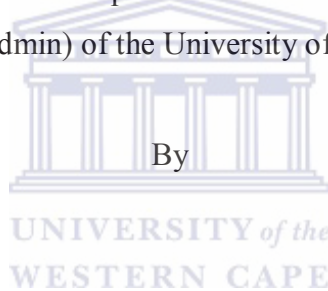


The COMESA, EAC and SADC Tri-partite Free Trade Agreement: Prospects and
Challenges for the Regions and Africa

Thesis

Submitted in fulfilment of the requirements for the degree of MASTER OF
POLITICS (M. Admin) of the University of the Western Cape



By

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Key words: Regional integration, economic integration, Tripartite – Free Trade Area, Common Market for Eastern and Southern Africa, East African Community, Southern African Development Community, overlapping membership.

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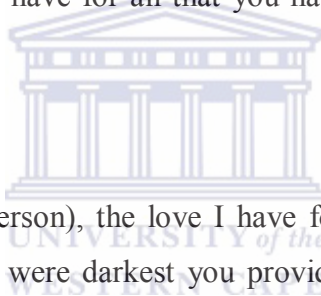
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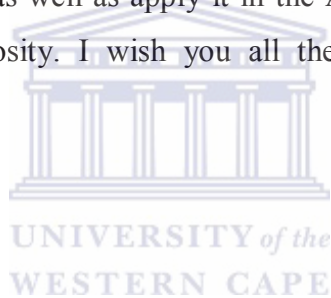


To my Ouma (Millicent Anderson), the love I have for you cannot be expressed in words or action. When times were darkest you provided a roof over our heads and showed what can only be called unconditional love. Initially we did not see eye to eye. Luckily, I realised in time that you were moulding me into the man that I have become. The influence which you have had on my life has been phenomenal. You changed me from a self-centred and lazy individual to a loving, caring and pro-active person. Without those traits I would not have been able to complete this dissertation.

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Abstract

The tri-partite initiative in and for Africa has been accompanied by high levels of optimism since its political endorsement in 2008. It provides for an opportunity to resolve a host of problems with regards to regional integration in Eastern and Southern Africa. The overall aim of this study is to explore the prospects and challenges towards realising the Tri-partite Free Trade Area (T-FTA) in and for Africa. This study is pragmatic and implicitly seeks to uncover how the T-FTA could contribute to the African Regional Integration Project (ARIP), given the challenges that regional integration face in Africa.

Regional integration has a long and rich history in Africa, which started at the inception of independence. Unfortunately, Africa's attempts at regional integration have been weak since the start and persist in its superficial nature with little developmental impact. The reasons for the lack of meaningful integration in Africa are wide-ranging and span national, regional and system level analytical viewpoints. They encompass areas such as developmental levels, political will, respect for regional architecture, overlapping membership and the Economic Partnership Agreements (EPAs). These factors impact on the integration process in Africa and explain in varied ways why there has been little comprehensive economic integration.

The starting point was to define the complex concept of regional integration. The dominant factors that define and affect regional integration in this study are that it is a state-based exercise, driven by economic integration, and influenced by the global political economy of the day. It was determined that Africa has adapted its regional integration strategies according to the shifts and influences in the global political economy on states, emanating from the post WWII period to the present day. The impact of the global economy on Africa since independence was great and is viewed as largely negative. Africa's individual states are weak and this has had a fundamental impact on the integration process. Regional integration is essentially a state to state process thus, weak states create weak integration and this is evident in Africa's pursuit for integration. Essentially, regional integration is being pursued by states that

are still struggling to consolidate statehood, and this leaves little space to move towards a regional approach. However, given the dynamics of a globalised world, regional integration as a strategy is no longer questioned in Africa and is an important component of its developmental agenda.

Clarifying the T-FTA was important, and this was done in order to highlight what the tri-partite initiative is and is not. This provided for an opportunity to investigate what the dominant areas are that have informed the emergence of the tri-partite process. The former was found to be largely economic in nature, focusing on harmonising the trade regimes of COMESA, EAC and SADC as a primary motivation. The tri-partite initiative will facilitate and encourage the harmonisation of trade regimes by stressing market integration, infrastructure development and industrialisation, coupled by a developmental approach. This is promising, as the tri-partite initiative seeks to simultaneously deal with many issues that have been commonly associated with the problems that regional integration face in Africa. When viewing the negotiating context, as well as the principles upon which it is to be based, indicate though, that Africa still favours individual state interest that will be hard to reconcile given that the tri-partite region currently has 26 participant states. In terms of economic integration, the T-FTA seeks to put new generation trade issues on the agenda by including services, movement of persons as well as trade facilitation, all of which have been found to be important in realising a trade in goods agenda that is the focus of regional integration in Africa.

Analysing the grassroots realities of the market integration pillar offered some valuable insights towards the purposes of this study. The market integration pillar is inundated with challenges, with Rules of Origin (RoO) being the primary challenge towards consolidating the trade in goods agenda on a tri-partite level. New generation trade issues are going to be equally difficult to realise, given that they have no implementation record in the individual Regional Economic Communities (RECs). Promising though is that trade facilitation has already seen positive results by resolving non tariff barriers in the regions.

Infrastructure development is equally challenging, although it provides a significant opportunity to create better connectivity (physical integration) between states. In terms of contributing to Africa's integration project, the infrastructure pillar offers a lot of pan-African goals that directly feed into initiatives of the African Union (AU) and the New Partnership for Africa's Development (NEPAD). The industrialisation pillar has not as yet created any concrete tri-partite plans, so it remains to be seen what can be achieved. Ideally, industrialisation is viewed as the pillar that will solve the supply-side constraints of African economies hence, strengthening the trade in goods agenda in the regions.

Even though the T-FTA has practical challenges to implementation, there are at least two underlying factors that indirectly affect the prospects of realising the tripartite initiative. The EPAs are an emergent threat in that they run parallel to tripartite negotiations; and respect for a rules based integration process, are issues that warrant consideration.



Fundamentally, in order to achieve a successful T-FTA will require a shift in the way business is done in African integration. African states need to realise that their national interests are best served through cooperation, in meaningful ways. Inevitably this requires good faith as well as ceding some sovereignty towards regional goals. Thus, there is a risk that the T-FTA could become yet another 'grand plan' which is not realised. The fundamentals of political will, economic polarisation and instability have to be resolved. This will lay an appropriate foundation for the tripartite initiative to be sustainable, with developmental impact.

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Abbreviations

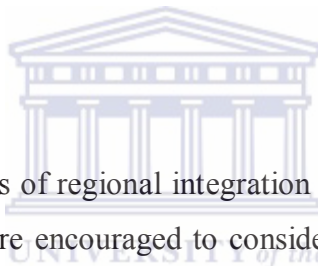
ADB	African Development Bank
AEC	African Economic Community
ARIP	African Regional Integration Project
ASEAN	Association of South East Asian Nations
AU	African Union
AUC	African Union Commission
CEMAC	Central African Economic and Monetary Community
CEN SAD	Community of Sahel-Saharan States
CEO	Chief Executive Officer
CET	Common External Tariff
CM	Common Market
COMESA	Common Market for Eastern and Southern Africa
DRC	Democratic Republic of Congo
EAC	East African Community
ECA	Economic Commission for Africa
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
EEC	European Economic Community
EPAs	Economic Partnership Agreements
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Trade and Tariffs
GDP	Gross Domestic Product
ICT	Information Communication Technology
IGAD	Intergovernmental Authority on Development
IMF	International Monetary Fund
IOC	Indian Ocean Commission
ISI	Import Substitution Industrialisation
LDCs	Least Developed Countries
LPA	Lagos Plan of Action
MAD	Mutually Assured Destruction

MERCOSUR	Mercado Common del Sur
MFN	Most Favoured Nation
MRU	Manu River Union
MoU	Memorandum of Understanding
NEPAD	New Partnership for Africa's Development
OAU	Organisation of African Unity
ODA	Official Development Assistance
PTA	Preferential Trade Agreement
RECs	Regional Economic Communities
RIA	Regional Integration Agreement
RoO	Rules of Origin
RTA	Regional Trade Agreement
SA	South Africa
SACU	Southern African Custom Union
SADC	Southern African Development Community
SADCC	Southern African Development Coordinating Conference
SAPs	Structural Adjustment Programs
SAT	Substantially All Trade
TFTA	Tripartite Free Trade Agreement
ToR	Terms of Reference
TTF	Tripartite Task Force
UEMOA	West African Economic and Monetary Union
UMA	Arab Maghreb Union
UNCTAD	United Nations Conference on Trade and Development
USA	United States of America
WB	World Bank
WTO	World Trade Organisation
WWI	World War I
WWII	World War II
YD	Yamoussoukro Declaration

Chapter 1: Introduction

1.1 Introduction

Over the last two decades, states have demonstrated a growing interest in regional integration across the international system. A surge of regional initiatives have developed during this period, including, but not limited to the North American Free Trade Area (NAFTA), the Association of the Southeast Asian Nations (ASEAN) and *Mercado Comun del Sur* (MERCOSUR). The results of these regional exercises across the world have varied in accordance with the changing international environment for individual and groups of states (Trivedi, 2005, p. 5-9 and Buthelezi, 2006, p. 13-51). Successful regional integration initiatives are not the standard though. It is, however, widely recognised that the formation of the European Union (EU) in 1993 and its accomplishments regarding integrating Europe, is seen as the benchmark for regionalism across the world (Lee, 2003, p. 33 and Venter & Neuland, 2007, p. 39-47).



As the above-mentioned examples of regional integration initiatives have gained momentum over the years, African states were encouraged to consider the issue of regional integration seriously in an attempt to avoid marginalisation in the international system and the global economy (Geda & Kibret, 2007, p. 3). Accordingly, African states over the last two decades made concerted efforts to integrate on various platforms, thus not entirely lagging behind the rest of the world in terms of regional integration. According to the African Development Bank (2000, p. 1): “The fragmentation of Africa into many nation states with scant economic coherence led African leaders, following political independence, to embrace regional integration as a central element of their development strategy”. African states have gradually increased their efforts at political and economic integration through initiatives such as the Lagos Plan of Action in 1980 and the treaty establishing the African Economic Community (AEC), which was signed in 1991 and came into force three years later (Jakobeit, Hartzenberg and Charalambides, 2005, p. 5). The AEC aims to increase the capacity of African states to define, control, sustain and defend productive activity and social development within individual state borders (Buthelezi, 2006, p. 18).

The AEC operates as a separate legal instrument to the African Union (AU) and is supposed to guide economic integration of the eight recognised Regional Economic Communities (RECs) into an Africa wide continental economic unit. According to Ndomo (2009, p. 8-9), the afore-mentioned eight recognised RECs include the:

- Arab Maghreb Union (UMA);
- East African Community (EAC);
- Economic Community of West African States (ECOWAS);
- Southern African Development Community (SADC);
- Community of Sahel-Saharan States (CEN-SAD);
- Inter-governmental Authority on Development (IGAD);
- Common Market for Eastern and Southern Africa (COMESA); and
- Economic Community of Central African States (ECCAS).

These recognised RECs interact alongside six sub-regional economic communities in Africa, namely the Central African Economic and Monetary Community (CEMAC); the Economic Community of Great Lakes Countries (CEPGL); the Indian Ocean Commission (IOC); the Mano River Union (MRU); the Southern African Customs Union (SACU), and the West African Economic and Monetary Union (UEMOA) (Selelo, 2010, p. 7).

According to Article four of the AEC Treaty (1994, p. 7-8), a number of stages are to be completed if the goal of African economic integration is to be achieved. These stages include the following:

- Strengthening of existing RECs;
- Conclusion of agreements aimed at harmonising and coordinating policies among existing sub-regional communities and RECs;
- Promotion and strengthening of joint investment programmes;
- Liberalisation of trade through removing customs duties levied on imports and exports as well as removing non-tariff barriers in order to establish Free Trade Agreements (FTAs) at the level of each REC; and

- Harmonisation of national policies to promote joint cooperation in agriculture, industry, transport, communications, energy, natural resources, trade and finance.

In principle, the AEC declaration offers a framework for underwriting economic policy reform through international agreements (Buthulezi, 2006, p. 20). This is labelled as the African Regional Integration Project (ARIP) and all African states and their RECs are attempting to achieve its terms of economic integration.

The member states of the three RECs which span the Eastern and Southern African regions, namely COMESA, EAC and SADC, have acknowledged that significant challenges exist in their pursuit to achieve economic integration in these regions. In Africa, multiple memberships to RECs or more generally Regional Integration Agreements (RIAs) by African states are unrivalled in number, with more complex and dense configurations than other parts of the world. The most notable challenge to regional economic integration is the issue of overlapping membership which results from these complex and dense groupings. The Tripartite Free Trade Area (T-FTA) has been proposed as a strategy to combat the growing trend of overlapping membership of the three RECs and is endorsed by the Minimum Integration Plan of the AU as a viable solution to ending, or at least rationalising, current overlaps in membership, not just in the region, but in Africa as a whole (AUC, 2010, p. 11-17).¹

However, the overlapping membership issue is not the sole area of contention when viewing the ARIP. Africa faces a number of challenges in enhancing its regional economic cooperation, including factors that reside at the national, regional and system (global) levels that might impact on the effectiveness of the T-FTA. This study aims to describe these challenges and analyse the prospects of success of the T-FTA to contribute to the ARIP and to enhance inter-REC cooperation in four key areas that were identified at the first Tri-partite Summit held in 2008. These key areas are:

¹ The T-FTA refers broadly to the larger African geographic space. At this stage, it should be noted that within the context of this particular study, reference to T-FTA also encompasses reference to the Free Trade Agreement.

- Establishing trade arrangements among COMESA, EAC and SADC;
- Enhancing inter-REC economic cooperation;
- Free movement of business persons; and
- Enhanced inter-REC cooperation on multilateral/bilateral trade negotiations.

It should be stressed that the T-FTA is not as yet a reality and at the time of writing it was still being negotiated. Thus, it has not been finalised and/ or officially been operationalised. However, the conceptualisation of the T-FTA is quite advanced and the trajectory of what the T-FTA as a policy programme will look like is already discernible, making it an opportune time for this study. The latter is deemed to be viable and aims to ascertain whether the T-FTA as it currently is being conceptualised, will ultimately resolve the challenges pertaining to integration in Africa and/ or contribute to the ARIP.



1.2. Problem statement

The significance of the T-FTA and hence the research question pursued in this study is related to challenges to regional integration in Africa. These challenges are explored below at three levels of analysis, i.e. the national level (e.g. domestic factors, such as political will); regional level (e.g. varied integration levels and overlapping membership), and system level (e.g. negotiating EPAs with external actors).

1.2.1 National level

There are great disparities among African states. The most pertinent of these are evident in the varying levels of development, democracy, social cohesion and stability amongst these states. These are further exacerbated, on the one hand, by a general lack of infrastructure; transport; communications; and, on the other, not unrelated economic development, specifically export orientated industrial development. Leshaba (2002, p. 4-5) highlights that at the national level inappropriate economic policies, such as inward-looking development

strategies, emphasising import substitution behind high barriers to trade, lack of political will, local conflicts and civil strife, insufficient knowledge to implement integration measures and a lack of private sector involvement as key factors explaining the low levels of intra-regional trade in Africa. According to Leshaba (2002, p. 3-5), Lee (2003, p. 2-28) and Buthulezi (2006, p. 77-78), the culmination of these afore-mentioned problems and weaknesses resides at the national level. Political will, stability, outward-looking development strategies and the know-how to implement integration measures with the aid of the private sector, are all prerequisites for trade in and between RECs and thus for effective regional economic integration. Regional integration is often an exercise initiated between weak African states that have not succeeded in consolidating the foundation of (their) statehood yet. As a result, if the states attempting to integrate are weak, so will their efforts at regional integration be.²

The linkages and mandates of RECs to their member states are generally weak in Africa. This relates to the inability of regional bodies to enforce their mandates and protocols on member states. African states tend to protect their sovereignty and most often are of the opinion that national policy should be the exclusive business of the state, thus creating further complications in aligning regional and national policy frameworks (Nyirabu, 2004, p. 25). This assertion has significantly stonewalled the cooperation arrangements and attempts of member states, especially in terms of economic integration. The lack of centrally coordinated mechanisms that can monitor and enforce agreed policies and principles is related to the power deficit in regional institutions across Africa (Nyirabu, 2004, p. 27). This gives rise to regional institutions lacking the power(s) to enforce collective decisions and protocols made collectively. Chingono and Nakara (2009, p. 2) note that Eastern and Southern Africa do not have an extensive history of common action and collective policy formulation. Nyirabu (2004, p. 26-27) adds that few countries in Southern Africa have mechanisms that are responsible for aligning national policy to regional plans through constructing separate departments or aligning current ones to the region. Trade driven integration may not be beneficial in weak institutional contexts and may further contribute to disparities among member states (Verdier, 2010, p. 6). This forms part of a much wider debate around the lack of a rules based dispensation at the regional level, which is critical for effective regional

² Weak states have critical gaps in providing physical security, legitimate political institutions, economic management and/ or social welfare. They are legal entities that cannot exercise full claim over sovereignty (Patrick, 2006, p. 29).

integration (Hartzenberg, 2011b, p. 18-19; Erasmus, 2011, p. 86 and Erasmus, 2012, p. 7). Integration of any kind will not be possible in the absence of rules and law that strengthen predictability and builds trust between participating states.

On a fundamental level, Africa's Malthusian economies are an immediate barrier to regional integration.³ The problem with economic integration in the African context is that African states have historically addressed regional integration with an almost exclusive focus on a market integration model as prescribed and strengthened by the European model as an ideal type, rather than opting for a context-specific 'success' story. Thus, Africa has been applying FTAs in its classical sense by focusing on a 'trade in goods agenda' that follows a classical logic and as such are viewed as shallow efforts at integration. On the one hand, the problem with a trade in goods agenda in Africa is that African states on the whole do not have the capacity to produce products which would be eligible for preferential trade. On the other hand, recent trends in PTAs indicate that trade in services are increasingly playing a more prominent role, implying the need for a deeper integration as opposed to a classically defined shallow integration stage. Therefore, Africa's efforts at integration are fundamentally facing two important problems at the national level: Following a classic integration strategy does not suit the particular economic realities of most African states and it is outdated when viewing other developing regions such as the ASEAN, which has managed to use their regional FTA to accrue immense economic growth in a globalised world.

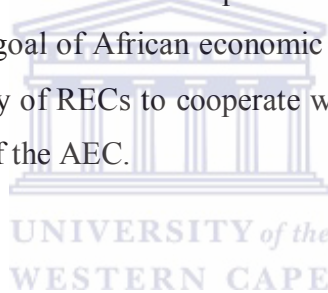
1.2.2 Regional level

The process of regional integration within the three RECs is varied and is in itself a problem towards deepening economic integration among them. However, they have similarities in that the COMESA, EAC and SADC are pursuing market integration as a primary driver for regional integration (ECA, 2010, p. 4). The strategies which they are utilising in this regard are, however, unique to each economic community with different approaches, timeframes and

³ Reinert (2008, p. 151-164) discusses developing economies that are primary producers of commodities which trade on an export base, which in the medium to long term has diminishing returns in production, whilst also harbouring the short and medium to long term challenge of a locked in relationship, which favours stronger, more industrialised nations. Economies specialising in sectors with diminishing returns are referred to as Malthusian economies. These economies specialise in sectors that subordinate them to the lowest level of economic return; in actual fact, the returns diminish instead of increase over time.

goals (Lee, 2003, p. 1-3). The degree of integration of each of the RECs are at different levels, thus, as each REC moves to deeper integration, multiple membership of RECs will become legally and technically even harder to maintain.

The EAC is already recognised as a Customs Union (CU); SADC has an FTA in place, and COMESA has established a CU in 2009 comprising a few commodities. There is no logical rationale for member states to engage in two CUs with different external tariffs, unless tariff regimes are harmonised (Jakobeit, *et al*, 2005, p. x and Buthulezi, 2006, p. 3). Also, member states with overlapping membership makes it even harder to facilitate inter regional trade through the adoption of different Rules of Origin (RoO), administrative duplication and fundamentally having different trade regimes with varying costs to engage in business (ECA, 2006, p. 7). Essentially, the three RECs are presently in competition with each other, presenting opportunities for conflict instead of cooperation. This situation constitutes a direct contradiction of the overarching goal of African economic integration and the aims of ARIP, which relies heavily on the ability of RECs to cooperate with each other and not compete in order to facilitate the formation of the AEC.



In comparison with other parts of Africa, overlapping membership is more prevalent in the Eastern and Southern African regions. While COMESA has 19 member states⁴, EAC⁵ and SADC have five and 15⁶ member states, respectively (Mackie *et al*. 2010, p. 7-9). For example, the EACs member states are all part of either, COMESA and/ or SADC; over two thirds of SADCs membership overlap with COMESA; and almost all of COMESAs member states are part of the EAC or SADC (COMESA-EAC-SADC, 2008, p. 2). Therefore, 10 members across SADC, COMESA and EAC are part of CUs when SACU is transplanted onto the overlapping membership landscape in the regions. All 10 members are negotiating alternative CUs to the ones they currently belong to. COMESA and SADC have seven members in common that is not part of a CU but is preparing ones with SADC and COMESA (COMESA-EAC-SADC, 2008, p. 2). This situation has culminated into the so called

⁴ Burundi, Comoros, Congo, DR Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, Zimbabwe.

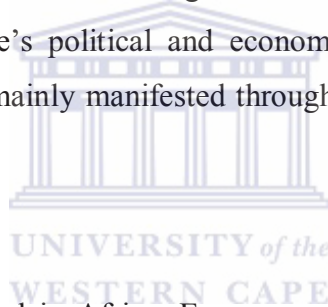
⁵ Kenya, Tanzania, Uganda, Rwanda, Burundi.

⁶ Angola, Botswana, DR Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe.

‘spaghetti bowl’ of trade and political arrangements, which makes it hard for individual states to maintain and initiate and/ or implement programs of any of the regional bodies they belong to (Baldwin, 2006, p. 11-34 and Draper, Halleon and Alves, 2007, p. 25-29).

1.2.3 System level: Economic Partnership Agreements (EPAs)

Africa is particularly reliant on relations with the developed world for its growth and development prospects. Unfortunately, there has been a trend where Africa has been marginalised in the global economy due largely to unstable states, chronic underdevelopment and small markets. The marginalisation of Africa has only until recently been stemmed by a growing interest in Africa’s vast mineral wealth by emerging powers, such as China and India, from the Global South. This signifies a blossoming relationship between Africa and other Global South states, with China now being the continent’s largest trading partner (AU, 2012, p. 158). However, Europe’s political and economic hold over Africa due to their historical relationship, which is mainly manifested through colonialism, will take some time to disappear.



When colonialism came to an end in Africa, Europe created a framework for cooperation between the former British, Dutch, Belgian and French colonies.⁷ In April 1976, the first Lomé Agreement came into force comprising the developing African Caribbean and Pacific (ACP) countries. The Agreement governed the relationship between the EU and ACP countries for 25 years, expiring in February 2000 (Venter & Neuland, 2007, p. 88). The institutionalisation of the WTO and the then European Community (EC), now known as the EU have influenced negotiations towards new cooperation agreements between the ACP countries and the EU. These new cooperation arrangements are formally referred to as the Cotonou Partnership Agreements, but more commonly referred to as the Economic Partnership Agreements (EPAs). The EPAs are meant to address the weaknesses of the Lomé conventions, by radically reforming the ACP-EU trade relationship (Bilal and Braun-Munzinger, 2008, p. 3).

⁷ See chapter 3 for an elaborate discussion.

