

SACU, Regional Integration and the Overlap Issue in Southern Africa:

From Spaghetti to Cannelloni?

Peter Draper
Durrel Halleson
Philip Alves



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The South African Institute of International Affairs
Jan Smuts House, East Campus
University of the Witwatersrand
Johannesburg, South Africa

P O Box 31596, Braamfontein 2017

www.saiia.org.za

info@saiia.org.za

Tel +27 11 339-2021

Fax +27 11 339-2154

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ABOUT THE AUTHORS

Phil Alves is an economist for the Development Through Trade Programme at The South African Institute of International Affairs.

Peter Draper is a research fellow in Development Through Trade Programme at SAIIA.

Durrell Halleson was an intern on the Development Through Trade Programme in 2006.

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ABBREVIATIONS AND ACRONYMS

AEC	African Economic Commission
AU	African Union
BLNS	Botswana, Lesotho, Namibia, Swaziland
CEMAC	Economic and Monetary Community of Central Africa
CET	common external tariff
COMESA	Common Market of Eastern and Southern Africa
COMESA-CD	COMESA customs document
CU	customs union
DRC	Democratic Republic of Congo
EAC	East African Community
EBA	everything but arms
EC	European Community
ECCAS	Economic Community of Central African States
EDF	European development funds
EPA	economic partnership agreement
EU	European Union
FDI	foreign direct investment
Frelimo	Mozambique Liberation Front
FTA	free trade agreement
GDP	gross domestic product
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
IGAD	Inter-Governmental Authority on Development
IOC	Indian Ocean Commission
LDC	least developed country
MIDP	Motor Industry Development Programme
MTSP	medium term strategic plan
NAFTA	North American Free Trade Area
NEPRU	Namibian Economic Policy Research Unit
OAU	Organisation of African Unity
REC	regional economic community
RISDP	Regional Indicative Strategic Development Plan
SACU	Southern African Customs Union
SADC	Southern African Development Community

ABBREVIATIONS AND ACRONYMS

TDCA	Trade, Development and Co-operation Agreement
TRALAC	Trade Law Centre for Southern Africa
UNECA	United Nations Economic Commission for Africa
WTO	World Trade Organisation

1. INTRODUCTION

Regional integration in Africa has been a priority for both African governments and the donor community since the early years of independence. For these newly independent states, regionalism was regarded as a possible panacea for the twin problems of slow rates of economic growth and poverty reduction. The then Organisation of African Unity (OAU), with the help of the newly created United Nations Economic Commission for Africa (UNECA), drafted the 1980 Lagos Plan of Action, which aimed to establish an African Economic Community (AEC). The subsequent Abuja Treaty, signed in 1991, divided the continent into five regional areas: the north, west, south, east and centre in preparation for establishing the AEC.

Yet Africa currently has 14 regional integration groups whilst each sub-region records a minimum of two groups. Most countries belong to two or more of these regional organisations. The resulting problems of multiple and overlapping memberships constitute a 'spaghetti bowl' that hinders regional integration by creating a complex entanglement of political commitments and institutional requirements adding significantly to the costs of conducting intra-regional business. Africa, with its weak states and institutional capacities can afford none of these things.¹ The key question therefore is whether rationalisation is on the cards in order to build viable, sensible regional economic communities (RECs), in the process converting extant 'spaghetti' into more digestible 'cannelloni'?

There are existing efforts to co-ordinate and harmonise the activities of the 14 RECs, an issue reiterated in the Constitutive Act of the African Union and the 1991 Abuja Treaty. The Abuja Treaty intended to use the existing RECs as the nerve centres for building the AEC by 2028. However, with the incoherence that currently characterises RECs in Africa, and assuming that the AEC is both desirable (from an African development standpoint) and can be implemented, it was necessary to carve out an institutional framework that could help facilitate the attainment of an African common market. The search for this

¹ See Economic Commission for Africa, 'Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities', Addis Ababa: Economic Commission for Africa, 2006. See especially chapter 3.

new institutional framework led to the first continent-wide ministerial-level conference addressing regional integration issues, held in Burkina Faso from 30–31 March 2006. The conference built on two regional consultative meetings in Accra and Lusaka between October 2005 and March 2006. One of its principal recommendations was the designation of certain RECs as building blocks for the AEC, as well as a moratorium on the recognition of new RECs.

In southern Africa, the region with the greatest number of RECs, only the Southern African Development Community (SADC) was recognised, despite the presence within it of the longest-established REC in the Southern African Customs Union (SACU). This has generated substantial existential concerns within SACU, a pathology that is compounded by the ongoing SADC process to establish a customs union. It also raises interesting questions about AU processes. Specifically, why is the oldest REC in Africa not officially recognised as a building block of the AEC, whilst the newest one, the East African Community (EAC), is? This in turn raises the awkward question of how seriously AU processes and objectives should be taken, and whether they resonate with national and regional concerns.

In light of this confusing situation and the implications it may hold for SACU, this paper examines the regional integration initiatives underpinning the various southern African RECs, and SACU's relationship to the rationalisation of RECs in southern and eastern Africa. Part 2 sketches the institutional frameworks associated with SACU's 'competitor' RECs in the region and maps the broad contours of their trade integration objectives in light of their desire to establish customs unions. Part 3 relates the mapping exercise in Part 2 to SACU's own institutional and trade integration objectives with a view to establishing broad lines of convergence and divergence. Part 4 tries to make some sense of the regional integration dynamics from the standpoint of what SACU requires in order to advance its development agenda. We conclude that SACU should be explicitly recognised as a fast-tracking building block of southern African economic integration under a broader 'variable geometry' option with the EAC serving as the East African anchor, and we offer a broad framework for achieving this objective.

2. REGIONAL ECONOMIC COMMUNITIES: DIVERGING ROADMAPS TO INTEGRATION

Southern and eastern Africa register the highest number of RECs in Africa, all characterised by multiple and overlapping memberships (see Table 1). Apart from Mozambique, every country in the sub-region belongs to more than one REC. The major RECs in the sub-region include the Common Market of Eastern and Southern Africa (COMESA), SADC, the EAC, SACU, the Inter-Governmental Authority on Development (IGAD), and the Indian Ocean Commission (IOC). In this paper we focus on the RECs with more political and economic clout and an explicit economic integration agenda, and how these relate to SACU. These are COMESA, the EAC and SADC, which are also among the RECs designated by the AU as building blocks for the AEC.

2.1. Common Market of Eastern and Southern Africa (COMESA)

COMESA is the biggest REC in Africa. Its designation as one of the eight building blocks in the AEC process is thus not surprising. The COMESA Treaty of 1994 seeks to promote joint development in all fields of economic activity and the adoption of common macroeconomic policies and programmes to raise the standard of living of its peoples.² The 1994 Treaty also outlines a work plan towards achieving a customs union by 2004; this was subsequently revised to a new target date of 2008.

COMESA's primary instrument for deepening and broadening the integration process among its member states is the adoption of more comprehensive trade liberalisation and facilitation measures. Such measures include, but are not limited to, the elimination of tariff and non-tariff barriers to trade. Concrete objectives and achievements include:

- The COMESA Free Trade Agreement (FTA), now incorporating 11 members (see Table 1), required the original nine member states to eliminate tariffs on COMESA-originating goods by 2000, when the FTA entered into force. However, not all of COMESA's 20 members have signed the agreement.

² Common Market for Eastern and Southern Africa (COMESA), *The COMESA Treaty*, 1994, Article 3(b).

This may be attributed to the different levels of development within the region and possibly to a lack of political will.

