Staff Working Paper ERSD-2011-14 **Date: October 2011**

World Trade Organization
Economic Research and Statistics Division

Regional Integration in Africa

Trudi Hartzenberg

Trade Law Centre for Southern Africa (tralac)

Manuscript date: October 2011

Disclaimer: This is a working paper, and hence it represents research in progress. This paper represents the opinions of the author, and is the product of professional research. It is not meant to represent the position or opinions of the WTO or its Members, nor the official position of any staff members. Any errors are the fault of the author. Copies of working papers can be requested from the divisional secretariat by writing to: Economic Research and Statistics Division, World Trade Organization, Rue de Lausanne 154, CH 1211 Geneva 21, Switzerland. Please request papers by number and title.

Regional Integration in Africa

Trudi Hartzenberg
Trade Law Centre for Southern Africa (tralac)
trudi@tralac.org

Abstract: This paper examines the history of regional integration in Africa, what has motivated it, the different initiatives that African governments have pursued, the nature of the integration process, and the current challenges. Regional integration is seen as a rational response to the difficulties faced by a continent with many small national markets and landlocked countries. As a result, African governments have concluded a very large number of regional integration arrangements, several of which have significant membership overlap. While characterized by ambitious targets, they have a dismally poor implementation record. Part of the problem may lie in the paradigm of linear market integration, marked by stepwise integration of goods, labour and capital markets, and eventually monetary and fiscal integration. This tends to focus on border measures such as the import tariff. However, supply-side constraints may be more important. A deeper integration agenda that includes services, investment, competition policy and other behind-the-border issues can address the national-level supply-side constraints far more effectively than an agenda which focuses almost exclusively on border measures.

Keywords: F15, O19
JEL Classifications: Regional integration

1. Introduction

There is much support from African governments for regional integration. Indeed since independence they have embraced regional integration as an important component of their development strategies and concluded a very large number of regional integration arrangements (RIAs), several of which have significant membership overlap. There are however few success stories. African RIAs are generally ambitious schemes with unrealistic time frames towards deeper integration[1] and in some cases even political union. African[2] RIAs are usually neighbourhood arrangements.

Traditionally, the European Union was Africa's most important trade, investment and development partner. Trade with the EU was governed by a series of Lomé Conventions, which granted African countries (excluding South Africa) unilateral preferential access to EU markets. The EU and African countries concluded the Cotonou Agreement which paved the way for the negotiation of World Trade Organisation (WTO) compatible Economic Partnership Agreements, in 2000. Various configurations of African countries have constituted negotiating groups; many of which however cut across existing neighbourhood regional integration arrangements, adding an additional layer of complexity to the regional integration process in Africa. The protracted and difficult EPA negotiations reflect to some extent the difference between the African paradigm of regional integration and the EU's model of regional trade agreements, but also the challenges of African regional integration. The EPA negotiations revealed important gaps between political ambitions and economic reality in African regional integration. Debates about the African integration agenda and indeed Africa's strategy for integration into the global economy are emerging from these negotiations, which are still ongoing.

The African paradigm is that of linear market integration, following stepwise integration of goods, labour and capital markets, and eventually monetary and fiscal integration. The starting point is usually a *free trade area*, followed by a *customs union,* a *common market, and* then the integration of monetary and fiscal matters to establish an *economic union.* The achievement of a *political union,* features as the ultimate objective in many African RIAs. This process is

[1] Reference to deeper integration in the context of African regional integration usually means progress from a free trade area to a customs union and beyond to eventual political union. This contrasts with the use of the term deeper integration to refer to the inclusion of behind the border issues such as services, investment and competition policy on the regional integration agenda. Both are used in this paper – the appropriate distinction being noted when the term is used.

[2] African integration in this paper refers by and large to the experience of Sub-Saharan Africa, although brief reference is made to the Arab Maghreb Union as one of the building blocks of the African Economic Community

followed by the various regional economic communities (RECs) in Africa and at a Pan African level, eight of the RECs have been identified as the building blocks of the African Economic Community.[3]

It is accepted in this paper that regional integration makes sense for Africa; a continent characterised by small countries, small economies and small markets. What is at issue, however, is whether the linear model of regional integration currently, defining the African integration paradigm, makes sense for the continent.

2. Africa: a Marginalised and Fragmented Continent[4]

Africa continues to engage at the periphery of the global economy, as is evident from the continent's declining share in global production and trade. The majority of sub-Saharan Africa's (SSA) 47 countries are small and least developed, according to UNCTAD's definition. (UNCTAD, 2007).

Most of Africa's countries have low per capita income levels and small populations which result in small markets. In 2008, 12 SSA states had populations of less than 2 million while 19 had a gross domestic product (GDP) of less than US$5 billion, six of which had a GDP of less than US$1 billion. Not only are most SSA economies small and poor, but 15 are also landlocked, an important contributory factor to high trade transaction costs, and more generally to the high costs of doing business in Africa.

In addition to border barriers, many other constraints exist, increasing the transaction costs of trade. Geography is an important consideration. Low per capita densities of rail and road transport infrastructure, which in colonial times was designed to transport primary products to port. Poorly developed cross-country connections are the outcome (McCord et al., 2005: 37). It has been pointed out that "the reality on the ground is that transport costs in Africa are still among the world's highest. For example, shipping a car from Japan to Abidjan costs US$1 500 (including insurance); shipping that same car from Addis Ababa to Abidjan would cost US$5 000. "Throughout the continent, many road, air, and rail networks remain unconnected"

---

[3] It is noteworthy that the Southern African Customs Union, the oldest functioning customs union, is not one of the recognized building blocks of the African Economic Community.

[4] This section of the paper draws on McCarthy 2007 and McCarthy 2010.

(Economic Commission for Africa, 2004: 2). Furthermore, cost inefficiency, and the lack of competition in air transport because of regulatory policies, result in high costs of air travel. Overall, the high cost and unreliability of transport services contribute to a high-cost business environment in which firms are forced to keep higher levels of inventories, which means that cost-saving management systems of 'just in time' production cannot be used (Collier, 2000).

The lack of skills and capital to establish and operate sophisticated modern communication systems, combined with small business communities that do not allow financially viable business publications, mean that business news and information required for informed decision making is another important constraint. Fixed-line telephone services are limited and unreliable, with notoriously high call charges, especially for international calls. In most African economies, the provision of fixed line phone services is still the exclusively in the hands of public monopolies. Contracts require information on comparative prices and depend on reliable, fast, and low-cost access to reliable market information, including information on the credit worthiness of potential clients. Information is essential to facilitate efficient market outcomes, and lack of readily available information at reasonable cost will hamper market efficiency as a result of high or hidden trade transaction costs.

