenda on development integration focussing on infrastructure and efficiency barriers to development. Trade liberalization became pivotal as members became aware of regional imbalances among member states. The organisation continued to grow with the joining of Namibia in 1990, South Africa in 1994, Mauritius in 1995, Seychelles and Democratic Republic of Congo (DRC) in 1997. The size of membership of SADCC and a tendency to expand was not necessarily conducive a new integration approach. This transformation from SADCC into SADC was not accompanied by appropriate institutional framework for integration.

3. Responding to the forces of change

The restructuring process for SADC institutions started in 2001 through a slow process. 21 sectors were grouped into clusters under 4 directorates at the Secretariat. The integration agenda was conceptualised under the Regional Indicative Strategic Development Plan (RISDP) in 2003. However institutional challenges remained SADC was still rooted in a cooperative framework rather than rules based mechanism. In lay mans' terms the policy organs in form of the Summit and Council, assumed a role of both a player and referee in the integration game. The Secretariat was still not adequately transformed to suite the new approach. The decision to leave the task of driving integration to national committees was not the best since national governments had failed to drive integration. Legislative bodies of national parliaments were weak and there was no clear oversight by parliaments.

3.1 Towards a Free Trade Area (FTA), first deadline and a serious test

The launch of SADC FTA was scheduled on the 17th of August 2008. This is the first step in a sequence of scheduled developments in the integration agenda of the region. The SADC Protocol on trade was signed in the year 2000. Currently the protocol is focusing on trade in goods with the draft Protocol on trade in services still to be negotiated. The FTA is facing implementation problems. On the other hand, it remains a shallow integration of goods market only. Member states are not willing to lose national sovereignty on trade policy. Development of regional trade in services can make a valuable contribution to development. The challenge is that it intrudes in national policy space. The FTA will have to comply with applicable WTO rules. This can only be achieved by compliance with Article XXIV of the General Agreement on Tariffs and Trade (GATT).

3.1.1 Implementation challenges

Member states are not at the same level of preparednes Malawi, Mozambique, Tanzania and Zimbabwe are not up to date. Non-Southern African Custom Union [9] members back loaded their tariff preferences offers and are faced with the possible tariff revenue declines this y Outside SACU, most intra-SADC trade takes place either under Common Market for East and Southern Africa[10] or bilateral trade agreements. Following the trade protocol, some countries renewed dormant bilateral trade agreements or formed new ones. This shows that the trade protocol is not attractive.

3.2 The SADC Customs Union, 2010

A Customs Union is an FTA with a Common External Tariff[11.] This will result in the loss of national sovereignty on external trade policy. The evolution of the FTA into a CU is planned for 2010. The challenge for the realisation of a CU relates to the vast differences in the Most Favoured Nation[12] (MFN) tariff structures of member states. The MFN principle provides that any advantage, favour or privilege which a contracting party extends to products which originate in or are destined for another country, must be extended immediately and unconditionally to any like products which originate in or are destined for the territories of all other contracting parties.

Compromising on a CET will be a challenge. Examples show that the tariff levels for Mauritius are 3.1%, Zimbabwe's stand at 16.2% and maximum rates for the block range from 20% to 108%. The SACU rate is 8.2%. Since SACU is already an established CU, it will be difficult for them to bend their rules. On the other hand, the rest of the block with higher tariffs would be parting with a source of huge revenues by lowering tariffs. Member

[9] Hereinafter referred to as SACU
[10] Hereinafter referred to as COMESA
[11] Hereinafter referred to as CET
[12] Hereinafter referred to as MFN

states have wide differences on objectives and rationales behind tariff structures and policies. WTO tariff bindings also differ and some countries like Mauritius have substantial duty free MFN tariff lines. The question is- can a common agreement be reached on the principles of establishing a CET and therefore on what type of a CU? Rules of origin have to be effective and the integrity of a CET has to be sanctioned in law.

Another challenge is the constitution of the institution that collects the revenue. This has to be a serious office that will devise the revenue formula. Dependence on customs reve differs in the region. South Africa dependence stands at 2.9%, Madagascar level is at 41% Lesotho stands at 42.9%. Applying one country's tariff as a basis for the CET will result in a large revenue adjustment for others. A compromised CET will spell disaster for member states relying on it for revenue. Revenue collection will prove to be a headache for the majority of SADC's landlocked countries. An example for SACU shows that Lesotho and Swaziland rely on South Africa for the collection of the tariff revenues. South Africa together with other SACU members, like Botswana and Namibia, then shares with them.