- COMESA's planned common external tariff (CET) is envisaged to have three broad bands set at 0–5% (capital goods and raw materials), 10–15% (intermediates) and 20–40% (final goods). The substantial variation in the final goods target band reflects differences amongst the member states owing to different starting points and approaches to trade liberalisation. Implementing the CET remains problematic for several reasons: fears over revenue loss from its adoption; fears over loss of policy space to pursue infant industry protection; and countries pursuing hedging strategies to establish how the RECs may 'shake out' in the future (leading to an unwillingness to commit now).
- Yet significant harmonisation work has been undertaken towards the attainment of the customs union (CU) by 2008. This includes plans to adopt a common tariff nomenclature; safeguards and trade remedies, which include the development of anti-dumping and countervailing duty regulations; movement towards a common customs valuation system; and developing regional competition policy regulations.
- COMESA has been working hard to simplify its rules of origin and associated value-added criteria. It has also made steady progress in the elimination of non-tariff barriers, such as the liberalisation of import licensing, removal of foreign exchange restrictions, the removal of import and export quotas and easing of customs formalities.

Impeding its gradual evolution to a customs union by 2008 is the poor state of its domestic and inter-regional transport and communications structures, access to information on trade opportunities, and bottlenecks at border crossings. Hence the broadly defined trade facilitation agenda is of critical importance (this problem is shared by other RECs). The COMESA secretariat has implemented a number of practical solutions, such as the COMESA Customs Document (COMESA-CD) to help in reducing the amount of documentation required to move goods within the region. Improvements in related areas could contribute substantially to increasing intra-regional trade.

COMESA's revised draft Medium Term Strategic Plan (MTSP) for 2007 to 2011 outlines its integration targets. Among the nine set goals is a revised roadmap to guide member states towards the achievement of a customs union by

2008. At the same time studies are underway to assess transitional and future trade arrangements between COMESA member states that will participate in the customs union by 2008 and those that will not be ready by then. According to the MTSP, such studies will help scope out the legal and institutional implications for members participating in the customs union but also retaining membership of other preferential trade arrangements and custom unions. In addition, COMESA has committed to harmonising both product³ and policy standards amongst members in various sectors and has started implementing EUROTRACE⁴ for the production of trade statistics. The MTSP also spells out a roadmap towards the establishment of a common market in the medium term. This includes a common investment area to be created from the Common Investment Agreement, allowing for the harmonisation of the different investment regimes in the various countries.

COMESA has partnered with certain financial institutions such as the World Bank and the African Development Bank to realise most of its outlined projects and programmes in the MTSP in order to become an effective REC in the long run. The roadmap towards the establishment of the customs union outlined above is the only framework with a set timeline of targets. Other goals and activities towards achieving the common market do not yet have set target dates, though there is a clear-cut work programme annexed to the MTSP.

2.2. The Southern African Development Community (SADC)

SADC has a very broad agenda. The identified areas of co-operation have been outlined clearly in its protocols and other legal instruments. Today it has 14 member countries, some of them members of COMESA and SACU (see Table 1).

SADC's regional integration agenda covers more than just trade, but the Trade Protocol, signed in August 1996, seems to be driving the integration process. The Trade Protocol entered into force on 25 January 2000, when 11 of the

³ COMESA has adopted 140 product standards and is working on 100 new standards in agricultural food and fishery products, building and construction materials, electrical accessories, textiles and leather products, timber and timber products.

⁴ EUROTRACE is a computerised system for data collection and production of external trade statistics. It is a tool for complying with international data standards.

then 13 members ratified it.⁵ It states the following as its implementation goals:

- Tariff liberalisation within SADC is asymmetrical. Countries are classified into three groups: SACU members (South Africa, Botswana, Lesotho, Namibia and Swaziland), developing countries (Mauritius and Zimbabwe) and less developed countries (LDCs) (Malawi, Mozambique, Tanzania and Zambia). The SACU countries agreed to front-load their tariff reductions to within five years of adoption of the protocol, bringing their tariff rates for products from non-SACU SADC member countries down to zero (except for some products designated as sensitive). Developing countries agreed to start their tariff reductions earlier than other non-SACU members, while LDCs were allowed to back-load their reduction commitments.⁶ Tariff reduction was supposed to be carried out on the basis of four categories: category A consisting of goods subjected to immediate tariff elimination; category B constituting goods of significant customs revenue whose tariffs are to be removed over an eight-year period, namely by 2008; category C deals with goods regarded as sensitive with tariffs to be eliminated between 2008 and 2012; and category E (exclusions) consists of those goods that can be exempted from preferential treatment under Articles 9 and 10 of the protocol.⁷
- Trade liberalisation within the SADC region is also supposed to be accompanied by the elimination of all non-tariff barriers allowing for the free movement of goods.
- Services trade is also slated for liberalisation through negotiations covering six broad services sectors and all modes of supply: transport, energy, communications, finance, tourism and construction.⁸ This would build on substantial liberalisation and harmonisation achieved under various serv-

⁵ Subsequently, Angola ratified the trade protocol, although it has yet to put forward its tariff offer; and Madagascar joined SADC in 2005 bringing the membership to 14. Its tariff offer was approved at the SADC Heads of State Summit in September 2006.

⁶ Dirk Hansohm, Willie Breytenbach, Trudi Hartzenberg, Colin McCarthy (eds), 'Monitoring Regional Integration in Southern Africa', Yearbook Vol.4 2004 Windhoek: Namibian Economic Policy Research Unit (NEPRU), 2005.

⁷ Paul Kalenga, 'Implementation of the SADC Trade Protocol: Some Reflections', TRALAC Trade Brief, Johannesburg: November 2004, www.tralac.org/scripts/content.php?id=3045.

⁸ After the initial six sectors, services liberalisation will be extended to other sectors.

ices-related protocols to date.⁹ Steps have been taken to pave the way for the further liberalisation of trade in services among SADC countries in accordance with Article 23 of the Trade Protocol. Already there is an initial draft annex on services, which if approved by all member states, will serve as a basis for negotiations on trade in services slated to commence in 2007 and conclude no later than 2015. The draft annex on trade in services sets out the framework for the liberalisation of trade in services between SADC members. The ultimate aim of the liberalisation process is that each member will treat the services emanating from other members, and the suppliers of such services, in the same way as its own services suppliers and the services they supply.

- Ten SADC member states have now ratified the Finance and Investment Protocol, which aims to harmonise policies on taxation, investment, development finance, stock exchanges, insurance, exchange control payments, and clearing systems and macroeconomic convergence. Given the lack of convergence within SADC on the macroeconomic front, harmonisation in these policy areas may seem fanciful at present, but remains an important long-term goal.

The trade protocol also provides for rules of origin, which have been described as the most contentious and unresolved issue on SADC's regional integration agenda, especially for clothing and textiles.¹⁰ On the recommendation of the Committee of Ministers, member states agreed on product specific rules of origin on all goods. These restrictive rules of origin could be a barrier to both regional trade and international competitiveness as they will be costly to monitor and enforce.

SADC's future plans for deeper integration are spelled out in the Regional Indicative Strategic Development Plan (RISDP). This document seeks to align the strategic objectives and priorities with the policies and strategies to be pursued in attaining full integration into a full-fledged common market over a period of 15 years. The document spells out the broad agenda and targets

⁹ These cover movement of natural persons; transport, communications and meteorology; energy; tourism; education and training; health; culture, information and sports.

¹⁰ Peter Draper *et al.*, 'Deepening Integration in SADC South Africa's International Trade Diplomacy: Implications for Regional Integration', study conducted for the Friederich Ebert Stiftung project entitled *Deepening Integration in SADC*, Johannesburg: June 2006.

for deeper integration by 2015. It sees the establishment of the FTA in 2008 as the initial step towards the establishment of the SADC customs union by 2010, and a common market by 2015. Furthermore, it allocates specific tasks to the regional and national institutions.¹¹ For instance, the member states are expected to be involved at the early stages of programme development and implementation. Then there is the crucial role to be played by SADC national committees in implementing the RISDP, and in co-ordinating and mobilising national consensus to support attaining regional integration targets.

These are all fine objectives, the question is whether they are realistic or not. Given the chronic instability generated by Zimbabwe's continued meltdown, and its centrality in both infrastructural and political senses to SADC (and COMESA) integration, it seems unlikely. It is also not clear what the political trajectory of a post-Mugabe government would look like. Consequently, a substantial political cloud hangs over the SADC (and COMESA) integration agenda.