The geo-political configuration of Africa has been largely determined by the continent's European colonial powers, and as such has little to do with the emergence of nation states. . Small domestic markets and continental fragmentation translates into lack of scale economies in the production and distribution of goods and services. The immediate post-independence era was characterised by a strong commitment to economic planning, and since economic planning would be more feasible at a continental and, in an interim phase, at a regional level. Underpinning this policy approach was the belief that development would be promoted by industrialization, in particular core manufacturing. The industrialisation-regional integration interface was clear. Larger, protected markets in the various sub-regions would support a policy of import-substituting industrialisation. The aim was to establish a broad range of industries across different sectors. More recent experience indicates that political motivation for regional integration has also played an important role in African integration, and perhaps specifically in the overlapping membership of RIAs.

The ambition of African leaders to integrate Africa, and to develop the continent through import-substitution industrialisation, was a key feature of the immediate post-colonial period, and

provided the rationale for the Lagos Plan of Action (LPA). The LPA was an initiative of the Organisation of African Unity (OAU), adopted by Heads of State in April 1980, and keenly supported by the United Nations Economic Commission for Africa (ECA). A decade later in 1991 the Abuja Treaty provided strong support for the African integration agenda. This Treaty emphasized African solidarity, self-reliance and an endogenous development strategy, through industrialisation.

The proposed framework for African integration and continental industrialization was the division of the continent into regional integration areas that would constitute a united African economy, the African Economic Community. To achieve this the Economic Commission for Africa (ECA) supported three regional integration arrangements; the Economic Community of West African States (ECOWAS) for West Africa, which was established in 1975, predating the LPA; the Preferential Trade Area (PTA) covering East and Southern Africa, which was the precursor of the Common Market for Eastern and Southern Africa (COMESA); and the Economic Community of Central African States (ECCAS) for Central Africa. The Arab Maghreb Union (AMU) was established in 1989, completing continental coverage.

The Southern African Development Co-ordinating Conference (SADCC) was established in 1980, by the so-called front line states with the specific aim of reducing economic dependence on apartheid South Africa, which was still excluded from the African integration plan. However, in anticipation of South Africa's democratic transition in the early 1990s, SADCC became the Southern African Development Community (SADC) in 1992 and South Africa joined SADC in 1994.SADCC was not a market integration arrangement; the front line states constituting the arrangement adopted a broad development mandate.[5] SADCC engaged in cross-border, sector-specific projects such as regional development corridors and the Southern African Power Pool. SADC, however, adopted an explicit market integration agenda and is a good example of the linear model of integration in Africa. Although the SADC Treaty (and subsequently the SADC Trade Protocol) does not articulate a detailed plan for integration, the detail was provided in the Regional Indicative Strategic Development Plan (RISDP) of 2003. This strategic plan articulates the roadmap for SADC's integration and provides for the establishment of a free trade area by 2008, a customs union in 2010, a common market in 2015, monetary union in

[5] Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe.

2016 and the introduction of a single currency in 2018.[6] Although the RISDP is not a legally binding instrument, it enjoys significant political legitimacy and is recognised as the strategic plan for SADC's integration. The linear approach was also adopted by the East African Community (EAC), established in 1999[7] and also by ECOWAS in West Africa. Progress in ECOWAS to establish a free trade area has been very slow and the customs union is still work in progress.

The SADC roadmap and the EAC integration plan are good examples of Africa's integration history, reflecting the adoption of the linear integration model with ambitious targets. Of 14 regional economic communities that existed in 2001, nine aim to become a full economic union. COMESA aims to become a common market, SACU is an established customs union, with no plans to move beyond this, while the remaining three aim for intra-regional free trade or regional cooperation. These agendas find synergy with the aim to transform the African economic landscape and to establish over a period of just more than three decades 'a strong united bloc of nations' (Economic Commission for Africa, 2004). This objective is to be achieved in a step-wise process through the strengthening of the constituent sub-regional blocs. This involves an evolutionary process from the free trade areas and customs unions to a common market common market covering the continent (Economic Commission for Africa, 2004). Recent commitment by the member states of the COMESA, SADC and the EAC to establish a Tripartite Free Trade Area consisting of the 26 member states of these RECs is seen as an important step in addressing the problem of overlapping membership that is a key feature of these RIAs.[8] It is noteworthy that no RIA has yet established a fully-fledged customs union. While the political commitment is persuasive, it does not translate into effective implementation.

Given that free trade areas (FTA) are still the predominant form of RIA in Africa; the role of preferential Rules of Origin (RoO) in African integration should be noted. RoO, which determine the economic nationality of a product, will be an important determinant of preferential

---

[6] The free trade agreement adopted in 2008 has not yet been fully implemented and at a recent ministerial task force meeting (March 2010) it was decided to postpone the establishment of the customs union, without committing to a specific deadline.

[7] The EAC was founded when the presidents of Kenya, Tanzania and Uganda signed the EAC Treaty in 1999. Burundi and Rwanda have acceded to the EAC. A customs union protocol was signed in March 2004, a customs union was launched in 2005 and a common market protocol was signed in June 2010.The current EAC is a revival of an earlier East African Community, which was established in 1967. This earlier EAC was disbanded in 1977.

[8] A tripartite summit of the Heads of State and Government of COMESA, SADC and EAC countries was held in Kampala, Uganda on 22 October 2008. The Summit approved the expeditious establishment of a free trade area encompassing the member states of the three RIAs. Integrating the three regional communities is seen as an important step in building the African Economic Community envisaged in the Abuja Treaty.

market access. While the role of RoO is to prevent trade deflection, these rules can become the fine print in the agreement that circumscribe the potential market integration of the FTA. The aim in the design of RoO is to find balance; so that only members of the FTA benefit from preferential market access, while allowing for flexibility in input sourcing, to promote efficiency and competitiveness. This is not an easy task, especially taking into account the fact that RoO can be used to provide very effective protection to domestic industry. RoO can also been seen as an important supply-side issue, affecting firm-level decisions and as a result competitiveness. RoO are, in an African context, one of the most contentious negotiating issues on the trade in goods agenda, and different RoO regimes demonstrate clearly the impact that these requirements can have on intra-regional trade. The difference, for example, between the SADC RoO regime and that of COMESA, is a case in point. The SADC RoO follow a product or sector approach; this allows specific interests to protect an industry or sector to be accommodated, but simultaneously frustrates intra-regional trade opportunities[9]. By contrast the COMESA RoO are more generic approach with across the board rules (albeit with minor exceptions). SADC RoO were initially (when the SADC Trade Protocol was negotiated during the mid-1990s) very similar to the COMESA RoO; however they were never fully implemented, and subsequently amended to follow the more restrictive product/sector approach (Naumann, 2011).