The idea behind this shift was to conform to WTO Article XXIV of the General Agreement on Tariffs and Trade (GATT) provisions that prescribes a neo-liberal agenda of opening up trade. Moving towards such a trade relationship would solve the issue of ACP countries' preferential access to EU markets, which contradicts the principle of non-discrimination in the global trade regime. The EPAs highlight four formation principles, namely development, reciprocity, regionalism and differentiation (Bilal & Braun-Munzinger, 2008, p. 3-4). At the time, Bilal and Braun-Munzinger noted that in order to retain preferential access, the ACP countries will have to start opening their markets on a reciprocal basis to the EU, and this is to be achieved by means of economic integration agreements across the six regions that span the ACP.

Jakobeit, *et al* (2005, p. 20) note that in Eastern and Southern Africa there are two dominant EPA negotiations taking place, namely the SADC EPA and the Eastern and Southern African EPA. Some African states have not entered into them according to their REC configurations, in effect aligning themselves to new groupings. This has been criticised as unsustainable for the achievement of the developmental goals as set by African states, because the process effectively redefines current RECs (Yao, 2010). The implications of the EPAs for regional and continental economic integration in Africa are perceived as negative and do not bode well for African states uniting under a common vision and mobilising around common developmental goals on Africa's terms. The issue of EPAs exposes a lack of coherence in the rationale for regional bodies in Africa. Various member states of African RECs have failed in being cognisant of the potential long term threats in entering into negotiations with the EU, which is in almost all cases structured in such a manner that it is ultimately inconsistent with the current configuration of the RECs.

The EU has drawn critique for its renewed efforts to fast track EPAs with Africa, despite existing, cross cutting RECs throughout the continent (Yao, 2010). Sustainable development in and for Africa will remain elusive whilst the continent's dominant trade partners disrespect the goals and objectives as encapsulated in continental and regional initiatives. The T-FTA negotiations are supposed to be concluded by 2016, and in this regard the EU announced that African states that have not signed or ratified EPAs by 1 January 2014, will lose duty free access to European markets (Atta & Gemma, 2011). Thus, African states stand to lose

preferential market access if negotiations are not concluded within the stipulated time-frame (i.e. 2014) (Atta & Gemma, 2011 and van den Bosch, 2011). These EPAs has the potential to re-configure REC terms of trade that would impact on the current T-FTA negotiations.

1.3 Research question

Keeping the above in mind, the study aims to address the following research question: How does the T-FTA propose to contribute to the ARIP, given the challenges that regional integration face in Africa?

Sub-questions that will assist in answering the overarching research question include:

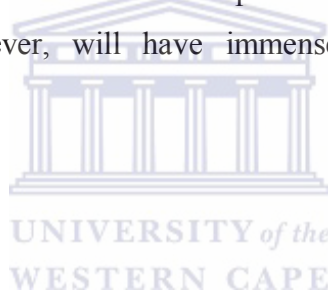
- Why do states pursue regional integration, and how has this changed over time?
- What are the generic challenges to regional integration in Africa?
- What are the challenges which exist specifically in the COMESA, EAC and SADC in terms of regional economic integration?
- How may the challenges facing the three RECs impact on the proposed T-FTA?
- What are the goals of the T-FTA and are they attainable in terms of the challenges that the three RECs currently face?
- Is the T-FTA a suitable alternative for the overlapping membership problem in the Eastern and Southern African region?
- Will the T-FTA as it is currently envisioned, contribute to the ARIP?

1.3.1 Hypothesis

In order to answer how the T-FTA proposes to contribute to the ARIP will require a multidimensional approach. The challenges facing regional integration are part and parcel of why the ARIP exists as well as why Africa has pursued regional integration. Thus, the primary hypothesis of this thesis is that there are mixed outcomes; where the tripartite process will experience immense challenges on the one hand and yet, on the other hand, there are positive aspects associated with the progression of the T-FTA. The primary distinction in determining positive and negative connotations of the tripartite process is between the

economic and political aspirations of the continent. Following the distinction of an economic and political perspective will assist in viewing the T-FTA and ARIP as having a multitude of goals that operate within different environments.

Thus, an important assumption in this hypothesis is that the T-FTA is not a zero-sum game with clearly defined indicators that prescribe success and failure. Regionalism has evolved over time with different motivations for regional formations across the globe. Africa's regional integration experience has not followed the textbook European example; hence, market integration is not the primary element which is aspired within the African context. An important viewpoint in answering the research question is that prospects and challenges are determined by market integration factors as well as political and developmental factors, such as pan-African unity and infrastructure development. It is in the political and developmental aspects of integration that the T-FTA will make positive contributions to the ARIP. The market integration track, however, will have immense challenges due to grass root implementation realities.



1.4 Research methodology

1.4.1 Methodological approach: Qualitative analysis

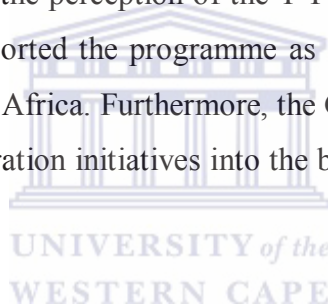
This study is qualitative in nature since it pursues an understanding into the attitudes, motivations and behaviour of actors (i.e. states and inter-governmental organisations) and given dynamics in COMESA, EAC and SADC. Applying qualitative research requires an understanding of given variables (Maxwell, 1992, p. 281). Denscombe (2010, p. 104) notes that a qualitative study is geared towards gaining depth in its analysis by interpreting words and images in order to attach meaning to them. He proceeds by stressing that the interpretation of data in this manner could assist researchers to understand norms, values and perceptions of risk. However, it should be underlined that this study also borrows, and consequently applies, some quantitative analysis in the form of, for instance, percentages of trade in various regions and more specifically, Africa and the three RECs in question. Qualitative analysis will guide data interpretation of quantitative sources, further assisting in

the depth of inquiry, and where necessary give the quantitative sources meaning beyond its intended scopes of study.

1.4.2 Data resources

1.4.2.1 Policy documents

Policy documents proved to be a valuable primary source of data for the purposes of this study. The founding treaties establishing COMESA, EAC and SADC provided insights into what the three RECs might achieve within the T-FTA framework in terms of the various protocols which govern the workings of the RECs in question. Also, the Treaty establishing the AEC (Abuja Treaty), as well as the Minimum Integration Programme of the AU is essential for an understanding of the perception of the T-FTA in Africa and how the AU has for all intents and purposes supported the programme as a viable strategy to overcome the overlapping membership issue in Africa. Furthermore, the GATT/ WTO founding documents assisted in placing regional integration initiatives into the broader scheme of multilateral free trade.



1.4.2.2 Speeches

Speeches are a valuable source of data in that they can illuminate perceptions of the various role-players, which are important to the study. In this case, speeches and comments made by the heads of state of member countries of all three RECs are imperative in establishing what the perceptions of the T-FTA are. Key dignitaries of member states representing COMESA, EAC and SADC on the level of the secretariat, joint infrastructure and policy harmonisation arenas could further assist in terms of perception and progress of the T-FTA.

1.4.2.3 Secondary sources

Books, journal and newspaper articles enabled a firm understanding of regional integration and the dynamics of what it requires to successfully implement trade agreements. Reviewing

the literature highlighted different theories, concepts and debates on the topic at hand and provides the theoretical backdrop to the empirical research, namely how does the T-FTA propose to contribute to the ARIP, given the challenges that regional integration faces in Africa? In this regard, there exists a treasure trove of secondary data on regional integration in Africa. The *Assessing Regional Integration in Africa series* as supported by the United Nations (UN), as well as the *Monitoring Regional Integration in Southern Africa Programme*, which has ten volumes dating back to the year 2000, assists in acquiring a sound understanding of all the debates as relevant to and within this study. Also, the UN's Conference on Trade and Development (UNCTAD) has published copious amounts of data relating to regional integration in Africa.

1.4.3 Data analysis

In keeping with the chosen methodological approach (i.e. qualitative analysis), data will be analysed as follows:

1.4.3.1 Content Analysis

According to Weber (1990, p. 9-12), content analysis is a systematic research method for analysing textual information in a standardised way that allows evaluators to make inferences about that information. The large bodies of text related to this study required content analysis and specific themes were created in order to standardise the analysis. For the purposes of this study, an exploration into the preconditions for regional integration in Africa, COMESA, EAC and SADC were extremely helpful. In addition, an analysis of the T-FTA as proposed in the 2008 Tri-partite Summit were scrutinised in terms of the four areas, namely establishing trade arrangements among COMESA, EAC and SADC; enhancing inter-REC economic cooperation; free movement of business persons; and enhanced inter-REC cooperation on bi- and multilateral trade negotiations (EPAs). These four areas were analysed in depth and outlined and superimposed onto the landscape which exists in the three RECs operating at national, regional and system levels.

Attitudes and perception play a key role in establishing the nature and structure of the T-FTA. "Thus content analysis can not only help to summarise the formal content of written material;

it can also describe the attitudes and perceptions of the author of that material” (Weber, 1990, p. 12). In this regard content analysis allows for the exploration of the rationale of overlapping membership, i.e. how policy-makers perceive the costs and benefits of regional integration. Thus, how short and long term interests play themselves out within the goals set out in the regional bodies and how this relates to the likelihood of an effective outcome for the T-FTA can be analysed in this way.

1.4.3.2 Interpretation

Andrade (2009, p. 43) writes that “... interpretive research assumes that reality is socially constructed and the researcher becomes the vehicle by which this reality is revealed”. In order to question the norms by which states in Africa operate interpretation as a valuable tool has been employed in this study. Moving from multiple memberships of RECs in COMESA, EAC and SADC to an attempt to rationalise membership in the T-FTA begs the following question for interpretation: Why have the three RECs chosen this route amongst other alternatives which exist in this scenario? The norm has been to add more REC memberships, whereas the T-FTA eventually seeks to unite the three RECs into a CU. Possible answers to this issue could lie in the structures of the international environment and how African states perceive gains within it.

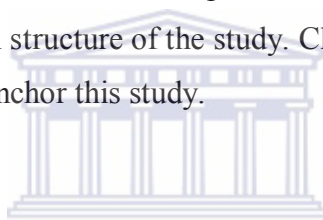
The various challenges to regional integration in Africa are also analysed. Within the context of this study, the effect of the decision of COMESA, EAC and SADC to engage in terms of the T-FTA to facilitate a more meaningful push towards regional economic integration is crucial to consider. Perceptions of how challenges to regional integration are perceived by the three RECs in particular are important in gauging what constitutes the logic (or rationality) of the T-FTA. Thus, an interpretive paradigm is evidently also grounding the research approach of this study.

It is important to note that “... qualitative research may or may not be interpretive depending upon the philosophical assumptions of the researcher” (Klein & Myers, 1999, p. 69). The theory of rational choice that assumes actors base their decisions on rational calculations to

respond to problems which can be objectively determined leads to the dominant assumptions of this study, namely that the member states of COMESA, EAC and SADC made the choice to form a T-FTA as a rational response to integration challenges in Africa based on a cost benefit analysis. However, closer interpretation of how rational choice and regional integration theory play out in reality reflects that what is deemed 'rational' in one context, is not always 'rational' in another. Rationality is at best 'bounded' by context (or culture) and therefore it will be necessary to understand a variety of factors that infuse what decision-makers deem as rational behaviour in the African context when it comes to regional integration in order to answer the research question.

1.5 Structure of the study

The study consists of six chapters. This first chapter describes the aim, the context and the justification as well as the general structure of the study. Chapter two provides the conceptual and theoretical frameworks that anchor this study.



An overview of regional integration in Africa is provided in chapter three. It includes a discussion of the ARIP and what it is African integration aspires to. It also configures RECs in Eastern and Southern Africa as well as the primary factors that give the RECs their own unique character in the regions, coupled with the challenges to regional integration in Africa, and more specifically Eastern and Southern Africa (including the overlapping membership issue), which helps to contextualise the T-FTA.

Chapter four analyses the T-FTA: its progression since the 2008-Summit and its proposed working processes. This is followed by a detailed account of the prospects and challenges towards realising the T-FTA in its current configuration in chapter five. Chapter six concludes with a summary of the main findings discussed throughout the study by providing a response to the question: How does the T-FTA propose to contribute to the ARIP, given the challenges that regional integration face in Africa?

1.6 Conclusion

This chapter provided the rationale for the study by briefly describing the issue of regional integration in Africa. It illustrated the importance of regional integration in the international system and the subsequent aim of the study is to identify and gauge how, given the challenges that regional integration face in Africa, does the T-FTA propose to contribute to the ARIP?

Born out of the growing contradictions of regional integration in the COMESA-EAC-SADC, the T-FTA has emerged. However, regional integration in Africa is not solely concerned with trade integration though as there exist a much wider set of challenges that informs the tripartite initiative. Therefore, it is necessary to understand exactly what regional integration means in the context of this study as well as why and how states integrate. This is the subject of the following chapter.



Chapter 2: Regional Integration: Conceptual and Contextual Underpinnings

2.1 Introduction

The purpose of this chapter is to provide the conceptual framework as well as the broader historical context of the T-FTA as a step towards the ARIP. In doing so, the chapter implicitly answers two questions: One, why do states within a region opt to ‘integrate’?; and second, how do states within a region ‘integrate’? The chapter thus engages with the vocabulary employed to describe regional integration and tries to clarify concepts and theories associated with regional integration amidst an historical narrative that traces the evolution of regional integration as it manifested in the 20th Century to today.⁸ This chapter commences with a definition of regional integration, also commonly referred to as regionalism.⁹

Regional integration in its classical conception encompasses functional and market driven prescriptions towards integration. These will be outlined in order to highlight what the processes are through which integration between states are ideally achieved. It is important to note that these classical political (i.e. functional) and economic (i.e. market) processes were created within a specific international context. This approach implies a look at what has become known as the old and new regionalisms. These different regionalisms are said to be qualitatively different from each other because of the different world orders that encapsulated the shift in regionalisms (Hettne, 1997). The chapter as such incorporates the concept of world order to understand its effect on the political and economic dynamics which are at work in the process of integration.

2.2 Regionalism

Defining regionalism is not an easy task. This is especially true if one considers that scholars have long been struggling to reach consensus in their attempts to determine what the term in actual fact should constitute. As early as the 1930s it has been difficult to analyse the

⁸ Although this narrative could easily be expanded further into history, the focus on this period is deemed sufficient, given the word limitations of a Master thesis to provide a background understanding from which to explore the T-FTA.

⁹ Regionalism is often used in the literature, and will also be in this study, as interchangeable with the concept regional integration.

dominant forms of regionalism, because putting an approach into practice encounters problems (Tylor, 1938, p. 379). This is due to the fact that regions come in all kinds of forms, for instance it could imply a geographical space, but also economic interaction; an institutional or governmental jurisdiction, as well as social or cultural characteristics (van Langenhove, 2011, p. 63). Hence, regional integration is dependent on how the idea of a region is viewed by the writer, and what the purpose of inquiry is (Hurrell, 2005, p. 41).

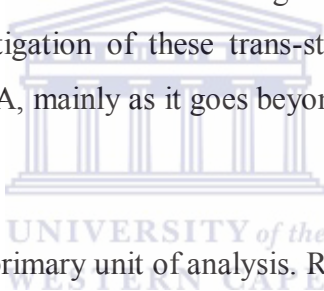
The complexity associated with defining regional integration is accurately captured below:

“Definitions of regions, regionalism and regionalisation have long presented difficulties to scholars. The terms are not fixed, and have been subject to multiple interpretations. History is useful here, not only in charting a course for regional projects but in showing how the vocabulary has changed and evolved. Older ideas of geographically defined regions and state-based regionalisms have given way to a more fluid and expansive understandings, which aim to capture the nature and extent of regional domains... Understanding regions and regionalism today demands a degree of definitional flexibility... A certain amount of both definitional and theoretical elasticity is required: there is no ideal region, or any single agenda to which all regions aspire. Regions like states are of varying compositions, capabilities and aspirations” (Fawcett, 2005, p. 23-26).

At this stage of the study it is imperative to clarify the distinction between regionalism and regionalisation. Regionalism, on the one hand, refers specifically to the idea, ideology, policies and goals that seek to transform a geographic area into a clearly identified social space (Bach, 2003, p. 22; Hveem, 2006, p. 296 and Akokpari, 2008, p. 87). Thus, regionalism reflects a constructivist notion inasmuch as it implies the ideational dimension of regional integration, and can apply to a number of areas such as social; cultural; political, and economic spaces. It postulates the implementation of a program and the definition of a strategy. For this reason, it is generally associated with formal arrangements and institution-building by state actors (Bach, 2003, p. 22 and Hveem, 2006, p. 296). Regional integration

and regionalism are in the context of this definition interrelated and will be used as such in this study.

Regionalisation, on the other hand, does not solely focus on the nature and extent of state driven initiatives. In fact, regionalisation could occur irrespective of state policies and even at times in opposition to their stated purpose (Bach, 2003, p. 22 and Hveem, 2006, p. 296-297). “Regionalisation is a much broader process that subsumes elements of regionalism, as well as interactions between formal and informal structures in a region” (Akokpari, 2008, p. 87). These are linked to so-called ‘degrees of region-ness’, such as how homogenous societies are in immediate regions, and this could help to explain informal regional networks that go beyond state driven initiatives and create their own forms of regional integration. The EAC is considered to be a highly homogenous geographic space, with social and cultural similarity that can partly explain their success in economic integration. However, regionalism in this thesis will not include an investigation of these trans-state attributes as factors that will influence the *process* of the T-FTA, mainly as it goes beyond the scope of the thesis.



This study views the state as the primary unit of analysis. Regional integration encompasses a basic tenet, which is integration between respective nation states (Balassa, 1961, p. 1; Haas, 1964, p. 4-12 and Lee, 2002, p. 1) and this will be the key actor that affects the *process* of integration in the thesis. Tylor (1938, p. 379 –380) and Heron (1985, p. 3) observes that it is possible for any group of states, by means of an inter-state compact, to setup a regional authority to deal with their common problems; and this is widely regarded as a means of addressing a variety of problems at the regional level. The rationale for regional integration is that states within a given geographic area can more easily and effectively address common problems because they are closer to the issues and presumed to share some common background; hence, regional integration assumes geographical proximity and a degree of mutual inter-dependence (Karns & Mingst, 2004, p. 148). Thus, in its basic form, regional integration is viewed as an exercise between contiguous states promoted through cooperation of some sort.

2.2.1 How states integrate and/ or cooperate

The term regional integration is sometimes used in a confusing manner because in everyday language or theorising it is used to describe both a process as well as an end state of the process (Heinonen, 2006, p. 4). In other words, it is used to describe how states choose to cooperate, and this can be interpreted through the process involved in cooperating or what the end goal of cooperation is. As a result, there is no universal prescription towards the study of regional integration as it can be viewed from a variety of reference points.

Haas (1970, p. 621-622) highlights that the key problem with regional integration theories is that they focus on the end state without putting enough emphasis on the processes, which underlie reaching that end state. Integration theory has therefore never been able to accurately predict the likely outcomes of an integration exercise. For example, will it be viewed in terms of goals and objectives (i.e. end state), or what has to be done to achieve them (i.e. process), or both? As such, regional integration in this study is that exercise carried out between states in order to create forms of cooperation which can be interpreted through political and economic justifications, but usually underpinned by a process of economic integration that has evolved over time. In Africa, as is the case elsewhere in the world, it is pursued alongside cooperative arrangements (functional), which are all designed to reach an end state. The likelihood of reaching that end state (as set by the ARIP) through the processes is a core point from which the prospects and challenges of realising the T-FTA will be viewed and evaluated.

Nye (1968, p. 858) establishes that the concept of integration as defined as forming parts into a whole or creating inter-dependence, could be broken down into economic; social, and political integration. This basic definition of integration is useful in that it illuminates the scope of what is known as regional integration between states. Lee (2003, p. 8) highlights that regionalism can occur as a political initiative, which is all-encompassing concerning the ideas; identities, and ideologies related to a regional initiative. Alternatively, it could be strictly economic, concerning a group of countries that implement a set of preferential policies designed to enhance the exchange of goods and services amongst them (Trivedi, 2005, p. 2 and Buthulezi, 2006, p. 1). Therefore, the *process* of integration could have

political and economic imperatives, which motivate what the regional agenda will be, as well as the form it takes.

2.2.2 Factors that influence regional integration

It is important to describe regional integration as it is presently conceptualised. Doing so assists in understanding the influences that affect the degree and motivations for states to pursue the regional alternative. Accordingly, below follows a description of contemporary regional integration:

“Regional integration is a multidimensional phenomenon, which can take different forms. It can be functional cooperation in some field of inter-state relations (for example economic or political integration). It can also take a broader form when participating states try to incorporate convergence of their policies with different sectors under a single framework... This is also the type of regional integration that is dominant in the present - day world – regional integration today involves integration processes in several sectors (for example, the economy, security or environment)” (Heinonen, 2006, p. 15).

Regional integration is an exercise between states where the constraints and opportunities for them to pursue such integration are determined by the factors that comprise their particular forms of ‘state strength’. This is in addition to external factors that emanate from the international system. “The relative newness or fragility of states may be an important factor; in an unstable system cooperation is likely to be sporadic and superficial, limited to one or two functions, and driven by powerful insiders” (Fawcett, 2005, p. 34). This presents a need to analyse the integration process from the national, regional and international levels as explained in the introductory chapter.

The opportunities and constraints placed upon states *vis-à-vis* the international system have an influence on the perceived benefits that they can accrue from establishing integration

exercises. Further, these accumulate from specific contexts wherein regional integration is pursued. For example, Hettne (1997, p. 92) mentions that whereas core regions are politically stable and economically dynamic and organised to be better in control of the world economy, peripheral regions are defined as being politically more turbulent and economically more stagnant, which might imply that they pursue integration to arrest a process of marginalisation. Hocker and Jerosch (2008, p. 8) note that there is no one size fits all approach to regional integration, but there will be different solutions for different historical situations and different objectives to be achieved with it; thus, regional integration is a means, and not an end in itself. The idea that regional integration is a *means*, is of paramount importance towards understanding exactly what the influences behind establishing regional initiatives are, and of which T-FTA is an example of.

The advantage of viewing regional integration in this way is that it offers an insight into the push-and-pull factors that influence regional integration and how it is approached. This highlights bottom-up and top-down factors that emanate from the specific context of states at the national, regional and international level. These factors influence the motivations and strategies pursued when devising regional integration. More importantly, these factors culminate into the ‘why and how’ states pursue regional integration.

2.3 Classical conceptions of Regional Integration

The classical conceptions of regional integration include two dominant strands of thought, namely the functional and market driven paths towards integration between respective states. Regional integration in its classical conception of functional and market driven paths is viewed as a *process* to be followed in order to incrementally integrate states. These classical conceptions of integration prescribe different paths towards achieving inter-dependence. For example, functional integration prescribes cooperation between respective states to achieve a ‘common good’, whereas the market driven principle simply views integration as the absence of rules that discriminate against trade or movement of factors of production (Haas, 1964, p. 27). The key point to draw from these views are that functional cooperation seeks to integrate through cooperation, implying a much looser grouping, whereas market integration creates groupings that are held together by formal and technical agreements. Following from this,

one could observe that even in its classical sense the move towards integrating states have had two contrasting tendencies. In the one case, cooperation leads to agreements between states, while in the other, an agreement (which precedes cooperation) binds the member states into cooperation.

