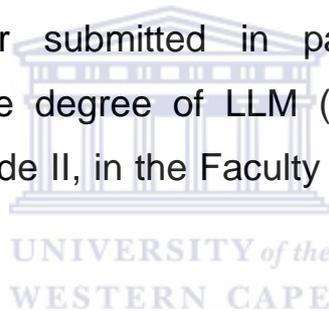


**UNIVERSITY OF THE WESTERN CAPE**

**REGIONAL INTEGRATION IN THE COMESA–EAC-SADC  
TRIPARTITE FREE TRADE AREA AND THE IMPORTANCE  
OF INFRASTRUCTURE DEVELOPMENT IN PROMOTING  
TRADE AND REDUCING POVERTY**

A research paper submitted in partial fulfilment of the requirement for the degree of LLM (International Trade and Business Law), Mode II, in the Faculty of Law, University of the Western Cape



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## KEY WORDS

Preferential Trade Agreements (PTA)

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East Africa Community (EAC)

Southern African Development Community (SADC)

Regional Integration

Regional Trade

Tripartite Free Trade Area

Trade Liberalisation

Infrastructure Development

Poverty Alleviation



## DECLARATION

I declare that the research paper titled Regional Integration in COMESA-EAC-SADC Tripartite Free Trade Area and the Importance of Infrastructure Development in promoting trade and reducing poverty is my own work, that it has not been submitted for a degree or examination in any other university and that all the sources used or quoted have been indicated and acknowledged by complete referencing.

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CECILY-ANN J.M DANIELS



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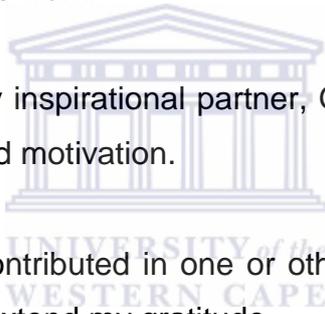
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# CHAPTER ONE

## 1.1 Introduction

The context of this study was borne from the proposed creation of a Tripartite Free Trade Area (T-FTA) between the Common Market for Eastern and Southern Africa (COMESA)<sup>1</sup>, the East African Community (EAC)<sup>2</sup> and the Southern African Development Community (SADC)<sup>3</sup> as there is a need for deeper regional integration to achieve the goals set out by the African Union(AU)<sup>4</sup>, the most significant being the alleviation of poverty and raising the living standards of people in Africa.

Regional Integration has long been viewed as a means of achieving economic development through encouraging trade and securing economies of scale and market access. Consequently Regional Trade Arrangements (RTA's)<sup>5</sup> have surfaced all over Africa.<sup>6</sup> It has often been stated that these arrangements have done little to increase trade liberalisation and effectively deal with Africa's marginalisation in the global economy. Regional integration in Africa has however been marred by a lack of implementation and political commitment, multiple and conflicting

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<sup>1</sup>The successor organisation of the PTA for Eastern and Southern Africa. Its membership since 2000 includes Angola, Burundi, Comoros, Congo-Kinshasa, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Rwanda, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

<sup>2</sup>Established in December 1967 among Kenya, Tanzania and Uganda. However it collapsed in 1977, but revived in 1993.

<sup>3</sup>Established by the Treaty of the Southern African Development Community signed at Lusaka 1st April 1980. A declaration made by the Heads of State or Government of Southern Africa at Windhoek, in August 1992 replaced the memorandum of understanding of 1980. The following member states signed the treaty: Republic of Botswana, Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles and South Africa

<sup>4</sup>Established by the Lagos Plan of Action and the Final Act of Lagos of April 1980.

<sup>5</sup> The term Regional Trade Arrangements will be used to refer to regional economic communities, free trade areas and customs unions, amongst others

<sup>6</sup> Examples of these are COMESA, EAC, SACU, SADC, the Economic Community of West African States (ECOWAS) and the Customs and Economic Union of Central Africa (UDEAC) amongst others.

objectives of overlapping regional arrangements and limited administrative resources.<sup>7</sup> Therefore even though RTA's have been around for decades, it has generally been unsuccessful in generating significant trade expansion in Africa.<sup>8</sup>

However similar studies have shown that there exists evidence to confirm that regional integration coupled with sound policies, a single set of rules of origin, reforms in areas such as infrastructure development and the political will, amongst other factors, is generally accepted as an important step towards more meaningful integration which contributes to trade expansion and has the potential to reduce poverty. The European example has shown that integration can work, both economically and politically.<sup>9</sup>

Regional integration in the form of RTA's can therefore be effective in addressing weaknesses in infrastructure and harmonisation of standards and customs procedures. A strong RTA can also strengthen Africa's bargaining power in multilateral negotiations.

The agenda for integration of trade in Africa and the formation of a T-FTA between the three REC's reflects attempts to address the challenges in the development of African trade. There is evidence that regional integration has gained momentum in recent years in Eastern and Southern Africa partially driven by global trends. This can be seen with the proposed formation of the T-FTA, the continued negotiations between these three

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<sup>7</sup> Khandelwal notes that African trade has been hindered further by a number of factors including distorted trade regimes, high transaction costs due to inadequate transport, information and communications infrastructure, lack of political commitment and will, frequent policy reversals, difficulties in implementing harmonisation provisions, multiple and conflicting objectives of overlapping arrangements and limited administrative resources

<sup>8</sup>Khandelwal, P 'COMESA and SADC: Prospects and Challenges for Regional Trade Integration' available at <http://www.acp-eustrade.org/library/files/Khandelwal> (accessed on 7 July 2012), p6

<sup>9</sup> Hansohm, D 'Macroeconomic Trends in SADC: Monitoring Regional Integration in Southern Africa'

REC's and the commitment shown by the member countries to the process.

The three REC's are described as the building blocks<sup>10</sup> to the African Economic Community (AEC) recognised by the African Union<sup>11</sup> and the Abuja Treaty<sup>12</sup>. The overarching objective of the Tripartite FTA<sup>13</sup> is to contribute to the broader objectives of the AU, namely accelerating economic integration of the continent and achieving sustainable economic development, thereby alleviating poverty and improving the quality of life of people in the Eastern and Southern African region.<sup>14</sup>

## 1.2. Problem Statement

There is a need for trade liberalisation and a greater need for poverty alleviation in Africa. Within Eastern and Southern Africa RECs were established with the aim of liberalising trade and attracting investment in order to create employment and result in the alleviation of poverty. However it can be generally be argued that these REC's have made little progress to achieve the aforementioned aims as the majority of people in these regions still live in poverty.

If the above is true and the regional economic communities have failed to achieve their objectives in their regions, the question then arises as to how a T-FTA will be different and achieve these same objectives.

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<sup>10</sup>The three REC's that make up the tripartite are three of the eight officially recognised building blocks of the AEC.

<sup>11</sup> SADC Today (Dec 2008) Vol 11 p1 & TradeMark South Africa: COMESA-EAC-SADC tripartite framework: state of play p1.

<sup>12</sup> Signed on June 1991 in Abuja, Nigeria establishing the African Economic Community. The establishment of the AEC was also envisioned in the Lagos Plan of Action and Final Act of Lagos of 1980.

<sup>13</sup> The objective of the three REC's is to expand trade, alleviate poverty and improve the quality of life for the people of the Southern and East African Region.

<sup>14</sup> TradeMark Southern Africa: COMESA-EAC-SADC tripartite framework: state of play, p1

### **1.3. Research Question**

Will the proposed Tripartite Free Trade Area between the SADC, COMESA and the EAC serve its purpose of liberalising trade in Africa and alleviating poverty?

What are the opportunities and challenges facing the Tripartite FTA?

Will the governments of the various be able to synchronise their legal and political framework and policies to form a T-FTA and achieve its aims?

### **1.4. Aims of the research**

The research aims to examine and discuss the opportunities and challenges for trade expansion in East and Southern Africa with particular reference to COMESA, the EAC and SADC.

It will analyse the role of the three REC's in regional integration between the member countries and whether it has aided trade liberalisation since its establishment and if so whether this has alleviated poverty within the region. It further aims to determine why there is a need for the establishment of a Tripartite FTA, its functions and how it aims to address the challenges posed by cooperation and regional integration in order to achieve the goal of trade liberalisation and its ancillary aim of alleviating poverty.

The research will focus mainly on the need for transformation in the area of infrastructure development in the COMESA-EAC-SADC Tripartite FTA as a means of facilitating trade and economic growth.

## **1.5. Significance of the research**

Poverty in all its forms is the greatest challenge facing the African Continent. Regional Integration and trade liberalisation is arguably the best vehicle for attracting investment. It is often described as the engine of economic growth as it has the potential to result in much needed development and the creation of employment which has the potential result in better social outcomes such as the alleviation of poverty.

The Tripartite FTA initiative is an important milestone in the integration of the African Continent and if successfully implemented will pave the way for enhanced cooperation. It is therefore considered as a stimulus to creating a single economic space on the continent. This will strengthen Africa's negotiating and bargaining power in the world economy and other regional trading blocs and customs unions of the world.

Economic integration through trade is part of the solution to the crisis in Africa.<sup>15</sup> The Development integration as envisaged by the proposed T-FTA is of critical importance to market integration, infrastructure development and industrial development and thus to moving towards a common market on the African continent, which will ultimately result in trade liberalisation and the alleviation of poverty in the regions and the continent.<sup>16</sup>

## **1.6. Research Hypothesis**

Various arguments have been put forward by the existing theory on the topic of regional integration in Africa and this paper seeks to test a few of these which are set out below.

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<sup>15</sup> Africa Today, p 36

<sup>16</sup> Declaration launching the negotiations for the establishment of the Tripartite Free Trade Area 12 June 2011

Smaller regional trade agreements result in better co-operation between states and therefore resulting in speedier trade liberalisation.

The SADC-COMESA -EAC will better serve trade liberalisation and poverty alleviation in the African region as opposed to the individual REC's.

There is a close relationship between regional integration, growth and infrastructure and investing in infrastructure will thus result in better social outcomes.

Regional Economic Communities such as the SADC in Africa have failed to become a customs union by 2010 and it is therefore difficult to see how the T-FTA will be a workable solution to trade liberalisation.

### **1.7. Literature review**

The overall assessment of the literature is based on an analysis of the books, research papers, theses and articles as referenced below and is by no means an exhaustive coverage of the relevant literature available on the topic nor does it purport to be an exhaustive view on the topic itself.

Regional integration is important to trade expansion, attracting investment opportunities and in turn creating employment which will address the issue of poverty. Kwaku Danso in his focus on the history of Africa's regional integration reveals that regional integration through intra-regional trade and the formation of REC's, FTA's and PTA's is not new to Sub-Saharan Africa.

Chacha, Stephan et al and other academics in their writings reveal that progress in Africa has been marred by a lack of commitment and political will of African leaders to implement the agreements. They go further and

state that regional institutions in Africa and in particular Eastern and Southern Africa have been hindered by the lack of institutional capacity to create the much needed infrastructure development projects which is an important tool in trade facilitation and the creation and support of market access.<sup>17</sup>

There exists extensive literature on the history of each REC, their establishment, aims, successes and failures and the role played by these institutions in contributing and or failing to contribute to regional integration, trade expansion and the primary goal of alleviating poverty.

Extensive criticism has also been levelled at these institutions and their leaders for the failure to implement the programmes within the agreed time frame. Therefore these institutions have often been described as lacking the political will and commitment, which is seen as one of the greatest challenges that need to be overcome in the wake of the proposed formation of the T-FTA.

It has been noted that inadequate infrastructure in Africa is one of the key impediments to increased trade and economic growth, to the extent that poor infrastructure isolates countries and impedes their participation in the global arena.<sup>18</sup> A link exists between infrastructure development, economic growth and poverty reduction. The movement of goods, services and service delivery and business people depend on road transport, a communications network and energy infrastructure as the link between countries<sup>19</sup> and therefore adequate infrastructure can be described as the main conduit for trade.

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<sup>17</sup> Stephan, H, Power, M, Hervey, A.F & Steenkamp Fonseca, R: The scramble for Africa in the 21st Century, A view from the South(2006)Renaissance Press, p261

<sup>18</sup> Abuka, C et al 'Africa in the World Economy-The National, Regional and International Challenges' p101

<sup>19</sup> Chacha M, Regional Integration and Trade: Overlapping Membership and the Challenge of Regionalism in Africa ,p8

African countries are lagging behind the rest of the world in most if not every measure of infrastructure coverage which has affected its growth. It is not surprising therefore that regional infrastructure development programmes have been identified as a priority area during the T-FTA negotiations.<sup>20</sup> Infrastructure is not only relevant in supporting trade related growth but it is equally relevant to the issue of poverty reduction in that adequate infrastructure has the ability of lowering the cost of access to quality social services and service delivering. An argument can therefore be made that investing in infrastructure will result in ensuring better social outcomes.

Studies reveal that there is a close relationship between regional integration, growth and infrastructure which supports the need to focus on regional solutions.<sup>21</sup> The positive link between infrastructure and growth has been recognised by the developing world and its significance therefore cannot be overemphasised.

This paper seeks to produce an overall assessment of the literature studies referred to and set out the regional integration between the three economic communities and the formation of the proposed T-FTA in one document as there is a limited number of research incorporating a study of the T-FTA since it is a relatively new approach to regional integration in Eastern and Southern Africa.

## **1.8. Methodology**

A conceptual approach to the research will be undertaken in that a study of the existing research on the topic of regional integration in Africa will be looked at and a comparative analysis done of three REC's individually and

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<sup>20</sup> Cronje JB, Infrastructure Development in the COMESA-EAC-SADC Tripartite Free Trade Area, available at [www.tralac.org](http://www.tralac.org), p1

<sup>21</sup> Abuka, C et al 'Africa in the World Economy-The National, Regional and International Challenges', p116

collectively as the Tripartite FTA in order to arrive at an answer of the research problem.

Policy documents on the Tripartite FTA will be studied and referred to as well as Documents on COMESA, the EAC and SADC will be studied and referred to. Academic books, articles and websites such as tralac and trade mark South Africa will be drawn on as well as commentary on meetings held and negotiation processes undertaken by the member countries of the Tripartite FTA.