2.3. The East African Community

The treaty re-establishing the East African Community (EAC) was signed in November 1999 and entered into force on 7 July 2000. The EAC is a resurrection of the original East African Community, which existed from 1967 to 1977, and comprised (then as now) Kenya, Uganda and Tanzania with Rwanda and Burundi joining at the end of November 2006.

The new EAC configuration is designed to ameliorate the asymmetrical distribution of benefits that characterised its predecessor, in terms of which only Kenya seemed to have benefited. Unlike the other regional integration initiatives, the EAC is keen to fast track its integration agenda and has set out a broad and ambitious programme aimed at achieving both an economic and political federation between its member states. Political federation has the following targets:

- Establish a three-year revolving presidency by 2011.
- Have an elected president for the entire federation by 2013.

Though it may be possible and feasible to achieve deeper economic inte-

¹¹ See Chapter 6.4 on 'The Institutional Arrangements for the Implementation of the RISDP.

gration, it remains highly doubtful whether a political federation is attainable. Further complexity is added by the recent accession of Rwanda and Burundi, two countries with troubled political histories; and the unfolding crisis in the horn of Africa, which has drawn Kenya and Uganda into its orbit. Add to this the uncertain security prognosis in Uganda and it is clear that political stability in the region is by no means guaranteed. Yet this may explain the rapid pace with which the members have moved to consolidate the customs union and the apparent consensus to move towards political union – presumably in order to bind future governments into secure and stable institutional arrangements rendering backsliding difficult. However, each country would have to hold a referendum on political union, hence it is not assured.

Unlike the other RECs in eastern and southern Africa, which have adopted an evolutionary approach to attaining a customs union, the EAC provides for it as the first stage in its integration process. The Customs Union Protocol was finally signed in 2004 and came into force from 2005. It provides for duty free movement of all exports from Tanzania and Uganda into Kenya, and free trade between Uganda and Tanzania. Uganda and Tanzania were to phase out tariffs on certain specified classes of goods imported from Kenya within five years following the coming into force of the protocol. In January 2005, the EAC CET was set at:

- 0% for raw materials, medical equipment, essential medicines, agricultural inputs, and machinery;
- 10% on semi-finished goods; and
- 25% on finished goods.

The implementation of the CET entails significant tariff liberalisation on third country imports for Kenya, a marked decline in Tanzania's tariffs and a substantial increase for Uganda on third country imports.

The protocol provides for the elimination of all non tariff barriers; common rules of origin, anti-dumping measures, safeguards, and other countervailing measures; a dispute settlement system; securities allowing for the development of capital markets in order to facilitate and encourage cross listing of shares on

a regional securities exchange¹² and other restrictions to trade, common competition policies, duty drawbacks, and customs co-operation; re-exportation of goods, i.e. goods imported and re-exported from the customs territory. It also provides for harmonising trade documentation and procedures.¹³

The customs union came into being in 2005 following the signing of the Customs Union Protocol in November 2004, and the common market is expected to be in place by 2010 with the establishment of the common monetary union to follow in 2012.

3. COMPARING SOUTHERN AFRICAN RECS: IMPLICATIONS FOR SACU

3.1 Background

SACU, comprising Botswana, Lesotho, Namibia, Swaziland (BLNS) and South Africa, is the oldest functional customs union in the world. It was created in 1910 following the signing of the Customs Union Agreement between the Union of South Africa and the three British administered territories of Botswana, Lesotho and Swaziland.¹⁴ The 1910 agreement was replaced by the 1969 agreement and later by the 2002 SACU agreement. All SACU members are members of SADC, while Swaziland is a member of both SADC and COMESA (subject to an annual derogation from the four other SACU members). Four of the five countries are also members of the Common Monetary Area (CMA), with Botswana being the exception. Revenue sharing, whereby South Africa effectively subsidises the other member states, is a central and longstanding feature of the arrangement.

The 2002 SACU agreement outlines three main features in attaining a democratic and workable integration project. It provides for the adoption of common

¹² 'East African Community: Non-trade Policy' Economic Analysis Paper No. 2.2 available on www.usaid.or.ug/econ%20papers/eac%20non-trade%20policy.doc, accessed on 29 August 2006.

¹³ Jakobeit C, T Hartzenberg, N Charalambides, 'Overlapping Membership in COMESA, EAC, SACU and SADC: Trade Policy Options for the Region and for EPA Negotiations', GTZ, 2005, p. 18.

¹⁴ Namibia became a South African protectorate after the First World War.

policies and strategies, the creation of democratic decision-making bodies, and the recognition of the crucial role of tariffs as an instrument for development.¹⁵ For instance, the 2002 agreement provides for the member countries to develop common industrial policies, as well as co-operation on agricultural policies so as to ensure the co-ordinated development of the SACU-wide agricultural sector.

Other areas of work for developing common frameworks include competition policy, co-ordination of customs procedures, and trade remedies. However, the 2002 agreement sets no specific time frame within which to attain its targets. Indeed there do not yet seem to be any detailed plans of action in any of the areas mentioned in the 2002 agreement, although a 'roadmap' is currently being developed.¹⁶ Thus unfinished business constitutes a major part of SACU's future work.

As with all customs unions, SACU is recognised by the WTO, which has already undertaken one trade policy review of the grouping in 2003. SACU has successfully negotiated trade agreements with the EU, EFTA, and SADC. Further negotiations are on the cards, notably with India and China. Hence, as far as co-ordinated trade strategies and negotiations go, albeit with the significant exception of South Africa's agreement with the EU which it has negotiated alone,¹⁷ SACU is a regional trailblazer.

3.2 Other RECs' integration agendas: Implications for SACU

SACU clearly has a long history, and is in the throes of important institutional reforms. Crucially, it also contains Africa's largest and most diversified economy, South Africa. However, SACU was not on the recommended AU list of AEC building blocks, which on the face of it rules it out of the regional race to consolidate customs unions in the region. In keeping with this concern and assuming SACU countries prefer the certainty of their own trade regimes to the uncertainty of the SADC and COMESA processes, SACU may wish to move

¹⁵ Paul Kruger, 'The WTO Trade Policy Review Mechanism: Application and benefit to SACU' TRALAC Trade Brief No. 4/2006, Johannesburg: June 2006.

¹⁶ Communication with SACU Secretariat and SA government officials.

¹⁷ Owing to the fact that the EC's negotiating mandate excluded the BLNS countries, as they are all Cotonou signatories and beneficiaries of the trade protocol.

quickly beyond the set SADC and COMESA targets. These issues are addressed in section 4. However, this goal needs to be carefully weighed in terms of the economic benefits and costs it would entail for current and prospective members. Clearly this is a critical consideration for each member state, which is unfortunately beyond the scope of this paper.

SACU compares favourably with its ‘competitor’ RECs in terms of the degree of integration already achieved. SACU has also undertaken steps to deepen and expand its integration agenda, notably harmonisation of regulatory policies on new issues such as competition, investment and intellectual property rights. And its engagement in negotiations with external partners such as the US (assuming that freight process achieves a successful outcome) and the EU are pushing it further in that direction.

Given SACU’s impressive record of longevity, its relative importance to all member states, the fact that it already represents an effectively functioning regional trading arrangement, and that it includes South Africa, the regions’ economic powerhouse, it is probable that if a ‘variable geometry’ regional framework does emerge in southern Africa, SACU will be at the core.

South Africa has the largest and most sophisticated economy in the region, accounting for about 60% of all intra-SADC trade and about 70% of its GDP. It offers a wide range of benefits to the sub-region as most of the countries can now procure goods and services from it that previously have been difficult and expensive to procure from abroad. The region is an important destination for South Africa’s value-added exports giving it a strong stake in the regional institutional terrain – although it is interesting to note that COMESA is no less important to South Africa’s external trade than SADC (see Table 3). It also offers these countries a relatively large, diversified market for their exports and significant sources of funding through its regional development banks.¹⁸ And the fact that South Africa is prepared to underwrite the BLNS countries via the revenue sharing formula, imperfect though it is, is attractive to cash-strapped and donor-dependent states in the region.