2.3.1 Functionalism

Functionalism as a process towards integration flourished during the period of ‘old regionalism’. Tooze (1977, p. 211-212) notes that functionalism is an approach rather than a tight knit theory; therefore, it is a recommendation, and not an explanation of approaching the study of society. This classical conception of integration follows from the post-war world order that strongly followed the logic of state strength and that it should remain the sole guarantor of international relations. Scholars that have been influential in the growth of its prominence include, amongst others, Ernst Haas and David Mitrany.¹⁰

During the post-World War II (WWII) era, the supremacy of sovereignty was considered to be the ultimate form of consolidating the needs of human welfare and the international system as a whole. Indeed, this was acknowledged by the fact that functionalism essentially promoted cooperation between sovereign states as a path towards integration in its initial orientation. Mitrany (1948, p. 358) highlights that the functional approach is not a matter of surrendering sovereignty, but merely of pooling it to such an extent as might be required for the joint performance of a particular task. It is for this reason that functionalism was considered to be a better alternative as opposed to other integration theories such as federalism that presupposed eventual full political integration as was the case in the United States of America (USA). Functionally orientated integration takes a weighted approach to the process of integration by linking particular activities and interests according to need and acceptability with limited policy space to just the issue area (Mitrany, 1965, p. 139 and Mitrany, 1975, p. x-xi). Mitrany’s formulation presupposed that ‘form followed function’ where it is viewed that cooperation can only work if it is focused on specific activities

¹⁰In 1975, David Mitrany wrote an influential paper called ‘The functional theory of politics’ where he proposed a new international order based on trans-state cooperation, and in doing so, he effectively redefined functionalism to consider regional integration and not just international integration through international organisations.

(functions) that would be performed more effectively if collective action was pursued. This would lead to the creation of institutional structures (form) that facilitate cooperation (Heywood, 2011, p. 486). In this process of integration, gradual steps at cooperation to pursue common goals, such as securing joint public goods, lay the foundation for increased integration, and this inevitably adopts an institutional form.

The primary factor which would make integration through cooperation possible, was the idea of a 'spill-over' effect, which was ideally conceived by Haas (1964, p. 47-50) as cooperation in specific sectors that would pave the way for cooperation in other sectors, thereby creating inter-dependence and eventually integration. Proponents of functionalism have been discredited because the ideally conceived 'spill-over' effect rarely occurred in reality. However, functional theorists provided an important perspective for the prospects of integration, which was that the state is not necessarily the most capable form in which human welfare can be protected and preserved (Haas, 1964, p. 6 and Mitrany, 1975, p. x). This notion that the state is incapable of coping with all issues concerning human welfare was more evident in the domains of security and economic cooperation. The international environment became increasingly difficult for states to manage alone in the context of global recessions and the implications of a bipolar configuration of the international system that created security concerns beyond the control of individual states.

The traditional functional approach was reworked by its leading theorists into what has become known as neo-functionalism. Ernst Haas, in his 1964 book *Beyond the Nation State: Functionalism and International Organisations*, mentions that the foundation of neo-functionalism is that cooperation among sovereign states would eventually entail moving towards a new centre of authority located at the regional and international level. Therefore, neo-functionalists focus their attention on international organisations of varied sorts, be they political, security or economic entities. This is significant, because during the 1970s the superiority of the state was perceived to be in decline and the likely outcomes of multi-lateralism were unknown due to its embryonic stage. The work of functional theorists such as Haas and Mitrany essentially presented the subject field of International Relations (IR) with the regional level of analysis. Notwithstanding, their comparative studies do exaggerate the applicability of the EU type of integration to the rest of the world's regional exercises

(Hurrell, 2005, p. 348 and Heywood, 2011, p. 486). Due to their focus on the integration process in Europe, Haas and Mitrany tend to advocate the importance of economic integration as a regional exercise.

By the time that neo-functional theorists were gaining ground in the 1970s there was also consensus that full political integration between sovereign states would not be a viable or realistic outcome of integration. Nye (1970, p. 803) commented on the neo-functionalist approach in the formation of economic integration agreements, highlighting that they assumed process mechanisms that would ultimately realise the goal of economic integration. In other words, a move towards integration that is based on agreements requires fundamental cooperation. This effectively linked functional cooperation to the process of economic integration. Nye (1970, p. 803-804) mentions that there needs to be inherent functional linkages between tasks as precursors for integration agreements, for example increasing flows of transactions; deliberate linkages and coalitions; economic pressure groups; involvement of external actors; a regional ideology, and intensification of a regional identity and elite socialisation. Some have regarded neo-functionalism more as a description of the European exercise, rather than a theory dealing with international organisations (Heywood, 2011, p. 486).

Hence, neo-functionalists presuppose the idea of cooperation in many sectors seemingly not connected to the economic dimension, but would eventually create sustainable economic integration regardless of its degree. This is perhaps why functionalism is viewed by Davies (1996) as the approach that would best suit any group of states to integrate incrementally, especially in the context of developing countries in a globalised world.

2.3.1.1 Functional Cooperation

Economic integration (agreements) effectively commits member states to certain political objectives that allows for cooperation. “A plausible hypothesis is that small countries stand to derive greater benefits from the extra regional / functional cooperation aspects of regionalism *vis-à-vis* the intra-regional / economic integration aspects” (Girvan, 2002, p. 3). Ideally,

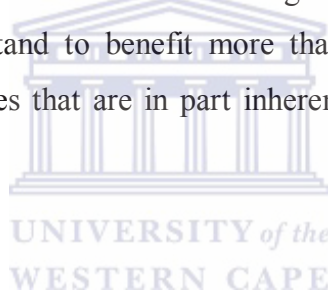
Regional Integration Agreements (RIAs) could facilitate members' commitment to political objectives of common interest. Further, they are likely to promote regional dialogue that could assist in diffusing potential regional disputes and create mutual political support and a common agenda as well approach (Radelet, 1999, p. 7). According to Girvan (2002, p. 3-4), extra regional aspects also come into play and would often be concerned with regional functional cooperation where a strategy of pooling resources in an area such as international negotiations would result in stronger positions. Pursuing regional initiatives could assist in institutionalising domestic reforms such as macro-economic convergence and prescribing to democratic practices in individual states (Schiff & Winters, 2003, p. 19-21). Following from this, one could argue that even economic integration has the potential to accrue benefits for states that are not necessarily economic in nature, but in fact more functional in nature.

It should be stressed that cooperation agreements differ from the market driven economic integration principle. Radelet (1999, p. 3) points out that a distinction has to be made between the two as cooperation agreements do not necessarily have a direct impact on trade and factors of production. Not all economic integration initiatives follow the linear model of integration, nor is it (always) economically or formally necessary to do so (Hocker & Jerosch, 2008, p. 4). Jakobeit et al. (2005, p. 7) highlight that states in the Eastern and Southern African regions have embraced trade integration, however it has become clear that other areas beside trade are critical for deeper integration and economic development in these regions. The economic context of Eastern and Southern Africa has prompted functional cooperation agreements to be pursued alongside market integration attempts.

African states face a number of challenges, including a lack of coordination; infrastructure, and economic development. Chacha (2008, p. 4) explains that regional cooperation encompasses joint development projects and policy harmonisation that is ideal in laying the foundation for market integration (i.e. trade and production). They include selected policy harmonisation such as adopting common standards and regulations; equal tax treatment of foreign investors; mutual defence and security approaches, and coordinated voting patterns in international organisations as well as joint production of public goods encompassing infrastructure development such as railroads; energy, and telecommunications (Radelet, 1999, p. 3). The afore-mentioned are all crucial for states in Africa to grow their economic base,

compete on a global scale and extract gains from market integration globally. These are characteristic of Nye's (1970) view that increasing functional tasks are important to the sustainability of economic integration agreements.

Market integration in itself creates distortions and challenges towards attaining economic development by all member states who are signatories of economic integration agreements. Chacha (2008, p. 3-4) elaborates on what is known as development integration (an element of cooperation agreements) explaining that it seeks to change the integration process, timing and commitment levels of member states as well as equitably distributing the costs and benefits of integration not only economically but socially and politically as well. Development integration seeks to put mechanisms in place that will equitably distribute the gains and losses amongst member states of a particular agreement. Moreover, it seeks to address the fundamental issue of who benefits from economic integration, as some states in the Eastern and Southern African regions stand to benefit more than others; hence this approach to integration seeks to address issues that are in part inherent in the political economy of the states in these regions.



2.3.2 The linear model and economic integration

The theoretical and conceptual notions of regional integration have dealt in large parts with economic integration in its contemporary context. This is due to the fact that regionalism at the turn of the twenty-first century entails increased regionalisation of foreign investment, production and other economic activities (Heywood, 2011, p. 481-483). Market integration as a path towards economic integration has flourished within this international context. As a result, it could sometimes appear to be the only important aspect when economic integration is pursued between states in its most contemporary form. However, this is of course a fallacy, as regional integration today seeks to attain much more than just the economic integration of respective states.¹¹

¹¹ These other areas of focus pertaining to integration will be explored later in this chapter. See section 2.6.1 for an elaborate discussion on new regionalism).

It is often argued by economic integration theorists that economic integration was advocated first by Viner (1950) and Balassa (1961). It is argued that economic integration is the easiest and most viable strategy to bring states closer together through inter-dependence. They (Balassa and Viner) highlight certain steps are required in order to integrate economies, thus implying different levels of integration that in theory should follow on from each other. These levels include a Preferential Trade Area (PTA); Free Trade Area (FTA); Customs Union (CU); Common Market (CM), and economic union (Balassa, 1961, p. 2). This process is now commonly referred to as the 'linear model' through which markets of different states is integrated. States that pursue economic integration have to follow these pre-determined steps that imply incremental shifts from shallow to deeper aspects of economic unification.

However, Balassa's taxonomy, which presumes a sequence towards closer economic union, seems to be a choice rather than a predetermined sequence especially in the context of choosing to form FTAs or CUs (Pomfret, 2005, p. 7). Nevertheless, the linear model of economic integration as prescribed by Viner (1950) and Balassa (1961) is regarded as an important model to comprehend the process of market integration and its corresponding influence on states. In fact, Viner's analysis on regional integration, particularly on trade-creating and trade-diverting CUs as well as on the static and dynamic benefits of regional integration, has become the theoretical foundation for regional economic integration (Rathumbu, 2008, p. 166).

Traditionally, PTAs range from low levels of integration in the forms of FTAs and CUs to higher levels of integration in forms of a CM and economic and monetary union (Mwanza, 2010, p. 7). Buthelezi (2006, p. 2-8) observes that modern day economic cooperation between states includes at least an FTA; CU, and a CM as well as an economic union, and this represent a higher degree of integration, with the ultimate objective to attain free trade among the member states. These are the formal stages of market integration and provide a framework for analysing challenges to attaining regional economic integration in Eastern and Southern Africa as well as the implications of a T-FTA for individual RECs. Exploring the factors that encompass FTAs, CUs, CMs and economic unions is an essential starting point from which to view the process of economic integration in order to better understand its implications and changes over time.

2.3.2.1 Free Trade Agreements (FTAs)

Free Trade Agreements (FTAs) are seen as the shallowest form of regional economic integration. The focus of an FTA is to remove both tariff and non-tariff barriers to trade amongst member states. Mwanza (2010, p. 9) notes that FTAs could be limited to a number of sectors, thus affording member states with a high level of control at the national level, and, consequently preventing exposure to competition in sectors where they are more vulnerable. The high level of control at the national level is a desired incentive for states as they still seek to maintain their autonomy despite the integration exercise.

It should be highlighted though that the autonomy of states in relation to third parties requires RoO. In this regard Jawoodien (2008, p. 5) mentions that RoO are able (and necessary) to prove that goods are indeed manufactured in the applicable FTA by monitoring inputs and sources of value adding. This is done to ensure that external actors do not simply enter the FTA through the member state with the lowest external tariff, and in turn exposing other member states to unfair competition. An example of the latter would be if, in a bid to avoid paying the applicable tariffs if entering directly through South Africa; Chinese companies opt to enter the SACU via Malawi. In doing so, Chinese products would unfairly benefit from a regional agreement that it is not even part of. Applying RoO is a cumbersome exercise that creates incentives for protectionism within individual states (Mwanza, 2010, p. 11). It is often utilised to impede the free movement of goods by means of stringent criteria to determine origin (see chapter five for an elaborate discussion in this regard).

2.3.2.2 Custom Union (CU)

A Custom Union (CU) encompasses all the characteristics of an FTA, including a Common External Tariff (CET). According to Jawodeen (2008, p. 7), this requires a common trade policy and regional competition policy. This type of economic integration requires more commitment and a deeper sense of political will by member states. For instance, they are obliged to forfeit their autonomy regarding their trade policy in favour of the CET and are required to cooperate closely to form a competition policy favourable to all concerned.

Buthulezi (2006, p. 2-8) argues that a CU member cannot have preferential tariffs for countries outside the bloc unless the entire Union agrees thereto. This prohibition strengthens the negotiating power of the member states in a CU. The formation of a CU also requires increased political will of member states as they would surrender some elements of sovereignty in terms of their trade policy. This is an important feature of a CU because it favours regional policies as opposed to national policy, implying a supra-national shift towards regional commitment and regional authorities. States then have little room to negotiate bi-lateral trade agreements that are a favoured form of facilitating strategic interests for individual states in the international system.

2.3.2.3 Common market and economic union

The natural progression of the levels or degrees of economic integration (market integration) move towards the deepest forms of integration in the formation of a CM and economic union. In a CM one finds free internal trade; a CET, and free movement of capital as well as labour amongst members in the bloc (Venter & Neuland, 2007, p. 36). Balassa (1961, p. 2) underlines that an economic union is distinct from a CM in that it pre-supposes the unification of monetary, social, and fiscal policies of member states and setting up a supra-national authority whose decisions are binding on them. Finding RTAs that reach these levels of deeper economic integration are extremely limited with the EU currently being the only credible example of such a stage in economic integration. This is primarily attributed to the supra-national nature of such an agreement wherein states give up significant independence concerning their policies. The formation of a CM and economic union has never been a likely outcome of market integration as states are expected to surrender significant elements of their sovereignty. FTAs and CUs, where states accrue economic benefits *vis-à-vis* RECs and inter-REC trade agreements, will be the focus in this study.

2.3.2.4 Assumptions, welfare gains and implications of economic integration

States utilising the progression from an FTA, CU, CM and economic union towards economic integration are expectant of increased welfare amongst the member states. The welfare generating effects of economic integration is assumed to occur under certain pre-

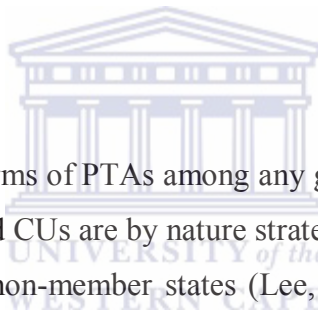
requisites amongst states that form FTAs and CUs. For Maruping (2005, p. 132), the following needs to be in place in order to ensure effective economic convergence:

- Efficient and non-discriminatory markets for products and factors of production, including freer movement of labour;
- Effective compensatory mechanisms to make the cost of adjustment affordable and equitably in order to share the costs and benefits of integration;
- Proper timing and sequencing as well as consensus based choice of convergence (integration);
- Enabling policies that reduce risk; development and retention of expertise; and
- Focus on smaller sub-groups for greater success with a provision of variable geometry and variable/ multi speed arrangements.

The classical conceptions of welfare gains that are often expected in the linear model of economic integration are rigid. Viner (1950) notes that states enter into PTAs to increase economic welfare amongst them, and that the primary motivation is trade creation. This is echoed by Schiff and Winters (2003, p. 34-35), who pointed out that if partner country production displaces higher-cost domestic production there will be gains, i.e. trade creation. However, they highlight that it is also possible that partner country production displaces lower cost imports from the rest of the world, resulting in trade diversion. Trade diversion can be pervasive, impacting on net welfare effects of member state economies at a macro-economic level. Trade diversion is tolerated under the assumption that increased trade within the bloc generates economic development. This model of analysing gains are what is known as static effects and does not take into account the dynamic effects of regional integration that follow a market integration trajectory (McCarthy, 2010, p. 12-16). The static effects are the initial gains or losses made when the integration agreement takes effect, such as the relocation of factors of production towards stronger economic centres. The static effects of economic integration reflect the initial unequal nature of integration exercises as there will be winners and losers in the short to medium term when factors of production are reallocated.

Enhancing the economic inter-dependence of states within an FTA or CU creates a bigger regional market that can assist developing countries to be more attractive for Foreign Direct

Investment (FDI). The linear model of integration, and/ or more specifically an FTA and CU could increase internal economic efficiency within this enlarged market, prompting dynamic effects. Economic integration has the potential to foster competition; subsidiarity; access to wider markets (via trade); larger and diversified investment and production; socio-economic and political stability, and bargaining power for member states (Maruping, 2005, p. 131). This *process* would create trade through the reallocation in factors of production that displaces non-competitive local industry in member states; and in this way local businesses and firms achieve economies of scale that would maximise their efficiency within the regional market (Schiff & Winters, 2003, p. 33). States, through this process of dynamic gains, effectively utilise the integration process to build competitiveness at the regional level as a stepping stone towards global trade, which is commonly the assumed long term gain. The East Asian nations have utilised economic integration in a similar manner by creating regional value chains that have significantly increased their competitiveness *vis-à-vis* their share of global trade.



The move towards the various forms of PTAs among any group of states has classically been viewed as exclusionary. FTAs and CUs are by nature strategies of protectionism because they discriminate against third party non-member states (Lee, 2003, p. 19-22; Trivedi, 2005, p. and Buthulezi, 2006, p. 2-7). Fundamentally, this has been described as either being the building blocks towards multi-lateral free trade or stumbling blocks towards the same end. Sideri (nd, p. 50) posits that RIAs in the 1930s were aimed at withdrawing from the world economy, and those of the second wave among Least Developed Countries (LDCs) were closely linked to import substitution strategies, whereas the present wave is driven by the desire to facilitate fully and effective participation in the global economy.

In chapter three it will be argued that Africa's first wave of integration (consistent with the rationale of old regionalism) was a stumbling block by being too protectionist. The new regionalism has seen Africa's economic arrangements striving to be outward orientated, indicating a rapid shift in the approach to the process of economic integration. This is characteristic of regional arrangements in a globalised world; they appear to be stepping stones towards global trade, rather than being stumbling blocks, which was their classical appeal. However, as will be shown in the rest of this study, Africa's regional arrangements

still have some way to go to shed its inward looking orientation and to adjust to the deeper elements of integration.

2.4 Relating classical conceptions with old and new regionalism

The classical conceptions of regionalism include prescriptions for states embarking on the process of integration. This integrative process follows from one of two dominant schools of thought centred around functional and market driven prescriptions (Balassa, 1961 and Haas, 1964). These schools of thought highlighted a distinction between so-called looser forms of integration (i.e. functional) and more binding arrangements that utilise agreements to integrate (i.e. market driven). Presently, the literature on regional integration has favoured almost an exclusively market driven process. The perceived success of the European economic integration process is largely the reason for this biased view and approach. Hence, the rules based, institutionalised form of economic integration in the form of the EU is regarded as how regional integration ideally should be like. Bach (2012) argues that Africa still lacks the proper institutionalised arrangements to be considered as conventionally 'proper' in terms of integration. Exploring the changes in the global political economy will help to explain what forms of regionalism currently exist *vis-à-vis* functional and market driven cooperative elements.

The old regionalism period (1950-1980) was the birthplace of functional and market driven processes. The realist worldview, which was consistent with the prevailing world order of old regionalism, favoured a functional approach to integration. Functional cooperation was understood to be the pre-requisite for market driven integration. Thus, basic cooperation would in theory lead to effective economic integration. The EU has reached its supra-national character by first cooperating in European Steel and Coal Industries. The Treaty of Paris was signed in 1951 between six European countries that had a narrow economic focus.¹² More significantly, an ambitious political goal of the treaty was to achieve a peace settlement between France and Germany (Dinan, 2005, p. 2). Six years later the Maastricht Treaty was signed between the European Steel and Coal Industry states. This Treaty had a stronger economic focus and steered the formation of the European Economic Community (EEC), but

¹² The states included France; Germany; Italy; Belgium; the Netherlands, and Luxembourg.

the political motivations was no less significant (Dinan, 2005, p. 2). The formation of the EU was a result of fundamental political cooperation that gave rise to comprehensive market integration ultimately in the form of the EU. Thus, functionalism (i.e. political cooperation) was required to lay a foundation for market integration to occur.

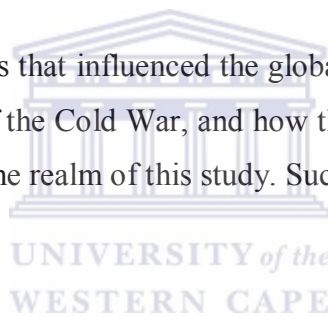
New regionalism occurs in an altered 'world order', where security concerns used to elevate political factors into a form of high politics. This environment has been replaced with a much more liberal international system since the end of the Cold War in 1989. Due to intricate mechanisms of inter-dependence amongst states, the power of the state has diminished immensely over the last three decades; a process that is commonly referred to as globalisation. Diminishing state power and relatively relaxed security concerns (than before) have increased the importance of economic factors into a form of high politics. It will be argued in the remaining sections of this chapter that developing countries have responded to the changed world order by adopting PTAs (economic power is high politics) thereby neglecting the important aspect of functional cooperation first as was the case of Europe. Thus, where it was often assumed that functionalism occurs before market integration (i.e. old regionalism), new regionalism follows a different logic. Market integration is pursued first in today's world order. This shift is especially relevant in the African context.

The following sections will elaborate on this shift and highlight the effect that this has had on the motivation for and use of regional integration in its present form. Regional integration and how it has been employed as a strategy for states to accrue benefits have changed over time. This is attributed to the changing international context wherein regionalism operates. The old regionalism was highly political, and a product of the Westphalia state system, and Bretton Woods monetary system as well as bi-polarity. New regionalism is driven by economic forces and occurs in a much altered international political environment that has given states increased motivation to employ the regional alternative. Hence, the factors responsible for this change, such as the end of bi-polarity, a post-Westphalian state system and globalisation, amongst others, will be explored. The purpose of highlighting this change is to show that regional integration today diverges from its classical prescriptions and thus conceptions of regional integration have to adapt to the changing contexts in which they are applied. African regional integration is no exception to this.

2.5 Old Regionalism

Regional integration has evolved as manifestations of the prevailing ‘world orders’ characterising successive periods in the history of the international system. Within the ambit of what is known as old regionalism, are the post-war period and emerging ideological paradigmatic divide between Capitalism and Communism. The old regionalism occurred between the 1950s and the 1980s, and was inspired by the Cold War and other ideological factors that were influenced by the need for economic security of states (Akopari, 2008, p. 88). The bi-polar world order affected the nature of the interplay between political and economic forces in the international system and its corresponding effect on individual states as well as the perceived benefits of regional integration for them within this environment.

Following from the above, factors that influenced the global economy and emerging security concerns leading up to the end of the Cold War, and how they related to regional integration, are imperative to discuss within the realm of this study. Such discussion follows below.



2.5.1 Context of Old Regionalism

The context of old regionalism was in many ways a simple ‘world order’ in that the primacy of the state was viewed as the essential feature of the international system. As noted before, this was known as the Westphalian order. Hettne (1997, p. 84) emphasises that Westphalian implied an inter-state system with the following characteristics:

- The sovereign independence of states;
- Each state motivated in its international behaviour by a consistent national interest;
and
- An inter-state system regulated by a balance of power among principal powers.

Hettne (1997, p. 84) mentions that a specific political rationality motivated the Westphalian system wherein the state was the sole guarantor of security and welfare. This state-centric approach implied that governments had to be active participants in the areas that were

deemed to be important in preserving and protecting the national interest of their respective nation-states, including playing a major role in the economic realm.

