

# ACHIEVING DEEPER INTEGRATION IN SOUTHERN AFRICA: THE CASE OF SADC CUSTOMS UNION

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## INTRODUCTION

Countries in Eastern and Southern Africa, just as other countries in other parts of the world, are actively involved in the negotiation of regional integration arrangements (RIAs) where they agree to reduce both tariff and non-tariff barriers to trade among themselves. Regional integration arrangements occur in different forms such as free trade area (FTA), Customs Union (CU), Common Market, Economic Union as well as a Political Union.

These different levels of integration are also characterised by varying degrees of integration. Under an FTA countries reduce tariffs against each other and have rules of origin which define originality of imports. In addition, countries maintain individual country's tariffs against imports from non-member countries. On the other hand, in a

customs union, apart from maintaining the rules of origin, countries have a common external tariff against imports from countries who are not members of the regional integration arrangement. Thus, the common external tariff (CET) is the main differentiating element between a customs union and a free trade area.

Regional integration arrangements (RIAs), as well as the levels of integration, are driven by motivations ranging from political to economic. For example, a country can join a trading bloc because it wants to advance its political or economic gains. In some cases countries join RIAs because it is easier to proceed into deeper levels of integration in these arrangements than through the multilateral negotiation<sup>1</sup>. It should be emphasised

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1. The slow pace in concluding the Doha Development Agenda (DDA) has resulted in the proliferation of re-

that motivations for RIAs are, to a large extent, dependent on the expected gains that countries anticipate from such arrangements.

The Southern African Development Community (SADC) was originally formed as a political grouping with the sole objective of achieving political liberation of Southern Africa. However, after independence, the majority of these countries, SADC Member States realised that poverty among the people was another challenge. Therefore, they started pursuing policies aimed at achieving economic liberation of the region. This concept has been incorporated in the form of regional integration in Southern Africa. According to the SADC Regional Indicative Strategic Development Plan (RISDP, 2003), SADC wanted to be a free trade area by 2008, a Customs Union (CU) by 2010, a Common Market by 2015, a Monetary Union by 2016 and a single currency by 2018.

While the FTA was successfully launched in 2008<sup>1</sup>, establishment of the SADC Customs Union does not seem feasible in the near future. The customs union which was supposed to be launched by the end of 2010 was postponed to a later date due to a number of challenges currently being faced. Despite this, the SADC Heads of States and Governments, at their summit in August 2010, renewed their commitment to the establishment of the Customs Union as it would help deepen regional integration. To address the challenges, a team

of experts was appointed to look at how the customs union can be speeded up.

The current paper analyses the way forward for the establishment of the SADC customs union considering the existing challenges and opportunities that SADC is facing. To do this, various publications were reviewed with the aim of understanding the critical factors that need to be satisfied for the successful deeper integration of the region. In addition, descriptive statistics were used to assess progress which has been accomplished so far. The rest of the paper is organised as follows: the next section (Section Two) analyses the process of moving from the free trade area to the customs union. In particular, this section discusses the challenges and opportunities that SADC member states are facing. Section Three gives suggestions on what needs to be done to fast-track the integration agenda. Specifically, the section details key solutions to challenges that are currently being experienced. Section Four concludes with policy recommendations.

## 1. MOVING FROM AN FTA TO A SADC CUSTOMS UNION

There are a number of challenges that are hindering progress of the SADC integration agenda. These include multiple membership of member states, complexity and divergent trade policies in member states, differences in levels of development of member states, complicated rules of origin, poor infrastructure in the region, and poor trade facilitation systems among others. However, there are also opportunities that SADC can take advantage of when proceeding to

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gional integration arrangements (RIAs) because, among others, it is easier to achieve deeper integration in RIAs.

1. SADC FTA was launched in August 2008 and member states agreed to continue with tariff liberalisation until 2012 when full liberalisation of tariffs is expected to be achieved.

deeper levels of integration. These opportunities include lessons from other regional integration arrangements such as SACU, COMESA and the EAC; existing SADC institutions; the role that South Africa can play in facilitating the integration process. Most of these, as discussed below, are currently perceived as challenges but when looked at from a different angle, they are indeed opportunities.