However, the persistent trade imbalance between South Africa and the rest of the region is a major political challenge. And, as shown in Table 2, South Africa’s importance as a trade partner to countries in the region – with the excep-

¹⁸ The Southern African Development Bank and the Industrial Development Corporation.

tion of Zimbabwe, Zambia, and Malawi – is still dwarfed by the EU, the North American Free Trade Area (NAFTA) and China.¹⁹ In other words, although South Africa is the premier economy in the region, external actors are more important in the trade and, with the exception of the BLNS, aid spheres. Over time this may change, particularly if industrial and broader economic development takes hold in the region, but for the foreseeable future this fact points to a sharp limitation on South Africa's regional influence. It is offset to some extent by South Africa's outward investment into the region, which is clearly playing a critical role in driving economic integration sometimes despite formal institutional integration arrangements.²⁰ However, states in the region are generally suspicious of South Africa's intentions and hence unwilling to join an arrangement – SACU – which may create dependencies on South Africa, especially financial (via the revenue-sharing arrangement).

Of great relevance within the rationalisation of RECs in Africa is the important role played by external partners, in particular the ongoing economic partnership agreement (EPA) negotiations with the EU. This is because the countries in southern and eastern Africa, with few exceptions, trade predominantly with the European Union (see Table 2). Within this, the bulk of exports are undifferentiated commodities that are not needed in regional supply-chains owing to the serious underdevelopment of manufacturing industry – with the notable exception of South Africa and to a lesser extent Zimbabwe and Kenya. Indeed it is quite striking how unimportant South Africa is to the region as an export destination, again excepting Zimbabwe, Zambia, and Malawi.²¹

Confusingly EPA negotiations configurations are not coterminous with existing RECs (see Table 1). This places further stress on an already delicate situation in which institutional capacities are already overstretched, and consequently threatens to divide the region even further. It also makes it difficult for constituent countries to agree on common negotiating positions, given that

¹⁹ We take it for granted that the BLNS countries depend on South Africa for imports, although the extent of their export linkages with South Africa is less clear. In any event they are already in SACU, whereas here we are most concerned with countries outside it.

²⁰ See Draper *et al.*, *op.cit.* for a detailed consideration of South Africa's mostly positive economic impact on the region.

²¹ Unfortunately time constraints prevent us from conducting a detailed country-specific analysis – which would undoubtedly shed much light on these issues.

their tariff schedules and domestic regulations are generally not harmonised. And it raises substantial legal uncertainties, as the negotiating groupings do not have formal legal status, unlike the RECs that constitute them. So it is not clear whom exactly the EC will sign (an) agreement(s) with and how it/they would be administered.

Aggravating this situation is the fact that European Development Funds (EDF 10 specifically) will apparently not be allocated to RECs in the next five-year tranche (2008–2013) but rather to groupings negotiating EPAs. In the case of southern and eastern Africa, as Table 1 shows, this places considerable pressure on countries to consolidate their memberships if they are to access those regional resources; it also places pressure on the secretariats to justify their existence given that they will not actually allocate the funding.

The four main RECs in the region have to contend with the possible fallouts of the EPA negotiations, which seem to be shaping the future trend of integration in the region. Substantially in response to the EC's preference to negotiate EPAs with single economic spaces all the RECs have plans to evolve within given time frames to both customs unions and common markets. However, from a technical and legal viewpoint, a country cannot apply two different external tariffs and therefore cannot be a member of more than one customs union. But once in a customs union it can maintain an FTA with the other customs unions, provided that all members do the same.

Given these dynamics it is not clear whether SACU has sufficient 'gravitational attraction' to expand and subsume SADC. And SADC has its own integration project, which, if realised, will see it establishing a customs union by 2010. Since all SACU members are members of SADC, and since one cannot be a member of two CUs, it is obvious that should SADC succeed, then SACU would fall away in favour of the SADC customs union. Hence the form that the SADC customs union is likely to take is critical to SACU members. Some critical questions arise in this respect. Will a SADC customs union see higher or lower external tariffs for the five current SACU members? What relationship would a SADC CET bear to South Africa's emerging industrial strategy framework? How would tariff revenues be distributed and would South Africa continue to underwrite the costs? Of lesser importance is Swaziland's membership of COMESA, which plans a customs union by 2008. If achieved on time, Swaziland will have to choose which customs union it wishes to be party to.

Furthermore, many SADC protocols and other legal instruments have pushed the region to deeper economic integration indirectly, in ways that SACU – and the other RECs – do not mirror. A key question therefore is how those protocols could be integrated into either an expanded SACU or shrinking SADC, bearing in mind that under Article 22 of the SADC treaty, accession to those protocols is voluntary (and the protocols have been unevenly implemented). A case in point is trade in services where the region is substantially integrated even though a formal ‘services liberalisation’ process has yet to take place. And SADC has a security agenda that has little to do with trade and economic integration. So it is clear that the SADC secretariat, and the member states that back it, has a number of cards in its hand.

So in keeping with the manner in which regional economic integration has unfolded in the region in the past and in other parts of the world, the key to understanding how the situation may develop in future is the political calculations underway in key ‘swing countries’ in the region. For our purposes a ‘swing country’ is defined from the SACU standpoint in the first instance, namely a country whose decisions will have significant bearing on SACU’s trajectory and relationship with SADC and COMESA. Those countries that trade significantly with South Africa/SACU fall into this category. From the discussion above three countries fit this bill: Zimbabwe, Zambia, and Malawi. In addition to this, three countries by virtue of their size (population, GDP and access to natural resources) are significant regional players whose calculations will have a bearing on the overall project: Angola, the DRC, and Kenya. We do not discuss the DRC owing to the substantial political uncertainties characterising its transition. Finally two countries, Mozambique and Tanzania, have longstanding political ties with the ruling African National Congress in South Africa, which will presumably continue to play an important role in their calculations, and they are discussed below. We cannot attempt a comprehensive treatment of the subject here, but offer some embryonic thoughts.

- **Angola’s** primary geopolitical sphere of influence is western and central Africa, especially the Democratic Republic of Congo and its intractable conflicts over vast mineral resources, and the associated civil conflicts raging in the broader region. Furthermore, Angola’s exports overwhelmingly consist of oil (more than 90%), which is destined for northern markets and, increasingly, China. Therefore looking at membership of RECs, the Economic

Community of Central African States (ECCAS) is arguably as important as those under discussion here.²² And Angola is unlikely to want to join SACU, owing to South Africa's dominant presence within it. Crucially, Angola is not required to offer reciprocal trade privileges to the EU by virtue of its least developed country (LDC) status and qualification for the Everything but Arms (EBA) arrangement, and primarily views EPAs as developmental instruments. Our sense therefore is that Angola would most likely prefer to retain SADC as a means to project its influence into the broader Southern African region and a market for future exports once reconstruction gives way to recovery and economic expansion, whilst keeping one foot firmly in the Central African region.

- **Zimbabwean** decisions to join or not to join regional organisations have in the past been made on purely political grounds. For example, it is rumoured that when Zimbabwe joined COMESA the decision was taken by the Minister of Finance, a senior party figure, who signed the agreement without involving the Ministry of Trade.²³ If these decisions were to be taken under the current government, they would be based on where they think they have got more friends or less trouble, which may be SADC, given the broad political support they have from that organisation. But it also depends to some extent on what Zambia, Mozambique and perhaps Malawi do. SACU, as it is now, is unattractive to the present government because they would see that as exposing themselves to economic domination by South Africa.
- **Malawian** exporters would reportedly rather stay in COMESA because they feel the rules of origin under COMESA are better and serve their interests more than the SADC rules do. Malawi has also benefited from a bilateral agreement with South Africa covering clothing and textiles, although this is scheduled to terminate and is currently under review. Concerning REC options the government seems inclined towards SADC. Offsetting this is the president's apparent willingness to listen to the private sector, which

²² The Economic and Monetary Community of Central Africa (CEMAC) comprises Franco-phone countries, and hence does not feature as prominently in Angola's strategic thinking as ECCAS with its more diverse membership. ECCAS also has a security agenda in which Angola participates actively, notably via membership of the ECCAS standby brigade, whilst CEMAC does not.