## **1.9. Inclusions, Exclusions and Limitations**

### **1.9.1 Inclusions:**

This paper will focus on three REC's in Southern and Eastern Africa and the proposed T-FTA between COMESA, the EAC and SADC.

It will evaluate the successes, failures and shortcomings of the REC's individually as well as the aims, principles, institutional and legal framework and challenges of the T-FTA and how the various countries will cooperate to implement the T-FTA and achieve its aims.

Included in the paper will be a study of infrastructure development and how it is linked to economic growth and poverty reduction.

### **1.9.2 Exclusions:**

This paper will not be able to discuss each area of trade within the three REC's as the main focus will be on infrastructure development. It will therefore exclude aspects such as goods and services.

Although aspects such as rules of origin, customs procedures, standards, non-tariff barriers to trade such as sanitary and phyto-sanitary measures are undoubtedly significant to trade liberalisation and the system of regional integration and trade, these aspects will not be looked at as the scope of the research will then be too broad.

### **1.9.3 Limitations:**

The Abuja Treaty establishing the African Union will only be mentioned in passing as the objectives of the three REC's and the T-FTA give effect to the goal of the AU. The main focus of the paper is the T-FTA and not the African Union itself although its objectives are the catalyst to the formation of the REC's which are described as the building blocks of the African Union and the T-FTA. The research will thus be limited to a study of the infrastructure development within the T-FTA and the priority areas which have been identified by the member countries during their negotiations.

Since the Tripartite FTA is still at the negotiating phase it may not be practical to ascertain its successes post implementation. However the success of the negotiations launching the T-FTA and the cooperation between the member countries of the three REC's will be drawn on to determine the probability of success once the T-FTA is in operation.

## CHAPTER TWO

### 2. Regional integration in COMESA, EAC AND SADC

#### 2.1 Introduction

International trade and in particular regional integration is a key factor underlying the success of the fastest growing economies in the world, yet many countries remain isolated and have failed to achieve this integration. Regional trade liberalisation is seen as a means to contribute to African development through promoting economic growth. It is therefore not surprising that the increasing integration of the world economies in the wake of globalisation has revived the new found interest in regional integration amongst African countries. Africa has however been experimenting with the concept of regional integration for some time now and in particular since the early years of independence on the continent.

Several regional initiatives have been pursued across Africa in the belief that coming together under a regional block will secure economic independence. Two of the most prominent arrangements are the Southern African Development Community (SADC)<sup>22</sup> and the Common Market for Eastern and Southern Africa (COMESA).<sup>23</sup> Progress in African regional integration has nevertheless been slow due to several factors, which include but are not limited to, overlapping membership, the lack of

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<sup>22</sup> Simwaka, K 'An Empirical Evaluation of Trade Potential in Southern African Development Community' 7. The SADC evolved out of the Southern African Development Coordination Conference

<sup>23</sup> COMESA evolved from the Preferential Trade Area between the member countries of Eastern and Southern Africa

commitment and implementation of regional agreements, policies and plans, political turmoil in some countries, amongst others.<sup>24</sup>

This chapter will focus on COMESA, EAC and SADC as they aim to broaden the reach of integration through the COMESA-EAC-SADC Tripartite Free Trade Area (T-FTA) initiative.<sup>25</sup> It is therefore important to briefly look at three Regional Economic Communities (RECs) and how these REC's have pursued regional integration and whether it has contributed to the expansion of trade in Sub Saharan Africa (SSA) before turning to focus on the T-FTA.

## 2.2 COMESA

### 2.2.1 Background



COMESA is one of the most prominent arrangements in Africa<sup>26</sup> and traces its origin to the mid 1960's amidst the period of post-independence which characterised most African Countries at the time. It was under these circumstances and with the goal directed at self-reliance, that the United Nations Economic Commission for Africa (UNECA) convened a ministerial meeting<sup>27</sup> of the newly independent states of Eastern and Southern Africa to consider proposals for establishing a mechanism to promote regional integration. This resulted in the creation of an Economic Community of Eastern and Central African States.<sup>28</sup>

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<sup>24</sup> Simwaka, K 'An Empirical Evaluation of Trade Potential in Southern African Development Community', 4. Also most countries are members of more than one such regional arrangement. For instance, seven countries are members of both COMESA and SADC. One member of the EAC is a member of SADC while two members belong to COMESA. See Khandelwal, P 'COMESA and SADC: Prospects and Challenges for Regional Trade Integration' available at <http://www.acp-eustrade.org> (accessed on 7 July 2012)<sup>14</sup>

<sup>25</sup> It has also been described as the Grand Free Trade Area, namely from Cape to Cairo

<sup>26</sup> This is owing to the size of these arrangements.

<sup>27</sup> held in Lusaka in Zambia in 1978. The meeting was attended by Ministers of Trade, Finance and Planning

<sup>28</sup> History of COMESA, evolution of PTA/COMESA available at <http://www.comesa.int/fta>

The creation of this regional economic community gained momentum with the creation of a Preferential Trade Area (PTA), then a common market until culminating in the establishment of a community.<sup>29</sup> A decade after signing the treaty establishing the PTA, the treaty establishing COMESA was signed in November 1993 transforming the PTA into a common market. This was consistent with the objectives of the Lagos Plan of Action and the Final Act of Lagos which established the Organisation of African Unity.<sup>30</sup>

### 2.2.2. COMESA'S Vision

COMESA's vision is:

*to be a fully integrated, internationally competitive regional economic community with high standards of living for all its' people ready to merge into an African Economic Community.*



It further endeavours to achieve sustainable economic and social progress in all member states through increased co-operation and integration in all fields of development, particularly in trade, customs and monetary affairs, transport communication and information, technology, industry and energy, gender, agriculture, environment and natural resources.<sup>31</sup>

### 2.2.4 Membership and participation in COMESA

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<sup>29</sup> The meeting of the Ministers held on 21 December 1981 adopted the Lusaka Declaration of Intent and Commitment to the Establishment of a Preferential Trade Area for Eastern and Southern Africa

<sup>30</sup> Both the Lagos plan of Action and the Final Act of Lagos were directed at economic integration of the African Continent, with the aim of forming regional economic communities which would constitute the building blocks of an African Economic Community and ultimately an African Union.

<sup>31</sup> COMESA Vision and Mission available at <http://www.comesa.int/fta> (accessed on 19 August 2012)

COMESA has nineteen<sup>32</sup> members at present, eleven of which participate in a Free Trade Area (FTA) with the remaining members' trading on preferential terms. After an extensive period of negotiations and tariff reductions the FTA was formed in October 2000 and has followed some of the principles of open regionalism. This is reflected in comprehensive product coverage with no exclusions, and a set of liberal and clear rules of origin. These two features of the COMESA FTA have done a great deal in liberalising intraregional trade in the region.<sup>33</sup> COMESA is now in the process of forming a Custom Union (CU) with a new target of 2012, having already missed the initial target set to form the CU by 2004.<sup>34</sup>

The COMESA FTA cannot be considered as fully operative since some members have not yet joined this FTA. Those who have joined have not fully liberalised trade in all products whilst others have liberalised imports completely from within the FTA.

Initially nine<sup>35</sup> members participated in the COMESA agreement which dismantled trade barriers and guaranteed free movement of goods and services in the region.<sup>36</sup> In January 2004, two more members, namely Burundi and Rwanda, joined the FTA. Five of the eight COMESA states<sup>37</sup> have already fully joined the FTA. Some progress is being made,

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<sup>32</sup> COMESA has 19 members including Angola, Burundi, Comoros, the Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Seychelles, Sudan, Rwanda, Swaziland, Uganda, Zambia, and Zimbabwe. Eleven of the 19 COMESA members participate in a free trade area.

<sup>33</sup> Sawkut, R, Boopen & Seetanah 'An Assessment of the Impact of a COMESA Customs Union'. (Jun/Jul2010) 22 Issue 2, African Development Review p331

<sup>34</sup> As a background it is noteworthy that Article 45 of the COMESA Treaty provides that 'within the CU, custom duties and other charges of equivalent effect imposed on imports shall be eliminated'. Non-tariff barriers shall also be eliminated. Furthermore, a Common External Tariff (CET) with respect to all goods imported into the member states from third countries shall be established and maintained

<sup>35</sup> Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe.

<sup>36</sup> Sawkut, R, Boopen & Seetanah 'An Assessment of the Impact of a COMESA Customs Union'. (Jun/Jul2010) 22 Issue 2, African Development Review p331

<sup>37</sup> Madagascar, Mauritius, Malawi, Zambia and Zimbabwe

with Malawi, Mauritius, Zambia and Zimbabwe members of the core FTA within COMESA. Other members are involved to varying degrees.<sup>38</sup>

The above is indicative of an FTA hampered by country level institutional changes and prevailing structural constraints. This can possibly be ascribed to a lack of political will and commitment by the leaders of the member states. With the result that eight of the nineteen members have not yet joined the FTA.<sup>39</sup>

### **2.2.5 The establishment of a customs union and common monetary area**

COMESA places significant emphasis on the integration of economic space through the removal of trade and investment barriers. The long term goal is the implementation of a complete COMESA mandate under the treaty<sup>40</sup> and the establishment of a customs union. The immediate focus will remain geared towards trade development and investment with specific emphasis on eliminating impediments to trade and investment. This is aimed at the achievement of a fully integrated and internationally competitive region where goods, services, capital and people move freely resulting in an increase in trade and the quality of life of people.

COMESA has plans for eventual formation of a common market and a monetary area, but those plans are in the distant future. As things stand COMESA has not achieved its initial goal of forming a customs union by 2004 and it remains to be seen whether the region will achieve this goal in 2012.

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<sup>38</sup> Kalaba, M, Willcox, et al 'Deepening Integration in SADC: Macroeconomic Policies and their Impact–The case of South Africa' available at <http://www.tralac.org> (accessed on 7 July 2012)

<sup>39</sup> Khandelwal, P 'COMESA and SADC: Prospects and Challenges for Regional Trade Integration' available at <http://www.acp-eustrade.org> (accessed on 7 July 2012), p10

<sup>40</sup> See footnote 29

## **2.3 THE EAC**

### **2.3.1 Background**

Among the regional trading arrangements that have proliferated Africa, the EAC<sup>41</sup> is a preferential trading area originally consisting of Kenya, Tanzania and Uganda.<sup>42</sup> The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18 June 2007 and became full members with effect from 1 July 2007. The EAC aims to achieve deeper regional integration among the five member states, with the establishment of a Customs Union then a Common Market, a Monetary Union and ultimately a Political Federation.

All countries share a number of similarities as a result of their common location, climate and history and view regional integration as key to their development strategy aimed at increasing trade and investment. Notably Uganda is landlocked relying on access to sea ports in Kenya and Tanzania. All member states belong to other REC's, in particular Burundi, Kenya, Uganda and Rwanda are members of COMESA and Tanzania is a member of the SADC.

### **2.3.2 The EAC's vision**

The vision of EAC

is to have a prosperous, competitive, secure and politically united East Africa. The complementary mission is to widen and deepen economic, political, social and cultural integration in order to improve the quality of life of the people of East Africa through

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<sup>41</sup> The Treaty establishing the East African Community was signed on 30 November 1999 and entered into force on 7 July 2000 following its ratification by the original three partner states – Kenya, Uganda and Tanzania.

<sup>42</sup> McIntyre, M 'Trade integration in the East African Community: An Assessment for Kenya' available at <http://www.acp-eu-trade.org> (accessed on 7 July 2012)<sup>3</sup>

increased competitiveness, value added production, trade and investment.<sup>43</sup>

The EAC aims at deepening co-operation among the members in the area of political, social and economic sectors for their mutual benefit. To this extent the EAC countries established a Customs Union in 2005 and a Common Market in 2010. The next phase of the integration is the achievement of a Monetary Union and ultimately a political federation of the East African States.<sup>44</sup>

The treaty establishing the EAC recognises asymmetry as a core principle underpinning the formation of the EAC customs union and the inclusion of this principle in the treaty is arguably justified on the basis and understanding that the three EAC member states find themselves at different levels of development.<sup>45</sup>

### 2.3.3 The EAC customs union

The EAC has already made remarkable progress in certain areas since the implementation of the customs union. For instance intra-regional trade has been liberalised to a large extent. Kenya already applies a preferential tariff reduction of 90% on imports from the other EAC members. Moreover non-tariff barriers on cross border trade have been removed. The establishment of a full customs union, implying the elimination of the remaining tariffs on intra-EAC trade was planned for November 2003 and achieved.

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<sup>43</sup> EAC Development Strategy 2006-2010, EAC Website Operationally the EAC adopted a development strategy to facilitate the implementation of the Treaty in a systematic manner. The first EAC Development Strategy (1997-2000) was succeeded by the second EAC Development Strategy (2001 – 2005) which expired in December 2005 thus the need to formulate the third EAC Development Strategy 2006-2010

<sup>44</sup> About the EAC available at <http://www.eac.int> (accessed on 29 September 2012)

<sup>45</sup> McIntyre, M 'Trade integration in the East African Community: An Assessment for Kenya' available at <http://www.acp-eu-trade.org> (accessed on 7 July 2012), 9

Apart from liberalisation of trade in goods, progress has also been made in the harmonisation of monetary and fiscal policies and the institutional improvement of capital markets. A court of justice has already been established and a competition law is in the planning progress. Other important areas where co-operation has made progress are industry, investment and customs, private sector development, transport and communication, agriculture, energy, natural resources and the environment. The EAC has also developed an industrial development strategy, a private sector development strategy and an agricultural development strategy.<sup>46</sup>

Intra EAC trade liberalisation is the most advanced among the three REC's countries. EAC countries started trading on duty free and quota free terms from January 2005. When Burundi and Rwanda joined the EAC they applied a duty free and quota free regime from the onset. Today intra EAC trade is completely duty free with no exclusions or quantitative restrictions.<sup>47</sup> The realisation of a large regional economic bloc encompassing Burundi, Kenya, Rwanda, Tanzania and Uganda, bears great strategic and geopolitical significance and prospects of a renewed and reinvigorated East African Community.<sup>48</sup>

The regional integration process is at a high pitch at the moment as reflected by the encouraging progress of the East African Customs Union and the establishment in 2010 of the Common Market. The negotiations for the East African Monetary Union, which commenced in 2011, and fast tracking the process towards East African Federation highlight the determination of the East African leadership and citizens to construct a powerful and sustainable East African economic and political bloc.<sup>49</sup>

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<sup>46</sup> Trade Effects of the EAC, available at <http://www.eac.int/fta> (accessed on August 2012), 6

<sup>47</sup> Cape to Cairo, 10

<sup>48</sup> About the EAC available at <http://www.eac.int/fta> (accessed on 29 September 2012)

<sup>49</sup> About the EAC available at <http://www.eac.int/fta> (accessed on 29 September 2012)

## 2.4 SADC

### 2.4.1 Background

The SADC originated as an organisation of frontline states<sup>50</sup> to resist the influence of South Africa in the region during the years of apartheid and was transformed into a development community in 1992 with the Signing of the treaty of Windhoek<sup>51</sup> and now consists of fourteen member countries.<sup>52</sup> It is generally seen as one of the richest regions on the continent and in relation to COMESA is the second most prominent regional arrangement.