### **1. 1. Challenges in the Implementing the Customs Union**

#### *1. 1. 1. Multiple Memberships of Member States*

Many SADC countries are members of other regional trading arrangements (RTAs) that also aim at establishing customs unions. For example, Malawi, Zambia, and Zimbabwe belong to both SADC and COMESA while Tanzania is a member of both SADC and the East African Community (EAC). On the other hand, Swaziland is a member of SADC, COMESA, and SACU. Figure 2.1 below shows overlapping membership of SADC Member States to other RTAs in the region.

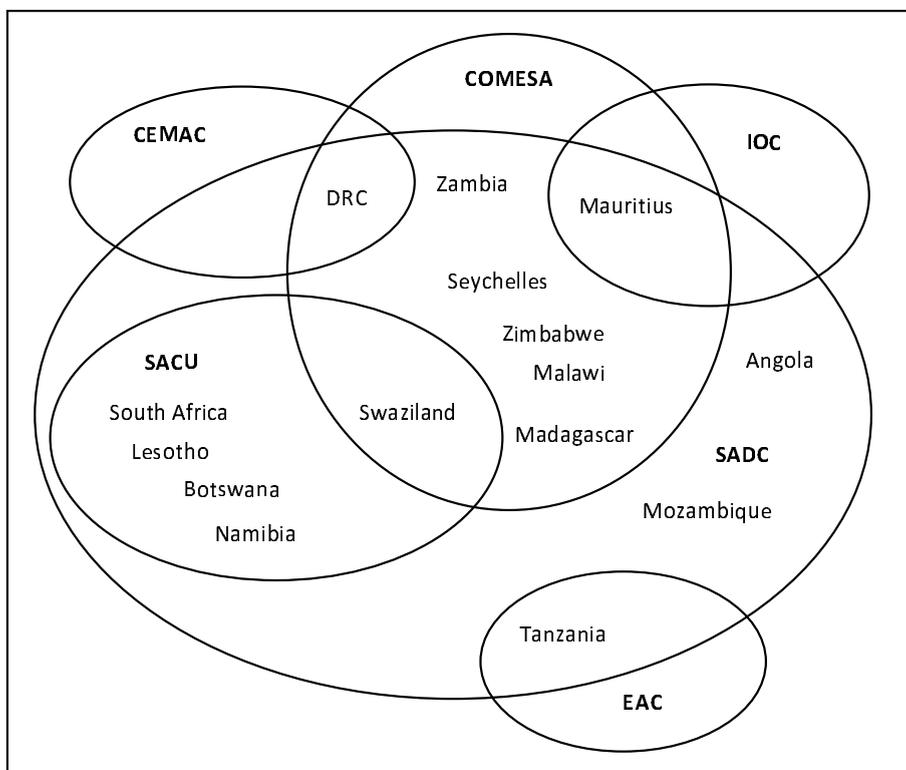
GATT Article XXIV gives guidelines on the technicalities of belonging to two or more customs unions. In essence, the WTO does not categorically illegitimise belonging to two CUs. What it does is to caution members against its complications such as negotiating and maintain two Common External Tariffs (CETs). It should be noted that a country belonging to two CUs is required to meet all the expectations of both CUs as well as satisfying its obligations to third parties in a way that is WTO compatible.

It is at this point that GATT Article XXIV is seen not to allow countries to belong to more than one customs union. It should be emphasised that if a country belongs to two CUs, there is high probability that it would violate the provisions of GATT Article XXIV. Thus, belonging to two CUs is almost impossible. In the case of SADC, this clearly creates a challenge to the establishment of the customs union, unless countries with multiple memberships decide to belong to only one CU.