The importance of gold to anchor economies gave rise to the perception of a ‘strong state’ that was actively involved in its economy and all aspects thereof. Ruggie (1982, p. 389) observed that by virtue of the supremacy of gold and its relation to the balance of payments of the major developed states, there were clear roles and assumptions concerning the fundamental purpose of domestic monetary policy. Likewise, these roles were also clear cut pertaining to the role of the state in adjusting imbalances in the level of external and internal economic activity during the pre-World War I (WWI) international economy. This view of the relevance of the state in the economy emphasises that developed states at the time always had as a point of departure the active involvement of a ‘strong state’ that would steer its development. More importantly, it indicates the overriding power that political forces had over economic processes both within and outside the state. The post-WWII world economy still had elements of the strong state; in fact, it was a historic compromise between economic *laissez-faire* and a certain level of domestic control by governments (Hettne, 1997, p. 89). This was known as embedded liberalism where the state played an active role in regulating the economy.

However, the demise of the ‘strong state’ in economic affairs was introduced once the world economy experienced the ‘Great Depression’ in October 1929. The latter started when the United States (US) stock market crashed in what is universally known as ‘Black Tuesday’ (Doak, 2008, p. 10). States almost immediately adopted protectionist trade regimes in their attempts to insulate themselves from the chaotic economic climate that ensued. Woods (2006, p. 326) highlights that in the late 1920s to early 1930s, governments all over the world tried to protect themselves from economic crises by putting up trade barriers and deflating their currencies, which in turn just worsened the Great Depression and its consequences.

Towards the end of WWII in 1944, developed states’ policy-makers met at Bretton Woods in the USA to shape the global economy in a manner that would ensure a disaster such as the Great Depression never occurs again. All the states present committed themselves to work

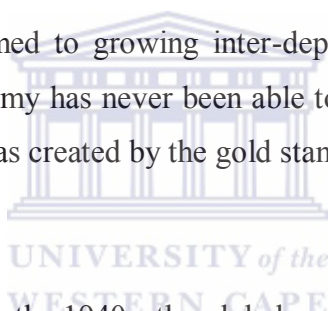
towards creating a stable global economy underpinned by an open world trade system as well as to rebuild war torn Europe (Woods, 2006, p. 326-328). The idea of open world trade was intended to create economic inter-dependence amongst states in a concerted effort to mitigate the possibility of another world war. Accordingly, Bretton Woods and its resolutions established the foundations for the contemporary global economy.

At this point it should be stressed that those present at Bretton Woods realised the need to create international institutions and organisations to forward the resolutions made at Bretton Woods. Consequently, three such structures, focusing on monetary policy; development finance, and trade were established, and they included the International Monetary Fund (IMF); the initial International Bank for Reconstruction and Development (IBRD), now known as the World Bank (WB), and the General Agreements on Tariffs and Trade (GATT). The IMF initially fulfilled the role of coordinating states' monetary affairs, whereas the WB assisted with development finance. These two institutions were put into effect in 1946 (Woods, 2006, p. 327 and Kegley, 2009, p. 173-177). For its part, the GATT, as enacted in 1947, was a culmination of loose agreements on trade matters between states, and in 1995 became institutionalised in a more permanent guise. It is now known as the World Trade Organisation (WTO) (Woods, 2006, p. 329). The Bretton Woods decision-makers envisaged that these institutions would assist with post-war economic recovery and to rebuild Europe (Kegley, 2009, p. 267-268).

The Bretton Woods type of monetary system had specific elements attached to it in its efforts to realise a stable global economy. Woods (2006, p. 326) notes that these elements consisted of a:

- Stable exchange rate system;
- Reserve asset or unit of account (such as the gold standard);
- Controlled international capital flow;
- Availability of short term loans to countries facing temporary balance of payments crisis; and
- Systems of rules to keep economies open to trade.

The Bretton Woods regime ultimately required a measure of government intervention (Kegley, 2009, p. 268). Indeed, the emergence of economic inter-dependence through the Bretton Woods regime was made possible by the relative political stability and healthy economy of the USA (Hettne, 1997, p. 91). The American government had assumed the position of custodian of the global economy by pegging gold at 35 US Dollar to the ounce and exchanging gold for dollars at any time. The former was referred to as the gold standard (Kegley, 2009, p. 268). This allowed for a fixed and stable exchange rate that facilitated 20 years of increased, but yet incremental economic inter-dependence between states. Gilpin (2001, p. 235-238) views this period as the beginning of the first great age of capitalism and the emergence of a truly 'global' economy; the first of its kind in history. However, this system only lasted until the early 1970s, when former US President Nixon unilaterally announced the end of the gold standard. This created an international economy engrossed in chaos due to becoming accustomed to growing inter-dependence under the logic of fixed exchange rates. The global economy has never been able to, since the end of fixed exchange rates, stabilise in a manner that was created by the gold standard.



Since the era of Bretton Woods in the 1940s, the global capitalist political economy has been plagued with reoccurring incidences of economic crises during every decade since the 1970s (Gökay & Whitman, 2009, p. 3). These were especially due to the emergence of floating exchange rates¹³ because of the absence of a strong and/ or willing custodian to manage this cross-border interaction.

2.5.2 Influences on Old Regionalism

The changing global economic landscape through the pre-WWI; WWII, and ultimately Cold War era needs to be viewed against the backdrop of powerful political influences that superseded economic forces and turned them into some form of low politics. Essentially, the post-war rivalry between the Soviet Union and the USA had a major effect on the nature and

¹³ Floating exchange rates is an exchange rate regime where the value of a currency is determined by the foreign exchange market, floating exchange rates automatically adjust to global economic conditions. Thus, they are not fixed, which decreases certainty and is less stable than a fixed exchange rate regime.

shape of the global economy between 1945 and 1990. This was primarily based on the competing ideologies of Capitalism and Communism and the ensuing strategic rivalries in both Europe and Africa (Leysens & Thompson, 2006, p. 86). Since the end of WWII, the USA and Soviet Union imposed a bi-polar order that had widespread repercussions for the world system (Nijman, 1992, p. 681-686). Booth (1998, p. 29-30) regards the Cold War as a dual that ultimately became global, and as a consequence, created conflict in every sector, including economic, ideological and military, of society. Bi-polarity and the growing threat of nuclear war under the prescriptions of Mutually Assured Destruction (MAD) created an understanding by the superpowers (i.e. the USA and Soviet Union) that war and open military confrontation was to be avoided at all costs. This superpower struggle immensely affected international affairs and created a particular logic to state interaction.

Inevitably, the Cold War also played itself out in other areas, for example in the form of strategic alliances across the international system. The emergence of bi-polarity after WWII led to the formation of a number of treaties, pacts and regional integration schemes in both the developed and developing world (Trivedi, 2005, p. 4). These arrangements were functional in nature and were limited to specific sectors in order to bolster economic and security areas of cooperation according to the influences of the superpowers. According to the Western powers (more specifically the USA), the Soviet Union posed at least two dominant threats that were essentially centred around actual war and communist ideological expansion into Eastern Europe and the developing world (Gaddis, 1997, p. 154 and Scott, 2006, p 97-103). In response to the immediate Soviet military threat following WWII, the USA announced the Marshall Plan in 1947. This Plan aimed to fast track development finance to rebuild Western Europe and Japan, and in doing so, the USA wanted to create an essential buffer between itself and the Soviet Union (Woods, 2006, p. 326-327 and Scott, 2006, p. 99).

The two superpowers wielded considerable power in the international system. Throughout the Cold War they were involved in regional conflicts around the world. As a result, they had significant influence in regions across the globe (Nijman, 1992, p. 686-692). This influence manifested in proxy wars, such as in Africa, and more particularly Southern Africa. Essentially, these various forms of cooperation, based on a patron-client relationship, were

induced by the ideological rivalry between the USA and Soviet Union that had its most practical expression in the Vietnam War, and more closer to home in, for instance, Mozambique and Angola (Leysens & Thompson, 2006, p. 86). These were ultimately battles over ‘spheres of influence’ in the third world as the USA did not want to lose the Cold War based on ideology, a situation described by Gaddis (1997, p. 152) as equal to like winning by entering through the backdoor. This meant that ideological division within regions and states themselves were common place. The conflicts were often of a violent nature and Southern Africa saw numerous incidences of violence between rival factions within states (as was the case in Mozambique) and between countries such as South Africa and Angola, as well as the destabilisation attempts by SA on the frontline states.

2.6 New Regionalism

The Cold War resulted in at least one important trend in the international system, namely the growth of regional economic integration as a strategy pursued by states. Marchand, Boas and Shaw (1999, p. 898) shed light on this trend by situating regionalism in the context of a changing global political economy. According to them:

“The renewed attention to regionalisation should be seen against the background of important transformations of the global political economy. As we enter the new millennium our world is becoming increasingly globalised and regionalised. During the past decade Foreign Direct Investment (FDI) grew three times faster than trade and four times more than world output annually. We have witnessed a similar expansion of cross border alliances and strategic management arrangements which have resulted in an increasingly interconnected or networked global economy. The globalisation of production as well as the liberalisation of markets – facilitated by (neo-liberal) privatisation of state enterprises and deregulation of public control over the economy – poses an entire new set of challenges to public authorities, economic agents and social actors in both the developed and developing parts of the world”.

This is a significantly altered international system as opposed to the one within the context of the Cold War, and more specifically as related to security; economic protectionism, and the notion of the strong state. Hettne (1997, p. 83-86) is correct when he asserts that the new regionalism is qualitatively different from the old regionalism, by virtue of a changed international order. States now have to consider factors that were not around during the era of old regionalism and this has affected the route; depth, and scale that regional integration has taken in its present wave. New regionalism is essentially economic in character, and it largely takes the form of the creation of trade blocs. These blocs operate as regional spaces through which states can interact, rather than being EU style supra-national experiments (Heywood, 2011, p. 487-488). The end of the Cold War and collapse of Communism are commonly viewed as the key events that altered the world order. For this reason, it is explored below as the starting point from which to view the progression of economic integration as it relates to new regionalism and in later chapters to the T-FTA.

2.6.1 Context of New Regionalism

The most striking feature of the end of the Cold War was that few scholars were able to predict its demise. Cox (2006, p. 133-134) notes that there are competing accounts of why it ended in 1989. These include, amongst others, that it was a result of American pressure; Soviet economic decline; imperial overstretch; Communism simply could not compete with Capitalism, while quite a number of scholars argue that it was agency and choice on behalf of the Soviet Union's reformer Mikhail Gorbachev, its then president. For the purposes of this study, the reasons for why the Cold War ended are less important than the resulting international environment, and more specifically the demise of bi-polarity.

With the disintegration of the former Soviet Union in 1990, only the USA could lay claim to superpower status. This uni-polar international system composing of the remaining superpower, i.e. the USA, has been contested though. International relations scholars are increasingly arguing that the notion of the USA as the last and/ or only remaining superpower is becoming outdated. Thus, the hegemonic status of the USA in the world order is no longer a given or even accepted since it is challenged by other upcoming superpowers such as China; Japan, and even the European Union. However, this can be misleading. In terms of

military strength, the USA remains the most powerful in the international system with no other country coming close to their military might. Notwithstanding, the current international system has more to do with economic power as opposed to military strength. It is in the economic sphere where the USA hegemony is declining and given the importance of economic factors in a globalised world, it could well be argued that the USA's claim to superpower status has diminished. The former is troubling to the USA's claim to superpower status since superpower states are supposed to lay full claim to both military and economic strength; and without either, their ability to dominate world affairs are thrown in doubt.

Thus, the key consequence of the end of the Cold War is a multi-polar world where one state no longer has the resources and/or ability to govern the entire international system in both economic and political terms. Also, the end of the Cold War led to a decline in interest in the developing world, including Africa. This meant that the 'top-down' forces on states as present during the old regionalism no longer existed with such urgency and has led states to pursue their own strategies in terms of cooperation and development. According to Iheduru (2003, p. 50), the afore-mentioned decline is one of the key factors that has re-defined regionalism. He observes that there is increased 'pressure from below', where political cooperation between states have promoted the region as a viable economic, cultural and ecological unit that is born out of the peace/ security/ development nexus created after the cold war and emergence of globalisation. Thus, a primary reason for the surge in regional groupings globally is a result of the multi-polar international system and the corresponding regionalism from below, where smaller powers have the autonomy to construct their own RIAs (Trivedi, 2005, p. 10).

However, the renewed space to articulate autonomous strategies has been influenced by new phenomena such as neo-liberalism and globalisation. These new phenomena have increased the motivation for pursuing regional economic integration (i.e. neo-liberalism). The new phenomena influences why economic integration has become such an important and widely used strategy in the context of an unfavourable global trading regime for developing countries. Extracting gains from the current global economy is thus expected by developing states through the use of economic integration agreements, and this is informed by

globalisation dynamics. These factors inform regionalism as the tenets to understand regional integration in its contemporary manifestation.

2.6.2 The Liberal International Economic Order

Fundamental to understanding why states pursue regional economic integration is the current logic of the global economy that is based on neo-liberalism. Since the end of the Cold War, neo-liberal development paradigms have achieved significant growth in the international system as an unquestionable path to economic growth and development. Jackson (2010, p. 134) mentions that historically neo-liberals argued that it was necessary to articulate a new, positive vision of economic liberalism that would offer not just a critique of harmful forms of state intervention in the economy, but also a full agenda of liberal reforms that would reshape economic disorder into the basis for a prosperous; harmonious, and free society. Essentially, neo-liberal prescriptions have since the end of WWII achieved incremental growth in its classical sense. Hettne (1997, p. 91) argues that the change occurred when embedded liberalism (i.e. state intervention in the economy) broke down and political control of the world economy faded (i.e. the end of the Bretton Woods monetary system), and this gave rise to neo-liberalism. Neo-liberalism was intensified at the end of the Cold War when the term ‘Washington Consensus’ was coined.¹⁴

“The post-Bretton Woods history of global political economy can be divided into three distinct periods: a first period that runs roughly from 1945 through the 1960s, which we characterise as the ‘golden age of capitalism’; a second period that runs roughly from 1970 to 1993, which we interpret as an on-going period of crises that never fully managed to stabilise the Bretton Woods

¹⁴ The Washington Consensus reflects how neo-liberal economic thinking penetrated the intellectual minds of the Western world. Keynesian economics followed the post war era (i.e. 1945 onward), and encouraged state intervention and management in the economic realm as a norm (Payne, 2005, p. 74 – 78). Thus, the ideal of Keynesian economics was that international institutions would be capitalist in nature but controlled by a central authority, hence requiring state intervention in the global economy. The market friendly approach of neo-liberalism got the buy-in of the USA and United Kingdom (UK) development thinking, which filtered to the IMF and WB under the Thatcher and Reagan Administrations. These international institutions promoted neo-liberal development paths, with the most important element being privatisation and deregulation of state assets, and this was radically different from previous understandings of how the global economy should be managed (Payne, 2005, p. 74 – 78). The ‘Washington Consensus’ is a term coined by John Williamson that prescribed fiscal discipline; altered public expenditure priorities; tax reform; financial liberalisation; exchange rate adjustment; trade liberalisation; privatisation; deregulation, and support for property rights (Pretorius, 2008, p. 9).

system; and a last period that began with the collapse of the Soviet Union... which allowed for rapid expansion of global capitalism that transformed it into a truly global economic system” (Gökay and Whitman, 2009, p. 16-17).

The ‘retreat of the state’ through liberal ways of thinking in fact had progressive growth in the international system. The most prominent feature of the global economy in the immediate post-war era was that no norm for open trade existed. The Bretton Woods institutions have since the early 1970s been instituted as important custodians to govern the global monetary and trade system since the end of the gold standard. When the international institutions assumed this role, it was regarded as the creation of a Liberal International Economic Order (LIEO) (Kegley & Wittkopf, 1993, p. 33). The LIEO is not a commonly used term anymore, but still offers an important starting point to when neo-liberal doctrines began to take hold and shape the economic interactions of and between states. Kegley and Wittkopf (1993, p. 33-34) observe that the LIEO was essentially Western control of the global economy through other means, namely the multi-lateral level, to consolidate power and order in favour of Western nations, more specifically the USA. The LIEO grew amidst the world order characteristic of old regionalism, essentially illustrating the power of top-down forces on states economically.

Neo-liberalism is a set of prescribed policies that promotes trade liberalisation; privatisation, and deregulation of the economy (Pieper & Taylor, 1998, p. 6-8). In essence, this approach to economic development is market friendly and seeks the ‘retreat of the state’ in its own economic affairs. It basically seeks to liberalise all areas of the economy under the assumption that the private sector can increase efficiency and effectiveness more so than public entities. Adam Smith called this the invisible hand of the market where the free market is self-regulating. As a policy prescription for trade, allowing states to produce the products in which they have a comparative advantage and trade freely amongst one another, would increase global wealth. Free trade would have a positive effect for countries in that increased trade promotes growth and development, which would trickle down and decrease poverty (as proposed by David Ricardo, another classic theorist of liberal economics).

Leftwich (2000, p. 48-49) views the growth of neo-liberalism through international institutions in the 1980s as a radical shift in development theory because development under neo-liberalism links growth with development whereas there has always been an understanding that social development and social justice were the main goals of development. In other words, social development and social justice and a decrease in poverty were viewed as pre-cursors to growth; under neo-liberalism this rationality is turned on its head where economic growth and development, i.e. an increase in the Growth Domestic Product (GDP) somehow equates to social development and social justice as well as a decrease in poverty.

Mittelman (2000, p. 919) emphasises that neo-liberal orthodoxy as globally expressed through the ideal of the free market and a set of policies, has been propounded and monitored by some states; public intellectuals, and especially international agencies such as the IMF and WB that prescribe more autonomy for markets in states. In a globalised world where trade occurs on a global scale “an open economy engaging in international trade has performed better than those countries where policy has restricted domestic markets to foreign products” (O’Brian & Williams, 2004, p. 146). An implication for the developing world is that foreign assistance; loans; credit ratings, and foreign investment are provided and made available on conditions such as the implementation of neo-liberal policies, including deregulation; liberalisation, and privatisation (Mittelman, 2000, p. 919). Based on the former, it could be argued that within the context of the developing world that neo-liberal doctrine has (often) been imposed on states.

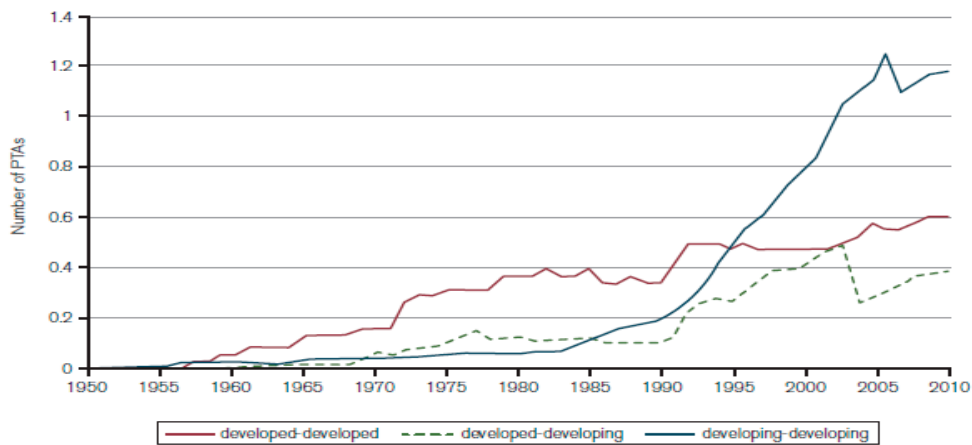
Once having a ‘stronger state’ was no longer feasible, developed countries tend to ‘forget’ the development thinking of the 1960s and 1970s that advocated for state involvement (Leftwich, 2000, p. 22-51). One could thus argue that the growth of neo-liberalism was largely due to the needs and interest of developed states. Developing nations thus viewed the LIEO as an instrument of their continued oppression of developing countries and began to advocate in 1974 for a New International Economic Order (NIEO) (Kegley & Wittkopf, 1993, p. 146). The current development model advocated for by International Financial Institutions does not give developing countries a chance to steer development through state interference. The point to be made here is that developing countries were aware; frustrated,

and searching for new alternatives to the multi-lateral/ uni-lateral, top-down approach of trade liberalisation (i.e. economic forces).

Given the reality of an international economy that actively advocates and has been successful in instilling neo-liberal development doctrines in the global economy, the fundamental question has been how to liberalise trade in the developing world and simultaneously attain an increase in welfare in individual states. As there is no longer any credible alternative (e.g. socialism or communism as was the case during the Cold War), Africa has experienced trade liberalisation by adopting WB and IMF Structural Adjustment Programmes (SAPs), which will be elaborated on in chapter three. These programmes could be viewed as uni-lateral attempts to trade liberalisation and have been more successful in liberalising trade in individual African states in comparison with RECs. However, Reinert (2008, p. 165-202) underlines that SAPs have been less than satisfactory in achieving meaningful growth and development. In fact, he argues that SAPs have been associated with economic decline in developing countries when their domestic markets were opened to more competitive international firms and unequal terms of trade. This has created scepticism in the developing world *vis-à-vis* uni-lateral trade liberalisation under conditions as prescribed by international institutions.

The effect of a lack of meaningful development prospects in the developing world has in essence strengthened the appeal of regional trade liberalisation. The call for a NIEO has not resulted in a more equitable global economy. As such, growing discontent in the developing world has been directed against the LIEO and its advocates, which in this case are the Bretton Woods institutions that have been around since the 1970s. It makes sense that Communism (i.e. state control) had appeal in the developing world under a bi-polar order. The reason for this is that at the time that the Cold War ended, interest in the developing world and Africa slowed down, creating space for developing countries to articulate their own economic strategies that was directed away from the prescriptions of the Bretton Woods institutions under the LIEO, where and if possible. Regional trade liberalisation is a strategy that could be utilised to create new economic partnerships that can move developing countries towards the ideal of an NIEO. The figure below illustrates the growth in interest by developing countries in PTAs over a period of 60 years spanning 1950 - 2010.

Figure 1.2: PTAs notified according to country groups



Source: WTO, 2011, p. 55

The above figure illustrates that out of all PTAs under negotiation or in effect globally today, developing countries are the largest group to use them. It is also evident from the figure that since the end of the Cold War circa 1990s that developing countries started to engage more in PTAs as in the past. This move towards PTAs could be attributed to so-called 'pressures from below' where the bi-polar patron-client order no longer existed once the Cold War was over. This increased space for developing countries to articulate their own agendas and have created increased interest in finding new, more favourable terms of trade prescribed under the call for a NIEO. The multi-lateral route to opening up markets (covered in greater detail in chapter three) has since the 1990s lost its appeal in the developing world if viewed against the backdrop of the sheer number of developing countries pursuing PTAs.

Thus, two contrasting points emerge in relation to new regionalism. Firstly, neo-liberal development philosophy is the dominant approach to economic growth in the current global economy, and has been promoted by the Bretton Woods institutions as a norm. However, the outcomes of the LIEO have not been favourable to the developing world. Therefore, the growth of neo-liberalism has led developing states to accept neo-liberal norms and find the *means* to liberalise trade on their own terms within such an international environment. Neo-

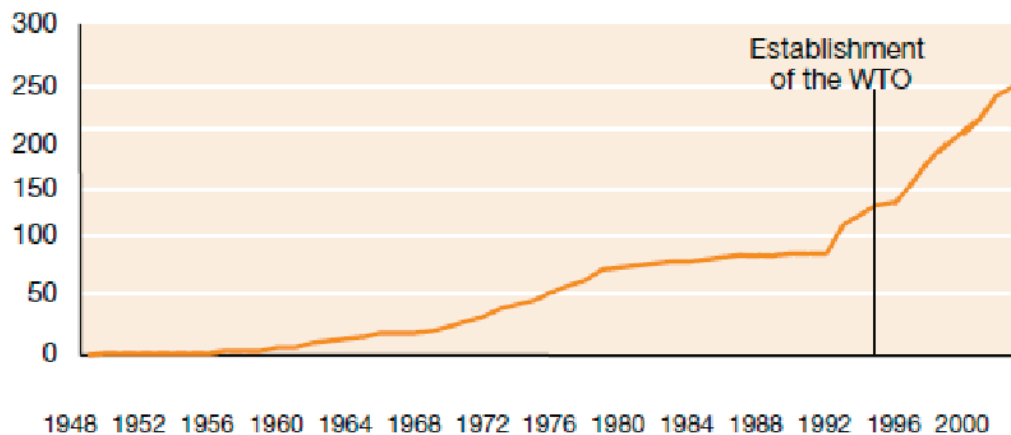
liberalism has thus strengthened the appeal of utilising PTAs regionally, in an attempt to manage at the regional level what individual states have struggled to do on their own.