²³ Confidential communication.

favours COMESA; and the fact that he was secretary-general of COMESA a few years ago. But a substantial portion of Malawi's exports go to South Africa and South Africa has reportedly demonstrated flexibility on the SADC rules of origin (following the mid-term review of the FTA), which further confuses the situation. And given that Malawi is landlocked and surrounded by states in similarly confused positions (with the possible exception of Mozambique) the dispositions of those countries may ultimately prove decisive for Malawi.

- **Mozambique** has opted unambiguously for SADC. Associated with this it has thought hard about applying to join SACU, but has made no public moves yet: it has to weigh the price in terms of its potential impact on Mozambique's tariff regime; ensuing competition from South African producers in its market; and potential financial dependence on South Africa assuming revenue transfers flowed from the new arrangement. Mozambique's exports to South Africa are a marginal proportion of total exports hence the current market access incentive is quite low. Nonetheless political relations between the ANC in South Africa and Frelimo in Mozambique are strong and may ultimately prove decisive in the impending realignment.
- **Zambia** hosts the COMESA secretariat rendering a rupture with that organisation extremely difficult. Furthermore, Zambia's only border with the current SACU runs along the remote Caprivi Strip in Namibia. Hence its land route to SACU is via Zimbabwe, rendering the latter's disposition of more than passing interest from the point of view of enforcing common SADC/SACU rules of origin and tariff structuring. Offsetting this is the fact that a substantial portion of its exports are destined for South Africa, and it receives substantial South African foreign direct investment (FDI). At this stage, and in the absence of decisive information, it is difficult to predict which way the authorities in Zambia may go.
- **Tanzania** has longstanding political and economic ties to South Africa; the former via relations with the ANC during that party's exile days, the latter via extensive South African FDI. Yet it is part of the EAC, and, if it wishes to secure the future of that body, would be required to pull out of the SADC FTA in order to belong to only one customs union. Its participation in the SADC EPA process further confuses this situation, although being a LDC Tanzania qualifies for EBA access to the EU market and is not obliged to

offer reciprocal concessions. And Tanzanians have legitimate concerns over the political futures of their EAC partners, given recent domestic ructions in the other member states and the broader regional security challenges to its north and west. Its geographical remoteness from the SACU core also renders it unlikely that Tanzania would join SACU. However, if Mozambique were to join SACU this might increase the latter's attractiveness owing to the border they share. Ultimately Tanzania must weigh the cost of foregoing a relatively successful regional experiment in the EAC against political solidarity with the region's economic power in South Africa.

- **Kenya** has an obvious stake in coordinating a regional grouping with itself at the centre. Within East Africa it has the most advanced manufacturing sector, one which has clearly benefited from access to regional markets via the COMESA FTA. Furthermore, it is understood that in the EAC customs union negotiations Kenya pushed for a CET, and associated institutional and legal arrangements approximating those likely to emerge from the COMESA customs union process – should the latter cohere. Hence a merger between the EAC and COMESA is plausible and would suit Kenyan export interests.

This identification of key swing states is important from the standpoint of South Africa/SACU targeted diplomacy designed to secure SACU's future, either alone or within SADC. However, this presupposes the existence of a coherent plan which, to date, has not been forthcoming. We return to this issue in section 4 and the conclusion.

Depending on how the strategic political and economic calculations underway in the capitals of those countries choosing between SACU/SADC and COMESA play out, a number of possible scenarios/options are evident, as outlined in the recent GTZ study.²⁴

Option 1: *Status quo of customs unions plus larger integration project between COMESA and SADC.* SACU and EAC remain fast-tracking groups of SADC and COMESA respectively, while SADC and COMESA remain FTAs with a view to forming a larger, integrated eastern and southern African trade zone at a later stage.

Option 2: *Variable Geometry Option' or 'SACU+ and EAC+ Option.* Potentially

²⁴ Jakobeit *et al. op. cit.*

enlarged SACU and EAC become fully fledged customs unions by 2010, and countries not participating in the customs unions remain members of the SADC and/or COMESA FTAs for the time being but with a view to forming two separate customs unions as SADC and COMESA in the medium term.

Option 3: *Leap Forward Option.* SADC and COMESA both become fully fledged customs unions by 2010 and merge with the current SACU and EAC, respectively. All countries take a decision regarding their membership in either the SADC or COMESA customs union.

From this it is clear that the regional landscape is replete with pitfalls and circles of complexity. Moving from spaghetti to cannelloni is no simple task! In section 4 we try to make some sense of these dynamics from the standpoint of what SACU requires in order to advance its development agenda. In other words, we attempt to bring economics back into focus whilst acknowledging the imminence of the regional political minefield. First we attempt to negotiate that minefield.

3.3 Cannelloni confusions

Notwithstanding membership anomalies, in our view the EAC and SACU should become fast-tracking groups of both SADC and COMESA, setting standards in various areas of economic integration, owing to the relative coherence of their integration processes. The key implication of such a trend is that 'misfit' countries (primarily Tanzania, Malawi, Zambia, Zimbabwe and Swaziland²⁵) would have to choose which of the customs unions to join. This option would substantially slow down and perhaps forestall integration in COMESA and SADC.

EAC expansion may diminish COMESA's membership if the COMESA customs union also goes into operation by 2008, as the countries cannot apply more than one CET. Article 37 (1) (2) of the EAC Customs Union Protocol provides for member states to respect their commitments in other regional or multilateral groups but within the common external trade policy. Kenya, Uganda,

²⁵ We consider the prospect of the two island states, Mauritius and Madagascar, joining a customs union as being minimal. In both cases 92% of their total trade is extra-regional – giving up their trade policy autonomy would not make any economic sense at all. But then politics has a strange habit of 'rearing its head'!

Burundi, and Rwanda may elect therefore to apply the EAC CET and maintain a preferential FTA with the other COMESA member states. Tanzania currently retains its membership of the SADC FTA, thereby postponing a decision on merging its trade policy with the EAC. The same logic applies to a possible expansion of SACU and its relation to SADC. And, like Tanzania in the EAC Swaziland is SACU's misfit.

Therefore if the EAC and SACU take on the option to act as fast-tracking groups for both COMESA and SADC, then from an economic perspective countries like Tanzania would be better off in an enlarged EAC customs union. That would probably bring on board other member states like Rwanda and Burundi as the CET of the EAC would probably set the standard for other COMESA countries. SACU could then engage in enlisting 'swing states' in SADC, principally Zimbabwe, Zambia, Malawi, Mozambique and possibly Tanzania, that have to choose whether to belong to the SADC or the delayed COMESA customs union.²⁶ The implication for these countries is that they would have to apply the SACU CET, future SACU common policies²⁷ and existing trade agreements between SACU and third parties.

South Africa, the dominant regional power, views regional integration via SACU as a priority. Therefore South Africa may strongly influence SACU's integration agenda while leaving non-economic issues still with SADC. It is not clear though whether the BLNS countries support this objective. First, in the case of Namibia, Lesotho, and Swaziland it may involve a dilution of their revenue shares particularly if it involves a renegotiation of the revenue-sharing formula in a context of reluctance on the South African Treasury's part to sustain currently large transfers to them. This necessitates a renegotiation of the revenue-sharing formula prior to embarking on expansion – a process that is likely to be highly contested.