The Southern African Customs Union (SACU) that is often acknowledged as the oldest functioning customs union in the world, has a very specific history; impossible to replicate. It was not established as a result of a decision by sovereign states, but is the outcome of a decision by a colonial power (Britain) to establish a customs union consisting of the Union of South Africa (now the Republic of South Africa), Basutoland (now Lesotho), Swaziland and Bechuanaland (now Botswana). Namibia only joined SACU when it became independent in 1990. SACU now consists of these five member states. Despite its history spanning more than a century, SACU is still a customs union in progress. South African agencies still manage the affairs of the customs union related to implementation of the common external tariff. The SACU Tariff Board, and national bodies which would manage this function for SACU are provided for in the 2002 SACU Agreement, but have not yet been established.

African integration reflects a strong focus on the liberalisation of trade in goods, following the provisions of Article XXIV of the General Agreement on Tariffs and Trade (GATT), in the

---

[9] In the case of SADC RoO for the clothing and textile, and automotive sectors are subject to very specific rules that do restrict intra-regional trade in these products (Naumann 2011).

establishment of free trade areas and customs unions. Trade in services becomes a feature of the regional integration model when the stage of the common market is reached, yet to date services have received very little attention in formal African integration arrangements. This is also true of African countries' foray into the regional trade agreement (RTA) arena with external partners. The inclusion of services (and also other behind-the-border issues such as investment, competition policy and government procurement) is notable by its absence, and has been contentious to say the least. The negotiations between various African groupings and the EU are a case in point. The inclusion of services (and other behind-the-border issues such as investment and competition policy) has proved to be contentious, especially in southern Africa.

At the multilateral level, trade in services falls under the World Trade Organisation's General Agreement on Trade in Services (GATS), which in Article V provides for economic integration by allowing member states to enter into an agreement to liberalise trade in services, subject to specific conditions. The neglect of the trade in services agenda is somewhat ironic in Africa where infrastructure services such as transport and telecommunications adversely affect the costs of doing business, and pose obvious challenges to the regional and continental integration.

3. Regional integration and Africa's economic and trade performance

Africa's regional integration record is not impressive. The fact that the large number of RIAs has done little to promote intra-regional trade raises questions about the appropriateness of this linear model for addressing the real challenges that inhibit regional trade (Eonomic Commission for Africa, 2010).

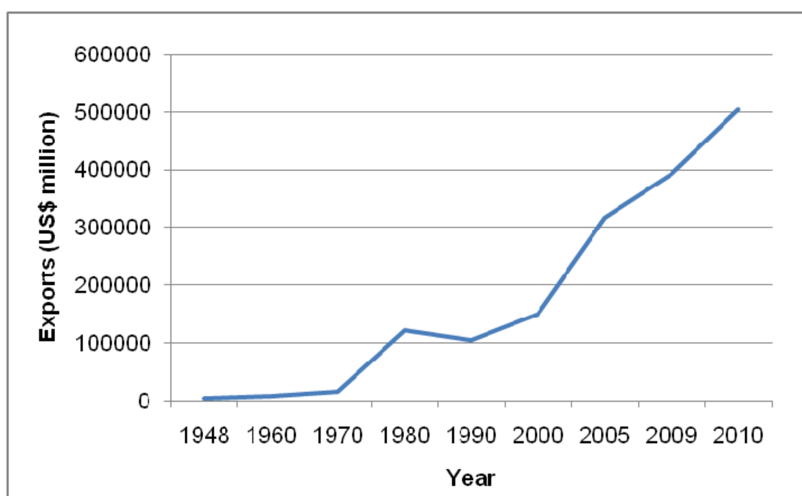
The specific factors that have resulted in Africa's, and sub-Saharan Africa's, relatively disappointing economic performance over the past few decades have been the focus of much enquiry. Reliance on very few export commodities – primary commodities representing more than 80 percent of Africa's total exports in recent years[10] – and one or two sectors (Organisation for Economic Cooperation and Development and United Nations, 2011; Sindzingre, 2011), are part of this story. Such high dependence on commodities creates severe constraints on growth due to commodity price volatility, a factor which is external to these countries and beyond the

[10] Data from UNCTADstat (July 2011)Available: http://unctadstat.unctad.org

scope of their domestic policies (Sindzingre, 2011). Despite this recognition, many African countries lack the industrial capacity for diversified manufactured goods, and are faced with inadequate infrastructure to support trade (Economic Commission for Africa, 2010). Although sub-Saharan Africa is one of the fastest growing regions in the world at present (World Bank, 2011), "[t]his growth appears therefore to be intrinsically fragile and based on distorted factors rather than sound economic fundamentals" (Sindzingre, 2011:16). Consequently, it has been argued that a change in trade composition, coupled with industrialization, an improvement in infrastructure, and structural transformation, would be key processes in triggering sustainable growth paths in sub-Saharan Africa (Sindzingre, 2011).

Over the last two decades, global merchandise trade (in current US dollars) has tripled (WEF et al., 2011). Africa, however, has not featured prominently in this trade growth. While African merchandise trade did grow over the past few years – exports and imports growing by an average of 10 percent and 13 percent between 2005 and 2010, respectively (WTO, 2011) – the region's share of world trade declined (see Figures 1 and 2 below). While Africa contributed 8 percent to total world exports in 1948, this decreased to 6 percent in 1980 and 2.3 percent in 2000, before improving somewhat to 3.3 percent in 2010. This compares to the developing economies in general which have witnessed a growing trend over time; developing economies contributed 29.5 percent to global exports in 1980, which increased to 42 percent in 2010.[11]