The SADC FTA is intended to act as a catalyst for increased regional integration and to facilitate trade and investment flows within the region. The organisation has had a very different approach to regional integration than COMESA and the EAC. It has concentrated on relaxing the supply side constraints to trade through regional co-operation in various sectors as diverse as infrastructure, agriculture, transportation and human resources.

The trade protocol signed by its members in 1996 led to the launch of an FTA in 2000<sup>53</sup>, four years later. The SADC protocol aims to liberalise all trade by 2012. Although the trade liberalisation aspect of the SADC seems to be lacking, its approach of addressing structural impairments and supply constraints through sectoral cooperation initiatives is an important one.

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<sup>50</sup> Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia, and Zimbabwe

<sup>51</sup> Khandelwal, P 'COMESA and SADC: Prospects and Challenges for Regional Trade Integration' available at <http://www.acp-eustrade.org> (accessed on 7 July 2012) 12. South Africa joined the SADC in 1994 after the disbandment of Apartheid.

<sup>52</sup> Angola, Botswana, Republic Democratic of Congo (joined in 1997), Lesotho, Malawi, Mauritius (1995), Mozambique, Namibia, Seychelles (1997), South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

<sup>53</sup> 11 Of the 13 members have joined the FTA

## 2.4.2 SADC's commitment to deepening regional integration

SADC is committed to deepening the integration process amongst its members as part of its strategic plan to achieve economic development and growth and alleviate poverty, to enhance the standard and quality of life of its people and support the socially disadvantaged through regional integration. The SADC has adopted a Regional Indicative Strategic Development Plan (RISDP) in order to provide strategic direction in the design and development of the SADC programmes, projects and activities. The ultimate objective of the RISDP is to deepen the integration agenda of the SADC with a view to accelerating poverty eradication together with the attainment of other economic and non-economic development goals.

The RISDP captures SADC's ambitious goals and objectives which included the developing a FTA by 2008, establishing a Customs Union by 2010, creating a regional common market by 2015 and forming a monetary union by 2016. It identifies four main areas, including trade and economic liberalisation, infrastructure and services, food security and social and human development, which are crucial for sustainable development in the region. Emphasis is placed on good political, economic and corporate governance as prerequisites for sustainable socio-economic development. It recognises that SADC's quest for poverty eradication and deeper integration will not be realised if these are not in place.<sup>54</sup>

The overall objective of the SADC Trade protocol is to attain a FTA as a step towards achieving a customs union and subsequently a common market. On the whole the SADC trade policies and strategies are consistent with the objectives of eliminating obstacles to the free movement of capital, labour and goods and services and their

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<sup>54</sup>Kalaba, M, Willcox, et al 'Deepening Integration in SADC: Macroeconomic Policies and their Impact–The case of South Africa' available at <http://www.tralac.org> (accessed on 7 July 2012)<sup>19</sup>

improvement of the region's economic management and performance through regional co-operation with the ultimate goal of eradicating poverty.<sup>55</sup>

In the 32nd annual Summit of SADC Heads of State, the member states again agreed to embark on a process of establishing a long term vision for the region taking into the vision articulated in the treaty and the RISDP.<sup>56</sup> The summit again focused on the issue of the implementation of a customs union and in terms of clause 15 of the report of the summit mention is made of a report setting out a framework of the SADC customs union, in particular the parameters and benchmarks.<sup>57</sup>

The report is silent on exactly what the timeframe for implementation is and or what the new deadline for the implementation of the customs union is. Once again the goal post is not only being shifted, but somewhat removed which calls into question the commitment to implement the ambitious plans and strategies which are developed. It can therefore be argued that this is indicative of the failure of the leaders to implement the policies in their member states and commit to the initial goals and timeframes.

## **2.5 The challenge of overlapping membership amongst COMESA, EAC and SADC**

In taking the decision to opt for regional integration, the member states commit themselves to a process in which the formulation of common policies, the development of rules and regulations and the application of such policies to the functioning of an integrated region are vested in

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<sup>55</sup> Kalaba, M, Willcox, et al 'Deepening Integration in SADC: Macroeconomic Policies and their Impact–The case of South Africa' available at <http://www.tralac.org> (accessed on 7 July 2012) 19

<sup>56</sup> Report on the 32nd Annual SADC Summit, clause 23, available on <http://www.sadc.int> (accessed on 29 September 2012) 6

<sup>57</sup> Report on the 32nd annual SADC Summit, clause 15, available on <http://www.sadc.int> (accessed on 29 September 2012) 5

regional collective decision-making systems. This implies that each member state recognises the need to take the regional dimension into account when formulating national policies and therefore the countries are prepared to accept compromises and trade-offs. This is where most contention and problems arise. Key among these is the question of how these arrangements, with their different goals and strategies are going to relate to and coexist with each other and, at a national level, what the implications of membership in multiple, overlapping RTAs are for the formulation of external trade policy.<sup>58</sup>

From a legal perspective a country cannot apply two common external tariffs and therefore cannot be a member of two custom's unions. Possibilities which may arise are that current and future customs unions merge into one thereby adopting a CET and that all members withdraw from other overlapping groups. A legal framework is therefore needed to ensure compliance with international commitments made by SADC member states.

In the same context conflicting obligations may arise from member states pursuing similar programs at different rates. For instance trade liberalisation was envisaged to have achieved zero tariffs by the year 2000 under COMESA. In contrast trade liberalisation was expected to achieve zero tariffs by 2008 under SADC. The common external tariff which was expected to be established under the COMESA customs union program will most likely have a trade diversion effect on members that belong to both institutions. There exists the further difficulty of deciding which tariff rate will apply when two countries with overlapping membership trade within these blocks and this will inevitably result in much confusion.<sup>59</sup>

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<sup>58</sup>McCarthy, C, Cronje, JB & Denner, W et al *Supporting Regional Integration in East and Southern Africa: Review of Select Issues*, (2010) 117

<sup>59</sup>Kalaba, M, Willcox, et al 'Deepening Integration in SADC: Macroeconomic Policies and their Impact–The case of South Africa' available at <http://www.tralac.org> (accessed on 7 July 2012), 52-53

Overlapping membership in regional organizations and the viability of concurrently establishing customs unions pose serious challenges to regional integration in the region suggest a cumbersome trade agenda.<sup>60</sup>

## 2.6 CONCLUSION

In the face of globalisation regionalism has received a considerable amount of attention in Africa especially due to fears that Africa may be marginalised. In some ways the agenda for integration in COMESA, the EAC and SADC reflect attempts to address these challenges in development of trade in Africa.

The problems faced in the arrangements and in particular in COMESA and SADC, point to a lack of political will and commitment which has impeded both organisations in achieving the aims set out in their vision and mission. This lack of political commitment is evident from the report on the 32nd Annual Summit of the SADC<sup>61</sup>, where the implementation of a customs union is referred to, but it fails to expressly mention a timeframe for its implementation. It therefore remains unclear as to when this aim will be achieved. The lack of political commitment is also reflected in the fact that the larger economies<sup>62</sup> of the region have not taken on active roles as champions of regional integration and liberalization.

Going forward, both COMESA and SADC have plans to form customs unions, although the plans of COMESA are more advanced than that of the SADC. It will be important to ensure that the customs unions are implemented in a way that furthers the goals of liberalization.

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<sup>60</sup>Kalaba, M, Willcox, et al 'Deepening Integration in SADC: Macroeconomic Policies and their Impact–The case of South Africa' available at <http://www.tralac.org> (accessed on 7 July 2012)78

<sup>61</sup> Held in Maputo in August 2012. Further information is obtainable at <http://www.sadc.int>

<sup>62</sup> South Africa in SADC, Kenya in the EAC, and Egypt in COMESA

It is noteworthy that neither COMESA nor the SADC have achieved their initial objectives set out in their respective treaties, in that COMESA has failed to become a customs union by 2004 and SADC by 2010, and these arrangements keep shifting the goal posts and from the recent SADC Summit is unclear as to when this goal is to be achieved. The annual summit of COMESA is scheduled for November of this year and we will therefore await the report as to the achievements and way forward for the region.

Of the three regional trade arrangements discussed, the EAC is the only one which has achieved its goal of forming a customs union and more recently a common market. Perhaps COMESA and SADC can take some lessons from the EAC. As a whole it would seem that these individual and smaller trading blocs are far from fulfilling their potential and far from achieving the goal of becoming a more powerful voice on the world forum during trade negotiations with the other major players.

In light of the above the proposed T-FTA is just another grand scheme which, unless the challenges are addressed, will not achieve the aims set out by the T-FTA. However member states have the potential to change this, if the challenges are successfully addressed, the timeframes for the implementation are realistic and if the leaders and major economies of the three REC's display a commitment and the political will to participate and implement the programmes and build on the successes that have in fact been achieved by the member states.

## CHAPTER THREE

### 3. COMESA–EAC-SADC TRIPARTITE FREE TRADE AREA

#### 3.1 Introduction

As seen from the previous chapter regional integration is not a new concept on the African continent.<sup>63</sup> It has been recognised by African leaders as a means to solving development issues on the continent and as a catalyst for effective integration into the global economy. The quest for the establishment of the proposed Tripartite Free Trade Area (T-FTA) has its roots in the desire to establish the United States of Africa.<sup>64</sup> However Africa's integration history has revealed that it is marked by grand schemes, weak legal and institutional foundations often tarnished by a set of complicated rules and an implementation record that demonstrates a lack of serious commitment.<sup>65</sup>

The proposed T-FTA between the Common Market for East and Southern Africa (COMESA), the East African Community and the Southern African Development Community (SADC) seeks to reshape this tarnished history by cooperating under this umbrella organisation.

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<sup>63</sup> Introduction to chapter 2, page 1

<sup>64</sup> This is an idea mooted during the early years of independence by Kwame Nkrumah of Ghana and which initially found expression in the Organisation of African unity in 1963.

<sup>65</sup> Hartzenberg, T, Kalenga, P, Mathis, J et al, Cape to Cairo: Making the Tripartite Free Trade Area work (2011) 107

### 3.1.1 Background to the Formation of the COMESA-EAC-SADC Tripartite Free Trade Area

*In pursuit of this broader objectives of the African Union to accelerate economic integration of the continent with the aim of achieving economic growth, reducing poverty and attaining sustainable economic development, the Heads of State and Government of member and partner states of the Common Market for East and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC) met in Kampala, Uganda on 22 October 2008.<sup>66</sup>*

At this meeting the three Regional Economic Communities (RECs) agreed on a programme of harmonisation of trading arrangements, with the long term goal of merging the three RECs into a single free trade area (FTA) among 27 member countries<sup>67</sup> of Eastern and Southern Africa.<sup>68</sup> The COMESA-EAC-SADC T-FTA seeks to address the challenges of expanding trade and the longstanding challenge of overlapping membership. These member states have committed themselves to implement programmes geared towards deepening integration and consequently improving the standards of living of the people within the region.<sup>69</sup> This is consistent with the overarching and common objective of the three REC's, namely: to expand trade, reduce poverty and improve the quality of lives of the African population.<sup>70</sup>

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<sup>66</sup> Final Communiqué on the First Tripartite Summit available at [www.trademarksa.org](http://www.trademarksa.org) (accessed on 15 June 2012)

<sup>67</sup> Angola, Botswana, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Lesotho, Libya, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, South Africa, South Sudan, Sudan, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe

<sup>68</sup> Tripartite Task Force Progress Report on the implementation of Decisions of the First COMESA-EAC-SADC Tripartite Summit available at [www.trademarksa.org](http://www.trademarksa.org) (accessed on 15 June 2012)

<sup>69</sup> TRADE MARK SOUTH AFRICA CASE STUDY SERIES –Negotiating the COMESA-EAC-SADC FTA available at <http://www.trademarksa.org> (accessed on 9 September 2012)

<sup>70</sup> This is also recorded in the preamble to the Memorandum of Understanding on Inter Regional Cooperation and Integration available at <http://www.trademarksa.org>

In 2001 the chairpersons of COMESA and SADC agreed to form a COMESA-SADC task force to steer the process of harmonising their regional programmes. Subsequent to the EAC achieving its aim of becoming a customs union, it was invited to join the task force in 2006. The task force was mandated to co-ordinate issues of infrastructure, trade policy and trade facilitation so as to ensure greater regional integration between these three REC's.<sup>71</sup>

### **3.1.2 The First Tripartite Summit of Heads of State and Governments**

The member states of the three REC's resolved to form a FTA with the ultimate aim of establishing a customs union. Here the member states also undertook to form a unified FTA to address these challenges and achieve the objectives set out in the Final Communiqué.<sup>72</sup>

Member states further agreed on a programme of harmonisation of trading arrangements amongst the three REC's as well as the free movement of business persons, joint implementation of interregional infrastructure programmes, and institutional arrangements on the basis of which to foster cooperation. This arrangement can be seen as a key step towards achieving an African Economic Community.<sup>73</sup>

It is clear from the objectives of the Summit that it was convened in the pursuit of the broader objective of the African Union, however it can also be argued that it was hastened by the urgent need to create a framework