Woods (2006, p. 342) stresses that international institutions affect international politics because they open up new reasons to cooperate; they permit states to define their interests in a more cooperative way; they foster negotiations amongst states as well as compliance with mutually agreed rules and standards. When the GATT was institutionalised into the WTO in 1995, it was assumed by Western states that multi-lateral trade would increasingly become the norm. Nevertheless, since then, states in the international system have not followed this route as illustrated by the quote below:

“The transformation of a world of states into a regionalised world is driven by two main factors. On the one hand there are the diminishing capabilities of states to deliver good local governance in today’s global age. On the other hand there are growing limitations of multilateral organisations to deliver good global governance with regard to global threats. In other words both the pillars of the Westphalian world order – the state – and the pillar of multilateralism – the global international organisations – are under siege” (van Langenhove, 2011, p. 5).

The international influences characteristic of a globalised world have encouraged states to pursue economic integration at the regional level, and to manage the dynamics of a global economy whose foundations - the state and international institutions - have lost the ability to monopolise international relations. Economic integration is one of the sectors of cooperation where the immediate benefits are easily achieved. It therefore, holds the greatest attraction for states especially when national economies are increasingly inter-dependent and influenced by the global economy (Heinonen, 2006, p. 21). As mentioned before, the system of multi-lateral trade in the current global system is governed by the WTO; a system that is in decline if one considers the figure below.

Figure 1.3: Regional Trading Agreements Notified to the General Agreement on Tariffs and Trade and the WTO



Source: ECA, 2006, p. 4

The above figure illustrates the growth in PTAs from 1948 to 2002. It highlights that states are increasingly rather seeking preferential trade arrangements as opposed to multi-lateral ones, a phenomenon that will be dealt with in greater detail in the following chapter. The surge in PTAs indicates that the multi-lateral trading regime is losing steam and started to erode rapidly during the mid-1990s, which are just a few years after the end of the Cold War. Essentially, when the WTO moved from being a 'loose' organisation held together by a wide variety of agreements to a more formal institution, interest in it declined in the developing world. In similar vein, when the LIEO institutionalised itself through the WTO, developing countries indicated their disapproval thereof by finding new ways to move towards a NIEO at a regional level.

2.6.3 Globalisation

Since its 'inception' in the 1990s, Globalisation has consistently lowered the power of individual states through intricate mechanisms of inter-dependence (Leysens & Thompson, 2002, p. 87-90). Tickell & Peck (as cited in Peck & Heung, 2003, p. 1) view globalisation as the downsizing of states that enlarges the space for private accumulation, individual liberties and market forces. States today have less influence over their own development due to the

phenomena of globalisation because what happens in one state influence any given number of other states.

Economic globalization and the emergence of a complementary set of principles, norms, and institutions for managing the expansion of cross border economic activity affects authority and capacity of states. It is claimed that the structural features of globalization – i.e. its hierarchical ordering of the global system, the patterns of interaction between these parts, and the norms that legitimize and regulate these interactions – all combine to constrain macroeconomic decision-making specifically in poorer, smaller states” (Nel, 2006, p 108-109).

Globalisation’s impact on individual states is compounded by the rapid advances in technology. These advances over especially the last two decades have resulted in world-wide instantaneous communication; with people around the world coming closer together in what resembles a global village (Little, 2006, p. 374).

More importantly, the globalisation of trade and finance as manifested in increasing cross-border transactions has created inter-dependence and an unavoidable need for states to cooperate. Increasingly what happens in one state affects what happens in others, as was the case with the global financial crisis in 2009. For Scholte (2006, p. 602-612), a number of factors gave rise to the globalisation of trade and finance. These factors include:

- Cross-border transactions;
- Open-border transactions;
- Trans-border transactions;
- Trans-border production;
- Trans-border products;
- Trans-world money; and
- Trans-world banking.

Kegley (2009, p. 260-280) maintains that the culmination of the above-mentioned factors created what is now known as economic globalisation, or just globalisation. The latter is characterised by incidences where vast amounts of capital could cross borders in a matter of seconds. These fundamental changes in the way economic forces could shift capital and production centres to any state have significantly lowered the power of individual states.

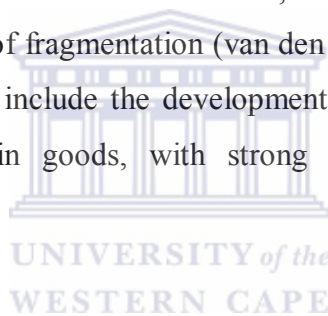
The decline of the nation state within a globalised world has prompted both developed and developing countries to pursue cooperation as a means to survive in the international system. Nonetheless, Sideri (nd, p. 49-50) emphasises that the constraints imposed by the process of globalisation matter much more for medium and smaller countries in comparison to the major powers. Gilpin (2000, p. 21) mentions that the spread of globalisation (especially its economic form) have been exaggerated and that it is restricted to a limited number of sectors and its participants are largely the triad of industrialised countries, namely the USA; Western Europe and to a lesser extent Japan and the emerging markets of East Asia. Hettne (2002, p. 30) expresses this reality by outlining that the fundamental problem with market-driven economic globalisation is selectiveness. As a result, not everybody can join the globalised world because of the conditions of competition in the world market. Sandbrook (2000, p. 1079) asks the question of how free is free trade, if one considers that more than a third of the world's trade occurs between branches of globally integrated transnational corporations. Gibb (1996, p. 447) observes that the globalisation of business appears to have promoted international regionalism and reinforced the spatial criteria as states try to control at the regional scale what they have increasingly failed to manage at the national and multi-lateral levels. As a result, the rapid expansion of globalisation following the Cold War could be seen as a primary contributing factor to the growth of regionalism worldwide (Hveem, 2006, p. 298).

It is within this context that states in Africa interact with each other and pursue their national interest within the post-Cold War (i.e. new regionalism) world. Growing importance has thus been assigned to international organisations/ institutions, regions and fostering more co-operative behaviour. Cooperation has become an important feature to secure state's interests

in economic and security terms (Stubbs & Reed, 2006, p. 289). Africa as part of the developing world and attempting to develop economically actively pursues co-operative means, especially considering how the industrialised countries' interests tend to dominate international affairs through their international institutions and IGOs (Kegley, 2009, p. 173-176). Regional groupings; multi-lateral collaborations and international law and norms have increasingly become crucial factors to take into account when managing the international environment for individual states.

2.6.4 Economic integration agreements: new trends

The traditional conception of forming PTAs in the form of FTAs and CUs has changed considerably in a globalised world. Global trade agreements today are more about linking production chains between countries and continents, while Africa remains locked in a struggle to overcome the legacy of fragmentation (van den Bosch, 2011). The global features of regional integration currently include the development of comprehensive FTA agendas, extending well beyond trade in goods, with strong emphasis on deeper integration (Hartzenberg, 2011a, p. iii).



“As the World Trade Report 2011 shows, in 1990 there were only 70 PTAs in force. Subsequently, PTA activity increased noticeably with almost 300 PTAs in force in 2010. The coverage of policy areas in PTAs, particularly those of a regulatory nature, has also been widening in recent years. Recent agreements go beyond the tariff liberalisation and include disciplines such as the movement of capital, investment, intellectual property, competition policy, services trade and technical barriers to trade... the expansion of international production networks is related with the proliferation of deep agreements going beyond traditional market access issues” (Orefice & Rocha, 2011, p. 2).

Keeping the above in mind, it becomes clear that to generate economic growth through PTAs requires an approach that is cognisant of the fact that global trade patterns have changed towards fragmented economic activities. PTAs, which have seen an increase in production

sharing activities, increasingly deals with intermediary and unfinished goods as well as services to link these fragments of the production process (Cattaneo, 2008). As such, PTAs that create an enabling environment for such economic activities are more likely to generate economic growth and in turn development.

The ASEAN is leading the way in utilising RTAs to link production centres; harmonising regulatory frameworks, and creating competitive advantages that have seen this region grow economically in a substantial manner over the three decades. The ASEAN focused itself on strengthening its soft infrastructure, resulting in a more homogenous economic space. The reason why ASEAN is so important in this regard is that it is exclusively made up of developing countries and it has been able to reap massive economic benefits for member states from using their PTAs to increase production sharing and fragmented trade. In doing so, the ASEAN has gone beyond the traditional conception of FTAs of such FTAs being regarded as merely shallow efforts at integration (WTO world trade report, 2011, p. 146-148). This is particularly important in the developing country context where the traditional static and dynamic benefits to be expected from market integration are not easy to realise. In this regard, the following is worth noting, i.e. that allowing for production sharing and fragmented trade in the static trade creation/ diversion framework increases the opportunities for welfare enhancing FTAs (Cattaneo, 2008, p. 12).

The ASEAN used their PTAs to foster aspects of deeper integration. From this it is clear that they have not blindly followed a linear process of economic integration. In fact, the ASEAN have been pro-active in creating a more homogenous environment to facilitate trade, and more importantly, with a goal in mind, namely production sharing and extracting gains from the dynamics of economic globalisation. The ASEAN has responded to the changing forces of globalisation. Based on this, it could be deduced that globalisation has resulted in deeper PTAs. This required concerted efforts in trade facilitation and harmonising regulatory frameworks within individual states to create an environment that promotes fragmented trade more efficiently. The ASEAN has dealt with soft infrastructure constraints and in turn members have willingly ceded some aspects of their sovereignty for a regional goal that has benefited individual states (WTO World Trade Report, 2011, p. 148).

Upon perusing the *WTO 2011 World Trade Report* (2011, p. 151-153), it becomes clear that Africa has not followed this trend and as such lags behind the ASEAN and other regions with respect to fragmented trade. RoO, for example, are so restrictive in the SADC that production sharing and fragmented trade are almost impossible to achieve in its current configurations within the FTA (Cattaneo, 2008, p. 26). The next chapter will provide a more focused account of the problems Africa faces by using the linear model with an exclusive focus on market access factors (i.e. shallow integration) that have marginalised the important role of soft infrastructure; services, and fragmented trade.

2.7 Conclusion

This chapter grappled with the term regional integration and its changing nature across the old and new regionalism. Regional integration was defined in the context of this study as an exercise carried out between states and influenced by different world orders. It was found that functional cooperation and market integration, as classical integration concepts, have changed in relevance and use across the old and new regionalisms. The old regionalism occurred during an era of state strength and security concerns; whereas the new regionalism occurs in a more liberal world order governed by economic fundamentals. Thus, as economics have become closely associated to the national interest of states, so has market integration as a strategy for regional integration. Globalisation was found to be the factor that has most impacted on the growth of PTAs. So strong has been the influence of globalisation that PTAs have changed in depth and scale to accommodate the new world order. To understand Africa's experience with regional integration requires the reader to be cognisant of functional and market integration strategies as they are vital in understanding what regional integration aspires to in the African context. The shifts articulated across the old and new regionalism will be juxtaposed against Africa's attempts at regional integration in the next chapter. The following chapter has been grounded on the foundations laid in this chapter.

Chapter 3: Regional Integration in Africa

3.1 Introduction

Since the 1960s, regional integration in Africa has been viewed as an indispensable strategy to overcome the legacies of colonialism as well as to attain sustainable development. However, overtime, African regionalism has become synonymous with shallow efforts at integration. This is in part a result of Africa's historical context that created the environment in which regional integration occurs today. Viewing regional integration against the backdrop of historical; political, and economic forces that continue to shape Africa's prospects for effective integration will be an important outcome of this chapter. This will assist in identifying the challenges to regional integration in Africa and outline the elements that ultimately assisted in the push for a T-FTA.

The purpose of this chapter is to provide a broad overview of Africa's first and second waves of regional integration.¹⁵ Regional integration is closely associated with pan-African political ideals in Africa. This was evident in the emergence of the former Organisation for African Unity (OAU), now the AU. The AU provides the framework in which regional integration is to occur that would ideally unite Africa.

RECs are viewed as the building blocks to achieve the goals of economic and political integration in and for Africa. Africa's second wave of regional integration has explicitly followed a path towards economic integration within the various sub-regions that would eventually realise an economically united continent through the goals of the Treaty of Abuja in 1991. The economic integration of Africa's sub-regions is envisaged to lay the foundation for pan-African political integration.

This chapter will highlight the following issues that are all paramount in discussing and exploring regional integration in Africa, namely:

¹⁵The first wave of regional integration in Africa occurred post-colonialism as a strategy to overcome Africa's historical challenges such as dependence on its former colonial powers. The second wave of regional integration occurred post Cold War with economic integration and outward orientation as key strategies to overcome Africa's developmental challenges.

- A brief exploration into Africa's history, including the slave trade;
- Africa's independence and how this relates to the nature of Africa's weak states and why they continue to struggle with issues of sovereignty post-independence;
- The first wave of regional integration, including the influence of pan-Africanism, Import Substitution Industrialisation (ISI) and Structural Adjustment Programs (SAPs) in Africa; and
- A brief overview of COMESA, EAC and SADC and this will be followed by contextualising the problems that regional integration face in broader terms. It is necessary to outline the bigger picture of integration in Africa as it provides a base from which to view the emergence of the T-FTA.

3.2 Africa's Heritage

Africa faces severe challenges to stem growing under-development and marginalisation in the international system. Nunn (2005, p. 13-24) argues that a number of recent studies provide mounting evidence that Africa's poor economic performance in the second half of the 20th century could either be attributed to colonialism or the slave trade. The inherited legacies of Africa's specific historical context of European imperialism and colonialism have influenced Africa's current developmental realities. Colonial Africa was much more like post-colonial Africa than most could have imagined and colonial dynamics will continue to shape the post-colonial African society (Ranger, 1996, p. 271-280). Both the slave trade and colonialism had major impacts on Africa in terms of state formation; societal cohesion, and economic development. They also impacted negatively on Africa's ability to engage meaningfully with the international system and its ability to pursue regional integration since the advent of independence. It should also be stressed that, as will be highlighted below, that the impact of colonialism on the formation of a European identity was major, so much so that it also played a crucial part in the disintegration of African society.

3.2.1 The Slave Trade

The slave trade has had a profound influence on African development. Osaghae and McGowan (2006, p. 209) highlight that the slave trade exacerbated internal violence, inter-

state conflicts, social turbulence and insecurity of life. Because of the large number of women and children taken from Africa, it decimated production and economic development. They go on to say that outside Africa the slave trade was a major factor in the rise of plantation economies and the process of capital accumulation that made the industrial revolution in Europe possible. Africa was put into an inverted relationship where underdevelopment had a direct impact on the development of Europe and the United States of America (USA) (Murithi, 2005, p. 2-3). Slavery negatively impacted African heritage and because much of African history had not been written down on paper at the time, it gave colonial powers the ability to rewrite Africa through European biased lenses. This led to the foundation for imposing an essentially 'alien' structure of Westphalian sovereignty on already defined geographies characteristic of chiefdoms, ethnic groups and historically linked regions in pre-colonial Africa.

3.2.2 Colonialism

The Thirty years war and eventual birth of the modern international system through the Peace of Westphalia confirmed the state system in Europe. Jaffe (1985, p. 45) explains that a European identity was firmly established when the Portuguese, Spanish, French, Italian, Dutch, English, German, Danish and Swedish clashed with Africa, the Americas and Asia. Only then, did the need arise for European powers to consider themselves as a set, a whole, different from, hostile to, and eventually superior to Africans. It gave Europe a common interest. Colonialism was key in the formation of a collective European identity and it created avenues and opportunities for co-operation among European states and a form of collective unifying superiority *vis-à-vis* the rest of the world at an early stage in consolidating statehood (Jaffe, 1985, p. 45).

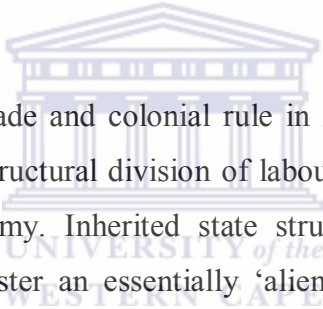
Colonialism was the end result of what has become known as the first scramble for Africa. The Berlin Conference as facilitated between 1884 and 1885, and which was attended by every western nation except Switzerland and the USA, laid the foundation for partitioning Africa (Boahen, 1987, p. 33). The Berlin Act was ratified on 26 February 1885, and it embodied four principles. The most important was that signing of treaties with African rulers was to be considered as legitimate titles to sovereignty, and these treaties could only be

considered to be valid under effective occupation, and with European powers agreeing to a 'peaceful' coexistence between the colonies if these procedures were followed (Boahen, 1987, p. 33-34). This laid the foundation for rapid colonisation in Africa and within a period of 20 years partitioned the entire African continent (Boahen, 1987, p. 33). The political boundaries drawn up in Africa was largely inaccurate maps that separated ethnic groups, kingdoms and historically linked regions in ways that continue to cause conflict in Africa today (O'Toole, 1996, p. 45). Possessing African colonies became a form of national prestige for European nations (Jones, 1993). Erecting colonies in Africa was a result of strategic decisions made within an environment of European circumstance, and these decisions left little consideration for the welfare of indigenous African people.

Europe at this stage had infant industries and an evolving capitalist system that strengthened their rationale for pursuing colonies in order to guarantee the legitimacy of European industrial development. The emerging industrial capitalist system left large numbers of people unemployed and they could be settled in the colonies without losing any affiliation with the mother country (Boahen, 1987, p. 31). Due to the need to re-settle poor Europeans and to become more prosperous in the colonies; a collective identity was formed and this was held together by racial discourse. This effectively laid the foundation for exclusion and marginalisation of indigenous communities in the colonies based on the perception that Europeans were superior and Africans had to be enlightened and brought to modernity in the mould of European society. Wherever and whenever colonial rule was established it was essentially a paternalistic and bureaucratic dictatorship (O'Toole, 1996, p. 47). Indigenous societal development in Africa was through coercive means and intentionally neglected and underdeveloped in favour of settler populations' prosperity and growth.

The economic need for colonies is viewed as the strongest driver that contributed to the pursuit of colonialism. During the second half of the nineteenth century, England's industrial capitalism had spread to parts of Europe and this led to an increasingly competitive international trade environment. Emergent from this was nations disregarding the notion of free trade by establishing mercantilist states that encouraged and implemented tariff barriers to protect the young industries of both Europe and America (Boahen, 1987, p. 30). Throughout the 19th century, as many European nations underwent rapid industrialisation,

they increasingly looked to Africa as a market for their manufactured goods and as a potentially rich source of raw materials (Jones, 1993). Colonies were viewed as an essential part of strengthening industrialisation in ‘motherlands’ by having exclusive markets for their manufactured goods and a dedicated source of raw materials to fuel European industrial development (Boahen, 1987, p. 30). In addition, colonies had mono-cultural economies, and this made it reliant on a few cash crops e.g. (cocoa, oil palm, cotton and rubber) or minerals (e.g. copper, tin, diamonds and gold) that were exported to the colonial power. For the just more than 70 years that European countries ruled Africa, the economies of African countries were shaped to the advantage of the colonisers (O’Toole, 1996, p. 48). The structures of the colonial state were developed only so far as to ensure sufficient enforcement of law and order (i.e. army, police, judiciary and prisons) and develop infrastructure (i.e. railways, roads, ports and communication facilities), which facilitated the penetration of capital and extraction of resources (Osaghae & McGowan, 2006, p. 213).



The key outcome of the slave trade and colonial rule in Africa is the inheritance of weak states that find themselves in a structural division of labour that feature for the most part at the bottom of the world economy. Inherited state structures and institutions were not sufficiently developed to administer an essentially ‘alien’ notion of statehood to already grossly marginalised indigenous people. The physical infrastructure was similarly underdeveloped in that it was only developed to facilitate narrow interests in mining, commodities and cash crops that were destined to be exported to urban centres and ‘motherlands’. Colonial rule left Africa at its independence with a major challenge, namely to be able to consolidate statehood amidst the historical legacies that have constantly reshaped and disintegrated African society.

3.2.3 Africa’s Independence

The Atlantic Charter was proclaimed by the United Nations (UN) in 1942 and the ideal of self-determination therein contributed to the vision of the right to freedom from colonial rule. This was vehemently supported by Africa’s colonialised states (Gordon, 1996, p. 49). During WWII, dramatic changes began to occur in the international system as a key foundation of the war was the principle of the right to self-determination. After the war, Africans no longer

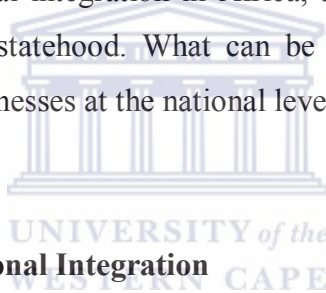
accepted that their right to self-determination was second best (Southall, 2006, p. 224-227). Thus, following WWII, the right to self-determination became a growing norm leaving colonial territories with little legitimacy. However, colonies with settler populations in Africa were unwilling to give up their advantaged position in their colonial societies (Osaghae & McGowan, 2006, p. 214-216). Keeping this in mind, it is clear that the international pressure placed on colonial states was not always enough to guarantee independence for African states.

Growing tension in all colonies became evident, with native populations becoming more and more resistant to the colonial state. Hodgkin (1957, p. 71) note that growing African nationalism began to take hold of what was commonly viewed by African people as the road to freedom because it would lead native populations to mobilise around a common enemy, namely European imperialism. Violence was characteristic of almost all liberation struggles in Africa due to the staunch resistance by colonial regimes. Fanon (1961) argues that using violence as a road to freedom was inevitably going to create instability in post-colonial societies. More significantly, African elites did not change the colonial state since the advent of 'freedom' in Africa. The real political inheritances of independent Africa were authoritarian structures, an accompanying political structure and politically relevant circumstances that were linked to colonial rule (Gordon, 1996, p. 57). Jackson and Rosberg (1982, p. 2-16) mention that African governments' ability to exercise control hinges on three factors: domestic authority, the apparatus of power (government) and economic circumstances. At the advent of Africa's independence none of the newly liberated African states could lay full claim to exercising effective control over their people in these areas.

As noted above, Africa states were colonised for a period spanning just over 70 years. Nonetheless, once the colonial period ended, the pace at which African countries gained their independence was quite quick. For instance, the majority of these states became independent spanning the period between 1958 and 1966¹⁶ (Gordon, 1996, p. 56-58). This rapid decolonisation left the indigenous people with inadequate time to properly prepare and

¹⁶ It is acknowledged that Portuguese colonies (Angola e.g.) only got independence in the 1970s. Zimbabwe's white population proclaimed unilateral independence from Britain, with SA's apartheid regime viewed as inherently racist and not prescriptive to the notions of Pan-Africanism. In fact 'Real' independence only came in 1980 when Zimbabwe gained independence from settler rule.

develop frameworks to administer a democratic state. Prior to independence, Africa's economies were geared towards extraction; as a result their development did not aim at internal growth and self-reliance or at the creation of an indigenous industrial and technological base (Mistry, 2000, p. 554). The economic weaknesses of the post-colonial state, especially the poor export performance (except for oil) meant that regimes were heavily reliant on external aid and a limited range of commodity exports for foreign exchange and state revenues (Bromley, 1995, p. 343-346). As a result, state institutions and organisations are less developed in the sub-Saharan region than almost anywhere else where political instability (coups, internal wars and similar forms of violence) have been common occurrences in the two and a half decades following independence (Jackson & Rosberg, 1982, p. 1). Therefore, independence did not usher in a golden era. In fact, in almost all African countries democratic regimes degenerated into authoritarianism and economic decline (Gordon, 1996, p. 58-80). Africa's weak states place a question mark over the whole rationale behind pursuing regional integration in Africa, as integration is pursued by these states struggling to consolidate statehood. What can be achieved at the regional level is relative to the strengths and weaknesses at the national level.