However, making a decision about which customs union to belong to might not be easy. Member states would have to think about the political implications of that decision as well as the economic consequences that may follow. This complexity in decision making will affect the commitment of member states thereby delaying the formation of the SADC customs union. For example, Tanzania, a member of EAC customs union, would find it difficult to abandon the EAC customs union and join the SADC CU. It should be noted that there are many factors that join Tanzania more to EAC than to SADC including language, geographically as well as historically. For SACU member states, formation of a SADC customs union would be a big problem and this may mean incorporating the SACU common external tariff in the SADC customs union. This is because all SACU member states (except Swaziland<sup>1</sup>) are members of SADC. In brief, it can be said that the multiple membership of SADC member states is a challenge to the formation of the customs union.

1. Swaziland is the only member of SACU which belong to COMESA.

**Figure 1 : Multiple Membership of SADC Member States to Other RTAs**



Source: Author's Compilation

*1.1.2. Divergent Trade Policies and Revenue Constraints*

Currently, there are divergent trade policy regimes in SADC Member States which also have different objectives. For example, in South Africa, tariffs are mainly used as an industrial policy whereby the South African Government uses tariffs to protect industries (Harding T., Rattso J., 2009). This is contrary to the majority of other member states who use tariff as a source of government revenues. It is common in such countries to see tariff revenues contributing a si-

gnificant percentage of total government revenue. Table 2.1 below shows percentage share of national revenues represented by customs revenues.

Differences in the dependence on customs revenue would imply difficulties in agreeing on the common external tariff since any reduction on the tariff would imply loss of revenue. Thus, countries with low dependence on tariff revenue would be more willing to negotiate a low common external tariff than countries that heavily depend on tariffs for government revenue such as Madagascar.

**Table 1: Share (in %) of SADC Member States' Revenue Represented by Customs Duties**

	2002	2003	2004	2005	2006	2007
Angola	28.1	28.4	-	28.5	-	-
Botswana	12.8	16.8	21.7	19.5	24.2	-
DRC	23.8	29.9	28.9	38.4	38.4	
Lesotho	57.1	49.2	54.6	57.4	66.8	64.0
Madagascar	45.3	50.5	50.2	48.1	49.9	49.2
Malawi	11.5	13.8	-	-	-	-
Mauritius	27.1	25.0	25.1	23.4	20.1	16.3
Mozambique	17.4	16.4	14.6	15.2	-	-
Namibia	28.3	35.2	40.6	32.7	42.6	
Seychelles	39.0	31.6	25.8	20.3	16.3	16.5
South Africa	2.9	2.4	3.2	4.3	4.6	4.4
Swaziland	52.1	51.3	59.9	58.2	69.3	66.0
Tanzania	9.6	10.2	6.9	7.2	-	-
Zambia	29.1	29.6	32.0	-	-	10.5
Zimbabwe	9.6	7.0	12.0	-	-	-

Source: World Customs Organisation (WCO)

Article XXIV of the General Agreement on Tariffs and Trade (GATT) spells out conditions that should be satisfied for the customs union to be acceptable to the World Trade Organisation (WTO). For example, a customs union should cover substantially all trade and that the CET should be reasonable i.e. not higher than the weighted average of tariffs before liberalisation (GATT Article XXIV:5a). The objective is to achieve further liberalisation with the formation of customs unions. The implication of this is that the SADC member states will have to agree on a CET which is not very high and that a considerable number of products should

be included in the initial commitments otherwise the customs union will not be WTO compliant. It is therefore anticipated that negotiations of a common external tariff will not be easy.

### *1.1.3. Differentiated Levels of Development among SADC Member States*

Due to differences in levels of development, member states may be pursuing different policy objectives in order to match the divergent levels of domestic demands. This may slow the integration process as some of the regionally agreed interventions may conflict with particular national interests. It should

be pointed out that as countries attain deeper integration, they tend to relinquish some of the independent decision making powers to supra-national bodies which take over the responsibility of making common policies. Table 2.2 below shows some statistics which, to some extent, indicate differences in the level of development of SADC member states, especially the level of GDP per capita. In addition, the current account shows that external balance could dramatically be different from one to another partner.