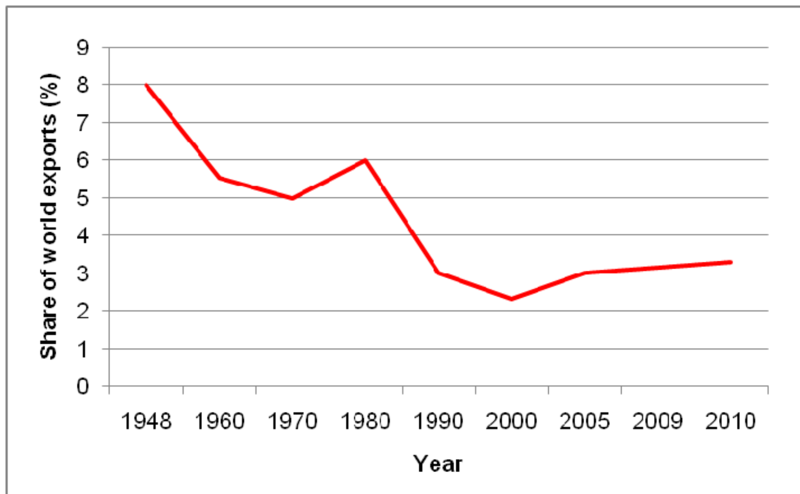
Figure 1. Africa's merchandise exports at current prices in US$ million



Source: UNCTADstat, July 2011

[11] Ibid.

Figure 2. Africa's share of world merchandise exports



Source: UNCTADstat, July 2011

Similar trends are observed in Africa's international trade in services. Services exports from Africa increased seven-fold between 1980 and 2010, from a share of 10 percent of Africa's total (merchandise and services) trade to a share of 18 percent. However, Africa's services exports, as a share of global services exports, declined from 3.5 percent in 1980 to 2.5 percent in 2010. On the import side, Africa's share of global services imports decreased from 6.6 percent in 1980 to 4.4 percent in 2010, while the share from developing countries as a whole increased marginally from 32 percent to 35.7 percent over the same period.[12]

Intraregional trade in Africa

The situation is as disappointing, if not more so, with regards to intra-Africa trade, which has remained consistently low compared with its intercontinental trade (Economic Commission for Africa, 2010). More than 80 percent of Africa's exports are still destined for outside markets, with the European Union (EU) and the United States accounting for more than 50 percent of this total. Asia, and China in particular, are also important export markets for African countries and RECs. At the same time, Africa imports more than 90 percent of her goods from outside the continent, despite resource endowments which provide the potential to supply her own import needs.

[12] Data obtained from UNCTADstat, July 2011

On average, only about 10 to 12 percent of African trade takes place amongst African nations. (This can be attributed partly to the slow implementation of regional integration agreements designed to eliminate tariff and non-tariff barriers (Economic Commission for Africa, 2010). Although intraregional trade flows in Africa have been generally low compared with other regions, intra-REC exports have been growing in value across most RECs in recent years (see Table 1). Over the 2000 to 2009 period, intra-REC exports within sub-Saharan Africa accounted for an average of 9.7 percent of total exports in SADC, 5.3 percent in COMESA, 19.8 percent in the EAC, 8.8 percent in ECOWAS, and 0.8 percent in ECCAS. In 2009, intra-REC exports accounted for 10.8 percent of total exports in SADC, 7.1 percent in COMESA, 18.9 percent in the EAC, 9.9 percent in ECOWAS, and 0.6 percent in ECCAS. However, in each REC, one or a few countries dominated exports: in SADC, 62 percent of exports came from South Africa; in COMESA, 67 percent of exports came from four countries – Kenya (27 percent), Egypt (18 percent), Uganda (10 percent), and Zambia (10 percent); in the EAC, 73 percent of exports came from Kenya; in ECOWAS, 77 percent of exports came from two countries – Nigeria (45 percent) and Côte d'Ivoire (32 percent); and in ECCAS, 64 percent of exports came from Cameroon.[13]

Table 1. Intra-REC exports, 2000 - 2009 (US$ millions)

RECs	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Average 2000-09
COMESA	1442.8	1626.3	1739.1	2004.2	2293.2	2694.6	2917.7	4021.2	6676.1	6114.2	3152.9
EAC	689.4	753.3	804.4	878.5	1006.3	1075.3	1061.5	1385.2	1797	1572.2	1102.3
ECCAS	181.6	193.4	186.4	183.2	218.9	254.6	312.8	385.4	449.2	378.3	274.4
ECOWAS	2714.9	2241.9	3135.9	3037.2	4366.1	5497.5	5901.6	6716.7	9355.2	7312.0	5027.9
SADC	4460.7	4047.7	4597.1	5649.5	6636.2	7769.6	8598.2	11873.7	15895.6	11599.4	8112.8

Source: IMF DOTS, February 2011

Intra-REC imports have also shown a growing trend in recent years (see Table 2). Between 2000 and 2009, intra-REC imports averaged 9.5 percent in SADC, 5.4 percent in COMESA, 8 percent in the EAC, 9.6 percent in ECOWAS, and 1.8 percent in ECCAS. In 2009, intra-REC imports accounted for 10 percent of SADC's total imports, 5.8 percent for COMESA, 7.6 percent for the EAC, 8.1 percent for ECOWAS, and 1.2 percent for ECCAS. A significant portion of

[13] Source: IMF Direction of Trade Statistics (DOTS), February 2011

imports for each REC were destined for a few individual countries: in SADC, 66 percent of imports were destined for four countries – South Africa (21 percent), Zambia (18 percent), Zimbabwe (17 percent), and Mozambique (11 percent); in COMESA, 47 percent of imports were destined for four countries – Sudan (13 percent), Democratic Republic of Congo (12 percent), Uganda (12 percent), and Egypt (11 percent); in the EAC, 67 percent of imports were destined for two countries – Uganda (40 percent) and Tanzania (27 percent); in ECOWAS, 58 percent of imports were destined for three countries – Cote d'Ivoire (23 percent), Ghana (23 percent), and Nigeria (12 percent); and in ECCAS, 52 percent of imports were destined for two countries – Gabon (29 percent) and Chad (24 percent).[14]

Table 2. Intra-REC imports, 2000 - 2009 (US$ millions)

RECs	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Average 2000-09
COMESA	1394.6	1674.4	1871.4	2203.2	2424.3	3998.1	4461.8	4644.5	7756.9	6890.7	3732.0
EAC	512.3	489.9	551.8	786.9	895.7	1170.4	1160.7	1515.2	1969.4	1723	1077.5
ECCAS	207.3	218.5	186.3	213.5	242.1	281.6	346.0	426.2	496.8	418.4	303.7
ECOWAS	2473.6	2695.6	2477.9	3293.1	4718.7	5835.0	6391.8	7281.0	10142.0	7950.3	5325.9
SADC	4026.3	4061.5	4415.0	4831.4	6973.9	7743.1	9654.9	12447.2	16687.0	12089.9	8293.0

Source: IMF DOTS, February 2011

Between 2000 and 2007, intra-REC exports in Africa registered an average growth rate of 15 percent, while intra-REC imports recorded an average growth rate of 18 percent (ECA, 2010).