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<sup>71</sup>Carim, X, Hartzenberg, T, Kalaba, M et al, *From Cape to Cairo: Exploring the COMESA-EAC-SADC Free Trade Area* (2009) 107

<sup>72</sup> Final Communiqué on the First Tripartite Summit available [at www.trademarksa.org](http://www.trademarksa.org) (accessed on 15 June 2012)

<sup>73</sup>Carim, X, Hartzenberg, T, Kalaba, M et al, *From Cape to Cairo: Exploring the COMESA-EAC-SADC Free Trade Area* (2009) 48

for the resolution of multiple and overlapping membership which plagues the three REC's.<sup>74</sup>

Negotiating the Tripartite FTA is an ambitious undertaking, both in scope and complexity. Adding to the complexity is the fact that the Tripartite countries differ greatly in the size of their economies and level of development.<sup>75</sup> As a result, their interests during FTA negotiation and implementation, as well as their capacity to negotiate, vary significantly.<sup>76</sup>

### **3.1.3 Can the Tripartite Free Trade Area offer East and Southern Africa something different from that of the individual regional economic communities?**

In order to construct a well organised and effective FTA, the foundation and building blocks, in this instance the member states of the three REC's must be solid. It is a fact that an ambitious plan cannot be implemented nor managed effectively if the building blocks (in this case REC's) are weak in policy, institutions, governance and if they generally lack the capacity to implement the plan.<sup>77</sup>

The first question that comes to mind is whether the T-FTA can be different? And secondly whether the T-FTA can achieve the ambitious goals as set out above and overcome the challenges experienced in the three REC's. The answer to these questions undoubtedly lies in the

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<sup>74</sup> Carim, X & Hartzenberg, T et al, From Cape To Cairo: Exploring the COMESA-EAC-SADC Tripartite Free Trade Area, Proceedings of the Sixth Southern African Forum on Trade (SAFT) held in Pretoria, South Africa, 3–4 August 2009, p106 available at <http://www.igd.org> accessed on 9 September 2012

<sup>75</sup> According to World Bank income classification, 13 Tripartite countries fall in the low-income group, 7 in the lower-middle income group and 6 in the upper-middle income group. Sixteen of the 27 Tripartite countries are also classified as least developed countries (LDCs). These 16 countries are nearly half of the 33 LDCs in Africa and a third of the 48 LDCs globally

<sup>76</sup> Negotiating Africa's Largest Trade Bloc | A Year of Progress available at [www.trademarksa.org](http://www.trademarksa.org) (accessed on 8 September 2012)

<sup>77</sup> McCarthy, C, Cronje, JB & Denner, W et al Supporting Regional Integration in East and Southern Africa: Review of Select Issues (2010) 21

conclusion of the draft agreements, their adoption and implementation and monitoring as well as the political will of the leaders.

In attempting to answer these questions this chapter will provide an overview of the legal and institutional framework of the T-FTA as well as an overview of the market integration and industrialisation pillars, whilst infrastructure will be dealt with in more detail in the next chapter.

### **3.2 The three main pillars<sup>78</sup> of the tripartite strategy**

The T-FTA is anchored in three pillars, namely the traditional market integration pillar, infrastructure development, and industrialisation. The commitment to establish a T-FTA that goes beyond the traditional trade-in-goods agenda to address the region's infrastructure deficit and to enhance its industrial capacity requires new thinking about traditional market integration issues such as tariff liberalisation and rules of origin, which are among the agenda items of the first phase of the negotiations.<sup>79</sup>

A brief discussion of the three individual pillars will follow next.

#### **3.2.1 Market Integration**

While regionalism has taken on different forms to accommodate the changing national, regional, and international environment, all organisations that aim to integrate economies in Africa have adopted

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<sup>78</sup> The three main pillars are contained in the vision and strategy document endorsed at the Second Tripartite Summit in June 2011. Reference is also made to the three pillars in the Report of the Meeting of COMESA-EAC-SADC Tripartite Ministerial Committee in preparation for the Tripartite FTA Negotiations. These documents are available at <http://www.trademarksa.org>

<sup>79</sup> Hartzenberg, T, Erasmus, G & McCarthy, C Tripartite Free Trade Area: Towards a new African paradigm? (2012)

market integration as a component of their strategy with a view to increasing intra-regional trade.<sup>80</sup>

Market integration concerns the removal of tariff and non-tariff barriers and the implementation of trade facilitation measures, all of which are essential for the establishment of a well- functioning T-FTA by 27 member states.

### **3.2.2 Infrastructure Development**

Africa's trade has been traditionally outward looking to the rest of the world rather than inward looking to the rest of Africa. If this is not redesigned it will continue to have implications on the pattern of infrastructure development in Africa. Africa's road, rail and transport networks have therefore generally tended to develop from centres of production to sea ports with little inward expansion. This is so because the systems are geared to bulk outward transportation of primary commodities and importation of raw materials and finished products with the outside world as opposed to inward distribution of finished products traded among African countries. As long as Africa's trade does not change in form content and direction, there will be little impetus to dramatically alter Africa's infrastructure.<sup>81</sup>

Infrastructure development focuses on improving the region's infrastructure so as to improve the efficiency of the internal trade and transport network, which includes rail, road, water and air, information and communications technology and infrastructure development. It is therefore vital that Africa gets its infrastructure into shape by linking these countries

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<sup>80</sup>McCarthy, C, Cronje, JB & Denner, W et al *Supporting Regional Integration in East and Southern Africa: Review of Select Issues* (2010) 116

<sup>81</sup>Simuyemba, S 'Linking Africa through Regional Infrastructure', available at <http://www.afdb.org> (accessed on 9 July 2012)6

in order to increase intra African trade and hereby attempt to seriously make Africa's trade more inward looking to the rest of Africa.<sup>82</sup>

Infrastructure development and its importance in regional integration a, trade expansion and poverty reduction will be more fully discussed in the preceding chapter.

### **3.2.3 Industrial Development**

The inclusion of the three pillars have been agreed to by the member states as they understood the importance of simultaneously addressing industrialisation and supply side constraints to enhance market integration. The intention is to develop industrial development and supply side programmes that can take advantage of improvements in market integration and infrastructure development.<sup>83</sup>

Thus far most REC's have taken an approach to regional integration that supports intra-industry trade through trade liberalisation schemes. However, to overcome the problems of low trade in intermediate and manufactured goods within REC's, division in the industrial sector, an insufficient diversification and deficient industrial competitiveness, an approach that includes the private sector needs to be adopted. To overcome these challenges related to industrialisation the T-FTA needs to adopt policies that encourage domestic and foreign direct investment, harmonise tax policies, consider incentives to firms which promote inter regional inter-industry trade. In addition to the above, aspects related to

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<sup>82</sup>Simuyemba, S 'Linking Africa through Regional Infrastructure', available at <http://www.afdb.org> (accessed on 9 July 2012)6

<sup>83</sup> Report on the meeting of COMESA-EAC-SADC Tripartite Ministerial Committee in preparation for the Tripartite FTA Negotiations, 13 May 2011, Lusaka, Zambia available at [www.trademarksa.org](http://www.trademarksa.org)(accessed on 15 June 2012)

employment, patent and property rights laws also need to be reviewed and harmonised for effective industrialisation.<sup>84</sup>

The three pillars have been identified by the meeting of the tripartite ministerial committee<sup>85</sup> and are designed to capture the challenges that have hampered trade expansion on the continent.

The following section will focus on a discussion of the legal and institutional framework which underpins the T-FTA.

### **3.3 Legal and Institutional framework of the T-FTA**

The T-FTA is comprehensive, ambitious and covers a wide range of pertinent trade policy and trade related areas necessary for the effective implementation of a watertight PTA.<sup>86</sup> The T-FTA will therefore need to be supported by a stronger institutional framework than is currently in place in the REC's especially if it seeks to achieve the ambitious aim set out above. The aim of trade expansion and the escape from the cycle of poverty through the vehicle of regional integration is by no means an easy task. It will require an effort by governments of member states to enhance the rules based quality of trade arrangements. Therefore in addition to policy reforms, a suitable legal and institutional framework must be engineered into any trade agreement.<sup>87</sup>

The first development was that of a Memorandum of Understanding (MOU) on inter –regional cooperation and integration which defines the

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<sup>84</sup> McCarthy, C, Cronje, JB & Denner, W et al *Supporting Regional Integration in East and Southern Africa: Review of Select Issues*, (2010) 74

<sup>85</sup> Report on the meeting of COMESA-EAC-SADC Tripartite Ministerial Committee in preparation for the Tripartite FTA Negotiations, 13 May 2011, Lusaka, Zambia available at [www.trademarksa.org](http://www.trademarksa.org) (accessed on 15 June 2012)

<sup>86</sup> TradeMark Southern Africa, 'Negotiating The COMESA-EAC-SADC Tripartite FTA' p3

<sup>87</sup> Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012) 10

powers of various levels of authority.<sup>88</sup> The Tripartite structures comprise the Summit of Heads of State<sup>89</sup> and Government, the Council of Ministers (supported by sectoral ministerial committees), senior officials and the Tripartite Task Force (TTF). The daily management of the Tripartite activities is done by the TTF which is made up of the Secretary Generals of COMESA AND EAC and the executive Secretary of SADC, supported by a sub-committee on trade and a sub-committee on infrastructure.<sup>90</sup>

Since October 2008 various task teams of technical experts have been engaged in analytical work and have prepared a Draft Agreement and 14 annexes, dealing with various issues, including but not limited to tariff liberalisation, Rules of Origin (RoO), movement of business persons and dispute resolution. The most recent iteration of this technical process has produced drafts of these instruments, dated December 2010. Negotiations, however, were only officially launched at a Summit, held in South Africa, in June 2011. It is, therefore, very important to recognise that the Tripartite FTA does not exist yet and substantive negotiations have not yet begun. Although the T-FTA does not exist yet, it is a useful exercise to review the Draft Agreement and the 14 annexes lack official status and the emerging negotiations process.

In order for the T-FTA to serve a particular purpose, ensure a specific outcome and address the challenges on the continent, the legal instruments need to be carefully drafted and it must pursue a particular logic and most importantly the rules must be complied with.<sup>91</sup>

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<sup>88</sup>Hartzenberg, T, Kalenga, P, Mathis, J et al, *Cape to Cairo: Making the Tripartite Free Trade Area work* (2011)113

<sup>89</sup> The Tripartite Summit of Heads of State is constituted to sit once every two years and it can meet in extra-ordinary circumstances when needed

<sup>90</sup>Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012) 143

<sup>91</sup>Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012) 11

This chapter will continue with a discussion of the existing draft legal instruments prepared prior to launching the official negotiating process. In this discussion reference will be made to the T-FTA as being the building block to the African Economic Community<sup>92</sup> and even the establishment of an African wide FTA.

Article 2 of the Draft Agreement establishing the T-FTA<sup>93</sup> provides for the establishment of a FTA among the aforementioned REC's, however it does not expressly state that the FTA will have separate legal status. Although by implication the T-FTA will be an international organisation subject to international laws and the legal status of the T-FTA will therefore need to be clarified toward the final negotiation phase. What is clear is that the T-FTA will be a new FTA.

The general and specific objectives are set out in Articles 3 and 4 of the Draft Agreement respectively. The general objectives of the T-FTA is to promote the social and economic development of the region, to create a large scale single market with free movement of goods and services and business persons and eventually to establish a customs union. It is further emphasised that the T-FTA wants to resolve the challenge of multiple membership and expedite the regional and continental integration process, while promoting close cooperation in all sectors of economic and social activity among tripartite member states.

In order to realise these objectives set out in article 3 of the Draft Agreement, Tripartite member states shall:

1. *eliminate all tariffs and non-tariff barriers to trade in goods;*

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<sup>92</sup> A more in depth and relevant discussion can be found in the work of Mwanza, M in McCarthy, C, Cronje, JB & Denner, W et al Supporting Regional Integration in East and Southern Africa: Review of Select Issues, (2010) Chapter 3

<sup>93</sup> Draft Agreement establishing the COMES-EAC-SADC Tripartite Free Trade Area available at [www.trademarksa.org](http://www.trademarksa.org) (accessed on 15 June 2012)

2. *liberalise trade in services and facilitate cross border investment and movement of business persons;*
3. *harmonise customs procedures and trade facilitation measures;*
4. *enhance cooperation in infrastructure development;*
5. *establish and promote cooperation in all trade related areas among tripartite member states;*
6. *establish and maintain an institutional framework for implementation and administration of the tripartite free trade area and eventually a customs union;*
7. *build competitiveness at the regional, industry and enterprise level in order to promote beneficial utilisation of regional and global market and investment opportunities and beneficial participation in globalisation;*
8. *adopt and implement policies in all sectors of economic and social life that promote and consolidate an equitable society and social justice; and*
9. *undertake cooperation in other areas to advance the objectives of this agreement.*<sup>94</sup>

On 12 June 2011 at the Second Tripartite Summit the heads of State and Governments of COMESA, the EAC and SADC adopted a formal Declaration launching the negotiations for the establishment of the Tripartite Free Trade Area and the Tripartite Principles, Processes and Institutional Framework. This summit established a formal mandate for moving the negotiating process forward and as stated in the declaration:

*to expeditiously establish a tripartite free trade area...in order to ensure integration...into a larger integrated market...*<sup>95</sup>

The Declaration contains the following significant decisions:

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<sup>94</sup> Draft Agreement establishing the COMESA-EAC-SADC Tripartite FTA available at [www.trademarksa.org](http://www.trademarksa.org)(accessed on 15 June 2012)

<sup>95</sup> Declaration Launching the Tripartite Free Trade Area available on [www.trademarksa.org](http://www.trademarksa.org)(accessed on 15 June 2012)

1. *adopt a developmental integration approach built on three pillars of industrial development, infrastructure development and market integration;*
2. *direct that a programme of work be prepared on the industrial development pillar;*
3. *note progress made and encourage further work on the programmes on the infrastructure pillar;*
4. *launch negotiations for the establishment of a Tripartite Free Trade Area open to participation by all Regional Economic Communities and/or member states on the market integration pillar;*
5. *note that the negotiations shall be Regional Economic Community and /or partner driven and shall be in two phases:*
  - a. *The first phase will be for negotiations on trade in goods. Movement of business persons will also be negotiated during the first phase through a separate tract in a committee to be established by the tripartite sectoral ministerial committee.*
  - b. *The second phase will cover the built in agenda on services and trade related areas.*
6. *Agree on the principles for negotiations; a road map providing the timelines for key activities relating to the negotiations and their conclusion; and the negotiations.*

The Summit further adopted Annex I, which sets out the scope of negotiations, a set of negotiating principles, negotiating institutional framework and monitoring of the negotiating process. This will determine how the official negotiations will be conducted and to this end the participating member states will be directly involved. The preamble to the draft agreement refers to several other considerations which places emphasis on the more immediate needs of the RECs involved in the FTA negotiations. The signatories want to

*build upon the success and best practices achieved in trade liberalisation within the three REC's...creating jobs and incomes for the majority of the*

*population in the members states; the development of trade and investment is essential to economic integration of the region to improving the competitiveness of the Tripartite members states;...the progress made by the regional economic communities in establishing the communities as single investment areas, and building on this progress”.*<sup>96</sup>

Most REC’s on the continent have largely failed in the area of policy and governance owing to legal and institutional deficits. This has undoubtedly undermined the efforts to achieve the objectives for which these REC’s have been created. However this may be as a result of these regional arrangements being too ambitious in their planning and time frames set out for achieving these objectives, ineffective institutional powers and the link between domestic and national laws and structures are either inadequate or not in place.