3.3 Africa's First Wave of Regional Integration

The first wave of regional integration in Africa occurred at the inception of independence. Since the 1950s, two conflicting predispositions have influenced Africa's efforts at regional cooperation and integration, namely (i) strict adherence to the colonial borders as drawn up by the colonial powers, and (ii) from the outset of independence, African states have highlighted the indispensability of economic integration across sub-regions and the continent as a whole (Mistry, 2000, p. 553). According to Kiel (1977, p. 257), Africa's first wave of regional integration was synonymous with numerous cooperation and integration efforts, but these efforts were hampered by major shortcomings and disappointments.

It became evident in the previous chapter that the top-down forces on especially developing states during old regionalism did not provide the appropriate international environment for regional integration. For this reason, all economic integration attempts failed, not just in Africa but almost the entire third world in their initial orientation (Lawrence, 1999, p. 29-30).

Despite this, the European integration process still managed to be the only successful regional integration project during the time of old regionalism.

During the first wave of regional integration, three dominant factors were present that related to the actual integration process in Africa. These factors, which will be discussed separately below, included:

- Using pan-Africanism as an ideological driver;
- State-driven regional integration in pursuit of Import Substitution Industrialisation (ISI); and
- The implementation of Structural Adjustment Programmes (SAPs).

3.3.1 Pan-Africanism and the Organisation of African Unity (OAU)

The consciousness that Pan-Africanism brought about was a crucial element in the pursuit of integration in Africa. The general consensus is that given the African continent's economic and geo-political realities, regionalisation is the *sine qua non* for meaningful progress (Olivier, nd). The importance of regional integration to pursue the goals of growth and development was acknowledged as far back as when African states started to gain independence from their colonial masters. At the time, the notion of Pan-Africanism was prevalent and provided a much needed, unifying ideological centre.

The growth of African nationalism coincided with the notion of Pan-Africanism, which was developed by Africans in the Diaspora. Pan-Africanism originated in the early 1900s as a movement of people of African descent living outside Africa (Makinda & Okumu, 2008, p. 18). A culmination of congresses occurred during the period spanning 1919 to 1945 by the Diaspora, with the 1945-Congress in Manchester being the most significant. The majority of delegates at this Congress were from the African continent and Kwame Nkrumah (the then president of Ghana) acted as its Secretary-General (Osaghae & McGowan, 2006, p. 215). Nkrumah effectively linked the liberation struggles of African nationalism to that of Pan-Africanism that sought to tie all African struggles for independence together. The idea was

that independence should be deemed as meaningless if all Africans were not ‘free’ in the true sense of the word.

The role of Pan-Africanism was mainly three-fold, namely to reconstruct an African identity; to assist in the search for human dignity, and global equality for all Africans (Makinda & Okumu, 2008, p. 20). Following Africa’s independence, states on the continent increasingly looked to Pan-Africanism as an ideology to unite states that have historically been divided by their colonial past.

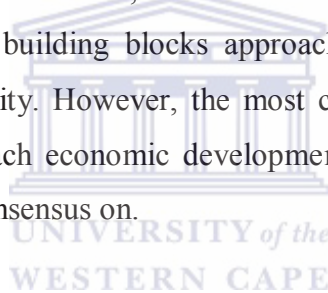
The most important development in this regard was the creation of the Organisation of African Unity (OAU) in 1963. It represented Africa’s first true continental integration attempt. In addition, it sought to provide a platform for African states to cooperate and be self-reliant through realising independence of all African colonies in political and economic terms (Makinda & Okumu, 2008, p. 18-24). Thompson and Bissell (1972, p. 19-20) mention that establishing the OAU led to a more united Africa that was no longer separated by old loyalties, and in many ways the continent could start afresh. That said, it later became clear that reaching consensus on how to start afresh would be complex. For instance:

“From the 1959 Accra All Africa Conference to the 1963 Addis Ababa founding summit of the OAU, there was a serious ideological struggle throughout the continent centred on whether full political unity should be established immediately – at the founding of the OAU, or whether it should be achieved gradually through a building block approach, by first strengthening the new states and establishing sub-regional economic blocks and whether development should be carried through social and economic planning driven by the state, or whether it should be based and driven by free and open market with foreign investment playing a major role” (Bujra, 2000, p. 2-3).

The OAU in its Charter actively articulated the notion of self-reliance through strict adherence of already defined colonial borders. In Articles 2 and 3 of its Charter, the OAU

(1963, p. 3-4) expresses its aim to promote unity; enhance cooperation in economic and other related affairs, and to defend the sovereignty and territorial integrity of the member states as well as to eradicate all forms of colonialism on the continent. In essence, the overarching organising principle was inter-governmental in nature and consensus was required to make decisions (Gottschalk & Schmidt, 2004, p. 142). This re-enforced the autonomy of the nation-state in Africa and the OAU actively protected the sovereignty of all member states.

Unfortunately, the initial 32 members of the OAU became known as a bureaucratic talking shop with little power to enforce its decisions on constituent states (Aguilar, Watson and Verge, 2008, p. 5). Even worse, it actively defended African states even though their regimes were undemocratic and seemed to resemble predatory states that actively threatened the welfare of their own citizens. Nevertheless, consensus was reached to strengthen individual countries first and utilising the building blocks approach through sub-regional economic groupings to achieve African unity. However, the most critical element of how the newly independent states would approach economic development proved to be a harder issue to reach regional and continental consensus on.



3.3.2 Import Substitution Industrialisation (ISI)

Pan-Africanism was influenced by the growing discourse internationally around development in the developing world that was almost universally applied to all states within this grouping. Euraque and Niemann (1994, p. 3) highlight that the implied realities behind these states are that they are mired in poverty; neglect; exploitation; backwardness, and underdevelopment. The legacy of colonialism is often evident in the fact that the former colonial powers are now representing the core states, while their former colonies make out the periphery (Euraque and Niemann, 1994, p. 3-4). As a result, the periphery, also known as developing countries are quite dependent on the core countries for their own development.

Upon gaining their independence, several African states rejected the market system as promoted and forced on them during old regionalism (Akokpari, 2008, p. 92). This rejection

of a dependency on industrialised powers gained prominence during the 1960s and 1970s. It advocated disengagement from the international system and rather supported the pursuit of state driven development paradigms in most of these developing countries, especially those in Africa (Akokpari, 2008, p. 92). In turn, this prompted most African leaders to opt for some variant of African Socialism that was encapsulated by economic nationalism and brought to fruition through ISI (Shaw, 1985, p. 10-15). This drive for state driven development in Africa was made possible by the relative stability of the global economy emanating from the gold standard, in turn leading to stable commodity prices that facilitated constant export revenue for African states.

This gave African states a sense of economic stability which articulated state driven agendas in grand plans of self-reliance. At the policy level, economic integration plans were not only viewed as a strategy to modernise and develop, but to also confront the economic and even political might of the colonisers. More specifically, economic integration plans assumed that deepening and diversifying industrialisation via ISI was the way to acquire developed status (Euraque & Niemann, 1994, p 2). Practically, all regional projects during this period were premised on the notion of the Westphalian state system that served to promote economic growth and security motives to consolidate state-building goals that allowed them to impose barriers *vis-à-vis* non-members (i.e. old regionalism) (Hveem, 2006, p. 295). Larger protected markets, brought about by regional integration, were envisaged to be able to extend the scope for viable ISI in Africa (McCarthy, 2010, p. 5). During this period, African states utilised interventionist and protectionist trade regimes to meet fiscal considerations as well as to protect domestic industries. However, it became clear that African countries did not have large enough markets, nor the sufficient human, social, and material capital, as well as the physical or institutional infrastructure for industrialisation and development to be facilitated effectively (Mistry, 2000, p. 554).

3.3.2.1 The Lagos Plan of Action (LPA)

Sub-regional inter-governmental economic co-operation organisations were established in Africa spanning the period from the 1960s to the 1980s to promote technical and economic integration of states. First generation integration arrangements in Africa were either the

legacy of the past or new arrangements that were born out of the dominant development state-centric theories of the day (ISI) (Mistry, 2000, p. 557). They included, amongst others, the East African Community (EAC); Economic Community of West African States (ECOWAS); the Southern African Development Coordination Committee (SADCC); the Inter-governmental Authority and Development (IGAD), and the Southern African Customs Union (SACU) (Makinda & Okumu, 2008, p. 25). Each of these differed depending on the specific and unique environment of the region it represented.

The first continental policy framework under the auspices of the OAU for economic integration in Africa was established in 1980 with the signing of the Lagos Plan of Action (LPA). This was in response to the call in 1976 by the OAU Council of Ministers for harmonisation and rationalising of the sub-regional initiatives mentioned above. At the time, they proposed a regional framework that encapsulated five regions, namely the Eastern; Southern; Central; Western, and North African regions (Makinda & Okumu, 2008, p. 53). It was an attempt to create a framework that all regional initiatives could follow as a guideline to economic integration in the various sub-regions and it was supported by the United Nations' Economic Commission for Africa (UNECA).

Moreover, the LPA was created to rationalise the growing differences between the regional arrangements at the time and to put them in line with the ideals of the OAU. Consistent with the prevailing ideology of Pan-Africanism, the LPA projected an introverted, state led approach to integration that would lead to the establishment of an African common market (Akokpari, 2008, p. 93). The LPA summarised the development thinking of the day and actively sought industrialisation as a primary strategy to overcome Africa's challenges by means of effective integration. At the time that the LPA was constituted, economic co-operation organisations such as ECOWAS, and others similar to it, were formally known as RECs.

The ideal of the LPA was to be achieved through the following strategies. Regional agreements generally sought to:

- Expand intra-regional trade through the reduction of tariff and non-tariff barriers;
- Strengthen regional development by promoting economic sectors and regional infrastructure to facilitate large scale manufacturing projects;
- Remove barriers to encourage free movement of production factors; and
- Promote monetary cooperation (UNCTAD, 2009, p. 8-9).

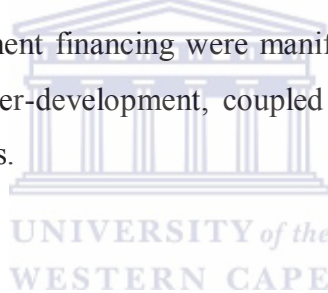
Kiel (1977, p. 261) explains that most African states followed similar patterns of industrialisation by focusing on import substitution with regards to light consumer industries such as food; tobacco; beverages, and textiles within highly protected domestic markets. During this period all regional arrangements in Africa followed an inward orientation. Also, it openly pursued the goal of industrialisation with little coherence amongst the various strategies as adopted by individual states and which were still characterised by inherited colonial economic activities. The result was an Africa where attempts to promote economic development continued to deteriorate, leaving few successful instances of meaningful developmental outcomes through state driven programs and more specifically ISI. Bruton (1998, p. 917-919) notes that Import Substitution did not fail in Africa; rather it was never really tried. Regardless of how one views ISI, all early economic integration attempts, coupled with the LPA, had failed to realise any meaningful economic growth and was abandoned towards the end of the 1980s. Nevertheless, the LPA could be considered as one of the first meaningful attempts of continental commitment towards economic integration.

3.3.3 Structural Adjustment Programs (SAPs)

During the 1970s and 1980s, the global economy experienced instability due to stalling growth rates and a recession, coupled with the implications of the Cold War. The debt crisis of the 1970s which had its roots in the oil price crisis in 1973 and 1979 were primarily attributable to the balance of payments deficits in many developing countries (Woodward, 1992, p. 22-23). Woodward (1992) highlights that between 1980 and 1986 the commodity exports of developing countries continued to fall till around a fifth of its original value. According to the Economic Report on Africa (2011, p. 6), Africa's growth was on par with the rest of the developing world between 1960 and 1970, but after the oil price shock in 1973 growth faltered with only a few African economies managing to recover from it.

Furthermore, Africa lacked capacity in terms of political and economic development to adequately manage the turbulent global economy, and as a result was hit hard by the debt crisis in both the 1970s and 1980s.

During this period increased tension between the USA and the Soviet Union occurred amidst global economic turmoil. The fall of the Berlin wall in 1989 signalled the end of the cold war and created little opposition to the neo-liberal development philosophy which was promoted by IFIs especially in the context of developing countries and Africa. The collapse of communism as an alternative mode of production left most developing countries facing a donor community that was increasingly intolerant of state driven development strategies. Thus, the adoption of neo-liberal SAPs in Africa reflects the lack of alternatives at the time (Mulaudzi, 2006, p. 9). The global recession towards the end of the 1980s and early 1990s left African states with few alternatives other than to seek development financing from IFIs. For African states, this development financing were manifested in the adoption of IMF and WB SAPs to stem growing under-development, coupled with shortfalls in the balance of payments of individual economies.



“Structural adjustment first made its entry into the economic crisis management policies of African countries in the late 1970s, spreading rapidly thereafter until virtually all African countries with the exception of South Africa (SA), Botswana and Namibia, embraced it by concluding formal agreements with the IMF and WB. But even those countries that did formally adopt an IMF/WB programme were propelled into the implementation of ‘shadow adjustment’ policies which shared the essential monetarist, neo-liberal thrust of the orthodox adjustment programmes. Among those countries which formally embraced the programme, some have implemented two or three rounds of adjustment reforms under different agreements with the IMF and WB. For about two decades, therefore, structural adjustment has been an integral part of the African policy environment, a highly ironic outcome given that in conception it was initially seen as a temporary diversion from the actual business of development, *albeit* it one necessitated by the economic

disequilibria that had become a threat to the growth and development prospects of African countries” (Olukushi, 2000, p. 1).

The implementation of the SAPs led to radical trade and investment liberalisation programmes within African states (Keet, 2007, p. 263). The SAPs aimed *inter alia* to minimise the role of the state apparatus in economic development and to implement economic reforms that orient the economies of these states toward export led growth and the return of economic forces (Buthulezi, 2006, p. 62). The conditionalities imposed on African states in order to acquire development finance is viewed by Kofi (2005) as yet a new form of colonialism, especially due to the fact that the Western powers yet again imposed their models of development thinking on Africa through the SAPs. Mistry (2000, p. 554) highlights that doubt remains about whether IMF and WB SAPs adopted since the mid-1980s will ever pay off in terms of sustained, durable and self-sustaining growth in the range of 5 to 7 percent annually. It seems that dependency was the end result of SAPs in Africa with states facing massive debt repayments. According to Tsie (1996, p. 76) SAPs have left few grounds for optimism especially when you consider that from 1986 to 1990, African countries paid back more (i.e. a total of \$1.8 billion) to the IMF than what they received in new loans. Thus, under these conditions it can be said that Africa’s debt is virtually impossible to pay off. This has made African states vulnerable to external influence with less control over their own economic development. Finally, the basic tenet of the earliest form of economic integration in Africa in the form of the LPA was self-reliance, but this principle has been significantly eroded by the legacy of the SAPs.

3.3.4 Cumulative Effect of Import Substitution Industrialisation and Structural Adjustment Programs on regional integration in Africa

The cumulative effects of ISI and SAPs have had a lasting influence on Africa’s ability to pursue regional integration, especially in economic terms. During this period (old regionalism), Africa’s trade policy and general development strategy have experienced two contrasting tendencies; Collectively, African states embarked on an inward-looking regional strategy encapsulated by ISI, while at the individual country level they started rationalising and liberalising their trade regime in the framework of the IMF and WB programs that

implied closer integration with the world economy (UNCTAD, 2009, p. 9). For example, those states in Africa who were classified as least developed of the Least Developed Countries (LDCs), optimistically opted for economic nationalism strategies whereas states such as Egypt, Nigeria, and Zimbabwe that had growing manufacturing and communications sectors wanted to extract more gains by aligning themselves to a more outward orientation (Shaw, 1985, p. 15-19). Thus, the different economic approaches which existed between protecting and opening economies to international trade gave rise to an incoherent and divergent integration agenda with differing development paths pursued by respective African states. Hence, African states' economic orientation was based on radical critiques of the global economy which was not followed by all countries. The divergent economic paths created a situation that left little room for states to move towards common economic goals as prescribed in the LPA.

African unity was merely an ideological abstract notion with very little grounding in the practical actions of states. In fact, African integration at this stage stalled while individual states pursued uni-lateral liberalisation. During the 1970s and 1980s, the attention of African policy-makers shifted from regional integration to the implementation of SAPs (UNCTAD, 2009, p. 9). In terms of regional integration, a key outcome of the SAPs was that they focused on national development priorities and left little coherence or convergence towards a regional approach in Africa. The cumulative effect of SAPs has been the reduction of power of the nation state and loss of capacity and legitimacy of its institutions in dealing with the development needs of the African masses (Buthulezi, 2006, p. 62-65). As a result, basic elements such as infrastructure links that would assist economic growth amongst African states after a quarter of a century of post-independence initiatives still hampered trade and wider forms of cooperation in a variety of fields, including post; telecommunications; transport, and banking (Robson, 1985, p. 619). Therefore, development strategies such as ISI and SAPs have failed to reverse the African continent's declining fortunes. This reality has continued to affect the prospects for sustainable regional integration in its contemporary form. African states remain under-developed with weak institutions at the national level due to deteriorating development prospects.

3.4 Drivers for Africa's Contemporary Integration Agenda

States all over the world are confronted with a rapidly changing international economy that provides challenges and opportunities for developing states to grow and take advantage of increased global trade. The reality, though, is that Africa has experienced a steady decline in its share of world trade. This is illustrated in the fact that Africa's share of world trade stood at 20 percent in the 1980s, but today it is only approximately between two and three percent (Buthulezi, 2006, p. 67 and ECA, 2010, p. 3). One could argue that this steady decline in Africa's stake in the global trade could be attributed to a lack of effective efforts towards regional integration as a strategy to assist in overcoming Africa's problems.

Nonetheless, as pointed out before, Africa is indeed attempting to forge meaningful regional integration agreements. This positive step towards regional integration is incited by four factors, namely:

- Africa's lack of growth and marginalisation in the global economy;
- The WTO and changing world trading system;
- The changing economic order and new scramble for Africa; and
- South Africa's post-apartheid regional policies.

3.4.1 Africa's Lack of Growth and Marginalisation in the Global Economy

Africa remains the most under-developed region in the world. Leftwich (2000, p. 86) argues that this is manifested through an array of factors, including, but not limited to, pervasive and deepening poverty; immense inequalities; infrastructural decay and inadequacy; widespread unemployment and corruption, and chronic political instability. The UN listed 48 Least Developed Countries (LDCs), and at least 33 of them were situated on the African continent (Buthulezi, 2006, p. 56). This is exacerbated due to the fact that African countries generally have low per capita income with 40 to 60 percent of its population earning less than \$2 a day, coupled with high inflation and unemployment (Akopari, 2008, p. 95).

Coupled with Africa's particularly weak economies, African states continue to be primary exporters of commodities. Key to Africa's poor economic growth and global trade is the nature of African economies and their corresponding exports to the rest of the world. Ilorah (2008, p. 86-87) explains that the type of goods (i.e. commodities) Africa exports *vis-à-vis* what they import (i.e. manufactured goods), creates negative terms of trade. He proceeds by arguing that this is due to the gradual decline of prices of commodities in the global economy relative to that of manufactured goods. This gives rise to a negative trade off where African economies continuously 'transfer' income to the economies of the developed countries.

Kofi (2005, p. 51) maintains that the commodity focused economies of African states are not the result of their needs, but due to the dynamics as promoted and maintained by the richer, industrialised nations. More importantly, African economies are still earmarked by a situation where their primary resources are destined for the wealthier nations through typical neo-colonial and transnational links (Buthulezi, 2006, p. 59-69). Akinkugbe (2010, p. 120) mentions that the often narrow band of commodities which African states export leaves them extremely vulnerable to commodity terms of trade and foreign demand shocks. The prices of commodities have always been vulnerable to fluctuations in the global economy, and this was even more evident during the global financial crisis in both 2008 to 2009. The result of these crises was a drastic drop in commodity prices, which in turn slowed down economic growth in Africa substantially (McCarthy, 2010, p. 28-39). On average, only between 10 to 20 percent of African trade transpires between African nations (ECA, 2010, p. 3). This above-mentioned over-reliance on commodities as well as their particularly strong peripheral links with the global economy has made African states heavily reliant on Official Development Assistance (ODA), plus other concessions of debt relief from developed states (Ilorah, 2008, p. 89-91). Taking all of this into account, it is clear that the economies of African states are not geared internally (i.e. towards the continent itself), but rather towards external actors. This makes them particularly vulnerable on the global economic stage, and even more so during times of global economic uncertainty.

Its reliance on commodities has prompted calls for the diversification of the economic base of Africa.¹⁷ Africa's industrial sector accounted for 35.9 percent of GDP in 2007; however, if mining and quarrying are excluded from this figure, then manufacturing as a proportion of industry in Africa only accounts for 12.1 percent of GDP (ECA, 2007, p. 49). Putting this into perspective, the ECA (2006, p. 129) highlights that Africa's merchandise exports grew 10 percent between 1970 to 1974 and 20 percent between 2000 to 2003 whereas in comparison, East Asia's merchandise exports grew from 33 percent to 80 percent during the same period. Africa is not performing as well as it could in terms of manufacturing if compared developing states on other continents that are capitalising from globalisation.

Within the realm of this discussion, it should be noted that at least four of Africa's economies are indeed diversified in nature. These economies include those of Egypt; Morocco; South Africa, and Tunisia. In the first decade of the 21st century, 70 percent of these economies' (growing) GDP emanated from the service sectors, such as construction; banking; telecoms, and retailing. The abovementioned economies though compare badly in terms of labour unit costs if compared with both China and India (Roxburg *et al*, 2010, p. 4). In this regard, it is suggested that they opt to rather move towards the so-called higher value added industries.¹⁸ Such a move might hold the promise in improving their economic effectiveness. From this it could be deduced that even these 'diversified' African economies are struggling to be competitive in the international system.

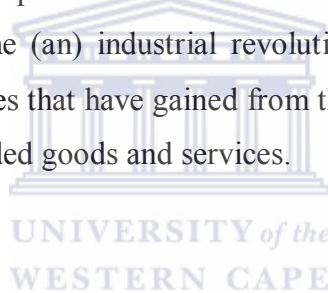
Despite all the problems associated with and experienced by African economies, it should be stated that they have recently shown improved economic statistics. For instance, a report by the McKinsey Institute entitled *Lions on the move: The Progress and Potential of African Economies* shows that Africa has experienced an estimated GDP growth of 4.9 percent per annum between 2000 and 2008. In addition, GDP grew on average 1.9 percent despite the global recession, making Africa one of only two regions to do so. This trend is expected to continue in the future. The report goes on to stress this growth appeared across all sectors,

¹⁷ It is acknowledged that generalising about Africa as whole and not in terms of 54 sovereign states is contentious. However, for the purposes of this study, such a generalisation is reasonable because Africa as a collective is often faced with the same challenges of under-development and marginalisation. The purpose of Africa's second wave of regional integration is to overcome these collective challenges facing the continent.