Differences in levels of development can affect negotiations if the poorer member states feel that they will not benefit much from the deeper integration. It should be noted that deeper integration will mean further opening up of national markets thereby bringing competition in the markets. In most cases, competition which comes with liberalisation creates losers and winners as companies exit and enter the liberalised market. Thus, countries which are not very sure about the impact of further liberalisation are likely to go it slow.

**Table 2: Selected Development Statistics for SADC Member States (2009)**

	GDP (Billion Dollars)	GDP Per capita	Population (Million)	Current Account Balance (% of GDP)
Angola	68.8	3,971.6	17.3	-3.3
Botswana	11.6	6,406.9	1.8	-5.1
DRC	11.1	171.5	64.8	-13.1
Lesotho	1.6	641.7	2.5	-1.5
Madagascar	8.6	412.0	20.8	-16.8
Malawi	4.6	328.1	13.9	-7.9
Mauritius	8.8	6,838.1	1.3	-8.2
Mozambique	9.8	464.5	21.2	-11.9
Namibia	9.5	4,542.9	2.1	-2.2
Seychelles	0.8	8,973.4	0.1	-23.1
South Africa	287.2	5,823.6	49.3	-4.0
Swaziland	3.0	2,906.9	1.0	-6.3
Tanzania	22.3	550.5	40.5	-9.4
Zambia	13.0	1,086.1	12.0	-3.3
Zimbabwe	4.4	374.8	11.7	-30.1

Source: World Economic Outlook Database (2010)

However, in order to quickly move forward, SADC member states should make the regional agenda a priority. Governments should work towards domesticating policies that have been agreed at the regional level so that implementation of these policies is faster. SADC countries should realise that despite differences in levels of development, further liberalisation will bring efficiency in their markets. Thus, regional integration should not be seen as a threat but rather an initiative that would advance development of their countries (Heydon K. 2009).

*1. 1. 4. Bilateral Trading Arrangements with Third Parties*

Apart from belonging to a number of regional trading blocs, most SADC member states have also concluded preferential trade arrangements with third parties. For example, South Africa has a Trade and Development Cooperation Agreement (TDCA) with the European Union; SACU has trade arrangements with the European Free Trade Area (EFTA), MERCUSOR; and Mauritius has entered into a bilateral trade agreement with Pakistan (SADC Secretariat, 2010). In addition to the potential Economic Partnership Agreements<sup>1</sup> (EPAs) with the EU, SADC member states are still negotiating more preferential trade agreements with third parties across the globe. It should be noted that prior to the formation of the customs union, there will be need to synchronise these agreements or extend them to the rest of the SADC member states. This will

be a challenge to the establishment of the customs union since most of these bilateral trade arrangements will have to be re-negotiated and this process may be costly and could take longer to conclude.

**1. 2. Opportunities in the Establishment of the SADC Customs Union**

Apart from the challenges that establishment of the SADC customs union is facing, there are a number of opportunities that SADC can build on in order to facilitate formation of the customs union. Among these opportunities is the fact that SADC is going into a customs union after other RTAs in the region and beyond have done the same. For example, COMESA, after establishing an FTA in the year 2000, launched a customs union on 8<sup>th</sup> June, 2009<sup>2</sup>. East African Community (EAC) entered into a fully fledged customs union in January 2010 after a five year transitional period that commenced in January 2005. The establishment of these customs unions was not easy and SADC can learn a lot from their experiences. Due to series of negotiations that go with the establishment of a customs union, implementation is characterised by lengthy transition periods and occasional reverses (Development Network Africa, 2007). It is therefore, not surprising that SADC is currently facing a number of challenges in this process. It should however be mentioned that the lessons to be learned from other RTAs should be taken with cautions as the situation and challenges facing SADC may be different from those that existed at the

1. EPAs are aimed at promoting trade and development in the ACP countries in a fashion that is WTO-consistent.

2. COMESA launched its customs union in 2009 at Victoria Falls in Zimbabwe.

time the other customs unions were negotiated.