### **3.4 Opportunities and Challenges**

#### **3.4.1 Opportunities**

The merging of the three REC’s into one may come as solution to the challenges the groupings have faced thus far and continue to face. The challenge of multiple memberships to different trade regimes pose legal administrative challenges and place undue financial burden on member states. Thus the harmonisation of trade facilitation programmes through the FTA will stimulate inter regional business activities. It could also minimize and eliminate the contradictions brought about issue of overlapping membership. Moreover it would mean that countries would no longer have to choose one trading bloc over another.<sup>97</sup>

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<sup>96</sup>Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012) 26

<sup>97</sup> Disenyana, T, “Towards and EAC, COMESA, SADC Free Trade Area: Issues and Challenges, p21 *available at <http://trademarksa.org>*(accessed on 9 September 2012)

The COMESA FTA has witnessed greater competition among companies, new markets, greater choice for consumers, reduction of transaction costs, an increase in cross border trade and harmonisation of customs systems and procedures.<sup>98</sup> It can be argued that the same can be achieved with the larger unified market of the T-FTA as the member states should seek to build on the progress already achieved by the three REC's and the lessons that are to be learnt from the successes and failures in this regard.

Some of the economic benefits of regional integration in the SADC region include welfare gains through lower price, wider choice and improved quality as goods move freely through the region. This is a result of a larger market, producers producing more goods which encourages mass production and lowers the cost of production in goods and service.<sup>99</sup>

The COMESA FTA has also created opportunities of cross border investment, franchise and agency arrangements and joint venture opportunities and its intraregional trade increased. Similarly the EAC has also recorded increased cross border trade from both regional and foreign investors.<sup>100</sup>

Based on the success achieved in the SADC region, with the implementation of the T-FTA there exists a high likelihood of increased efficiency in production, increased trade and investment across the region and the promotion of cross border trade and movement of financial and capital assets. The above achievements by COMESA and the EAC are similar opportunities available to the T-FTA region given the larger market.

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<sup>98</sup>Hartzenberg, T, Kalenga, P, Mathis, J et al, *Cape to Cairo: Making the Tripartite Free Trade Area work* (2011) 42

<sup>99</sup>Hartzenberg, T, Kalenga, P, Mathis, J et al, *Cape to Cairo: Making the Tripartite Free Trade Area work* (2011) 44

<sup>100</sup>Hartzenberg, T, Kalenga, P, Mathis, J et al, *Cape to Cairo: Making the Tripartite Free Trade Area work* (2011), 44

In building upon what has already been achieved the T-FTA can capitalise on the existing structures in the region, such as the COMESA Infrastructure Development Fund, the COMESA Regional Investment Agency and many other similar institutions. The T-FTA can also take advantage of the good infrastructure and skills in countries like South Africa and learn from the existing systems.

Lastly the T-FTA has the potential to result in enhanced inter-regional cooperation, which is a catalyst for greater cooperation between countries and eventually common approaches amongst the member states of the three RECs in their interaction with key partners and the global market.<sup>101</sup>

Regional integration in the form of REC's and the culmination of the above named three RECs into a single FTA certainly has achieved a measure of success and created opportunities which has the potential of being mirrored by the T-FTA. However alongside the opportunities there exist certain challenges, which will be discussed next.

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### **3.4.2 Challenges**

Although the importance of regional integration is an indispensable element of development in Africa cannot be denied, it is not without its criticism and challenges. According to McCarthy, the greatest concern is the architecture of African regional arrangements.<sup>102</sup> I agree that this is a concern especially when one considers the absence of commitment to the ambitious plans and implementation thereof which results in a serious lack of progress.

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<sup>101</sup> Disenyana, T, "Towards and EAC, COMESA, SADC Free Trade Area: Issues and Challenges, p21 available at <http://trademarksa.org> accessed on 9 September 2012

<sup>102</sup> McCarthy, Cronje, JB et al 'Supporting Regional Integration in East and Southern Africa: Review of Select Issues', p21

One of the most significant challenges to negotiating and expeditiously implementing a successful T-FTA emanate from the diverse nature of the 27 member states of the REC's. The group consists of roughly an equal amount of developing and least developed countries with the former including a few dominant and larger economies.<sup>103</sup>

The multiplicity of trading arrangements in Eastern and Southern Africa pose a significant implementation challenge to the business sector, customs administration and private and government agencies responsible for monitoring, facilitating and managing trade. Another major problem facing the REC's in their pursuit of deeper integration is that of multiple and overlapping memberships, where one country belongs to more than one REC. This is a key consideration in seeking to harmonise their policies and programmes and to establish a single FTA.

Realising the benefits associated with the T-FTA is further inhibited by a number of factors, which include: disparities in the economic development of the member states, high dependence on trade taxes as a major source of revenue, the challenge of how to harmonise three sets of rules of origin into one and institutional challenges as the three REC's are legal entities in their own right with specific legal regimes.<sup>104</sup> However the philosophy behind the T-FTA is to build on existing trading regimes while also simplifying and harmonising regulatory frameworks and policy measures and instruments in an effort to improve and make implementation easier and less costly.<sup>105</sup> The achievement of this will undoubtedly help improve the trading environment immensely.

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<sup>103</sup> TradeMark Southern Africa, AID FOR TRADE CASE STORY UK: Negotiating the Tripartite FTA, *available at* <http://www.trademarksa.org> (accessed on 9 September 2012)

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<sup>104</sup> Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012) 14

<sup>105</sup> Declaration Launching the Tripartite Free Trade Area available on [www.trademarksa.org](http://www.trademarksa.org) (accessed on 15 June 2012)

The challenges which the regional groupings are faced with in their individual REC's may be exaggerated in the larger FTA if not dealt with effectively. Amongst these challenges are factors such as weak enforcement mechanisms, lack of common policies and institutional capacities, human resources, technical capacity and inadequate finance to implement the T-FTA.

Mudzonga places emphasis on the need for political will by the leaders in the region as there has been a rhetoric of continental unity which is markedly different from the reality on the ground. He describes this as African leaders tending to 'worship in the alter of strong sovereignty, while preaching continental unity', and thus there is a great need to walk the talk. He states further that divergences of interests, endowments as well as economic priorities magnify this lack of unity in the region.<sup>106</sup>

A further concern and challenge is the political stability in some of the member countries, which poses a risk for investment and this has the potential to counter the benefits of the FTA if it fails to attract foreign direct investment.

When one considers the plethora of opportunities and challenges to embarking on an ambitious task of creating a single FTA as envisaged and discussed above, it can be compared to a spaghetti bowl, which is difficult to unravel yet easy to walk away from. However the determination and perseverance of African leaders can be applauded, as a spirit of solidarity has clearly emerged amongst African leaders within these member countries which led to the realisation that continent wide integration is a useful vehicle for addressing the development on the continent and for effective integration into the global economy.

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<sup>106</sup>Hartzenberg, T, Kalenga, P, Mathis, J et al, *Cape to Cairo: Making the Tripartite Free Trade Area work* (2011) 44

### 3.5 Conclusion

COMESA, the EAC and SADC have committed themselves to form a unified FTA. However it is a fact that the three REC's are at various stages of development and implementation of their regional integration policies and agendas. Their policies are also divergent although considerable work and effort has been put into harmonising these policies. All three REC's continue to face the challenge of low intra-regional trade which further continues to hinder their integration into the global economy. Although trade barriers amongst the three REC's have been eliminated to large extent, the prevalence of non-tariff barriers in these regions have the same effect of restricting trade in the regions.

If the legal and institutional aspects of the T-FTA are properly designed and implemented there could be a major improvement in how and how much African Nations trade with each other. This will however require a fresh approach and not a repetition of what has already been done in Africa.

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A year after FTA negotiations were officially launched at the historic Second Tripartite Summit of June 2011, much has already been achieved in the negotiating arena and the formulation of programmes for the implementation of the three pillars. In what has been called the boldest move by African leaders in 10 years, all member states agreed on the principles, processes, scope and roadmap for establishing the Tripartite FTA. The Tripartite FTA can be achieved if African leaders display sufficient political will, co-operation by the heads of member States and demonstrate a commitment to implementing the programmes and achieving the aims set out in the Summit which launched the T-FTA in 2008.

The achievements and programmes for implementing infrastructure development in the T-FTA and how this has contributed to the aim of furthering regional integration, reducing poverty and enhancing the quality of life of people in the member states will be more fully discussed in the next chapter.



## CHAPTER 4

### 4. INFRASTRUCTURE DEVELOPMENT, REGIONAL INTEGRATION AND GROWTH AS A VEHICLE FOR REDUCING POVERTY IN SOUTHERN AND EASTERN AFRICA

#### 4.1 Introduction

The record of Africa's infrastructure history reveals an ambiguous situation as it has been both remarkable and bleak. From essentially no infrastructure during the 1960's with the onset of political independence on the continent until the 1970's and 1980's during which time infrastructure thrived. This was inspired by the desire of most African countries governments to demonstrate to their people, "the fruits of independence". However it is important to mention that at the time this infrastructure was constructed there was little regard for nor understanding of the concept of standardisation, harmonisation and coordination or integration in relation to infrastructure development. Consequently infrastructure was primarily built to satisfy individual country needs with little or no regard for these concepts. This manifested in large differences in the condition, quality and operation of infrastructure systems in Africa and explains why the countries are not linked or integrated through a network of infrastructure.<sup>107</sup>

It is a universal fact that infrastructure impacts on the quality of development of any country or region and on the quality of life of its

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<sup>107</sup>Simuyemba, S 'Linking Africa through Regional Infrastructure', available at <http://www.afdb.org> (accessed on 9 July 2012), p10

people. Sound infrastructure is critical to any development process. Investment, production and trade cannot occur without adequate water and power sources as well as functional roads, transportation and telecommunications systems, which are essential components of any infrastructure network.<sup>108</sup>

The remainder of this chapter will focus on the various factors which influence Africa's infrastructure landscape such as the quality of infrastructure, the fact that many of the countries are landlocked and have not been integrated by an infrastructure network, the role of the government and the private sector, the cost of infrastructure and the influence of sound and adequate infrastructure services in promoting trade and growth and consequently reducing the levels of poverty on the continent.



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## 4.2 Infrastructure in Sub Saharan Africa

A vast number of small countries, with small isolated economies and small markets resulting in a challenging economic geography are the defining characteristics of the African continent. These characteristics, in addition to other factors, have attributed to Africa consistently ranking at the bottom of all developing regions in terms of infrastructure performance and the extent and quality of infrastructure. It therefore comes as no surprise that an adequate supply of infrastructure<sup>109</sup> services has long been viewed by both academics<sup>110</sup> and policy makers<sup>111</sup> as a key ingredient for economic

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<sup>108</sup> Simuyemba, S 'Linking Africa through Regional Infrastructure', available at <http://www.afdb.org> (accessed on 9 July 2012), p5

<sup>109</sup> No consensus exists in the literature on a common definition for infrastructure. However it is defined as "those services without which primary, secondary and tertiary production activities cannot function." In its widest sense it includes all public services ranging from law and order through education and public health to transportation, communication, power supply as well as such agricultural overhead capital as irrigation and drainage systems.

<sup>110</sup> Auscher 1989

<sup>111</sup> Alexander J. Yeats, World Bank

development. The deficiency of the infrastructure system in Africa is thus a major obstacle for growth and poverty reduction across the region.