¹⁸ Examples of value-added industries include the automobile and auto parts, and aircraft as well as consumer electronics industries.

thus indicating that it was not just a specific and/or single resource boom. This positive performance could be attributed to increased political and macro-economic stability as well as micro level reforms that have oriented African states to be more business friendly. It should also be said that although this upward trend in Africa's growth is a promising development; it came from a low economic base. The point is that there exists significant scope for Africa to diversify its economic base and, consequently address issues related to supply side constraints that persist and hamper intra-regional trade.

Few developing countries have managed as yet to gain from globalisation and its dynamics. Only the emerging powers, i.e. Brazil; China, and India as well as the East Asian nations, for example South Korea and Malaysia, have seen strong economic growth since the advent of globalisation. The general trend for Brazil and China is a growing manufacturing sector, whereas East Asian nations have specialised in the technological sector that is also regarded as the most recent version of the (an) industrial revolution. Drawing on this, it could be argued that those developing states that have gained from the phenomena of globalisation are typically specialising in value added goods and services.



Recently, states tend to move towards production sharing initiatives in order to produce finished goods at a competitive level internationally. Intra-regional trade allows a region to foster competitiveness despite fragmented manufacturing activities. It has the potential to create links that foster economic growth as well as enlarge the domestic market of a specific country as well as a specific countries' market share globally. Intra-industry trade is considered to be the key contributor to this process and enhances regional integration as well as the integration of individual states into the global economy. Notwithstanding, it should be underlined that intra-industry trade is unfortunately not the norm in Africa, and the continent lacks majorly in this instance if compared with other regions of the world (Simuyemba, 2000, p. 8; Kofi, 2005). The reason for this absence of intra-industry trade in Africa could be linked to its poor value added sectors. Moreover, often the so-called commodity economies of Africa are in (direct and indirect) competition with each other instead of being complementary in nature and/or in dealing with each other on a global scale. Essentially, African states do not produce what is required for their development, and this has led to little incentive to foster trade amongst them; let alone them capitalising on the dynamics of

globalised manufacturing activities. In order to do so in a sustainable manner, states require large enough regional markets and value chains.

Likewise, Africa still requires significantly more investment and it is becoming more pressing in the current global economy. The most important outcome of all of the above factors is that Africa is (despite recent positive trends) still unattractive for investment, more specifically the kind of labour absorbing economic activity that is required for sustainable development. Primary to this is that FDI over the last few years to most developing countries was substantially lower in comparison to other periods. Only major emerging regions, such as East and South-East Asia and Latin America experienced strong growth in FDI over the last few years (WTO: World Investment Report, 2011, p. 1). Despite growing fears over the global economy, these emerging regions are able to attract more investment because of their large enough markets, and growing economies as well as infrastructure connectivity.



3.4.2 The World Trade Organisation and changing world trade system

Since the end of WWII, the world has steadily embarked on a path towards global free trade in order to capture the benefits of specialisation as promised by the principle of comparative advantage. Mwanza (2010, p. 5-6) notes that this is occurring on two fronts, namely the multi-lateral level in the form of the WTO and on the regional and bi-lateral levels between states.

“Changes in the world trading regime are a major driver of Africa’s regional integration agenda. The global trading system has evolved significantly in the last 20 years, with the general consensus that free trade is good for growth. The GATT created more than 50 years ago, transformed into the WTO, which has significantly reduced tariff and non-tariff barriers. Rich economies now pursue bilateral trade liberalisation with poor ones. The changes have resulted in greater integration of world markets and increased world trade. Since the Uruguay Round of trade negotiations in 1995 world trade increased 25%, twice as fast as production. This rapid expansion has been facilitated by

developments in Information and Communications Technology, liberalisation of financial markets, and factor movements across national and regional borders. Countries' and regions' responses to these new opportunities have to some degree determined their share of the benefits" (ECA, 2006, p. 2).

The integration agenda of African countries have become especially important within this international environment. Virtually all rounds of multi-lateral trade negotiations through the WTO, especially the Doha development rounds, have continuously disadvantaged Africa, especially sub-Saharan Africa (Ilorah, 2008, p. 94). Through the multilateral liberalisation as proposed by the WTO, it is estimated that Africa could lose \$2 billion annually in revenue (Lee, 2002, p. 7). This is associated with the considerably high adjustment costs imposed on African countries as they try to implement the trade liberalisation obligations arising from various multi-lateral trade agreements, especially those that require radical reforms of their domestic regulatory systems (UNCTAD, 2006, p. 41). Therefore, Africa and other parts of the developing world have become particularly vocal in the Doha development round concerning the unequal nature of global economic interaction and the stipulations of the various multi-lateral trade programs that they argue seek to lock developing countries into terms of trade that continue to be to their detriment (UNCTAD, 2006). This is perceived as a manifestation of the LIEO (as discussed in chapter two) amongst developing countries, not just Africa, and as a result developing states pursue the regional and bi-lateral alternative in moving towards world trade and breaking free from dependency on the wealthier states.

3.4.3 The Changing Economic Order and a New Scramble for Africa

Over the past two decades the emergence of Newly Industrialised Countries (NICs) from the developing world has received growing attention in the global economy. Over recent years, countries such as China, India, Brazil and several East Asian nations have been engaging in more trade globally, thus industrialising more rapidly and as a result became important actors in the world economy. For example, half of global economic growth over the last few years has been primarily attributable to (these) emerging economies. In fact, estimates show that 70 percent of world growth over the next few years will emanate from these and other similar emerging markets (Ernst and Young, 2011, p. 4).

Based on the above, South – South cooperation has been receiving particular interest as developing countries continue to increase the economic linkages between and amongst themselves into an ever denser web of activity that would ideally relinquish the power that developed countries historically exercised over them (Le Pere & Shelton, 2007, p. 67). According to the WTO *World Trade Report* (2011, p. 22), developed states' economies grew slower in 2010 if compared to those of developing countries. Of these, Asia, driven mainly by China and India, showed the fastest growth at 8.8 percent. In addition, South and Central America experienced growth of 5.8 percent, while Africa's average growth over the last five years stood at 4.7 percent.

Africa is increasingly exposed to the dynamics of world trade, making emerging and more developed economies important role players in its economic landscape. This has been a particularly promising development for Africa as these emerging economies, in particular, are increasingly trading, investing and forming strategic partnerships with the continent. The result is a positive impact on economic growth and breaking the political and economic hold that former colonial powers enjoyed over the continent.

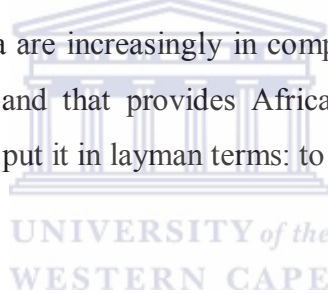
Africa has been particularly important for these emerging economies and more specifically China and to a lesser extent India, Brazil and others. For instance, over the last decade China has grown into a significant trade partner for sub-Saharan Africa by increasing its imports to Africa from 4.8 percent in 2000 to just over 11 (i.e. 11.2) percent in 2008 (McCarthy, 2010, p. 14). Through this relationship, Africa has experienced an increase in global trade due to the strong demand for their commodities, especially before the 2008 financial crisis.

It should be stressed that emerging economies¹⁹ are driven by the same interests as their more developed counterparts, namely securing resources and markets. According to UNCTAD (2010, p. 20-30), the composition of increased trade between Africa and non-African

¹⁹ Emerging economies are developing countries that are experiencing rapid economic growth and industrialisation.

developing countries are skewed towards imports. Between 2000 and 2008, the region's trade deficit with non-African developing countries grew from \$1-billion to \$37.2 billion, respectively. This is ironic if one considers that Africa's recent trade with developed economies have been characterised by faster growth in exports and currently shows a trade surplus with them (UNCTAD, 2010).

Essentially, the increased economic interaction between Africa and other emerging economies are diminishing the economic influence of developed countries. It is creating more avenues for Africa to capitalise on mutually beneficial partnerships that subscribe to their goals for development. However, this needs to be approached in manners that lessen the impact of deteriorating terms of trade between developing country partners and Africa, and this must transpire even though Africa does not have the economic base to fully manage its balance of payments deficit. Beneficial to Africa is that the two dominant trading partners to Africa, namely the EU and China are increasingly in competition with each other to capture Africa's markets and resources and that provides African countries with the leverage to negotiate better terms of trade; to put it in layman terms: to clinch a better deal for themselves (Mugumya, 2008, p. 5-8).



Europe is still the largest trading partner to Africa but is losing ground in this regard and it is drawing a lot of criticism regarding the way it does business with Africa, as evident in the EPAs offered to the SADC by the EU that has been criticized, and especially by South African diplomats. The then South African Minister of Foreign Affairs, Nkosazana Dlamini-Zuma, was quoted saying: "They are using them [EPAs] to regain ground they think they have lost in their quest for hegemony in Africa" (Le Roux, 2008). This attempt to 'regain ground' was sparked due to Africa's increased relations with China, India and South American countries (Pretorius, 2009). The attempt to fast track EPAs in Africa (this will be covered in greater detail in chapter five) has offered terms of trade that might lock Africa into commodity production and re-align already established RECs (Yao, 2010). As a result, EPAs need to be given more thought by African leaders. However, the EPAs highlight that Europe is willing to negotiate on a regional basis, implying a shift towards regional goals and a rules based approach to regional integration.

In contrast, developing country partners have strategic frameworks for Africa at the regional level, but their actual interaction and implementation of programmes are on the national level with often no link between these projects and regional priorities (UNCTAD, 2010, p. 26). These are often offered with no subscription to a rules based process of interaction as is the case with the principle of non-interference, characteristic of the Beijing Consensus.²⁰ The interplay between the changing economic orders has certainly provided Africa with more options, but these need to be approached pragmatically and with a regional and continental focus at its core to fully extract sustainable development goals, and mitigate the legacies of the past and not fall victim to a potential second scramble for Africa.

3.4.4 South Africa

SA initially focused much of its attention on promoting business and political relations with developed countries to aid post-Apartheid economic recovery. However, under the presidency of Nelson Mandela, South Africa's foreign policy was linked to Africa and this was made more pragmatic under the consequent Mbeki administration. Both Mandela and Mbeki have played instrumental roles in re-invigorating the African agenda, and this is especially evident through Thabo Mbeki's vision of an African Renaissance. Democratic South Africa actively branded and positioned itself as a development partner in; for and of Africa. As Barber (2004) reflects: South Africa has certainly given the African continent a new aura and hope.

Over time South Africa's foreign policy has evolved towards a pragmatic and realist orientation that stands in stark contrast to the idealistic days of Nelson Mandela. South Africa has a GDP twice the size of Egypt; and three; eight, and thirteen times that of Nigeria;

²⁰ The Beijing Consensus is viewed as an alternative development model than that offered by the Bretton Woods institutions, such as the IMF and WB. The idea behind an alternative development model is predicated on the fact that China did not need to be a democracy to economically develop, as propounded by Western nations. Importantly, the Beijing Consensus in Africa is predicated on the principle of non-interference and offering aid without conditionality. Joshua Cooper Ramo coined the term Beijing Consensus in 2004 to describe China's approach to development (McGarvy, 2011). The Beijing Consensus fundamentally challenges the Western conception of development in that democracy was not a prerequisite for China to develop. China has given developing countries more options globally to challenge the current development philosophy (Pretorius, 2008, p. 21).

Ethiopia, and the Democratic Republic of Congo, respectively (Megalomattis, 2007, p. 9). This is almost equal to that of Norway, one of the smallest economies in Europe (Akokpari, 2008, p. 95). In addition, at number 54 out of 139, the country was the highest ranked sub-Saharan African economy on the World Economic Forum's Global Competitiveness Index (CGI) at 54 (out of 139 economies) in 2010-2011. Conversely, this represents a global drop from 45 in previous years (Hartzenberg, 2011b, p. 13). However, on the African continent it is a regional powerhouse that boasts a stable democracy. It is viewed as an emerging pivotal power because of its profound influence in Africa and the Southern African region in particular, and it has become clear that its development is connected to the whole region (Schoeman, 2000).

South Africa has increasingly been placing emphasis on Africa and regional integration in its foreign policy and more specifically through its so-called 'African Agenda' (Rapoo, 2007, p. 1). Soko (2008, p. 3-29) asserts that by virtue of South Africa's strengths and position in the continent, it has to fulfill the leadership role in regional integration, and especially in Southern Africa, if there is to be any hope of meaningful integration. Since the advent of the democratic dispensation in 1994, South Africa has made its mark in the African economic landscape through its private sector, which has expanded rapidly throughout the continent, so much so that the rest of Africa is the country's fourth largest trading partner. Nonetheless, many regard this rapid expansion as an example of an imperialist South Africa conducting business in much the same way as developed countries (Taylor, 2006, p. 166). This is illustrated through the fact that out of 150 tariff changes in the recent past in South Africa, 137 have been tariff increases that mostly affects clothing and textiles industries (Helmo, 2012). Thus, South Africa often engages in uni-lateral action and negotiated a separate EPA (SA-EPA), which indicates that their commitment to the regional agenda is conditioned on national interest that has to be balanced against its domestic constraints and challenges. South Africa often stands to benefit the most from any meaningful integration, whether it is at the continental, regional or sub-regional level (South Africa's role in integration initiatives will be explored in greater detail in chapter five).

Having explored the drivers of the contemporary regional integration agenda, the next section will describe the form of this second wave of regional integration.

3.5 Africa's Second Wave of Regional Integration

Gereffi and Fonda (1992, p. 435) emphasise that sub-Saharan Africa is less stable than other regions of the developing world. The cultures; geography, and political systems of the 54 states and territories are exceptionally diverse which make it difficult to generalise about problems and prescribing policy to change them. However, for African leaders, the imperatives for regional cooperation to address these issues are stronger now than ever before, given the multiple socio-economic and political impacts of globalisation on the African continent (UNCTAD, 2009, p. 15). The primary attribute of Africa's second wave of regional integration is that states on the continent have increasingly realised that regional integration is necessary to overcome the wide-ranging challenges facing them.

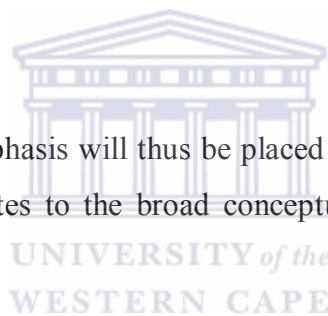
Therefore, Africa's commitment to regionalism has seen renewed emphasis, even more so than in the first wave of regional integration in Africa, with comprehensive institutions; strategies, and principles to guide it. Another key feature of Africa's second wave of regional integration is that neo-liberal development strategies have been accepted by African states to be the economic model around which the RECs are to integrate economically. Thus, the general idea is to open up markets and let the private sector steer economic development in Africa instead of adopting protectionist and isolationist trade policies to create state sponsored industries, as was the case during the first wave.

The next sub-section will elaborate on Africa's continental and regional initiatives as it relates to the T-FTA. It is intended to show that continental and regional projects in its most contemporary wave are prescriptive of liberal strategies that have been promoted by the spread of economic globalisation and the Bretton Woods institutions. This is different from the first wave, because all African states are following economic strategies that are aimed at opening the market; thus, they are not divergent in economic orientation as was the case during the first wave.

3.5.1 Africa's Continental and Regional Architecture: Defining the African Regional Integration Project

As mentioned before, Africa has a rich tradition of regionalism that has its roots at the outset of its independence. The regional configurations within Africa have become increasingly denser with every country on the continent belonging to at least one regional arrangement. The configuration of integration initiatives is complex, because the AU is politically and continentally orientated whereas the RECs have an economic focus and are limited to various sub-regions. The AU as a continental political entity provides the structure through which regional integration is to occur as well as the policy framework that should guide integration, not least through the New Partnership for Africa's Development (NEPAD). The RECs in Africa are conceived of as vehicles to move towards the goals of the AEC, which provides the backbone of ARIP in economic terms. The RECs are thus building blocks to continental integration in Africa.

In the rest of this section the emphasis will thus be placed on the AU and NEPAD; RECs in general; and the AEC as it relates to the broad conceptualisation of recent integration in Africa.



3.5.1.1 The African Union and the New Partnership for Africa's Development

The AU is the successor of the OAU and was established in 2002. This change in African continental integration architecture was prompted by former South African president, Thabo Mbeki; Nigeria's Olusegun Obasanjo, and Libya's late Muammar Gaddafi, who rekindled the ideals of Pan-Africanism (Makinda & Okumu, 2008, p. 31). In many ways the AU represents a fresh look at the integration process in Africa that has recognised that the changing international environment (i.e. post-Cold War; economic globalisation) requires that the continent develop a response that can redefine its prospects globally. Makinda and Okumu (2008, p. 31) elaborate on the factors that gave rise to the emergence of the AU. These include the:

- End of the cold war;
- Recognition of the power of globalisation;

- Pre-eminence of neo-liberal economic ideology; and
- Growing popularity of both liberal democratic principles and human rights.

The AU has been designed to serve as a political body that pursues strategies of governance and promotion of democracy in Africa. Africa has recognised that good governance and democracy are the pre-cursors for sustainable development. The AU could also be seen as an effort of ‘Africans finding solutions for African problems’. The structure of the AU *vis-à-vis* the OAU has in some areas been redefined and in other areas merely been given a cosmetic change to facilitate the above-mentioned ideals.²¹ According to Gottschalk and Schmidt (2004, p. 144), the AU mimics the European Community/ EU structures and its institutional structures, like the Assembly for heads of state and government and others, have been designed to accommodate the pan-African ideals of transparent governance with an eventual supra-national goal.

Since its inception, the AU has made important strides towards garnering some of the continental coherence that was lost during the first wave of regional integration. The neo-liberal transformation of the vision and plans for African regional and continental integration was carried out by adopting the NEPAD in 2002 (Keet, 2007, p. 263). By adopting NEPAD the AU provided a comprehensive strategy to promote Africa’s development by fully accepting neo-liberal economic ideology and globalisation as factors that cannot be ignored if Africa is to grow economically.

NEPAD’s founding document covers nearly all aspects of development. These include, but are not limited to a list of sectoral policies; prevention and management of conflicts, and ascribing to good governance and democracy as well as placing considerable emphasis on building continental infrastructure in transport; Information Communication and Technology (ICT); energy, and water (Gottschalk & Schmidt, 2004, p. 151). NEPAD has been criticised for being too business friendly and adhering to the former colonial powers’ prescriptions for development. However, the impact that SAPs had on individual African states had basically

²¹ Key organs of the continental body are the Assembly; Executive Council; Pan-African Parliament; African Human Rights Court; Peace and Security Council; Economic, Social and Cultural Council and the AU Commission (Makinda and Okumu, 2008, p. 41-49).

set them on a developmental path that is characteristically neo-liberal and thus left few alternatives for Africa.

The AU is increasingly frustrated, though, by a lack of cooperation in important areas. This inability to work effectively together has stalled attempts at achieving meaningful grassroots change on the continent. In many ways, the replacement of the OAU with the AU has not changed the lack of consensus among member states and the fundamental business of taking pragmatic tangible steps that would facilitate African integration. Kuhnhardt (nd, p. 3) argues that “bigger to this day in the AU, is the gap between declared principles and operational procedures on the one hand and a means of energetic and coherent implementation of principles on the other.”

3.5.1.2 Regional Economic Communities

The AU Constitutive Act and the Abuja Treaty recognise the importance of RECs for Africa’s continental integration aspirations. The sub-regional integration initiatives (i.e. the RECs) are viewed as the building blocks from which economic integration is to occur. In turn it is ideally conceived that an economically integrated continent could provide the basis for political unity as proposed by pan-Africanism (Uzodike, 2010, p. 99). The Secretary General of the ECA, Abdoulaye Janneh, recently made the following observation at an AU event: “[Ten] years ago, the Economist news magazine reported that Africa was a hopeless continent. Ten years later; ten years after NEPAD, the same journal is screaming Africa is rising” (ECA press release, 2012). Thus, the AU’s flagship program, that is NEPAD, is making inroads into the developmental deficit on the continent. It has placed renewed focus on regional integration in the pursuit of Africa’s long term economic and political aspirations (Moore, 2004, p. 7-8).²²

²² NEPAD has instituted an \$8billion Short-Term Action Plan for infrastructure that includes 20 priority projects designed to jumpstart regional economic integration and lay the foundation for medium to long term investment. It has put regional integration at the centre of its infrastructure blue print that includes strengthening management and planning capacity within RECs for cross regional infrastructure development (United Nations Department of Public Information, 2008, p. 2). This illustrates that NEPAD has become important in strengthening regional infrastructure development between RECs.

Uzodike (2010, p. 98) notes that the Pan-African institutions of the AU and the RECs are structures that are expected to facilitate the integration of African countries' economies in a phased or incremental manner. The growth of regional arrangements in Africa reflects a thirst for regional integration so much so that the original aspiration of five RECs under the LPA have burgeoned into 14 regional arrangements, with 11 major African RECs. The table below illustrates the 11 major regional arrangements in Africa at present:

Table 3.1: Table illustrating major RECs, type, areas of cooperation, date of entry and objective

Major RECs	Type	Areas of integration and cooperation include:	Date of entry into force	Specified Objective
Arab Maghreb Union (UMA)	FTA	Goods, services, investment, migration	17 February 1989	Full economic union
Common Market for Eastern and Southern Africa (COMESA)	FTA	Goods, services, investment, migration	8 December 1994	CM
Community of Sahel-Saharan States (CEN-SAD)	FTA	Goods, services, investment, migration	4 February 1998	FTA and integration in some sectors
Economic Community of Central African States (ECCAS)	FTA	Goods, services, investment, migration	1 July 2007	Full economic union
Economic Community of West African States (ECOWAS)	FTA	Goods, services, investment, migration	24 July 1993	Full economic union
Intergovernmental Authority on Development (IGAD)	FTA	Goods, services, investment, migration	25 November 1996	Full economic union
Southern African	FTA	Goods, services,	1 September	Full economic

Development Community (SADC)		investment, migration	2000	union
Economic and Monetary Community of Central Africa (CEMAC)	CU	Goods, services, investment, migration	24 June 1999	Full economic union
East African Community (EAC)	CU	Goods, services, investment, migration	7 July 2000	Full economic union
Southern African Customs Union (SACU)	CU	Goods, services, investment, migration	15 July 2004	Full economic union
West African Economic and Monetary Union (UEMOA)	CU	Business law harmonised. Macro-economic policy convergence in place	10 January 1994	Full economic union

Source: UNCTAD, 2009, p. 10

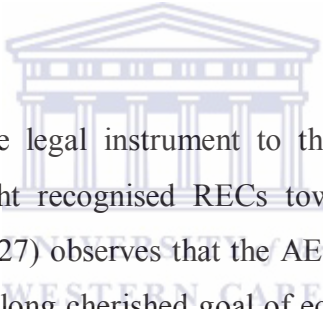
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Following from the table above it is clear that the key change in Africa's integration process is that since the first wave there has been a shift towards an outward orientation (as opposed to inward looking). The former has been promoted in the RECs through market integration and by extension a neo-liberal development philosophy. In contrast to the earlier regional development modalities, current plans for regional integration within the RECs as the building blocks for the eventual integration of the whole of Africa are increasingly being driven by neo-liberal theories and programmes (Keet, 2007, p. 263). Nine of the 14 regional arrangements mentioned in Table 3.1 above have a full economic union as their ultimate goal; while one (i.e. COMESA) aims to become a CM; another, namely SACU is a CU and aims to stay that way, and the remaining three focus on intra-regional free trade or regional cooperation (McCarthy, 2010, p.8 and UNCTAD, 2009, p. 10-12). Keeping the aforementioned in mind, it has been argued that Africa tends to merely follow a trend of regional economic integration that is inculcated in integration exercises worldwide (ECA, 2006, p. 5-

7). This make sense if one takes into account that in many respects Africa has been playing catch up with the rest of the world in this regard.