3.2.1 Overlapping & Multiple memberships

The challenge of multiple memberships is a major cause for concern as conflicting interests and varied commitments are stalling the regional integration process[13]. Some members of SADC belong to one or more of the following regional trade areas: the Common Market for and Southern Africa (COMESA), Southern African Customs Union (SACU) and the East African Community (EAC). Consequently, no synchronised developmental agenda has been possible with SADC member states. The fact that SACU is already a Customs Union (CU) and SADC wants to archive the same status raises question of legality since according to WTO rules (GATT Article XXIV) a member state can only belong to one CU at a time. The extent of multiple memberships is illustrated below:

Country	COMESA	COMESA FTA	SACU	ESA-EPA Configuration	SADC	SADC-EPA Configuration	EAC	WTO
Angola	X				X	X		X
Botswana			X		X	X		X
DRC	X	X		X	X			X
Lesotho			X		X	X		X
Madagascar	X	X		X	X			X
Malawi	X	X		X	X			X
Mauritius	X	X		X	X			X
Mozambique				x	x			x
Namibia			X		X	X		X
South Africa			X		X	X		X
Tanzania					X	X	X	X
Swaziland			X		X			X
Zambia	X	X		X	X			X
Zimbabwe	X	X		X	X			X

Source: Author's presentation

The multiplicity of regulations and duplication of procedures operate to create business uncertainties that hamper interregional trade. If all the countries in the SADC belonged to one existing regional organisation, there might be little confusion. However, in a situation where membership is not uniform, or at least with geographical delimitation, and where the agendas of the different organisations are inconsistent and work against each other, the situation becomes hopelessly confused. This duplication of membership has to be sorted out before the realisation of regional integration objectives.

[13] Amos Saurombe, *The Context of Economic Partnership Agreements (EPA) for SADC.* Available alternatives.

3.3 Possibility for a Common Market by 2015

A Common Market is a Customs Union, with harmonised regulation and policies on free movement of factors of production. The SADC Protocol on the Movement of persons has not been signed and it remains a problematic issue for member states. There is an absence of a SADC collective standing on labour mobility. The Protocol on the movement of persons has not been subjected to intense regional discussion by SADC member's Heads of States for some time now. There is great doubt whether there is the political will to push the process. Unfortunately, the SADC Secretariat in Gaborone which trade and regional integration initiatives does not have the legal basis to ensure accountability, compliance and enforcement of decisions. It is submitted that this would pose a serious challenge on SADC achieving its goal of a Common Market by 2015. The effects of brain drain within and outside the region is being felt, with minimal or no effort at all to address the problems. South Africa is the main beneficiary of brain drain in the region.

The SADC Finance and Investment Protocol has not been spared by these delays. Slow progress means that member states cannot keep up to date with the growing gional economy. Pressure is also coming from rising oil and food prices (and a global scarcity) as well as unresolved questions of stability on Zimbabwe[14]. Lack of collective planning has made member states to appear helpless in the face of Zimbabwe economic collapse. The talk of a rescue package by SADC was an informal discussion in the media. South Africa is economically strongest in the region and have close ties with Zimbabwe but failed to intervene.

3.4 The proposed Monetary Union for 2016 and Regional Currency by 2018

The desire for a monetary union by 2016 is a farfetched dream for SADC. Rigorous preparation by all member states is crucial for this to be realised. There is ne for macroeconomic convergence of key indicators such as inflation, GDP and deficit ratios. These developments will require a substantial loss of monetary and relative fiscal sovereignty. This cannot be imagined under the current scenario of inflation figures of 4 million in Zimbabwe while South Africa and Botswana have their inflation under control in single figures. The SADC will have to create a supranational authority for effective surveillance and enforcement of a common central bank.

4. Place of dispute Settlement in Regional integration Agenda

In the words of Mike Moore (2000), former Director General of the WTO, dispute settlement is the 'backbone of multilateral trading system'. The private sector in th gion is unlikely to make any adjustments to their long term strategic planning as a result of international trade ents, unless such agreements are backed up by strong, rule based and objective third party adjudication system[15]. Developing countries have over the past decades increasingly embraced and appreciated the benefits of trade liberalisation and regional integration, and the adoption of a rules based dispute resolution system is a logical institutional extension of this tendency. As a result SADC is situated within a broader global trend, also among developing countries, towards economic co-operation and the establishment of rule-based institutions to manage these systems. So far, however, the implementation of Annex VI by SADC member states has been slow to get off the ground. No disputes have been filed yet. This state of affairs is most likely a result of the limited internal resources and experience of member countries in this respect, and also due to the still much politicised climate prevalent within SADC. The vast majority of countries feel that a trade dispute is not simply a by product of increased beneficial trading relations, but an unfriendly act. This is an attitude which is characteristic of a young and inexperienced regional organisation. The absence of disputes however does not point to a lack of interest of SADC member states in the DSM. Recent cases show a grievance by Zambia against Zimbabwean imports as a mere tip of the iceberg (Gandidze, 2002)