Second, Botswana at least is reportedly tiring of South African dominance and regards SADC as an important forum for diluting its southern neighbours' hegemony in the customs union. This raises the probability of SADC retain-

²⁶ We consider the prospect of Angola joining SACU as unlikely.

²⁷ SACU currently does not have common policies although its members do apply various SADC protocols beyond that on trade. Hence those joining early would have an opportunity to shape future common policies beyond those already applied under SADC membership.

ing a broader security and political role, whilst ceding ground on the trade agenda – a prospect that could attract the ‘swing states’ and the Lusophone countries (Angola and Mozambique). Third, prospective new entrants are geographically larger with substantially bigger populations, implying a reduction of BLNS influence in the customs union. Offsetting this is the possibility of alliances being forged against South Africa. So the politics of an expanded SACU are difficult to predict, as is the potential for this to happen.

Policy debates within the South African government also have implications for the future of the Customs Union. Currently the South African Treasury is reviewing the scale and nature of the transfer payment owing to the BLNS countries, with a view to putting it on a more sustainable long-term footing. As it currently stands the formula perversely incentivises the BLNS to resist tariff reform and reductions as the bulk of the transfer payment is sourced from tariffs. This is linked to a broader internal debate in the South African government over the future of trade reform, with the Treasury seeming to favour further tariff rationalisation and reductions, whilst the Department of Trade and Industry favours ‘strategic trade policy’. The latter may not square with the relatively simple and more liberal tariff regimes to be found in the region. Furthermore, the Treasury is also considering the option of converting the transfer into an EU-style structural fund development payment, which would not be based so substantially on volatile tariff revenues. But given that the current formula took eight years to negotiate it is unlikely that a new formula, that takes into account the possibility of expanding SACU, will be put in place soon.

The EAC, on the other hand, seems to be moving fastest and furthest. It is fast-tracking its integration to be a fully operational common market by 2010. It has developed a framework for managing accessions, including establishment of verification teams to ensure prospective members comply with existing common policies and regulations. SACU, by contrast, currently does not have an accessions acquis in place. The EAC’s progress is grounded on a fully functional and reportedly capable secretariat with the necessary capacity to monitor the process. SACU’s secretariat is still establishing itself. In the EAC, negotiations towards common policies and a common market are proceeding apace. This compares favourably with SACU, which has yet to establish its common institutions, let alone procedures and systems related to accession. Furthermore, for SACU to establish its institutions in the midst of the debate over SADC’s future

may prove divisive. Hence in our view the first order of business for SACU is to 'get the basics right' – a theme we return to in Section 4.3 below.

And SACU confronts a major external challenge in the form of EPA negotiations and the review of South Africa's Trade, Development, and Co-operation Agreement (TDCA) with the EU. A key issue is the extent to which the BLNS countries are willing to accommodate to the TDCA.²⁸ If the 2002 SACU Agreement is applied *mutatis mutandis* then the BLNS countries are *de facto* part of the agreement. And these countries have opted to negotiate the EPA with the EU under the SADC EPA configuration, which extends to Mozambique, Angola and Tanzania²⁹ (the so-called 'MAT' countries) but also includes South Africa. The MAT countries are all LDCs, and hence enjoy relatively secure access to the EU market under the EU's EBA initiative. Hence reciprocity is not a major issue for them. However, Namibia, Botswana and Swaziland cannot offer tariff concessions to the EU given that they are members of SACU's CET.³⁰

The greatest challenge therefore is the extent to which the EU wishes for the TDCA to be renegotiated and to serve as the basis for a SADC EPA. The opportunity is there owing to the built-in mid-term review of the TDCA, which coincides with EPA negotiations. The threat to Botswana, Namibia and Swaziland is that they may forego the market access they currently enjoy under the Cotonou Agreement owing to the fact that the EU requires reciprocity – which they are not in a position to give without South Africa's concurrence. Hence they could lose their preferences whilst having to sign up to the TDCA's onerous rules of origin, potentially without gaining anything in return. Lesotho, on the other hand, will retain its preferences owing to its LDC status and associated access under EBA. However, the existence of two sets of rules of origin for access to the European market within SACU will ensure continued pressure to retain border controls in order to minimise trade deflection. It is clear therefore

²⁸ The BLNS were excluded from the negotiations and technically have not signed up to its provisions, although much of their trade is routed via South Africa meaning the provisions of the TDCA apply *de facto*. However, they have consented to using the TDCA as the basis for a SADC EPA.

²⁹ South Africa is an observer, but if the EC agrees to the TDCA forming the basis for the EPA then South Africa will become a proper member.

³⁰ For the same reason Tanzania cannot commit its fellow EAC members to reciprocal arrangements with the EC as the latter are part of the eastern and southern Africa negotiating group.

that if not resolved soon these dynamics may endanger efforts towards deepening integration in SACU.

Unfortunately early indications from the commission's recommendations to the European Council are not encouraging: whilst apparently recommending that South Africa be a full negotiating partner under the SADC EPA and that the TDCA serve as the basis for negotiations, the commission also recommends differentiated tariff offers to the constituent countries accompanied by different rules of origin.³¹ The South African government's reported response highlights the absurdity of the commission's position: 'It is a far-fetched suggestion that [we] should be in a position to make differential offers to different EU members depending on their competitiveness.'³² Compounding this is the commission's insistence that it will not offer tariff concessions in the absence of regional commitments in respect of new generation issues ostensibly supposed to support regional economic integration. As we argue in Section 4.2 below, harmonising regional regulations in SACU, never mind SADC, is a fraught and questionable process given the different interests at play.

Against this attempt to, in the South African government's words 'force regional integration' into an EU design, an expanded SACU would consolidate the regional institutional architecture around South Africa, the dominant regional economic power, rather than an EU-inspired design. Expanding SACU would give South Africa and regional exporters' duty free access to each other's markets whilst affording a degree of external protection via a (hopefully liberalised) common external tariff (CET). However, this argument, whilst appealing to notions of regional solidarity, does not necessarily make economic sense. Its downside is that the region risks becoming locked into South Africa's high cost growth model – a situation that arguably already characterises the BLNS economies and is a major incentive for them to introduce external competition into their markets including from the EU. In this light, SACU's inbuilt compensation mechanism to offset potential industrial relocation to South Africa and ameliorate the ill effects of the CET is important, although this mechanism is as useful as the South African Treasury's pockets are deep.

Considering the slow progress in SADC, its evolution to a customs union

³¹ *Financial Times*, 'Pretoria rails at Brussels over trade proposals', 12 December 2006.

³² *Ibid.*

is not very obvious especially if we consider that it took almost eight years to renegotiate the SACU agreement. Arriving at a SADC customs union by 2010 seems too ambitious and unrealistic. So if it is to secure its regional preferences then SACU, or perhaps more accurately its member states, need to embark on a diplomatic offensive which would help bring on board some of those southern African countries that have expressed interest in being part of SACU but are still reluctant to join. This should focus particularly on the 'swing states' identified above.

Assuming the RECs are rationalised, and that more than one emerges from the rubble, the critical question of relations between new groupings would remain. What possibilities arise? One option, in the spirit of the European Union's 'neighbourhood policy' is for each REC to extend to the others access to its common market, thereby enlarging the economic space without enlarging the institutional space. So, for example, SACU could consider negotiating an FTA with other established RECs like the EAC and COMESA within the possible emerging REC configuration. SACU also needs to clarify its relationship with SADC. For instance if SADC evolves to become a customs union by 2010, then the SACU member states of SADC would either have to leave SADC or form some kind of merger which will be inevitable in such circumstances as the only way forward for the two organisations. Either way transitional arrangements would be critical.

4. POSITIONING SACU

4.1 How wide and how deep?

In Africa, as elsewhere, politics rather than economics drives regional integration. Yet for SACU the main focus, correctly in our view, is on the economics rather than the politics. The overlapping of memberships in southern Africa, and the recent rationalisation process embarked upon by the AU, require SACU to position itself in the shifting regional landscape, which we explored in the previous section. But a focus on the economics raises the related questions of how wide (in the sense of policy coverage) and how deep (in the sense of policy harmonisation) SACU should go.