The fact that the large number of RIAs has done little to promote intra-regional trade, or indeed to enhance the global trade performance of African countries, raises questions about the appropriateness of this linear model for addressing the real challenges that inhibit Africa's regional and global trade performance. Integrating very small and poor economies still results in a relatively small regional market. It is true, however, that any market expansion will facilitate the achievement of some scale benefits, promoting a more competitive industrial development. The small regional market will still, however provide a constraint on economies of scale. Growth prospects will, therefore, depend to a large extent on whether firms can develop a competitive advantage in extra-regional markets.

[14] Ibid.

Competitiveness matters

In a globalized context, a country's trade performance and export sophistication and diversification are critical indicators of its competitiveness and are drivers of economic performance. Looking at the various RIAs in Africa, SADC includes three of the top five most competitive countries in sub-Saharan Africa (South Africa, Mauritius and Botswana), making it the best performing regional economic community overall. In general, countries in SADC have relatively good quality institutions, efficient goods and labour markets, and well-developed financial markets. However, health and education indicators are a cause for concern, and there is generally a low level of technological capability. Some of the most problematic factors for doing business in the region include inefficient government bureaucracy, an inadequately educated workforce, and a poor work ethic in the national labour force. Poor infrastructure and lack of access to finance also feature as key hindrances (World Economic Forum, 2010).

South Africa remains the highest-ranked sub-Saharan African economy on the World Economic Forum's Global Competitiveness Index (GCI) at 54 (out of 139 economies) in 2010-11, dropping, however, from position 45 in 2008-09 and 2009-10. Other top performers on the GCI include Mauritius (ranked 55th), Namibia (74th), Botswana (76th), and Rwanda (80th). South Africa benefits from the large size of its economy (ranked 25th on the market size pillar), particularly when compared to other countries in the region. It has also done well on measures of the quality of institutions (ranked 47th), such as protection of intellectual property, strength of investor protection, and ethical behaviour of firms; macroeconomic stability (ranked 43rd); and goods market efficiency (ranked 40th). Particularly impressive, however, is the country's financial market development (ranked 9th), indicating high confidence in South Africa's financial markets during a time when trust has been eroded in many other parts of the world (Sala-I-Martin et al., 2010). South Africa also does reasonably well in terms of business sophistication (38th position) and innovation (44^{h} position), with competitive advantage in the areas of sophistication of production processes and quality of scientific research institutions, among others.

COMESA includes two of the top five best performing countries in Africa (Mauritius and Rwanda), and also performs well in relation to other African regions. COMESA countries, in general, have strong institutions and well-developed financial markets, as well as efficient goods and labour markets. Again, indicators in the health and education sectors, as well as technological readiness, are poor. Factors hindering business in the region include access to

financing, corruption, high tax rates, and inefficient government bureaucracy (World Economic Forum, 2010).

Within the EAC, countries generally have very efficient labour markets by both regional and international standards. Their financial markets are well developed, and they have relatively sound institutions as well as the capacity for innovation. However, the quality of infrastructure, macroeconomic stability, and health and education indicators in the bloc are poor, as is technological readiness. Some of the key factors hampering business in the region include access to financing, corruption, high tax rates, and inadequate supply of infrastructure (World Economic Forum, 2010).

Overall, countries within ECOWAS perform worst on the GCI indicators in comparison to other RIAs. They are strongest on institutions and innovation, and weakest in the areas of health, education, and infrastructure development. Some of the most problematic factors for doing business in the bloc include access to finance, corruption, burdensome tax regulations, and inadequate supply of infrastructure (World Economic Forum, 2010).

In summary, it is evident that some African countries continue to perform well on the various GCI indicators. However, as a whole, sub-Saharan Africa lags behind other world regions in terms of competitiveness, and faces a constrained business environment more generally. Further reforms to improve competitiveness are thus necessary.

Economic activity requires predictable and transparent rules[15]. Since 2004, about 85 percent of economies have made it easier to do business, and more than 1 500 improvements to business regulations have been recorded. Firms in developing economies are increasingly benefiting from these improvements. In 2010, 66 percent of developing countries made it easier to do business, up from only 34 percent in 2004. Doing business remains easiest in OECD high-income countries and most difficult in sub-Saharan Africa. over the 2009/10 period, However, 27 sub-Saharan African countries implemented Doing Business reforms that made it easier to do some aspect of business (49 in total), representing 23 percent of all reforms recorded in 2010 (World Bank, 2010).

[15] The importance of rules-based governance is an important theme discussed later in the paper in relation to the nature of African RIAs and specifically how they are perceived by governments.

Many economies have undertaken reforms to smooth the process of starting a business over the past year, often as part of a larger regulatory reform programme. The benefits of such streamlining include greater savings and more registered businesses, financial resources, and job opportunities (World Bank, 2011a). Overall, it is easiest to start a business in the EAC (in which the process takes the shortest amount of time, 24.4 days, and incurs the lowest costs, 60.3% of income per capita and no minimum capital required), and most difficult in ECCAS and ECOWAS. Starting a business anywhere in Africa remains more difficult than in other regions, highlighting the desperate need for African economies to improve the business regulation in this area in order to encourage more entrepreneurs to start businesses and enter the formal sector rather than remain in the informal sector.

Contract enforcement plays a role in firms' ability to have greater access to credit and to engage with new borrowers or customers. Well-functioning judicial systems and courts may therefore help businesses expand their networks and markets (World Bank, 2011a). Within Africa, it is easiest to enforce contracts in the EAC and most difficult in ECCAS. All five RECs compare favourably to South Asia and the Middle East and North Africa in terms of the number of procedures involved, and to South Asia in terms of the length of time involved. However, the cost of enforcing contracts is generally more expensive in Africa, with the possible exception of Eastern Europe and Central Asia.