In some cases, regional integration becomes easy when there is leadership in the process. While member states in an RTA are equal, some prominent countries can play a leadership role in facilitating negotiations. In SADC, the likely leader could be South Africa. Apart from being the economic giant of the region, South Africa has wide experience on how a customs union operates. Together with other BNLS<sup>1</sup> countries, South Africa has played an important role in sustaining the Southern African Customs Union (SACU). With the wide experience and capacity that South Africa has in regional integration, one would expect SADC to gain a lot from the role of South Africa in the region. However, this does not mean that South Africa will be leading the negotiations while other countries follow. Rather, South Africa can use its vast experience and capacity in facilitating the establishment of the SADC customs union. However, this would depend on the interests that South Africa has in the pending customs union.

Another opportunity in the establishment of the customs union in SADC is the existence of well established structures and institutions that have so far assisted to spearhead integration of the region. Structures such as the Trade Negotiation Forum (TNF) and the Technical Working Group (TWG) on Policy Harmonisation, and such similar structures can be used to advance the deeper integration agenda in SADC. It should be noted that the TNF is very

crucial in negotiating agreements under SADC while the TWG on Policy Harmonisation works towards harmonisation of trade policies in the member states. Establishment of the customs union will require a number of such structures to ensure smooth integration process. Therefore, SADC should make use of the existing structures and institutions as this has the potential of facilitating the establishment of the SADC customs union.

## 2. MOVING FORWARD: WHAT SHOULD BE DONE?

The foregoing discussion shows that there are a number of challenges and opportunities that SADC is facing in its integration agenda. In order to move forward with the establishment of the customs union, there are a number of issues that need to be addressed. It would be important that as SADC moves ahead with deeper regional integration, it should recognise that it is dealing with countries that are at different levels of development and have different domestic needs. In addition, the member states should bear in mind that liberalisation (whether unilateral, bilateral, regional or multilateral) is the way to go especially in these days of globalisation. According to Heydon K. (2009), openness help economies increase benefits from trade due to specialisation, innovation and technology transfer which is beneficial to the economy as a whole. Therefore, regional integration should be seen as part of the development policy of the country rather than the request and offer phenomena. However, since regional integration has its own benefits and costs,

1. BNLS stands for Botswana, Namibia, Lesotho and Swaziland.

there are a number of issues that both SADC and member states should do to address the challenges currently being faced and make regional integration in SADC both feasible and beneficial.

### **2.1. Policy Interventions at Country Level**

Member states should develop policies that would be supportive of the integration agenda. As noted in the previous sections, most SADC countries rely on customs revenue for government revenue. This would bring problems in negotiating the common external tariff because by agreeing on a lower CET these countries will be losing a substantial amount of revenue. These governments should therefore broaden the tax base in order to reduce dependence on tariff revenue.

Moreover, governments should develop growth strategies aimed at reducing poverty and unemployment as well as maintaining a stable macroeconomic environment. It should be noted that stable macroeconomic environment will go a long way in achieving sustainable economic growth and development of individual economies as regional integration is not an end in itself. Thus, there is need for a stable macroeconomic environment for regional integration to be meaningful.

Under regional integration, countries tend to compete in attracting businesses and foreign direct investment (FDI). As such, conducive macroeconomic policies are crucial if regional integration is to benefit member states. While regional integration brings efficiency through competition, innovation and technology transfer, it also brings misery especially to the firms that cannot stand the com-

petition. In view of this, as countries prepare for deeper integration, they should also think about policies that would target those who are to lose from the process so that they are not seriously affected.

SADC countries should also actively involve private sector players since it is them that engage in actual business activities. The private sector need to know what deeper integration means to their businesses i.e. what opportunities or challenges come with regional integration. This would assist them to prepare and derive many benefits from SADC deeper integration arrangements. In view of this, independent studies should be undertaken in member states to assess the impact of joining the SADC customs union. These studies would help countries to address the bottlenecks that are likely to make them loose from the RTA. It is important to note that in any RTA there are losers and winners. Some countries benefit instantly, others take long to reap the benefits of regional integration while others end up losing completely (World Bank, 2005). Therefore, before going into the SADC customs union, countries need to know their stakes and start addressing all the impediments that can prevent them from benefiting as expected.