5. What are the Prospects for SADC?

5.1 Outstanding issues and challenges

There is inadequate internationalization of agreed integration objectives at national level. Regional economic integration issues are not part of national policy framework. Very few parliaments in the regions have a strong regional integration portfolio. At the Conference on Regional Parliamentary-Civil Society Conference in Trade and Integration held in 2007, parliamentarians bemoaned the fact that they are kept in the dark on issues relating to trade and regional integration. Parliaments in the region do not lay claim to the negotiating mandate. Negotiations for trade and integration are shrouded in secrecy and many instances conclusion of such agreements are ratified

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[14] Prof Gerhard Erasmus, Tralac Associate, comments on regional integration in Southern Africa: new opportunities and old sins.

[15] Bohanes Jan, a Tralac Associate, Regional trade agreements available on www.tralac.org/scripts/contents

by executive mandates where the State President signs Bill or Protocol without it being tabled before parliament. In instances where the parliament exercises oversight over the executive, the ruling parties have a majority in parliament resulting in the processes being reduced to rubber stamps[16.] Parliamentary role in SADC is crucial. They need a legal basis to monitor regional integration. Th y need to be sufficiently and accurately informed of government policies and contribute to negotiating positions in advance. Parliamentarians need to be afforded an opportunity to question relevant ministers and negotiators on matters of regional integration.

The institutional framework is inadequate, particularl relating to compliance and enforcement issues to ensure credibility of a rules-based integration framework. The ratification process protocols takes ages, with member states finding no need to exercise urgency. The SADC lacks a supra national authority to enforce decisions. As a result, implementation problems are left sorely to political organs such as the Summit of the Heads of States and the Council. This approach will not accelerate integration. There are no mandatory, transparent, accountable and predictable mechanisms for monitoring and enforcement of regional standards on integration.

The implementation and monitoring of protocols and consequences of non-compliance will have to be tackled. There are tribunals which can adjudicate questions of interpretation and implementation but they cannot function properly. The domestic incorporation of legal instruments, decisions and rulings did not figure in the earlier planning.

The region lacks effective leadership and champions. After 1996, the region expected South Africa to take a leadership role on both the economic and political front. The opposite has happened with South Africa preferring to have close economic ties with the EU (TDCA agreement), United State of America (SA-USA free trade agreement) and the emerging forces of Brazil and India. Multiple memberships also retard the emergence of leadership and implementation of agreed protocols. The Secretariat has no legal basis to ensure accountability, enforcement of decisions. It has not been transformed to be one of the drivers of the integration agenda.

The SADC has insufficient technical and analytical support to help with the regional integration agenda, there is a lack of policy think tanks especially in the area of assessing the feasibility of integration ambitions and measuring progress in the regional integration efforts. There is no drive to mobilising regional resources towards integration objectives. There is a lack of a broad based understanding and support for integration. The integration agenda forms only a small part of parliamentary discourse and debate.

Participation of the private sector and civil society the integration Agenda is recognised, but inadequate. Generally, most SADC member states treat civil society like opposition political parties even though they advocate for constructive opposition. The extent of informal trade in the region has always been underestimated. This can be a resource that can be exploited for the better und ding of the need for regional integration.

5.2 Resources for Integration

The SADC has limited resources to realise regional economic integration as discussed in this paper. There is an over-donor dependence in the region. The situation is so worse that if the EU will withdraw its funding, the whole SADC Secretariat based in Botswana will lose their jobs. It is not a wonder that the SADC is in a compromised position when it comes to Economic Partnership agreements (EPAs) with the EU. Th EU can exercise its economic muscle and arm-twist SADC into signing EPAs that are detrimental to the regional economic agenda. This has already happened when one considers that SADC is signing the EPAs as a divided pack of SADC-EPA and ESA-EPA. The EPAs are silent on the Regional Indicative Strategic Plan and the whole integration agenda. The rigidity of the EPA negotiations gives a blind eye to the history of SADC and more importantly, its future progression. The fact that the EU holds the balance of power owing to the financial contributions they offer in these negotiations is well established.