An important objective of an RIA is to reduce the transaction costs of trade; with the distinction between of border and behind-the-border barriers being significant. African RIAs have focused very much on the import tariff, aiming to achieve duty-free trade in goods among member states. The tariff is undeniably an important barrier but it may not necessarily be the most important one. There is abundant anecdotal evidence suggesting that time consuming and inefficient border procedures, as well as corruption in some cases, may well be more important in inhibiting intra-regional trade. Multiple border crossings for goods to reach land-locked countries add significantly to the transaction costs of intra-regional trade (McCarthy 2007). It is encouraging to note that about half of all trade facilitation reforms made during 2009/10 took place in sub-Saharan Africa (with 9) and the Middle East and North Africa (6), many motivated by regional integration efforts (World Bank, 2010). Easing trade regulations is increasingly important for business in a globalized world, as excessive documentation, burdensome customs procedures, inefficient port operations, and inadequate infrastructure all lead to additional costs and delays for exporters and importers, which ultimately hampers trade (World Bank, 2011b).

However, it remains more onerous, costly, and time-consuming to export and import goods and services in Africa than in all other regions, with the possible exception of South Asia which requires more documentation to export and import than some African RECs. Trade facilitation therefore remains important for the promotion of Africa's intraregional and global trade performance.

Despite the fact that the import tariff may not be the most important border concern, this border measure highlights also the specific challenges of most African economies related to a weak and narrow tax base. Trade taxes continue to play an important role as a source of government revenue for most African countries[16]. It is not surprising that negotiated tariff phase-downs are in some RIAs not implemented, according to schedule, as a result of this challenge.[17]

The next step of the linear model, which involves establishing a customs union brings new problems, because now, ignoring the complexities of the period of transition, supra-national institutions and management practices must be put into place to manage a common external tariff (CET).[18] Arrangements for the collection and distribution of customs revenue could prove to be contentious, specifically taking into account the complex compromise that is necessary within a diverse group of countries. This challenge is complicated in cases where a regional hegemon may have very specific industrial policy objectives informing its position on the import tariff. In some regional groups significant divergence in perspectives on the role of the import tariff exists; for some the import tariff is an important source of government revenue, while for others it is an instrument of industrial policy to be used selectively to protect specific industries (McCarthy 2007).

The importance of non-tariff barriers (NTBs) should not be underestimated. The most important NTBs hindering regional trade in the east and southern African region (COMESA, the EAC and SADC) include customs procedures and administrative requirements, technical standards and the lack of physical infrastructure. This is of particular importance to agricultural trade within the region. Cumbersome documentation requirements, stringent standards and inefficient road and

---

[16] South Africa and Mauritius are exceptions in this regard – trade taxes contribute a very small percentage of overall tax revenue.

[17] In the case of SADC, the establishment of a free trade area in 2008 was hampered by a lack of implementation of agreed tariff reductions by several countries, due to revenue constraints – Malawi and Mozambique were amongst the countries that were battling to keep pace with their tariff reduction commitments, as a result of government revenue concerns.

[18] These difficulties are evident in the efforts made to establish customs union institutions for the Southern African Customs Union (SACU); the 2002 SACU Agreement provides for such institutions; yet to date (2011) South African agencies still manage customs union matters.

rail networks cause time delays and increase the cost of intra-regional trade (Viljoen 2011). Services, while not necessary to the conclusion of a free trade agreement or customs union, are increasingly important in this context. The contribution of services to overall economic activity, employment and to manufacturing competitiveness is well documented. In addition services play an important role facilitating trade in goods, and lack of services infrastructure or facilitating regulatory frameworks can restrict competitiveness and increase trade transaction costs.

Expanding market access by lowering the transaction costs of trade is necessary but will not guarantee economic growth and development. Enhanced market access without enhancement of the capacity to produce goods and services to benefit from those opportunities will fail to produce higher economic growth.

Many of the recognised constraints to the growth of African economies are on the supply-side of economic activity, that is, in building a business sector that can respond to improved market access by investing in the production of tradable goods and services. Challenges related to enhancing supply-side capacity include improving the quality of governance, developing institutional capacity, investing in infrastructure and developing the associated regulatory infrastructure, and creating a business environment that will support domestic business to develop, and encourage foreign direct investment (McCarthy 2007). While it is of course possible to develop policy, regulation and institutional capacity, in areas such as services regulatory reform, investment and competition policy, at national level; it may be argued that a deeper integration agenda can assist to address the national-level supply-side constraints by anchoring domestic policy and regulatory reform processes. The counter to this is however that it should be acknowledged that low income economies often have weak policy and institutional infrastructure, and capacity constraints to manage these domestic policy processes. Weak states, in this sense, may well be stumbling blocks to the development of robust rules-based RIAs; being unable to develop, manage and implement a comprehensive regional integration agenda.

4. RIAs as rules-based dispensations – an African perspective

Political commitments to ambitious regional integration agendas following the linear model of integration are legion in Africa. Indeed, governments in their keen embrace of regional integration have committed, in some cases, to obviously conflicting agendas in multiple RIAs. An important question is whether Africa's regional integration experience demonstrates a solid commitment to rules-based governance; more specifically whether RIAs are viewed as rules-based dispensations by their member states.

Missed targets in terms of the achievement of the successive steps in the linear regional integration model are also common among RIAs. Delays in the ratification and domestic incorporation of regional legal instruments by member states are common across RIAs, as is the failure to implement specific provisions of the agreements such as negotiated tariff reductions. Sanctions for lack of implementation or the application of sanctions if they do exist, in Africa RIAs are notable by their absence in most Africa RIAs.

It's clear that RIAs and the regional institutions established to contribute to the implementation of these agreements, do not play a robust role an as external anchor or agency to ensure national compliance and domestic policy, legal and institutional development as may be required by the RIAs. The track record of regional dispute resolution is interesting in this regard. The case of the SADC Tribunal is important. Following a decision by the Tribunal that Zimbabwe was in breach of Article 6 of the SADC Treaty, Zimbabwe expressed its dissatisfaction with the decision, and as a result, at the August 2010 Summit, the SADC Tribunal was suspended (Afadameh-Adeyemi & Kalula 2011).

Concerns about a deeper regional integration agenda include a focus on the sovereignty of states and the perceived loss of sovereignty that such a deeper integration agenda involves. This forms part of a broader 'policy space' debate that is associated with the perceived effect of decisions made by member states at regional or multilateral levels.