### **2.2. Policy Interventions at SADC Level**

#### *2.2.1. Consolidation of the SADC FTA*

When establishing the SADC Free Trade Area (FTA) in 2008, SADC member states agreed to lower tariffs on different products in order to further liberalise trade in the region. According to Government of Malawi (2010), when signing the Protocol on Trade, SADC

divided products into different categories' with different liberalisation requirements. However, despite making commitments to reduce tariffs on some products, some countries are not fulfilling their pledges. Table 3.1 below shows summaries of tariff phase downs by selected SADC member states. This table shows that some countries are having problems in fulfilling their commitments to the tariff reductions as agreed when the SADC trade Protocol was being signed. The reasons for delayed implementation mainly revolve around the budgetary constraints and the loss of revenue as countries reduce tariffs. As noted this can be addressed by broadening the tax base.

SADC countries are also not doing well in implementation of the revised rules of origin. According to the Trade Hub (2010), the 2010 audit of the implementation of the SADC Protocol on Trade, only Mauritius, Mozambique, and Zambia are the countries implementing the rules of origin. It is important that countries consolidate the SADC FTA before moving to the next level of regional integration. Failure to do so will compromise the establishment of the SADC customs union as countries will not see the need for abiding by the agreements. It would be important to have ways in which agreements can be enforced so that once made they are binding on members.

**Table 3: Summary of 2010 Tariff Phase Downs (Selected SADC Member States)**

Country	Notified	Implemented	Notes
SACU	No	Yes	SACU Tariff Phase Downs were completed in 2008
Malawi	No	Not clear	As of May 2010, tariffs were still at the 2004 levels. However, in the 2010/11 budget Malawi started implementing the tariff reductions
Mauritius	Yes	No	Mauritius indicated that it would not undertake any tariff reductions in 2010 because it had already made deeper cuts on tariffs in the previous years.
Tanzania	Yes	Yes	-
Zambia	Yes	Yes	-
Zimbabwe	No	No	Zimbabwe has asked for derogation from the SADC Secretariat.

**Source:** The Trade Hub (2010)

1. There were four categories of products namely Category A, B, C, and E. Category A and B products were considered to be easy to liberalise while Category C products were classified as sensitive and could not be liberalised immediately. In addition, Category E products were designated as highly sensitive and were not subject to any tariff phase-downs.

## 2. 2. 2. *Creation of Supporting Institutions*

The success of the SADC customs union will, to a larger extent, depend on well-functioning supporting institutions.

It has already been observed that SADC member states are at different levels of development and therefore have different development priorities. As SADC is moving into the customs union, it should think of ways of balancing the varying development needs of the member states. One way of doing this could be to create a SADC common development fund, an institution which could be financing as well as coordinating regional development projects so that the constraints such as poor infrastructure can be collectively addressed. However, the challenge here could be equitable distribution of the development projects taking into consideration the level of development in the member states.

### 2. 2. 3. *Harmonisation of National Policies*

Formation of the SADC customs union will mean having policies that facilitate economic integration in the region. Since the customs union will involve different countries which currently have divergent policies, it would be important that SADC harmonises individual national policies so that the new policies are acceptable beyond the national boundaries. In view of this, SADC would have to harmonise all policies that govern trade such as competition policies, policies that facilitate investment and labour mobility across countries, policies that create cross-border infrastructure, or policies that guarantee exchange rate stability within the region (Development Network Africa, 2007). Thus, SADC should substantially reform all member countries' domestic policies so that there are common measures to protect domestic industries.

As noted earlier, in a customs union, measures taken by one country will be applicable to the rest of the Member States. It would therefore be imperative that policies dealing with safeguards, antidumping, subsidies, countervailing and dispute settlement should be formulated. Moreover, there would be need to formulate common technical regulations such as sanitary and phytosanitary (SPS), and technical barriers to trade (TBT). While standards are meant to facilitate trade, they are also increasingly used as non-tariff barriers to trade by making standards complicated. In view of this, SADC will have to harmonise technical standards so that they are acceptable and well understood in the member states.