Member States participation in the SADC processes is relatively donor driven. Member states delegations to important regional integration meeting often rely on donation for travel and subsistence. Delegates are often labelled unprepared and not serious in these crucial meetings, with some going for holiday and shopping sprees at the negotiations host cities. SADC's mobilization of own resources is possible but the challenge is how.

6. Recommendations

However, it is not all gloom and doom for SADC since it can mobilise its own resources. A robust agenda can be put in place to ensure effective implementation of the integration agenda through appropriate institutional mechanisms that discourage lip service. The regional infrastructure can be improved and deeper integration can be

[16] The South African experience serves as a good example. The parliament is well equipped to process all legal instruments that are brought before it but the weakness is that the ruling African National Congress (ANC) has more than two thirds majority rendering opposition views useless.

emphasised by enhancing stakeholder participation and ship at national level. With improved political commitment and effective leadership, regional integration prospects are still very high.

In the short term, the precarious nature of the SADC trade integration agenda requires fast pace setters rather than slower integrators.

The SADC can still salvage the upcoming FTA implementation agenda.

As a matter of priority, the SADC needs to recognise the significance of regional integration within the region using the already established integrated infrastructure and investment partnerships. The South African private sector and North-South and Central development corridors are existing avenues that can help instantly.

Integration requires stakeholders' participation and ownership at national and regional level. There is need to encourage information sharing by providing a platform for incisive decision and deliberation towards the identification and implementation of concerted actions to stimulate economic development planning and the utilisation of investment opportunities to their full potential.

The human resources challenge can be overcome by seeki support from civil society and private sector. There are established think tanks that have specialised in this area and yet there have been marginalised. These will bring the much needed technical and analytical support.

SADC needs to make integration issues a part of parliamentary discourse in the short term. This can be done by increasing the information transmission to parliamentarians, who will in turn share it with their constituencies. The constituencies can provide valuable feedback.

The long term solutions for SADC integration problems equally important. The need for strong leadership politically, economically and socially can ver be over emphasised. Politically, the implementation of the appropriate institutional mechanisms is crucial. T initiative has to take place at the regional level, but well informed by decisions at national level. The SADC needs a strong and an ever growing stronger institutional Secretariat that can provide leadership qualities required.

The funding challenge can be tackled head on by mobilisation of organisational resources. This can be done by establishing an organisation development fund where member states can contribute. The principle for limiting over reliance on donor funding could be to only allow external assistance as supplementary to own resources.

There is need to establish a properly functioning dispute settlement mechanism for the organisation. Clearly, dynamics of regional integration go far beyond personal politics (Jacobeit: 27-30). The DSM will override political decisions that are normally anti-economic integration. The DSM needs to be supported by a regional SADC Parliament. Efforts being driven by the SADC Parliamentary Forum on this front have to be accelerated. Political decisions have to be scrutinised by this parliament. SADC policy decisions will have to be taken at regional rather than national level. The parliament by virtue of its representational function is the best vehicle for popularizing regional and global instruments.

Continual improvement of the regional infrastructure to lower the cost of doing business is crucial. Trade facilitation is the key to the success of regional integration. Member states have to open their boarders to persons, goods and services from the region.

One of the long term goals for SADC has to deal with a ssing the membership overlap problem in Eastern and Southern Africa. There are three viable options. The 'first option' is to maintain the status quo of 'Customs Union' then add a larger integration project n SADC and COMESA. SACU and EAC remain fast-tracking groups for SADC and COMESA respectively, while SADC and COMESA remain FTAs with a view of forming a larger, integrated Eastern and Southern Africa trade zone at a later stage.

'Option two' involves SACU and EAC leading the way by ecoming fully pledged CUs by 2010, and countries not participating in the CUs remain members the SADC and/or COMESA FTAs for the time being but with a view to form two separate CUs as SADC and COMESA in the medium term.

'Option three' can be described as a leap forward option, where SADC and COMESA both become fully fledged CUs by year 2010 and will merge with the current SACU and EAC respectively. All countries take a decision regarding their membership in either the SADC or COMESA CU.

7. Conclusion

The SADC has a viable regional economic trade agenda that requires effective implementation of appropriate institutional mechanisms that discourage lip service. The regional infrastructure requires improvement and technical capacity need to be enhanced. The progression towards deeper integration requires stakeholder's participation and ownership at national level. The national and regional institutions require good governance. Ultimately improved political commitment and effective leadership is required to be assured of regional integration prospects. It is now all doom and gloom for SADC, only time will tell and the time is now especially for the FTA of August 2008.

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