The answers to these questions must be rooted in an assessment of SACU's

strengths and weaknesses and the region's development priorities. SACU strengths seem to be primarily as follows;

- An in-built compensation mechanism through its revenue sharing scheme for the less advanced economies (BLNS). The other RECs have neither the consensus nor the resources to establish such an arrangement, although the EAC does have temporary asymmetry built into its CET.
- Collective negotiating strength with external partners.
- Provision for new democratic institutions based on 'consensus' decision-making to manage potential conflicts.

It has the following weaknesses;

- Widely divergent economic interests particularly between South Africa and the rest, which are difficult to reconcile.
- All members are reluctant liberalisers: in the case of the BLNS owing to fear of possible revenue losses, in South Africa's owing to its mooted industrial policy trajectory.
- Capacities in the BLNS in particular are very weak. Enlargement would stretch these capacities even thinner than they currently are.
- South Africa's economic dominance fosters resentments, particularly owing to the fact that economic activity agglomerates there.
- The new institutions have not yet been set up and will prove challenging to establish. This is a major obstacle to expanding SACU.

4.2 Width: policy coverage

For SACU to move towards a deep and wide integration it needs to undertake certain practical steps. Other RECs like COMESA and EAC have embarked on fast-tracking their integration initiatives. The WTO SACU review report of 2003 highlighted some of the obstacles that impede SACU integration.³³ The 2002 agreement also recognised some of these difficulties and tried to address them. Furthermore, there is no clear agenda of SACU evolving into a common mar-

³³ Notably quantitative restrictions; lack of harmonisation of customs procedures, standards and technical regulations, sanitary and phytosanitary measures, competition policy, and internal taxes (especially VAT). World Trade Organization (2003) *Trade Policy Review: Southern African Customs Union*, Secretariat Report, x.

ket. In principle SACU could focus on deepening its integration in areas such as services, trade facilitation, investment, competition and intellectual property rights. With SACU negotiating FTAs with external partners such as the US, these new generation issues are included in its trade integration agenda in any event. The key issue though is sequencing, namely when would be the right time to introduce these issues into an already crowded agenda? In our view the first order of business is to simply get the basics right before embarking on such an ambitious project. This is discussed in Section 4.3

Key to the potential for harmonisation is the nature of the development challenges the region confronts, and whether new areas of policy coordination would assist in meeting those challenges or not. What seems clear is that beyond the trade facilitation agenda (discussed below) the potential for substantial conflicts of interest exist among the members.

Take the industrial policy arena for example: is South Africa's automotive industry policy³⁴ in the best interests of the BLNS? It has delivered substantial investment benefits, whilst being employment neutral, but at the cost of high car prices in a country scarred by apartheid spatial planning where transport costs for poor consumers are high. The BLNS, with their poor citizens and vast geographic spaces arguably require access to cheap, second-hand cars, yet they are locked into high tariffs on new cars owing to the MIDP arrangement.

Similar challenges exist in other policy areas, for example intellectual property rights and services. Given that the BLNS do not have sophisticated manufacturing bases, strong intellectual property rights may not be in their interest (unless the absence thereof discourages investment). Concerning services, the BLNS have a strong interest in service sector liberalisation in order to import low cost services. Currently, by virtue of South Africa's economic dominance, they are locked into importing relatively high-cost services from South Africa owing to the fact that most key South African service sector markets exhibit concentrated oligopolistic market structures. Yet South Africa remains reluctant to liberalise its service sectors, primarily for political reasons.

Therefore harmonising and deepening policies will be challenging indeed.

³⁴ The Motor Industry Development Plan.

4.3 Depth: SACU needs to get back to basics

Rather than pursue the high-hanging fruit of policy deepening and harmonisation, SACU should first pick the low-hanging fruit inherent in getting the basics of operating a customs union right.

One such area is the collection of statistics. This is important for two reasons, the revenue-sharing formula is based on intra-SACU trade, and for policy-planning purposes. It is not clear whether SACU member states are fulfilling their responsibilities in this area. First, in order to properly allocate SACU revenues maintenance of customs controls between SACU member states is necessary. Unfortunately this is replete with problems requiring a multilateral solution – a solution which does not incentivise the member states to overstate their share in order to maximise revenue. Second, those internal controls impede the legitimate flow of goods between SACU member states. This, coupled with the reduction in entry points adds to the cost of doing business in the customs area. In addition, each SACU member state retains autonomy over the issuing of permits relating to imports. This is of particular importance to applications for permits for second-hand goods (for example, cars) and the allocation of quotas. Furthermore, many custom officials reportedly do not understand the different policies and rules that the SACU member states are entitled to introduce. Finally, SACU member states operate different indirect tax regimes and rates, further contributing to the intra-SACU spaghetti bowl.

In the above context, the harmonisation of trade facilitation policies is essential. In considering these SACU should take into consideration the needs of the private sector. Currently business seems to have little or no influence over the decisions taken that may have wide-ranging impact on companies. For example the entire value and logistics chain needs to be harmonised including road traffic legislation, vehicle load limits and dimensions and this needs to be addressed as a matter of priority.

Harmonisation is also required in determining the rules of origin. In this area South Africa could be subject to pressure from the other SACU member states that believe a more lax regime to be appropriate. Requirements for issuing certificates of origin and the regime required need specific attention. Should one state not conform, the integrity of the certificates issued by other SACU member states could be compromised.

In view of rapidly escalating revenue from customs and the South African Treasury's growing concerns over the ballooning size of its transfer payment to the BLNS it must be queried whether the revenue sharing formula is sustainable. There is no monitoring mechanism to ensure that the development portion of the shared funds is in fact used for developmental purposes. Thus one must ask if South Africa is subsidising routine fiscal spending in the BLNS countries.³⁵ A case can be made for the development of policies and procedures to ensure that such funds are dedicated to cohesive initiatives aimed at reducing the inequalities in economic development between the SACU member states, and/or building trade facilitation. Naturally this is a sensitive subject, but sensitive subjects should not be avoided if SACU is to sustain its integrity.

Finally there is the substantial matter of simply implementing the 2002 agreement. Central to this is establishing new institutions to govern the customs union as provided for in the agreement. Whilst the SACU secretariat is in place and is now acquiring staff, it still reportedly has some way to go before it will be truly effective. Then it will encounter a major existential political question: how much autonomy will South Africa be prepared to accord the secretariat to act as a neutral coordinator of the customs union's affairs? Either way the new institutions will require substantial resources and human capacity; the latter is in short supply whilst the former is under review in South Africa. As noted above the agreement also provides for policy harmonisation and deepening but, in our view, that agenda should be back loaded until the basics are established.

So the internal agenda is large, and in the case of harmonisation sometimes fraught. SACU member states need to concentrate on building the union one step at a time and getting the basics right. Unfortunately SACU does not operate in a regional vacuum. Therefore its members cannot opt to ignore impending regional realignments. But they can ensure that if or when SACU does expand it will be on the basis of a properly functioning customs union within which trade and investment facilitation are paramount, rather than political considerations.

³⁵ Not to mention an archaic autocracy in the Swazi monarchy.

5. CONCLUSION

Concluding a paper such as this is not easy. The continental and regional economic integration agendas are complex and fraught. Nonetheless, several clear parameters are discernible from the analysis.

In our view SACU members should not be overly concerned with developments at the continental or AU level. It is doubtful whether the AU will have the political legitimacy or clout to impose its vision of economic integration on the disparate economic regions; nor is the African Economic Community a feasible medium-term objective. It remains, in our view, an interesting aspiration. However, the problems inherent in overlapping memberships are real and need to be tackled at the regional level because that is where their ill effects are directly experienced.

So what does our region, and SACU in particular, need to do to bring some sanity into the economic integration agenda?