### 2. 2. 4. *Formulation of the Revenue Sharing Formula*

There will be need for a revenue sharing formula since the CET will be used to collect revenue among all member countries. It has already been noted that many SADC member countries depend on import tariff for revenue. Therefore, incorporating a CET will imply significant reduction in revenue generation for the individual countries. According to the Development Network Africa (2007), Tanzania, Zimbabwe, Malawi, Madagascar and Lesotho are particularly vulnerable to tariff revenue adjustments. These countries largely depend on tariffs as a source of government revenue and they have limited alternatives for raising other taxes. In view of this, decreases in revenue may pose significant economic costs on these economies and threaten the viability of the CU. Thus, the revenue sharing as well as assistance in tax reform in affected countries might

be necessary part of the revenue adjustments. It should be noted that countries such as Angola and DRC did not accede to the SADC Protocol on Trade and are not part of the SADC FTA. To strengthen the legitimacy of deeper integration in the region, SADC should ensure that a critical mass is ensured by incorporating as many countries as possible in the forthcoming customs union. An assurance that Member States would not lose much revenue as they move into the SADC CU would be an incentive for member states to join. In this case, an appropriate revenue sharing formula would be important.

### 3. CONCLUSION AND POLICY RECOMMENDATIONS

#### 3. 1. Conclusion

The current paper analysed developments in SADC as it moves towards deeper integration. It identified two broad motivations for regional integration namely political as well as economic reasons. It was also observed that different levels of integration determine how much countries can benefit from such RTAs. Countries in Eastern and Southern Africa, just as countries in other parts of the world, are actively involved in the formation of regional integration arrangements including moving deeper with the integration programme. SADC is planning to establish a customs union despite missing the deadline of 2010.

This paper looked at the challenges that SADC is facing in the process of establishing the customs union. It also discussed the existing opportunities that SADC can take advantage of in the

integration process. Among the challenges; multiple memberships, divergent trade policies, different levels of development, and bilateral agreements with third parties; featured prominently. It was generally felt that addressing these challenges would go a long way in facilitating the establishment of the customs union. It was therefore proposed that policies both at the SADC and national level should be undertaken to address these impediments.

#### 3. 2. Policy Recommendations

While the establishment of the SADC Customs Union does not seem to be achievable in the near future, there are prospects that proper policy interventions would ensure a quicker establishment of the union. In view of this the following interventions would be recommended in order to overcome the existing challenges in the SADC integration agenda.

- SADC should develop interventions with the aim of addressing the supply side constraints that its member states face. It should be noted that benefits accruing to countries in any RTA depend on the competitiveness of the countries in attracting businesses and foreign direct investment.
- SADC should adopt a low common external tariff (CET) in order to reduce the possibility of trade diversion. In addition, SADC should refrain from asymmetric liberalisation where countries are allowed to liberalise at different speeds and allowed to limit product and sector coverage.
- Development of the revenue sharing formula is critical for the development of the customs union. Since most of

the member states rely on tariffs for government revenue, the revenue sharing formula will encourage them to join the customs union as they can still get some of the lost revenue.

- SADC should establish an enforcement mechanism for the agreements which were already made otherwise there is no incentive for countries to follow deadlines. Effective implementation, monitoring and evaluation of the agreements will create confidence in the SADC integration agenda.
- SADC should facilitate harmonisation of domestic policies as well as standards to ensure that they are known and acceptable in all countries in the region.
- SADC should establish institutions that would facilitate as well as consolidate the establishment of the customs union. For some of the existing institutions, SADC may need to strengthen their capacities so that they are effective in their supportive roles.
- The agreements signed should also have specific objectives that are achievable over a specified period of time.
- Member States should ensure effective participation of the private sector in regional integration. Understanding the process in good time will enable them exploit opportunities being opened by RTAs.

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