#### **4.2.1 The pattern of infrastructure development in Africa**

Historically Africa's trade has been outward looking to the rest of the world rather than inward looking to the rest of Africa. This has had and will continue to have implications on the pattern of infrastructure development in Africa. Africa's road, rail and transport networks have therefore generally tended to develop from centres of production to sea ports with little inward expansion. This is so because the systems are geared to bulk outward transportation of primary commodities and importation of raw materials and finished products with the outside world as opposed to inward distribution of finished products traded among African countries. As long as Africa's trade does not change in form content and direction, there will be little impetus to dramatically alter Africa's infrastructure. There is consequently an urgent need to put Africa's infrastructure into shape by linking these countries so as to increase intra African trade and thereby make Africa's trade more inward looking to the rest of Africa.<sup>112</sup>

To develop and promote trade and investment, Africa needs to put its infrastructure in place first. Instead of functioning as a single integrated market linked by modern transportation and communications systems, Africa continues to function as small fragmented and uncoordinated markets with inadequate and inefficient infrastructure links. Traversing mainland Africa is literally dealing with 48 different countries with variations in the efficiency and condition of infrastructure systems, infrastructure policies, legal frameworks, rules and regulations, standards, documentation requirements, procedures and processes not to mention differences in skills and administrative capacities. With this state of affairs,

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<sup>112</sup>Simuyemba, S 'Linking Africa through Regional Infrastructure', available at <http://www.afdb.org> (accessed on 9 July 2012)p6

it is not surprising that trade and investment has not grown significantly in Africa.<sup>113</sup> Africa can be contrasted with the United States of America which is an equally large continent with as many States.<sup>114</sup> America would not have flourished if trade and movement of people, goods and services were subjected to different rules, regulations, standards, border inspections, customs procedures, transit charges, different road conditions and the myriad of problems facing Africa's infrastructure systems all interpreted and administered differently from State to State, across the 50 States. America would come to a standstill. It is therefore no surprise that Africa is lagging behind the rest of the world in development.<sup>115</sup>

If regional integration through the proposed T-FTA is to achieve the desired results African countries cannot afford to continue to operate as small discrete markets each with its own systems, rules and regulations.<sup>116</sup>

#### **4.2.2 The importance of Infrastructure in development of regional integration on the African Continent**

Infrastructure development and policy reform in developing economies, in particular Africa, has received renewed attention in recent years. The debate centres on the increased role of private sector participation in the provision of infrastructure and its efficiency.<sup>117</sup> This rebirth emanates principally from the growing realisation that human and physical infrastructure is seen as critical elements for economic growth and poverty reduction.<sup>118</sup> There has been a similar realisation that deepening regional integration in the sphere of infrastructure development is a viable option

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<sup>113</sup> Simuyemba, S 'Linking Africa through Regional Infrastructure', available at <http://www.afdb.org> (accessed on 9 July 2012) p7

<sup>114</sup> United States of America is made up of 50 states

<sup>115</sup> Simuyemba, S 'Linking Africa through Regional Infrastructure', available at <http://www.afdb.org> (accessed on 9 July 2012), p7

<sup>116</sup> Simuyemba, S 'Linking Africa through Regional Infrastructure', available at <http://www.afdb.org> (accessed on 9 July 2012), p21

<sup>117</sup> Jerome, A 'Infrastructure in Africa: The Record' available at [http://www.energytoolbox.org/library/infra2007/references/infrastructure\\_concepts+trends/Infrastructure\\_in\\_Africa-The\\_Record.pdf](http://www.energytoolbox.org/library/infra2007/references/infrastructure_concepts+trends/Infrastructure_in_Africa-The_Record.pdf) (accessed on 09 July 2012) p1

<sup>118</sup> Jerome, A 'Infrastructure in Africa: The Record', p1

on the continent and could possibly be one of the few ways, if not the only way, to overcome the handicap of isolated economies and thus allow African countries to gainfully participate in the global market place. Integrating physical infrastructure is said to be both a precursor to and an enabler for deeper economic integration, allowing countries to gain scale economies and harness regional public goods.<sup>119</sup>

#### **4.2.3 The significance of developing sound and adequate infrastructure**

Poor infrastructure is one of the main obstacles to the regions' economic growth and adversely affects the living standards of its people.<sup>120</sup> Inadequate infrastructure negatively impacts on a number of sectors including but not limited to health, education and the capacity for effective governance which negatively affects the ability of the continent to compete globally. The provision of efficient infrastructure is therefore undoubtedly an essential component for the development of the continent particularly in view of the fact that many of its countries are landlocked.<sup>121</sup> Regional integration of infrastructure development on the continent will similarly play a key role to changing the landscape and character of these landlocked countries by linking them to the rest of the continent and to the rest of the world.

Decades of economic inactivity and deteriorating living standards has left Sub Saharan Africa (SSA) ranking at the bottom of all developing regions in terms of infrastructure development giving it the infamous title of the world's poorest region. The importance of an adequate supply of infrastructure is therefore viewed as key to economic development. The

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<sup>119</sup>Foster, V & Briceno-Garmendia (eds), *Africa's Infrastructure: A Time for Transformation*, (2010) 143

<sup>120</sup>Jerome, A 'Infrastructure in Africa: The Record' available at <http://www.energytoolbox.org> (accessed on 09 July 2012), p3

<sup>121</sup>Jerome, A 'Infrastructure in Africa: The Record' available at <http://www.energytoolbox.org> (accessed on 09 July 2012)4

contribution of infrastructure and development to growth and productivity therefore cannot be overemphasised. More recently attention has also been paid to the impact of infrastructure and poverty reduction. Although unanimity has not been reached on the topic, a general consensus has emerged that under the right conditions, infrastructure development has the potential to be a major role player in promoting growth and equity and through both channels help reduce poverty.<sup>122</sup>

The literature suggests that some inherent features of Africa's economies may enhance the potential role of infrastructure for the region's economic development in particular, the large number of Africa's landlocked countries, which is home to major proportions of the regions overall population, and the remoteness of most of the regions from global market centres. These geographical disadvantages result in high transport costs that hamper intra and inter-regional trade.<sup>123</sup> The geographical disadvantage is exacerbated by the poor state of infrastructure. This supports the finding that landlocked countries tend to grow more slowly than the rest. However, these geographic disadvantages do not pose an impossible/intractable impediment to development. Africa has the potential to overcome these impediments with good transport and communications facilities.

#### **4.2.4 The role of government in the provision of Infrastructure**

As in most developing countries and almost without exception government has and continues to have the exclusive task of providing infrastructure in Africa by assuming responsibility for almost all infrastructure services. This was done through state owned enterprises created specifically to make socially productive investments aimed at eliminating impediments to

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<sup>122</sup>Calderon, C & Serven, L 'Infrastructure and economic development in Sub-Saharan Africa' available at <http://papers.ssrn.com> (accessed on 9 July 2012)2

<sup>123</sup>Calderon, C & Serven, L 'Infrastructure and economic development in Sub-Saharan Africa' available at <http://papers.ssrn.com> (accessed on 9 July 2012), 2

overall economic development. This resulted in governments' owning, operating and financing nearly all infrastructure services. Consequently the record of success and failure in the infrastructure sectors is based on governments' performance which resulted in these enterprises establishing a poor reputation across Africa.

The record reveals several reasons why public provision of infrastructure services has not had the desired impact in Africa. A particularly prominent example of this under a public sector dominated regime is that investments in infrastructure are often misallocated and most of the selected projects are not based on the pronounced needs of society. Consequently project selection and implementation are not prioritised according to societal needs.

The flawed nature of the public decision making process is at the root of the problem. It is characterised by multiple, nebulously defined and often conflicting objectives which place little or no emphasis on providing adequate incentives for efficiency of operations. This has resulted in politically motivated policy decisions and infrastructure projects in Africa which are driven by political agendas.<sup>124</sup>

#### **4.2.5 Private Sector involvement in the provision of infrastructure**

In an attempt to change the landscape of Africa's infrastructure the private sector has been called upon to assist in financing regional infrastructure projects. It is against this background that there is a growing need for private sector involvement in the provision of infrastructure in Africa. This will enhance the preference for economic considerations and demand driven decisions process instead of political agendas. Greater emphasis will be placed upon efficiency with its attendant positive effects on

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<sup>124</sup>Jerome, A 'Infrastructure in Africa: The Record' available at <http://www.energytoolbox.org> (accessed on 09 July 2012) 52

economic growth, enhancing the standard of living and poverty alleviation. Redefining the public-private sector interface in the provision of infrastructure services has become an important though controversial policy issue in the search for a more viable infrastructure sector in Africa. This is particularly important since the efficiency, productivity and reliability of infrastructure provision impacts on the efficiency of domestic production and investment as well as international competitiveness of the economy.<sup>125</sup>

I agree that for infrastructure development to reduce income inequality, it must help expand access by the poor.<sup>126</sup> Infrastructure development is associated with reduced income inequality combined with the finding that infrastructure also appears to raise growth. This implies that in the right conditions, infrastructure development can be a powerful tool for poverty reduction.<sup>127</sup>

#### **4.2.6 The potential benefits of Integrating Africa's Regional Infrastructure**

As previously stated integrating physical infrastructure is a precursor to deeper economic integration. The benefits of regional integration are visible across all aspects of infrastructure networks. For Information Communications Technology (ICT), regional infrastructure provides scale economies that substantially reduce the costs of production.<sup>128</sup> For transport and water, regional collaboration allows optimal management and development of cross-border public goods<sup>129, 130</sup> Reaping these

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<sup>125</sup> Jerome, A 'Infrastructure in Africa: The Record' available at <http://www.energytoolbox.org> (accessed on 09 July 2012), 53

<sup>126</sup> Calderon, C & Serven, L 'Infrastructure and economic development in Sub-Saharan Africa' available at <http://papers.ssrn.com> (accessed on 9 July 2012)5

<sup>127</sup> Calderon, C & Serven, L 'Infrastructure and economic development in Sub-Saharan Africa' available at <http://papers.ssrn.com> (accessed on 9 July 2012), 6

<sup>128</sup> For example continental fibre -optic sub-marine cables could reduce internet and international calls by one half.

<sup>129</sup> Road and rail corridors linking landlocked countries to the sea as well as airport and seaport hubs are examples of regional public goods

benefits however pose institutional challenges, namely building political consensus, establishing effective regional institutions, setting priorities for regional investments, developing regional regulatory frameworks, facilitating project preparation and cross border finance.<sup>131</sup>

It is clear from the above that Africa's regional infrastructure networks have major shortcomings which increases the cost of doing business and prevents the realisation of scale economies. More efficient regional integration is needed in all sectors including ICT, transport, power and water.<sup>132</sup> Regional approaches to infrastructure development can therefore address the infrastructure backlog in Africa and propel economic growth.

### **4.3 Infrastructure Development in the COMESA-EAC-SADC Tripartite Free Trade Area**

The declaration<sup>133</sup> launching the negotiations for the establishment of the T-FTA among the member states of the Common Market for East and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC) provides for a developmental integration approach to the establishment of the Free Trade Area (FTA) that 'combines market integration, infrastructure development and industrial development as the three key pillars for sustainable development' as referred to in the preceding chapter<sup>134</sup>. It provides for the development of regional infrastructure programmes to give effect to the infrastructure pillar. The declaration identified certain priority areas for the development of regional infrastructure programmes

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<sup>130</sup> Foster, V & Briceno-Garmendia (eds), *Africa's Infrastructure: A Time for Transformation*, (2010) 143

<sup>131</sup> Foster, V & Briceno-Garmendia (eds), *Africa's Infrastructure: A Time for Transformation*, (2010) 144

<sup>132</sup> Foster, V & Briceno-Garmendia (eds), *Africa's Infrastructure: A Time for Transformation*, (2010) 146

<sup>133</sup> First Communiqué of the COMESA-EAC-SADC Tripartite Summit of Heads of State and Governments held in October 2008 in Kampala, Uganda

<sup>134</sup> Chapter 3, 3.3 The Three Main Pillars of the Tripartite Free Trade Area

which includes energy, ICT and transport. The emphasis is placed on regional infrastructure development as a means to increase interconnectivity and competitiveness, which would create benefits for the consumers and the economy as a whole in terms of growth.<sup>135</sup>

The objective of the T-FTA is to coordinate and harmonise existing regional programmes and to implement them jointly. The draft agreement establishing the T-FTA gives further substance to the objectives in article 28 of the Communiqué and provides that:

1. *Tripartite member states undertake to cooperate and develop infrastructure programs to support interconnectivity in the region and promote competitiveness;*
2. *Tripartite member states agree that priority areas of regional infrastructure include energy, information and communications technologies and corridor development; and*
3. *Tripartite member states recognise the importance of air and marine transport in promoting regional and international trade and in consolidating regional markets including island member states. Accordingly T-FTA member states shall cooperate in the development of ports and harbours, as well as air transport and civil aviation programmes.*<sup>136</sup>

The priority services identified above are usually provided through networks, including fixed line telephony, electricity transmission and a network of roads, rail lines and sea airports.<sup>137</sup>

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<sup>135</sup>Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012) 237

<sup>136</sup>Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012)238

<sup>137</sup>Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012)239

The first communiqué of the COMESA-EAC-SADC Tripartite Summit Heads of State and government 'directed the three Regional Economic Communities (RECs) to develop joint financing and implementation mechanisms for infrastructure development'. Article 44 of the draft agreement states that the 'Tripartite member state shall establish a Development Fund for trade and infrastructure development programmes within the context of existing regional trade and infrastructure development funds'. The three RECs have initiated cooperation in the funding of infrastructure projects through joint corridor investor conferences such as the Tripartite-IGAD Infrastructure Investment Conference (TIIC) in September 2011<sup>138</sup>. Amongst other things, the conference resolved to prioritise the development of transport corridors and regional energy transmission interconnectors. The conference also agreed to prioritise reforms to enable participation of external development partners and the implementation of public private partnerships and regional procurement legislation.<sup>139</sup>

It was noted in the background to the Communiqué of the TIIC the T-FTA successfully developed an innovative Aid for Trade Pilot Programme<sup>140</sup> to address infrastructure and facilitation issues, which has enabled the REC's, their member states and international communities to implement an economic corridor based programme aimed at reducing costs of cross border trade in Eastern and Southern Africa (ESA) Region. The TIIC is based on this success and aims to extend this programme to the key transport corridors in ESA region and will be targeted by the T-FTA and IGAD for significant improvements from 2011 to 2016 in surface transport, logistics and energy connectivity. These projects will further underpin the

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<sup>138</sup> Communiqué of the Tripartite & IGAD Infrastructure Investment Conference held in Nairobi, Kenya 28-29 September 2011 available at <http://www.eac.int/infrastructure> (accessed on 13 October 2012)

<sup>139</sup> Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012) 256

<sup>140</sup> The Aid for Trade programme was developed on the North South Corridor which was successfully launched at the Lusaka High Level Conference in 2009

implementation of the T-FTA that was officially launched by the Second Tripartite Summit.<sup>141</sup>

In the Communiqué of the Tripartite & IGAD Infrastructure Investment Conference, the T-FTA member states acknowledge the role of the private sector in the development and or improvement of energy, transport and communications infrastructure and expressed their commitment to involve the business community through the promotion of public-private partnerships. Public-private partnerships provide governments with the opportunity to tap into the technical expertise and resources of the private sector through the sharing of substantial financial, technical and operating risks and responsibilities.<sup>142</sup>

However successful partnerships require strong relationships and political commitment to reduce the private sector's perception of risk. One such risk is the consumers' reluctance to pay additional costs for services such as improved roads, rail or access to water that it believes are part of government's responsibility. PPP's work best when there is a competitive and well-subscribed market of service providers combined with a high willingness to pay by users of the service operating in an investment environment that is well regulated and certain.<sup>143</sup>

The T-FTA members acknowledge the importance of a proper regulatory framework to underpin the development of the three infrastructure sectors. Similarly the First Communiqué and the Tripartite-IGAD communiqué prioritises the harmonisation of members ICT and infrastructure policies and regulatory frameworks as one of its key objectives and the necessity

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<sup>141</sup> Communiqué of the Tripartite & IGAD Infrastructure Investment Conference, p2. The Second Tripartite Summit was held in Johannesburg, South Africa and further information is available on <http://www.tralac.org>

<sup>142</sup>Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012)256

<sup>143</sup>Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012) 257

of PPP's to achieve this. It is however still unclear how this will be achieved.