First, SACU has to get its house in order by going back to basics. This includes harmonisation of trade facilitation measures (customs, standards, documentation) and properly establishing the institutions provided for under the 2002 agreement. At the same time negotiations over a new revenue-sharing formula that explicitly takes into account the possibility for expanding the customs union should begin. In parallel a development fund should be set up to replace the volatile and contentious portion based on customs revenue and intra-SACU trade. This would facilitate a process of simplifying and liberalising the CET, thereby making SACU more attractive to those 'swing states' with an interest in joining SACU as a prelude to the mooted SADC customs union. Critical to this objective on the tariff front is that the EU recognises South Africa as a full EPA negotiating partner so that SACU can begin to negotiate its trade arrangements with the EU as one.

Second, and essential to this process, political leaders must back SACU as the core of a variable geometry option within which SACU and the EAC would be the anchors. In order to achieve this SACU member states should embark on concerted diplomatic efforts targeting key 'swing states' in the broader southern and eastern African region, with a view to enlisting them into an expanded SACU. Given the residual suspicions of South Africa's motives the BLNS would have to put aside their narrow self-interests and collaborate with South Africa

on this diplomatic agenda – a fanciful proposition perhaps. Then, assuming political ‘clearance’ could be obtained, SACU and SADC technocrats would need to work out coherent transitional arrangements that would govern the transition from the current SACU to a future SADC customs union.

In the final analysis, if the region is to move from spaghetti to cannelloni, it will require concerted diplomatic action based on sound reasoning and inspired political leadership. A tall order perhaps, especially in a region not noted for speaking Italian. Yet this is the region that gave birth to the ‘African Renaissance’ vision – it is time for the progenitors of that vision to give effect to it in the sphere of economic integration.

TABLES

Table 1: Membership of regional organisations in Southern and Eastern Africa

	ESA-EU EPA	SADC-EU EPA	SADC	COMESA	IOC	EAC	IGAD	SACU
Angola		X	X					
Botswana		X	X					X
Burundi	X			X FTA				
Comoros	X			X	X			
Djibouti	X			X FTA			X	
DRC	X		X	X				
Egypt				X FTA				
Eritrea	X			X			X	
Ethiopia	X			X			X	
Kenya	X			X FTA		X	X	
Lesotho		X	X					X
Madagascar	X		X	X FTA	X			
Malawi	X		X	X FTA				
Mauritius	X		X	X FTA	X			
Mozambique		X	X					
Namibia		X	X					X
Rwanda	X			X FTA				
Seychelles	X			X	X			
South Africa			X					X
Sudan	X			X FTA			X	
Swaziland		X	X	X				X
Tanzania		X	X			X		
Uganda	X			X		X	X	
Zambia	X		X	X FTA				
Zimbabwe	X		X	X FTA				
Aim	EPA 2008	EPA 2008	CU 2010	CU 2008		CU 2004		

Note: Countries in bold are non-LDCs.

'CU' = customs union.

**Table 2: Eastern and Southern Africa's world trade by major market
(2003–2005 average)³⁶**

Reporting country		Imports by "world"	Share attributable to . . .					Country total
			EU	NAFTA	China	Japan	SA	
1	Lesotho	496,371	5.1%	94.4%	0.0%	0.1%	0.0%*	99.7%
2	Congo, Dem. Rep.	1,268,471	71.8%	16.1%	8.4%	0.7%	0.4%	97.4%
3	Mauritius	1,735,850	74.0%	16.3%	0.3%	0.6%	1.1%	92.3%
4	Madagascar	1,179,459	52.1%	36.1%	1.0%	2.7%	0.2%	92.0%
5	Namibia	1,432,826	65.6%	16.2%	4.2%	1.7%	3.4%*	91.2%
6	Botswana	3,215,510	83.1%	3.5%	0.1%	0.9%	3.6%*	91.2%
7	Angola	16,043,695	11.9%	43.6%	32.6%	0.3%	1.4%	89.7%
8	Sudan	4,296,273	4.5%	1.3%	51.4%	32.4%	0.0%	89.6%
9	Libya	22,022,940	83.2%	3.5%	2.4%	0.0%	0.0%	89.2%
10	Seychelles	362,333	72.8%	3.2%	0.0%	8.7%	0.9%	85.7%
11	Mozambique	1,503,422	76.4%	0.8%	3.6%	1.2%	2.4%	84.5%
12	Comoros	29,926	51.2%	24.0%	0.0%	6.0%	0.4%	81.6%
13	Ethiopia	544,484	49.7%	10.4%	6.9%	12.6%	0.4%	80.0%
14	Burundi	51,653	66.1%	9.9%	1.6%	0.6%	0.7%	78.9%
15	Uganda	431,907	62.3%	7.8%	2.6%	2.0%	1.2%	75.9%
16	Zimbabwe	1,657,471	28.0%	4.8%	9.1%	7.8%	24.7%	74.4%
17	Malawi	479,018	37.3%	18.7%	0.1%	4.9%	12.6%	73.7%
18	South Africa	44,986,439	40.0%	14.6%	6.4%	10.7%	n/a	71.7%
19	Egypt, Arab Rep.	9,587,412	48.8%	19.2%	2.0%	0.9%	0.3%	71.2%
20	Tanzania	992,929	36.2%	8.3%	9.4%	9.0%	3.1%	66.0%
21	Eritrea	12,508	50.6%	6.3%	4.1%	2.9%	0.7%	64.6%
22	Kenya	2,351,014	39.2%	14.5%	0.6%	1.3%	1.4%	57.0%
23	Swaziland	753,298	20.1%	30.2%	2.5%	0.9%	0.0%*	53.8%
24	Zambia	1,289,278	16.5%	2.4%	14.2%	6.8%	13.1%	52.9%
25	Rwanda	212,291	16.1%	2.9%	6.5%	0.1%	0.2%	25.8%
26	Djibouti	25,754	12.0%	2.4%	0.9%	0.2%	0.2%	15.7%
	Group total	116,962,532	46.1%	16.1%	9.8%	6.0%	1.3%	79.2%

Source: COMTRADE, values in thousands of US dollars.

Note: Countries ranked in descending order according to final column (i.e. the share in total world imports from each country attributable to the EU, NAFTA, China, and Japan).

SACU, REGIONAL INTEGRATION AND THE OVERLAP ISSUE IN SOUTHERN AFRICA

There is some doubt regarding the figures for South Africa's imports from the BLNS countries. It is not clear how COMTRADE records intra-SACU trade; we do know that South Africa Customs and Excise does not publish intra-SACU data, and that COMTRADE relies on governments reporting to the United Nations.

Table 3: The relative importance of the EU, COMESA, and SADC in SA's total trade

SA's trade with . . .	2004			% shares of each bloc in SA's imports and exports	
	Imports	Exports	Balance	Imports	Exports
World	47,775,829	45,415,091	-2,360,738	100.0%	100.0%
EU	19,408,080	14,562,248	-4,845,831	40.6%	32.1%
SADC	1,006,533	3,888,518	2,881,985	2.1%	8.6%
COMESA	1,025,569	3,680,653	2,655,084	2.1%	8.1%

Source: COMTRADE, TIPS.

Note: All values in thousands of US dollars.

³⁶ Generating an accurate figure for the whole world's imports from the countries in Table 2, in a way that is *consistent* across all of them (i.e. from the same reporting data source), is difficult. The following caveats must therefore be borne in mind when interpreting the figures. First, the aggregate figure for 'world' imports from these countries is almost certainly lower than the real figure. Cross checking with alternative sources for South Africa's total *exports* to the world, for example, confirms this. The principle reason for this under-reporting is poorly recorded imports by many other developing countries, including those in Africa. Yet the data for these African countries' exports is no more reliable, but imports recorded by the EU, NAFTA, China, and Japan, are. As such, their shares in total world imports from these African countries are overstated, implying higher geographic concentration than is actually the case. However, this problem applies to all countries in the table, as the same source and methods were used for all of them. Thus the overall pattern or profile is broadly representative.