In this context it is important to note the distinction between state and government. Sovereignty is technically a feature of states and not of governments; with governments acting on behalf of their states, for example in concluding RIAs. Concerns about challenges to national sovereignty may well arise in situations where supra national bodies act in an *ultra vires* manner or usurp powers over matters best left to legitimate national agencies. In Africa however the

dilemma concerns weak institutions, poorly defined mandates and vaguely ascribed powers. As noted above, even monitoring of compliance is weak or even completely absent in some RIAs. Once legal arrangements have been established to pursue a common regional integration agenda, then transparency, certainty, predictability and respect for the rules should follow. Compliance should be monitored and non-compliance should be addressed. In short this refers to the application of the rule of law at inter-state level. It seems fair to conclude that the rules-based nature of RIAs is not yet accepted by many African governments (Erasmus 2011).

The application of the rule of law (at national or, as in this case, inter-state level) is not only relevant to a discussion about the role of governments in regional integration, but also to other stakeholders such as the private sector. While governments enter into RIAs, the private sector will be responsible for the bulk of economic decisions which are the fabric of regional integration. Transparent and predictable rules are important to facilitate risk and cost management in the conduct of business. The participation of business in the design of a regional integration agenda and in the negotiation of RIAs is the exception, rather than the rule in Africa. African RIAs are to a large extent still state-driven, with scant input from the private sector or other stakeholders. There is no doubt that the private sector could provide very useful input with regard to, for example, technical issues such as RoO; the impact of which can be quite severe at the firm level.

5. Concluding remarks – can the Tripartite Free Trade Area mark a watershed in African integration?

African countries have definitely contributed to the proliferation of regional trade agreements; a defining feature of global economic governance in recent decades. Despite the many ambitious integration initiatives that have not been effectively implemented, member states of SADC, EAC and COMESA have embarked on another ambitious integration programme.

The Heads of State and Government of the 26 member states of COMESA, the EAC and SADC agreed in October 2008 to establish a grand Free Trade Area (FTA) which is now referred to as the Tripartite FTA (T-FTA). This grand integration initiative, has in the (almost) three years since this political decision, followed a course rather different from other regional integration initiatives in Africa. Since October 2008 various Task Teams of technical experts have been

engaged in analytical work and have prepared a Draft Agreement and 14 Annexes, covering tariff liberalisation, RoO, the movement of business persons and dispute resolution, amongst other issues. The most recent iteration of this technical process has produced drafts of these instruments, dated December 2010[19]. Negotiations, however, were only officially launched at a Summit, held in South Africa, in June 2011. The first phase of the negotiations will focus on trade in goods, and the movement of business persons. Phase two will cover services and other trade-related issues. It is, therefore, important to recognise that the Tripartite FTA does not exist yet, that the Draft Agreement and the annexes lack official status and substantive negotiations have not yet begun.

At this early stage, there are important lessons from other Africa RIAs to take and to consider what will contribute to making the T-FTA a successful integration arrangement. Keeping in mind that Africa's integration record is marked by grand schemes, weak legal and institutional foundations for a rules-based dispensation of regional integration, and an implementation record that does not demonstrate serious commitment, it is legitimate to ask if the T-FTA can be different. The answer to this question lies not in the draft instruments, but the outcome of the political economy process that will begin as member states negotiate the legal instruments of the T-FTA.

The T-FTA will be anchored on three pillars; market integration, infrastructure development and industrialisation. These pillars do appear to capture the key challenges that proscribe the competitiveness of African businesses, and so limit both Africa's own integration achievements and the integration of African economies into the global economy.

Market integration initiatives have traditionally been the hallmark of African integration, with much focus on tariff liberalisation at the individual RIA level. Infrastructure development (specifically sector development initiatives and cross-border projects) has featured on the regional cooperation agenda; where the achievements of SADC, for example, are of note. Industrialisation was part of the early post-independence discussion on regional integration as a remedy to continental fragmentation, small economies and small markets with limited scope for economies of scale, but it has not, in recent years, featured explicitly on the integration agenda.

[19] The texts of the Draft Agreement and the 14 Annexes are available at www.tralac.org.

The inclusion of industrial development as the third pillar is important, but requires careful consideration. The experience of the first EAC involved a targeted ('picking winners') approach to industrial development, with specific industries being allocated to EAC member states. In some countries in the tripartite region, industrial policy has focused almost exclusively on core manufacturing, effectively promoting import substitution. Among the important questions that need to be entertained, are the following: what is the common understanding of this pillar of the T-FTA, how does it relate to the infrastructure development pillar and to the market integration pillar, in particular services; how does the industrial development pillar relate to domestic and regional regulatory reform, and the movement of persons in the region.

Liberalisation of trade in goods could proceed expeditiously, building effectively on the tariff liberalisation that has already been achieved by COMESA, EAC and SADC. Concerted efforts, however, to ensure that protection is not embedded in long lists of sensitive products need to be made. This would be an easy way to appease countries concerned about increased competition in their domestic markets; but may not be instrumental in promoting competitive industrial development in the region or promoting intraregional trade. Trade remedy and safeguard provisions can provide checks and balances in the T-FTA without, at the outset compromising the trade liberalisation effects.

The negotiations on RoO will be very important for the T-FTA. The difference between SADC on the one hand and EAC and COMESA on the other (as noted earlier) will have to be resolved. This is a prime opportunity for the private sector, together with government officials to consider the impact on firm-level competitiveness, rather than to opt for complex rules which negate the liberalisation ambition of the parties.

NTBs, including import bans, cumbersome customs procedures, restrictive technical regulations and many more, are well-documented impediments to intraregional trade. The private sector can play an important role in the elimination of NTBs. SADC, EAC and COMESA have established, through the Tripartite Coordination Mechanism, an online NTB reporting system (www.tradebarriers.org), which can be effectively used in conjunction with the existing legal instruments, and preferably a rules-based framework in the T-FTA (the Draft Agreement calls for a concerted effort to eliminate NTBs).

Taking into account the diversity among the 26 member states, the geographical configuration of the region (including very small economies and land-locked countries), trade facilitation

should be taken seriously. Infrastructure development, which is recognised as an important constraint on industrial development and intraregional trade, is already enjoying focus through several large-scale projects, including the North-South Corridor, to develop transport infrastructure in the region. While there is no doubt that the development of such physical infrastructure is essential, it is not sufficient to ensure that infrastructure services are efficiently provided. The soft infrastructure, providing regulatory frameworks for access to and efficient pricing of such services, has to be simultaneously addressed. This means that the development of a services agenda, encompassing services liberalisation and regulatory reform (both domestic and regional) has to be a priority for the T-FTA.