## 4.4 Infrastructure Development and Poverty Reduction

### 4.4.1 Defining Poverty

Infrastructure is not just about supporting growth and trade. It is also about poverty reduction by decreasing the cost of access to quality social services. The emphasis is placed on decreased costs and the quality of the service. In this broader sense this question is not about choosing between infrastructure and other social sectors, but on investing in sound infrastructure for better social outcomes. Poor infrastructure is major thorn in the side of the African continent as it is one of the primary constraints to economic growth, resulting in hampered economic growth that has an adverse effect on poverty reduction.

Poverty is defined as

*a multidimensional phenomenon that is reflected in malnutrition, poor, low survival rates, low literacy levels, inadequate clothing, housing and living conditions, apart from low incomes. Poverty is thus measured in terms of deprivation in basic dimensions which is necessary for human life. The world development report defined poverty as the inability to “attain a minimal standard of living measured in basic consumption needs or income required to satisfy them.” According to this definition poverty is measured in terms of income or the percentage of people below a certain income level.*<sup>144</sup>

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<sup>144</sup>Kalaba, M, Willcox, et al 'Deepening Integration in SADC: Macroeconomic Policies and their Impact–The case of South Africa' available at <http://www.tralac.org> (accessed on 7 July 2012)117

Poverty is remains an issue of debate among academics especially in developing countries. People who live in poverty must be in a state of deprivation and in general their standard of living falls below minimum acceptable levels or standards. According to the World Bank poverty is pronounced deprivation in 'well-being'. Many factors converge to make poverty an interlocking multi-dimensional phenomenon and experiences of poverty are conceptually specific to geographical areas and groups.<sup>145</sup>

#### **4.4.3 The Tripartite Free Trade Area's aim of reducing poverty**

At the first summit of the T-FTA, the heads of state and governments of the member countries agreed on a number of decisions aimed at deepening regional and economic development amongst its member states and in Africa. These decisions included the harmonisation of infrastructure master plans and the improvement of transport logistics through improving transport infrastructure and trade facilitation measures along the corridors as well as the development of joint financing and implementation measures for infrastructure development.<sup>146</sup> As stated above Infrastructure is not just about supporting growth and trade, it is also about poverty reduction through lowering the cost of access to quality social services.

#### **4.4.4 The Link between Infrastructure Development and Poverty Reduction in Developing Countries**

The World Bank landmark study on infrastructure highlighted the critical role of infrastructure in the development process and laid out an agenda for public-private partnerships in the provision of utilities. Not only does the

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<sup>145</sup>Jerome, A & Ariyo, A 'Infrastructure, Reform and Poverty Reduction in Africa' available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012) 6

<sup>146</sup>Communiqué of the Tripartite and IGAD Infrastructure Investment Conference held in Nairobi, Kenya on 28-29 September 2011, p1 available at <http://www.eac.int/infrastructure> (accessed on 13 October 2012)

development of infrastructure contribute to growth but growth also contributes to infrastructure development.<sup>147</sup>

In view of the size of the operations and the importance of the services which they provide to all sectors, infrastructure should be the leading agent in developing countries efforts to increase the productivity of the poor. Infrastructure can also contribute to poverty reduction through the opportunities it creates for increasing the employment intensity of economic growth. The importance of employment-generating activities, especially for women was noted in a number of Poverty Reduction Strategy Papers (PRSP) that highlights these opportunities. Many are in construction, especially with appropriate standards and choice of surface but even more employment should result from service provision and maintenance.<sup>148</sup>

Infrastructure can also provide forms of social protection that move people beyond safety nets, especially when employment concerns are mainstreamed into investment policy. Even where the overall policy environment is poor, such initiatives can reduce poverty. With careful attention to trade-offs, the physical capital accessible to poor people can be enhanced at the same time as employment is provided. Preference for sectors and technologies that are labour-intensive is crucial where it is technically feasible and economically cost-effective. They have been most often used in roads (usually involving private contractors), but are also relevant to irrigation, drainage and sanitation, erosion control and water supply. These are sectors that can directly benefit the poor.<sup>149</sup>

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<sup>147</sup>Jerome, A & Ariyo, A 'Infrastructure, Reform and Poverty Reduction in Africa' available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012), 6

<sup>148</sup>Jerome, A & Ariyo, A 'Infrastructure, Reform and Poverty Reduction in Africa' available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012), p7. For example, the Bangladesh Rural Roads project, which provided significant employment for women in construction and maintenance

<sup>149</sup>Jerome, A & Ariyo, A 'Infrastructure, Reform and Poverty Reduction in Africa' available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012),, p8

Many participatory studies have revealed that the poor value infrastructure services which provide direct benefits to them. “The lack of basic infrastructure is seen as a defining characteristic of poverty”. While the evidence is generally positive, spending on infrastructure has not always contributed to pro-poor growth. Actual benefits have been less than anticipated especially because of inadequate attention to governance and institutional frameworks.<sup>150</sup> Poor governance and corruption often hinder a demand led approach, distort public investment choices, divert benefits away from the poor and encourage the neglect of maintenance. If the approach of investing in infrastructure for better social outcomes is to bear any fruit then the focus should be on good governance to ensure the implementation of the programmes geared toward infrastructure development which will benefit both economic and social outcomes and ensure that the poor are prioritised.<sup>151</sup>

#### **4.4.5 Private Investment and the cost of services to the poor**

Since infrastructure services provide an important input into other commercial activities, the removal of infrastructure bottlenecks contributes to growth in several sectors of the economy. Two main channels contribute to the removal of bottlenecks. First, private sector participation, particularly when complemented by market liberalization and/or well-designed and properly managed incentives and regulatory framework, can raise the size and the productivity of infrastructure and hence the overall level of productivity in the economy. Second, access to private capital markets permits the financing of investments aimed at raising the quantity and quality of infrastructure services, as well as expanding overall capacity and increasing coverage levels.<sup>152</sup> It was also noted in the Communiqué of

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<sup>150</sup> Jerome, A & Ariyo, A ‘Infrastructure, Reform and Poverty Reduction in Africa’ available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012),, p8

<sup>151</sup> Jerome, A & Ariyo, A ‘Infrastructure, Reform and Poverty Reduction in Africa’ available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012),, p8

<sup>152</sup> Jerome, A & Ariyo, A ‘Infrastructure, Reform and Poverty Reduction in Africa’ available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012), 9

the TIIC that RECs and member states were allowed the platform to outline the bottlenecks to trade and infrastructure development which need to be removed in a sequential manner, if trade costs are to be reduced. It was further noted that addressing infrastructure, regulation and trade facilitation bottlenecks is an urgent priority for all.<sup>153</sup>

Although privatization has the potential to reduce the costs of service provision, the price to the customer may increase, at least in the short term. Due to political considerations, many publicly owned utilities often charge tariff that is lower than the true economic costs of provision. A key objective of reform is to make infrastructure services financially self-sustaining; hence tariff increases may be required. The impact of reform on prices depends not only on pre-reform cost and tariff levels, but also on how the benefits of privatization are distributed among stakeholders.<sup>154</sup>

#### **4.4.6 Examples of access to infrastructure services by the poor**

Notwithstanding the widespread adoption of infrastructure reform worldwide, access to basic infrastructure services by the poor remains a problem. Many poor people continue to lack access to safe water and sanitation, modern sources of energy and electronic means of communication.<sup>155</sup> The empirical evidence on the effect of reforms on the poor, meanwhile, is limited. Evaluating access by the poor to infrastructure services is difficult, as there is little consistent data on the subject. The main drawbacks to these surveys are that they contain only limited information on coverage and, since data on income is not available, education level of the household head is used as proxy for income. The study assumes that households headed by someone with no education tend to be poor, while households headed by someone with at least a

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<sup>153</sup> Communiqué: Tripartite & IGAD Infrastructure Investment Conference, p2

<sup>154</sup> Jerome, A & Ariyo, A 'Infrastructure, Reform and Poverty Reduction in Africa' available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012),16

<sup>155</sup> Jerome, A & Ariyo, A 'Infrastructure, Reform and Poverty Reduction in Africa' available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012),39

secondary education tend to be higher-income. A study of households headed by individuals with secondary education or higher has indicated that these households were far more likely to have infrastructure connections than households headed by individuals with no education, with the difference especially large in low-income countries in Africa and Latin America.<sup>156</sup>

The following example can be used to further illustrate the need for basic infrastructure services in poor communities. It is often said that access to basic infrastructure could help increase the earnings of households both by making their work more productive and by freeing the time allocated to domestic chores and allocating such time saving to productive work. Households face a 'time overhead' constraint<sup>157</sup>. Access to basic infrastructure can significantly reduce this time overhead constraint and thereby free time for productive work. The argument is that households which lack access to basic infrastructure tend to be poor and because most of these households have members who want to work longer hours to increase their earnings, access to infrastructure could effectively reduce poverty through a reallocation of household members' time.<sup>158</sup> This time could then be reallocated not only to longer working hours, but to time spent on education and increase the number of educated members in the household.

#### **4.4.7 The Effect of Infrastructure Reform on the poor**

Thus far the reform process has been deeply flawed. It often lacks procedural transparency and benefited well organized and powerful

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<sup>156</sup>Jerome, A & Ariyo, A 'Infrastructure, Reform and Poverty Reduction in Africa' available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012), 39

<sup>157</sup>the minimum number of hours that household members must spend on basic chores which are vital to the well-being and survival of the family unit in poor communities. This burden includes time spent preparing meals, washing clothes, cleaning, transporting water and gathering fuel for cooking.

<sup>158</sup>Foster, V & Briceno-Garmendia (eds), *Africa's Infrastructure: A Time for Transformation*, (2010) 95

interest groups. In some cases, it resulted in too rapid price increases that adversely affected the poor segments of the population. Overall, infrastructure privatization has proceeded without adequate consideration being given to the needs of the poor. Even in telecommunications where privatization has improved national access to services through network expansion, weak regulation has had a negative impact on the poor through poor service quality and service cutbacks amongst other effects.<sup>159</sup>

Regulatory weaknesses underscore most failed attempts at infrastructure reform and privatization in Africa. Many African countries hastily adopted regulatory templates from developed countries due to pressure from multilateral organisations. These models are rarely adapted to the political and institutional features prevalent in developing countries. Consequently, these efforts have had limited successes or failed dismally. Lessons from the past decade indicate the importance of planning for credible and efficient regulation, including its economic content and institutional architecture prior to reform. There is growing consensus around the key design features for a modern regulatory agency. The main features of effective regulation of privatized utilities are coherence, independence, accountability, predictability, transparency and capacity. Moreover, they need to be adapted to fit the country needs.<sup>160</sup>

## 4.5 Conclusion

It is my submission that the T-FTA and its organs, programmes and policies will learn a valuable lesson from the above and should similarly prescribe to the features of an effective regulatory body, namely that which has the features of being coherent, independent of political influence,

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<sup>159</sup>Jerome, A & Ariyo, A 'Infrastructure, Reform and Poverty Reduction in Africa' available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012), p 42

<sup>160</sup>Jerome, A & Ariyo, A 'Infrastructure, Reform and Poverty Reduction in Africa' available at <http://www.tips.org.za/files/infrastructure> (accessed on 9 July 2012), p 43

transparent and accountable to its people, predictable to create a good environment within which to conduct business and to attract investment, have the capacity to deal with issues and challenges and adapt to the needs of the particular region and or country requiring reform.

The vision and ultimate objective for Africa should be to create a single market that is competitive within the global economy. Africa can only prosper and provide a credible quality of life for its people by opening up the continent to function as a single vibrant market. A critical pre-requisite to this is regional infrastructure integration across Africa, which can be achieved with the successful implementation of the T-FTA.

Regional approaches to infrastructure development, such as the proposed T-FTA once successfully implemented, has the potential to address the deficiencies in infrastructure development in Africa, advance economic growth and increased trade and in turn become the driving force in reducing poverty.



## CHAPTER 5

### 5. CONCLUSION

It is clear from the above discussion that there has been a proliferation of regional integration arrangements in Africa, many of which are characterised by ambitious goals and agendas aimed at developing and transforming the African economic landscape. The integration agenda of the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC) is a clear example of this.

The problems faced in the arrangements and in particular in COMESA and SADC, point to a lack of political will and commitment which has impeded the organisations in achieving the aims set out in their vision and mission. This lack of political commitment is evident from the report on the 32nd Annual Summit of the SADC, where the implementation of a customs union is referred to, but it fails to expressly mention a timeframe for its implementation. It therefore remains unclear as to when this aim will be achieved. It is also reflected in the fact that the leaders in the larger economies of the region have not taken on active roles as champions of regional integration and liberalisation. Going forward, both COMESA and SADC have plans to form customs unions, although the plans of COMESA are more advanced than that of the SADC. It will be important to ensure that the customs unions are implemented in a way that furthers the goals of liberalisation.<sup>161</sup>

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<sup>161</sup> Refer to chapter 2 in the discussion on regional integration in COMESA, EAC and SADC

Neither COMESA nor SADC have achieved their initial objectives as set out in their respective treaties, in that COMESA has failed to become a customs union by 2004 and SADC by 2010, and these arrangements keep shifting the goal posts and from the recent SADC Summit it is unclear as to when this goal is to be achieved. The annual summit of COMESA is scheduled for November of this year and we will therefore await the report as to the achievements and way forward for the region.

Of the three regional trade arrangements discussed<sup>162</sup>, the EAC is the only one which has achieved its goal of forming a customs union and more recently a common market. Perhaps COMESA and SADC can take some lessons from the EAC. As a whole it would seem that these individual and smaller trading blocks are far from reaching their potential and far from achieving the goal of becoming a more powerful voice on the world forum during trade negotiations with the other major players.

On the one hand the T-FTA can be viewed as just another grand scheme with ambitious goals and agendas which, unless it capitalises on the opportunities<sup>163</sup> and addresses the challenges<sup>164</sup>, will not achieve the aims set out in the final Communiqué. However member states have the potential to change this, if the challenges are successfully addressed and the opportunities embraced, if the timeframes for the implementation are realistic and if the leaders and major economies of COMESA, EAC and SADC display a commitment and the political will to participate and implement the programmes and build on the successes that have in fact been achieved by the member states.

COMESA, the EAC and SADC have committed themselves to form a unified FTA. Therefore if the legal and institutional aspects of the T-FTA are properly designed and implemented there could be a major

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<sup>162</sup> Chapter 2, sub paragraphs 2.2, 2.3 and 2.4

<sup>163</sup> Set out in chapter, subparagraph 3.4.1

<sup>164</sup> Set out in chapter 3, subparagraph 3.4.2

improvement in how and how much African Nations trade with each other. This will however require a fresh approach in the form of a modest design, strong commitment by leaders and timeous implementation of programmes, and not a repetition of what has already been done in Africa.

After only a year since the FTA negotiations were officially launched at the Second Tripartite Summit in June 2011, much has already been achieved in the negotiating arena with the formulation of programmes for the implementation of the three pillars.<sup>165</sup> All member states agreed on the principles, processes, scope and roadmap for establishing the T-FTA. This in itself is a great achievement for the continent and a display of good faith on the part of the leaders. The T-FTA, can be achieved if African leaders display sufficient political will, co-operation by the heads of member States and demonstrate a commitment to implementing the programmes and achieving the aims set out in the Summit which launched the T-FTA in 2008.

It is my submission that the T-FTA and its organs, programmes and policies will learn a valuable lesson from what has been done before, build on the achievements of COMESA, the EAC and SADC and prescribe to the features of an effective regulatory body, namely that which has the features of being coherent, independent of political influence, transparent and accountable to its people, predictable in order to create a good environment within which to conduct business and to attract investment, have the capacity to deal with issues and challenges and adapt to the needs of the particular region and or country requiring reform.

The vision and ultimate objective for Africa should be to create a single market that is competitive within itself and within the global economy. Africa can only prosper and grow and provide a credible quality of life for the majority of its people by opening up the continent to function not as

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<sup>165</sup> The three pillars are discussed in chapter 3, subparagraph 3.2

closed fragmented markets but as a single vibrant market. A critical prerequisite to this is regional infrastructure integration across Africa, which can be achieved with the successful implementation of the T-FTA.

Regional approaches to infrastructure development, such as the proposed T-FTA once successfully implemented, therefore has the potential to address the deficiencies in infrastructure development in Africa, advance economic growth and increased trade and in turn become the driving force in reducing poverty and thus serve its purpose of liberalising trade and alleviating poverty in Africa.



## BIBLIOGRAPHY

### Books:

Stephan, H, Power, M, Hervey, A & Fonseca, R.S *The Scramble for Africa in the 21st Century - A view from the South*, (2006):Renaissance Press

Schiff, M.W & Winters, L. *A Regional Integration and Development*, (2003): World Bank and Oxford University Press

Foster, V & Briceno-Garmendia (eds), *Africa's Infrastructure: A Time for Transformation*, (2010) The International Bank for Reconstruction and Development/The World Bank

McCarthy, C, Cronje, JB & Denner, W et al *Supporting Regional Integration in East and Southern Africa: Review of Select Issues*, (2010):Trade Law Centre for Southern Africa, The Royal Danish Embassy

Hartzenberg, T, Erasmus, G & Du Pisanie, A (eds)*Monitoring Regional Integration in Southern Africa* (2011) Trade Law Centre for Southern Africa

Carim, X, Hartzenberg, T, Kalaba, M et al, *From Cape to Cairo: Exploring the COMESA-EAC-SADC Free Trade Area* (2009) Trade Law Centre for Southern Africa

Hartzenberg, T, Kalenga, P, Mathis, J et al, *Cape to Cairo: Making the Tripartite Free Trade Area work* (2011) Trade Law Centre for Southern Africa

Hartzenberg, T, Erasmus, G & McCarthy, C *Tripartite Free Trade Area: Towards a new African paradigm?* (2012): Trade Law Centre for Southern Africa

### **Journal Articles:**

Sawkut, R, Boopen & Seetanah 'An Assessment of the Impact of a COMESA Customs Union'. Jun/Jul2010, Vol. 22 Issue 2, African Development Review p331-345.

O Ajakaiye 'Infrastructure and economic development in Africa: An overview' (2010) Journal of African Economies

Chacha, M 'Regional Integration and Trade: Overlapping memberships and the Challenges of Regionalism in Africa', (2008) Conference Papers -- International Studies Association Annual Meeting, p1-27

Ademola Oyfjide, T 'Regional Integration and Trade Liberalisation in Sub-Saharan Africa', 1997, *African Economic Research Consortium*

Kwaku, D 'The African Economic Community: Problems and Prospects' (1995), Vol 24, No.4, *Africa Today The Politics of Economic Integration*, Indiana University Press pp 31-55

Afeikhana, J 'Infrastructure, economic growth and poverty reduction in Africa' (Dec 2011) Vol 3, no.2, *Journal of Infrastructure Development*

'The achievements and challenges of the New Partnership for Africa's Development', (June 2009) vol 36, no.2, *Africa Insight*, p25-34

'SADC Africa's most successful regional community' (Nov2010)500, *New African*, p51-54.

### **Internet**

L Edward 'How Integrated is SADC? Trends in Intra-Regional and Extra-Regional Trade' available at

<http://library1.nida.ac.th/worldbank/fulltext/wps05625.pdf>(accessed on 7 July 2012)

Hansohm, D 'Macroeconomic Trends in SADC' available at

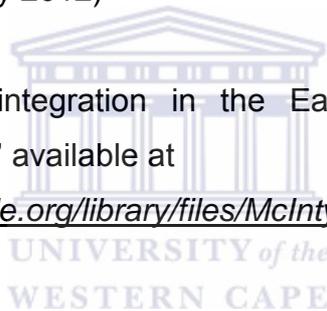
[http://www.kas.de/db\\_files/dokumente/7\\_dokument\\_dok\\_pdf\\_2759\\_1.pdf#page=21](http://www.kas.de/db_files/dokumente/7_dokument_dok_pdf_2759_1.pdf#page=21)(accessed on 7 July 2012)

Busse, M & Shams, R 'Trade Effects of the East African Community: Do we Need a Transitional Fund' available at

<http://elibrary.costech.or.tz/collect/reports1/index/assoc/HASH7eb1.dir/doc.pdf>(accessed on 7 July 2012)

McIntyre, M 'Trade integration in the East African Community: An Assessment for Kenya' available at

[http://www.acp-eu-trade.org/library/files/McIntyre\\_EN\\_0705\\_IMF](http://www.acp-eu-trade.org/library/files/McIntyre_EN_0705_IMF)(accessed on 7 July 2012)



Kalaba, M, Willcox, et al 'Deepening Integration in SADC: Macroeconomic Policies and their Impact–The case of South Africa' available at

[http://www.tralac.org/wp-content/blogs.dir/12/files/2011/uploads/20060531\\_SADC\\_Country%20Study\\_%20SA.pdf](http://www.tralac.org/wp-content/blogs.dir/12/files/2011/uploads/20060531_SADC_Country%20Study_%20SA.pdf)(accessed on 7 July 2012)

Khandelwal, P 'COMESA and SADC: Prospects and Challenges for Regional Trade Integration' available at

[http://www.acp-eutrade.org/library/files/Khandelwal\\_EN\\_1204\\_IMF\\_COMESA-and-SADC-Prospects-and-challenges-for-regional-trade-integration.pdf](http://www.acp-eutrade.org/library/files/Khandelwal_EN_1204_IMF_COMESA-and-SADC-Prospects-and-challenges-for-regional-trade-integration.pdf)(accessed on 7 July 2012)

Langhammer, RJ 'Regional Integration among developing countries: opportunities, obstacles and options' available at <http://www.econstor.eu/bitstream/10419/416/1/025664646.pdf>(accessed on 7 July 2012)

Charalambides, N 'The private sector's perspective, priorities and role in regional integration and implications for regional trade arrangements' available at [http://spiderman.ecdpm.org/Web\\_ECDPM/Web/Content/Download.nsf/0/440D62140D9C3A1DC125708200485BB8/\\$FILE/05-66-NCharalambides.pdf](http://spiderman.ecdpm.org/Web_ECDPM/Web/Content/Download.nsf/0/440D62140D9C3A1DC125708200485BB8/$FILE/05-66-NCharalambides.pdf)(accessed on 7 July 2012)

Meyn, M 'Regional Integration and EPA Configurations in Southern and Eastern Africa– What are the Feasible Alternatives' available at <http://www.seatini.org/bulletins/pdf/2006/Bulletin%209.07%20Regional%20Integration.pdf>(accessed on 7 July 2012)

Longo R & Sekkat, K 'Economic obstacles to expanding intra-African trade' available at [http://www.accordsdepeche.com/fichiers/docs/bibli\\_08/865.pdf](http://www.accordsdepeche.com/fichiers/docs/bibli_08/865.pdf)(accessed on 7 July 2012)

Abuka, C et al 'Africa in the World Economy-The National, Regional and International Challenges', <http://www.fondad.org>(accessed on 9 July 2012)

R Mayer, K Figueredo, M Jensen et al 'Connecting the Continent: Costing the Needs for Spending on ICT Infrastructure in Africa' available at <http://www.infrastructureafrica.org/system/files/BP3 ICT spdq maintxt 1.pdf>(accessed on 9 July 20102)

Jerome, A& Ariyo, A 'Infrastructure, Reform and Poverty Reduction in Africa' available at

[http://www.tips.org.za/files/infrastructure\\_Reform\\_Jerome.pdf](http://www.tips.org.za/files/infrastructure_Reform_Jerome.pdf)(accessed on 9 July 2012)

Jerome, A 'Infrastructure in Africa: The Record' available at [http://www.energytoolbox.org/library/infra2007/references/infrastructure\\_concepts+trends/Infrastructure\\_in\\_Africa-The\\_Record.pdf](http://www.energytoolbox.org/library/infra2007/references/infrastructure_concepts+trends/Infrastructure_in_Africa-The_Record.pdf) (accessed on 09 July 2012)

Straus, S 'Infrastructure and Growth in Developing Countries: Recent Advances and Research Challenges' available at

<https://dipot.ulb.ac.be/dspace/bitstream/2013/5883/1/dv-0012.pdf>(accessed on 9 July 2012)

Calderon, C& Serven, L 'Infrastructure and economic development in Sub-Saharan Africa' available at

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1265484](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1265484)(accessed on 9 July 2012)

Ahmed, R & Donovan, C 'Issues of Infrastructural Development: A synthesis of the Literature', available at

<http://www.ifpri.org/publication/issues-infrastructural-development>(accessed on 09 July 2012)

Simuyemba, S 'Linking Africa through Regional Infrastructure', available at

<http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/00157662-EN-ERP-64.PDF>(accessed on 9 July 2012)

Brushet, S 'Management and Financing of Road Transport Infrastructure in Africa' available at

[http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2007/01/25/000020953\\_20070125083035/Rendered/PDF/384540ENGLISH01nsport0dp0401PUBLIC1.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2007/01/25/000020953_20070125083035/Rendered/PDF/384540ENGLISH01nsport0dp0401PUBLIC1.pdf)(accessed on 9 July 2012)

G Porter 'Transport Planning in Sub-Saharan Africa' available at <http://dro.dur.ac.uk/5039/1/5039.pdf>(accessed on 9 July 2012)

Negotiating Africa's largest trading bloc: A year of progress, September 2009, available at <http://www.trademarksa.org> (accessed on 25 September 2012)

COMESA Vision and Mission available at <http://www.comesa.int/fta: Vision and Mission> (accessed on 19 August 2012)

## Other

Elich, G, 'What free trade is doing to Africa' (June 2010) 496, p72-74

'Unleashing Africa's Potential as a Pole of Global Growth' 2012 Economic Report on Africa

Chauvin, S & Guillaume, G 'Prospects for Increasing Trade amongst SADC Countries', Trade and Industrial Policy Strategies 2002 Annual Forum

Fundira, T 'Regional Integration: A discussion on the proposed Tripartite FTA' (October 2010) 3, Regional Development Briefing

Communiqué of the 10<sup>th</sup> EAC Summit, April 2012

Communiqué of the Second COMESA-EAC-SADC TRIPARTITE SUMMIT, 12 June 2011

Communiqué of the Tripartite and IGAD Infrastructure Investment Conference, 29 September 2011

Declaration Launching the Negotiations for the Establishment of the Tripartite Free Trade Area, 12 June 2011

TradeMark Southern Africa, 'Negotiating the COMESA-EAC-SADC Tripartite Free Trade Area', Jan 2011, Aid For Trade Case Story

EAC Development Strategy, Extracts

EAC Development Strategy 2006-2010

'Unleashing investment opportunities in Africa's largest economic community. (March 2010) 409 Middle East., p47

Final Communiqué of the 32<sup>nd</sup> Summit of SADC Heads of State and Government, August 2012

**Websites:**

TradeMark SA: [www.trademarksa.org](http://www.trademarksa.org)

JSTOR: [www.jstor.org](http://www.jstor.org)

Tralac: [www.tralac.org](http://www.tralac.org)

[www.uneca.org](http://www.uneca.org)

[www.sardc.net](http://www.sardc.net)

[www.eac.int](http://www.eac.int)

[www.sadc.int](http://www.sadc.int)

[www.comesa.int](http://www.comesa.int)

World Trade Organisation: [www.wto.org](http://www.wto.org)

Wiley online library

worldbank.org