In the final analysis, the T-FTA will mark a watershed for African integration if member states are committed to the development of a comprehensive rules-based integration arrangement. This will mean that they will implement the provisions of the agreement, subscribe to effective monitoring of compliance and sanctions for non-compliance.

References

Afadameh-Adeyemi, A & Kalula E. 2011. SADC at 30: Re-examining the Legal and Institutional Anatomy of the Southern African Development Community, *In*: Bösl, A. et al. (eds.), *Monitoring Regional Integration in Southern Africa*, Yearbook Vol. 10 – 2010. Stellenbosch: Trade Law Centre for Southern Africa.

African Development Bank. 2000. *African Development Report 2000*, Abidjan: Regional Integration in Africa.

African Development Bank. 2004. *African Development Report 2004.*Oxford, Oxford University Press.

African Development Bank. 2005. *African Development Report 2005*. Oxford: Oxford University Press.

Collier, P. 2000. Africa's comparative advantage. *In* Jalilian, H., Tribe, M. & Weiss, J. (eds.), *Industrial Development and Policy in Africa – Issues of De-Industrialisation and Development Strategy*. Cheltenham, UK: Edward Elgar.

Collier, P. and Venables, T. 2008. *Trade and economic performance: Does Africa's fragmentation matter?* Annual Bank Conference on Development Economics, Cape Town, South Africa, June 9-11.

Comtrade. 2010. *World exports by provenance and destination*. [Online]. Available: http://comtrade.un.org/pb/

Easterly, W. 2009. Can the West save Africa? *Journal of Economic Literature*,XLVII (2), June.

Economic Commission for Africa. 2004. *Assessing Regional Integration in Africa*. ECA Policy Research Report. Addis Ababa: Economic Commission for Africa.

Economic Commission for Africa. 2010. *Assessing Regional Integration in Africa IV: Enhancing Intra-African Trade* [Online]. Available: http://www.uneca.org/aria4/index.htm
Economic Commission for Africa. 2010. *Assessing Regional Integration in Africa IV: Enhancing Intra-African Trade* [Online]. Available: http://www.uneca.org/aria4/index.htm

Erasmus, G. 2011. Deeper Regional Integration in SADC. Will EPAs undermine the process? Working Paper, Trade Law Centre for Southern Africa.

Hartzenberg, T. & Kalenga, P. 2007. A Deeper Regional Integration Agenda for SADC. *In*: Bösl, A. et al. (eds.), *Monitoring Regional Integration in Southern Africa*, Yearbook Vol. 6 – 2007. Stellenbosch: Trade Law Centre for Southern Africa.

McCarthy, C. 1999. Regional Integration in SubSaharan Africa: Past, Present and Future. In Oyejide, A., Ndulu, B. and Greenaway, D. (eds.), *Regional Integration and Trade Liberalization in SubSaharan Africa, Volume 4,,Synthesis and Review.* Houndmills, Basingstoke: Macmillan Press.

McCarthy, C.. 2007. Is African economic integration in need of a paradigm change? Thinking out of the box on African integration. *In*: Bösl, A. et al. (eds.), *Monitoring Regional Integration in Southern Africa*, Yearbook Vol. 6 – 2007. Stellenbosch: Trade Law Centre for Southern Africa.

McCarthy, C. 2010. Reconsidering regional integration in sub-Saharan Africa, *In:* tralac, *Supporting regional integration in east and southern Africa.* Stellenbosch: Trade Law Centre for Southern Africa.

McCarthy, D.M.P. 2006. *International Economic Integration in Historical Perspective*. Milton Park, Abingdon, Oxon: Routledge.

McCord, G., Sachs, J.D. & Wing, T.W. 2005. Understanding African Poverty: Beyond the Washington Consensus to the Millennium Development Goals Approach. *In* Teunissen, J.J. & Akkerman, A. (eds.), *Africa in the World Economy – The National, Regional and International Challenges.* The Hague: FONDAD.

Naumann, E. 2011. Tripartite FTA Rules of Origin – Reflection on the status quo and the challenges ahead. *In Cape to Cairo Making the Tripartite FTA Work. Hartzenberg et al.* Stellenbosch: Trade Law Centre for Southern Africa.

Organisation for Economic Cooperation and Development (OECD) and United Nations Office of the Special Adviser on Africa. 2011. *Economic Diversification in Africa: A Review of Selected Countries*. Available:
http://www.un.org/africa/osaa/reports/economic_diversification_africa_2011Jan.pdf

Schiff, M. & Winters, A. 2003. *Regional Integration and Development*. Washington D.C.: The World Bank.

Sindzingre, A.N. 2011. *The conditions for long-term growth in sub-Saharan Africa: China as a model, a constraint and an opportunity*. Cahiers du Centre Working Papers No. 9, July 2011. Available: www.centredurkheim.fr

United Nations Conference on Trade and Development (UNCTAD). 2007. *The Least Developed Countries Report 2007.* New York & Geneva: United Nations.

United Nations Conference on Trade and Development. 2011. *World Investment Report 2011. Non-Equity Modes of International Production and Development.* New York and Geneva: UNCTAD.

Viljoen, W. 2011. Non-tariff barriers affecting trade in the COMESA- EAC-SADC Tripartite Free Trade Agreement, Working Paper, Trade Law Centre for Southern Africa

World Bank. 2009. *World Development Indicators 2009.* [Online]. Available: http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS

World Bank. 2009. *World Development Indicators 2009*. Washington D.C.: World Bank.

World Bank. 2010. *Doing Business 2011: Making a difference for entrepreneurs*. Washington, DC: World Bank Group.

World Bank. 2011a. *Africa's Pulse: An analysis of issues shaping Africa's economic future*, Vol. 3. Available: https://blogs.worldbank.org/africacan/files/africacan/wb_africaspulse_apr2011_final5_web.pdf

World Bank. 2011b. *Doing Business 2011: Making a difference for entrepreneurs. Southern African Development Community (SADC)*. Washington, DC: World Bank Group.

World Economic Forum. 2010. *Global Competitiveness Report 2010-2011*. Geneva: WEF.

World Economic Forum, World Bank, and African Development Bank. 2011. *The Africa Competitiveness Report 2011*. Geneva: WEF.

World Trade Organisation. 2011. *World Trade Report 2011. The WTO and preferential trade agreements: From co-existence to coherence* [Online]. Available: www.wto.org/english/res_e/booksp_e/...e/world_trade_report11_e.pdf