3.5.1.3 The African Economic Community

The ideal of an African Economic Community (AEC) was envisaged by African states during the 1990s and this became a reality with the signing of the Abuja Treaty in 1994 (Mwanza, 2010, p. 15). As was the case with the LPA, the Abuja Treaty seeks to promote economic development through co-operation. Hence, it is viewed as the successor to the LPA and aims to ultimately correct the failures of earlier integration attempts. It was also the first to provide a comprehensive framework for economic integration that expanded the mandate of a then largely politically orientated continental body into an expanded one that increasingly focuses on economic issues.



The AEC operates as a separate legal instrument to the AU and is supposed to guide economic integration of the eight recognised RECs towards an Africa-wide continental economic unit. Trivedi (2005, p. 27) observes that the AEC is the first attempt to provide a legal framework for realising the long cherished goal of economic integration across Africa. The initial integration agenda of the then OAU was envisaged as a gradual process towards continental unity through the building blocks approach within the various sub-regions of Africa. This was then also expressed as such in the OAU's mandate that sought cooperation and harmonisation of a confusing array of regional initiatives. Within this context the AEC and its goals have now been legally instituted but face challenges as it was only constructed in 1991 and enacted in 1994. Some RECs, such as ECOWAS and SACU existed before the Treaty of Abuja and hence their goals and objectives are not necessarily conforming to the principles of post-Abuja RECs.

The objectives of the Abuja Treaty are to increase economic self-reliance; promote self sustained development, and raise the standard of living of all Africa's people (Mukisa & Thompson, 1995, p. 56). The AEC Treaty (1994, p.8) states that the objectives of the Community are to promote economic; cultural, and social development as well as the

integration of African economies.²³ Additional objectives include, but are not limited to establishing frameworks for the development; mobilisation, and utilisation of the continent's resources; promote cooperation amongst member states as well as to coordinate and harmonise policies amongst existing and future sub-regional economic communities.

In its Constitutive Act, the AU highlights that one of its objectives are to “coordinate and harmonise policies between existing and future RECs for the gradual attainment of the objectives of the Union” (AU, 2001, p. 4-5).²⁴ Hence, the AU is in conformity with the goals of the Treaty of Abuja and so is its framework for economic integration. African states are seeking to create an environment that is conducive to the developmental goals that they aspire to and it is clear that economic integration is viewed as one of the major strategies to create said environment.

The AEC sets a path towards rationalisation and regional integration, and more specifically; it describes six stages for economic integration to occur in Africa. The first stage consists of strengthening existing RECs and establishing new ones in regions where there are none. The second stage would see RECs stabilise tariff and non-tariff barriers; customs duties and internal taxes. The next stage entails each REC to create an FTA to further formalise the removal of tariff and non-tariff barriers to promote intra-community trade, whereas the fourth stage is to work towards the formation of a CU by adopting a CET. The penultimate stage is to establish a CM, while the final stage is full factor mobility as implied under the formation of an Economic Union. These stages are accompanied by strict timeframes, namely that the goal per stage should be attained within 34 years from enactment (AEC, 1994, p. 10).²⁵ Further to this all RECs and the T-FTA have included in their founding documents that the final goal of their sub-regional configurations is to create the AEC. As a result, its prescriptions are viewed as the ARIP and this has recently been strengthened by continental initiatives such as NEPAD.

²³ See Article 4 (1) of the AEC Treaty.

²⁴ See Article 3 of the AU Constitutive Act.

²⁵ See Article 6 (1) and (2) of the AEC Treaty.

It should be stressed that the RECs have not followed the above-mentioned prescribed stages of the AEC. The RECs circumvented the first two stages and moved straight into pursuing FTAs and CUs (ECA, 2010, p. 11). The economic aspects of the ARIP as conceptualised in the Abuja Treaty has thus not been followed by RECs and illustrates Africa's incoherence in implementing continental strategies.

3.5.2 Eastern and Southern Africa

Eastern and Southern Africa have a rich tradition of regional integration with a myriad of regional arrangements. Within the region, three dominant RECs have been instituted, namely COMESA, EAC and SADC.

These RECs have redefined themselves since their inception and are largely different to their predecessors. This is due to varied reasons, the most important of which is that they all have a market integration focus. The structure of each REC varies but they all share a common objective to reduce trade barriers amongst member states by creating a common, larger economic space (ECA, 2006, p. 7). The strategies that they are utilising in this regard are however, unique to each REC with different approach; timeframes, and goals (Lee, 2003, p. 73-95).

Also, three smaller groupings co-exist within the region, namely IGAD; IOC, and SACU. SACU is an important regional arrangement within Southern Africa and has a bearing on the T-FTA. Therefore, it will be described alongside the three recognised RECs. In the rest of this section the RECs and SACU will be discussed in greater detail so as to frame RECs in an economic perspective and as such illuminate the regional context of the T-FTA.

3.5.2.1 Common Market for Eastern and Southern Africa (COMESA)

Figure 3.1: Geographic representation of COMESA



The figure above illustrates the geographical location and spread of the member states of COMESA. The PTA for Eastern and Southern Africa was the predecessor of COMESA and was enacted in 1981. It was born out of the continental strategy to form sub-regional groupings in each region of Africa under the LPA and strengthened further by the collapse of the EAC in 1977 (The German Institute of Global and Area Studies, 1989, p. 158). The treaty establishing the PTA for Eastern and Southern Africa provided for the transformation of the PTA into a progressive CM; and this was made more attainable by establishing COMESA. COMESA is the oldest recognised regional institution in Eastern and Southern Africa that has moved towards regional integration through economic integration fundamentals since its inception.

The COMESA was formed in 1993 and has 18 member states.²⁶ It has the largest membership of any REC in the region and always had an explicit economic focus ever since its inception. However, it has been viewed as a largely artificial regional body because its members have little in common and it was significantly reduced in importance when the SADC was enacted in 1992 (SADC, nd). Jakobeit *et al*, (2005, p. 15-16) highlight that the systematic development of COMESA from a PTA to a CM and an Economic Community is

²⁶ Burundi, Comoros, Democratic Republic of Congo (DRC), Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan and Swaziland (COMESA. 2012).

in conformity with the objectives of the Abuja Treaty to form the AEC. As a matter of fact, it is a stated objective of the REC. Out of the three RECs in the tri-partite region; COMESA presents an opportunity to reflect on a progressive movement towards economic integration in Africa that follows classical prescriptions regardless of its artificial nature.

The institutional structures of COMESA consist of the Authority; the Council; the Court of Justice; the Committee of Governors of Central Banks; the Intergovernmental Committee; the Technical Committees; the Secretariat, and the Consultative Committee (COMESA, 1992, p. 13).²⁷ Jakobeit *et al.* (2005, p. 15) note that COMESA has two important principles that set it apart from its initial orientation, namely allowing for so-called variable geometry and multi-speed integration. These allow for a group within the REC to integrate faster than others as well as providing for sanctions on member states. The former is also envisioned to facilitate the goals of the REC in its quest in moving towards a CM.

COMESA's main objective is to achieve regional economic integration through trade and investment. The specific objectives of COMESA are quite broad and encompass issues such as trade liberalisation and customs cooperation; transport and communication; industry and energy; monetary affairs and finance, and agriculture as well as economic and social development (COMESA, 1992, p. 9-11).²⁸ Taking these into account, it is clear why COMESA is considered to have a strong economic focus, which then also is its primary strategy for regional integration.

²⁷ See Article 7 (1) of the COMESA Treaty.

²⁸ See Article 4 (1), (2), (3), (4), (5) and (6) of the COMESA Treaty.

3.5.2.2 East African Community (EAC)

Figure 3.2: Geographic representation of EAC



Figure 3.2 above illustrates the geographical location and spread of the member states of the EAC. Since its establishment in 1967, the EAC operated as a fully-fledged CU that arose in response to the solidarity of the newly independent former East African territories of Kenya; Tanzania, and Uganda (Hess and Hess, nd, p. 2). Nevertheless, the differences amongst these countries were so great and grew to such an extent that they could not prevent the collapse of the EAC in 1977 (Trivedi, 2005, p. 35). The former EAC collapsed mainly due to Kenya's economic dominance and the related perceived unequal distribution of integration benefits amongst the partner states. The situation was worsening due to political; ideological, and even personal differences between the respective leaders of the three countries (Jakobeit *et al*, 2005, p. 16). Before its demise, the so-called original EAC managed to achieve substantial progress in fostering a regional agenda between the three original member states.

The EAC was revitalised in 2000 and now has five member states, including the three original members plus Rwanda and Burundi (EAC, 2012). It could be argued that due to its homogenous societal links, the 'new' EAC has made significant progress in its efforts towards economic integration. The EAC is primarily market driven and it envisages to

initially establishing a CU, and a CM, an ultimately a monetary union. The ultimate objective is to have a political federation in place (EAC, 2000, p. 15-16).²⁹

Trade amongst the EAC members has increased with 95 percent between 2005 and 2009 (Ng'etich, 2001). This rise could be linked to increased value added production and pooling investment resources, which in turn has immensely increased business activity in the region. Following on all of these, the EAC is rightly so seen as the most advanced REC in terms of actual economic integration outcomes. It should be stressed though that even though the EAC have launched a fast-track initiative to create a political federation, the speedy realisation of such a federation remains doubtful, at least for now (Jakobeit *et al*, 2005, p. 19).

The EAC organs and institutions consist of the Summit, Council, Coordination Committee, Sectoral Committees, East African Court of Justice, East African Legislative Assembly and the Secretariat (EAC, 2000, p. 20).³⁰ Cooperation is mainly pursued to:

- Create an enabling environment for policies in basic infrastructure;
- Establish an export orientated economy for partner states through the free movement of goods; persons; labour; services; capital; information, and technology; and
- Equitably distributes benefits accruing from the operations of the community (EAC, 2000, p. 17).³¹

Article five of the EAC Treaty (2000, p. 15-16) establishes: “The objectives of the community shall be to develop policies and programmes aimed at widening and deepening cooperation among partner states in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs”.³² The distinguishing feature, compared to other similar regional initiatives of the EAC, is that it aspires to a political federation through economic integration but has seen greater progress in the economic sphere. Thus, despite failing in one of its major aims (i.e. a political federation) it should at

²⁹ See Article 5 (2) of the EAC Treaty.

³⁰ See Article 9 (1) of the EAC Treaty.

³¹ See Article 7 (1) of the EAC Treaty.

³² See Article 5 (1) of the EAC Treaty.

the same time be lauded for its success in other areas, and more specifically economic integration.

3.5.2.3 Southern African Development Community (SADC)

Figure 3.3: Geographic representation of SADC

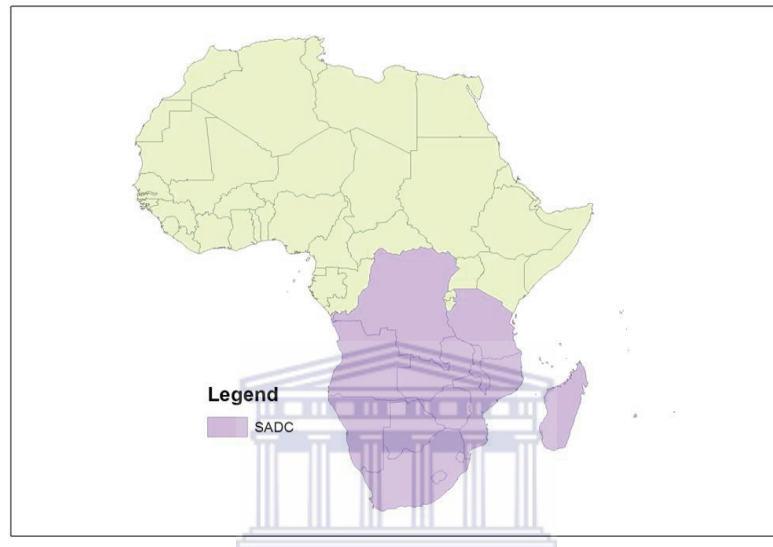


Figure 3.3 depicts the geographical spread of the Southern African Development Community (SADC) and its member states. Before turning to a discussion of the current SADC, a brief overview of its predecessor, i.e. the Southern African Development Coordination Conference (SADCC) is necessary. The SADCC was initiated in 1980 as a political response to the increasingly hostile then Apartheid South Africa. The member states, also known as the frontline states, were Angola; Botswana; Lesotho; Malawi; Mozambique; Swaziland; Tanzania; Zambia, and Zimbabwe. The essential determinants of the regional organisation were to mitigate dependency on Apartheid South Africa. As a result, the SADCC was initially instilled out of political factors. McCarthy (2010, p. 7) argues that SADCC was not a market arrangement as such, but rather had a developmental mandate to encourage the economic development and independence from South Africa. Based on this, it is clear that the SADCC was not initiated out of a need to form a regional trade agreement, but rather to develop the above-mentioned member states independently from South Africa. As such, it did not pursue market integration as a path towards regional integration, and this was evident in the fact that the SADCC's progress towards economic integration fell short if compared to other RECs in the region at the time.

The former SADCC was changed into the SADC in Windhoek, Namibia in 1992. It transformed from a coordination conference into a community and by extension elevated from a loose arrangement to one based on a legally binding agreement (SADC, 2008b, p. 3). This was due to the changing dynamics within the region, and more specifically the end of Apartheid in South Africa and Namibia gaining its independence in 1990. Currently, the SADC has a membership of 15 member states.³³ Although being formally established in 1990, its efforts at economic integration only started when the SADC revealed its trade protocol in 1996. This Protocol states its objectives as “to further liberalise intra-regional trade in goods and services on the basis of fair, mutually equitable and beneficial trade arrangements” as well as “to establish a FTA in the SADC region”.³⁴ The SADC’s Regional Indicative Strategic Development Plan (RISDP) underlines that the FTA is the initial step with an envisioned CU by 2010 and a CM by 2015. The evolution of SADC’s trade integration agenda conforms to the objectives of its treaty. The objectives of the REC are to harmonise political and socio-economic plans of member states; create appropriate mechanisms and institutions for mobilisation of resources as well as to develop policies aimed at progressive elimination of obstacles to the free movement of capital and labour; goods and services, and of people (SADC, 1992).³⁵

The institutional structures of the SADC consist of the Summit of Heads of State and Government; Organ on Politics; Defence and Security Cooperation; Council of Ministers; Integrated Committee of Ministers; Standing Committee of Officials; Secretariat, and the Tribunal as well as SADC National Committees (SADC, 1992).³⁶ Jakobeit *et al.* (2005, p. 12) observe that the SADC basically re-enacted its predecessor’s institutional structure with the exception of the addition of a Tribunal. For this reason, the trade integration agenda remains with the sectoral coordinating units in the governments of member states.

³³ Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Madagascar, Malawi, Mauritius, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe (SADC, 2012).

³⁴ See Article 2 of the SADC Trade Protocol.

³⁵ See Article 5 of the SADC Treaty.

³⁶ See Article 9 of the SADC Treaty.

In 2001, the SADC Heads of State and Government met at an extraordinary summit in Namibia (SADC, 2012). In a rigorous attempt to achieve the objectives of the Community, the delegates approved the restructuring of the SADC's institutions. This entailed grouping 21 sectors into four clusters. These clusters are Trade, Industry, Finance and Investments; Food, Agriculture, and Natural Resources; Infrastructure and Services, and Social and Human Development and Special Programmes. These clusters are tasked with inculcating closer integration amongst member states in all areas.

3.5.2.4 Southern African Customs Union (SACU)

Figure 3.4: Geographic representation of SACU

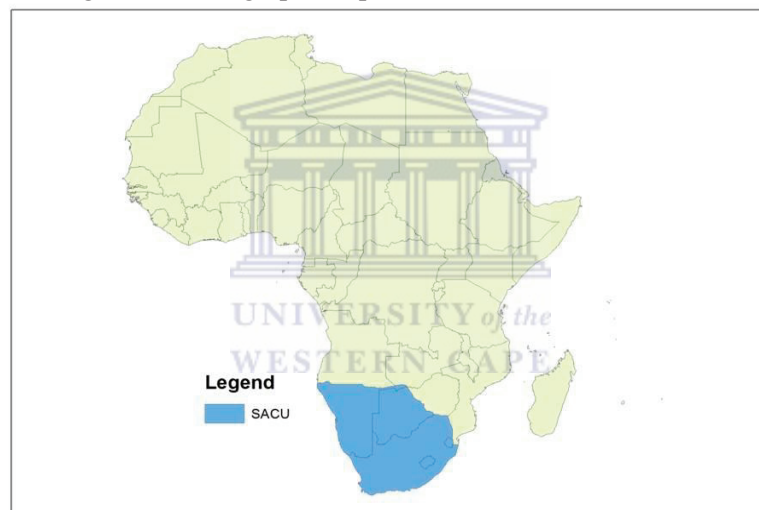


Figure 3.4 pictures the geographic representation of the Southern African Customs Union (SACU). The SACU is the oldest CU in the world and has a long history that dates back to its initial establishment in 1910. The member states of the SACU are South Africa; Botswana; Lesotho; Namibia, and Swaziland. The SACU Agreement of 2002 came into force on 15 July 2004, and provides for further harmonisation of policies in a number of areas, including customs procedures; standards; technical regulations; sanitary and phyto-sanitary (SPS) measures; competition, and unfair trade practices. Nonetheless, alignment in these areas are still problematic (WTO, 2009, p. vii). The Preamble of the 2002-Agreement recognises that the agreement of 1969 no longer caters to the needs of the CU and indicates that the 1969-Agreement was hampered by a lack of common policies and institutions (UNCTAD, 2005, p. 5).

3.5.3 Problems facing regional integration in Africa

The problems facing regional integration in Africa are almost applicable to all of the recognised RECs. Africa remains a marginal player in the global economy, and in sharp contrast to conventional wisdom and expectations, regional integration arrangements have not to any reasonable extent increased intra-regional trade (Akinkugbe, 2010, p. 122). Amongst the most pressing issues is the lack of pre-requisites for economic integration and a non-existent rules based approach to regional integration, coupled with a lack of respect for their institutions (RECs). At the formal level, African regional arrangements have rarely realised their targets and continue to have little developmental impact (Shaw & Mbabazi, 2006, p. 361).

Also, there are definite problems facing the assumptions of welfare gains by utilising market integration in Africa. This section will identify and analyse the problems facing regional integration in Africa generally, and relate these to Eastern and Southern Africa, specifically through the overlapping membership issue. Essentially, these problems reside at the national and regional levels as well as in the assumptions of economic integration that have been pursued in its classical sense by African states. It will be argued that classical regionalism is inappropriate within the African context.

The following problems hamper African efforts at regional integration:

1. Disparities among states: There are great disparities amongst African states, and these relates to the levels of development, democracy, social cohesion and conflict within individual states. These are further aggravated by a general lack of efficient infrastructure; transport, communications and economic development as well as an export orientated industrial developmental approach. According to Leshaba (2002, p. 3-5); Lee (2003, p. 2-28), and Buthulezi (2006, p. 77-78), these factors are the pre-requisites for effective regional integration and a lack of them would make it difficult for developing countries to effectively pursue economic integration. This reflects the overall weaknesses of Africa's sovereign states that have commonly struggled to consolidate statehood since independence. These realities

have immensely hampered efforts at regional integration in Africa. This situation is worsened by fears by smaller states that larger states will take over their markets, while larger states fear that unstable (smaller) states could jeopardise their economic security. Mr. Abdoulie Janneh, Executive Secretary of the Economic Commission for Africa (ECA), commented in this regard in the following manner:

“Countries have expressed legitimate fears and concerns with respect to entering into collective regional agreements, which translate into a state ceding its rights to adopt alternative policies or change track as it deems fit. He highlighted the fear of being locked into policy regimes that may be deemed detrimental to a country's overall interests and the perception that the costs of a regional agreement may be larger than the expected benefits - thus, the fear of loss of revenue, arising from trade liberalization. There is also a concern that more open borders may undermine national security and facilitate transnational crime (ECA, Press Release no112, 2011)”.

2. Fear of losing claim to sovereignty: This fear stems from the necessary stability required for states to effectively trust each other and spread the gains of integration amongst all member states and not just a few. This, however, is difficult if one is cognisant of the vast differences, in so many respects, between the states of Africa. Fundamentally, the above quote reflects that African states are fearful of surrendering sovereignty because of their low levels of development. Opening up markets and relaxing borders pose a threat in that they could diminish their ability to control and steer their own development path.

3. Lack of co-ordination: Cross-cutting issues such as a lack of governance, co-ordination and institutional capacity are also problems that affect integration in Africa (ADB, 2009, p. 2-3). Co-ordination and the seemingly haphazard attitudes and approaches towards regional integration by member states are particularly relevant to the problems of integration in Africa.

“In the 15 years since the Abuja Treaty was signed African countries have introduced numerous initiatives in regional integration without coordinating them at the continental level. Integration outcomes clearly show that the continental blueprints for integration have served only as loose frameworks, not as rules-based points of reference, for the regional integration agenda. Coordinating mechanisms with a legal basis, essential in enforcing standards and commitments to integration at all levels are lacking. This has led to overlapping memberships and ineffective coordinating and harmonisation programs among the RECs (ECA, 2006, p. 91)”.

4. Power deficit of regional institutions: The linkages and mandates of RECs to their member states are generally weak in Africa and reflected in the above quotation. This relates to the inability of regional bodies to enforce their mandates and protocols. African states hold onto their sovereignty and argue that national policy should be the exclusive business of the state, creating further complications in aligning regional and national policy frameworks (Nyirabu, 2004, p. 25). A key challenge to regional integration at the national level is to translate commitment into action by ratifying protocols and affording greater attention to regional integration in national development plans (ADB, 2009, p. 3-4). This issue has significantly stonewalled the co-operation arrangements of member states, and especially in terms of economic integration. Regional institutions lack the power to enforce collective decisions and protocols made jointly. The lack of centrally co-ordinated mechanisms that can monitor and enforce agreed policies and principles is related to the power deficit of regional institutions across Africa (Nyirabu, 2004, p. 27). Chingono and Nakara (2009, p. 2) emphasise that Eastern and Southern Africa have a limited history of common action and collective policy formulation. Nyirabu (2004, p. 26-27) goes on to say that few countries in Southern Africa have mechanisms that are responsible for aligning national policy to regional plans through constructing separate departments or aligning current ones to the region. Trade driven integration may not be beneficial in weak institutional contexts and may further contribute to disparities amongst member states (Verdier, 2010, p. 6). This has significantly weakened RECs as rules based entities that can enforce compliance and regulate member state activities.

5. *Lack of hard and soft infrastructure*: The above-mentioned higher order policy problems are reflected in more tangible constraints of regional integration in Africa that fall within the ambit of physical integration. The African Development Bank's (ADB) 2009-2012 Regional Integration Strategy document focuses on challenges facing regional integration in Africa, and specifically in the domains of hard and soft infrastructure development. It is acknowledged that capacity and budgetary constraints as well as governing ownership from a variety of stakeholders contribute to the lack of physical integration (ADB, 2009, p. 3). Hard infrastructure constraints are perhaps the most practical restriction to economic integration and these pertain to surface³⁷ and air,³⁸ as well as energy and information, coupled with information communication technology (ICT). These are coupled with soft infrastructure constraints such as domestic regulatory regimes that are not harmonised and prescribe to national as opposed to regional frameworks. Related to all this is what has been termed as 'behind the border constraints', where the national make-up of infrastructure, for example, have created fragmented systems of administration; few regional or continental networks in infrastructure, and general decay in this regard. The soft infrastructure constraints includes cumbersome and costly border formalities, an absence of common standards, inconsistent (and inconsistently applied) tax policies, countervailing duties, emergency protection to address balance of payment problems and discrimination in public procurement (ECA, 2006, p. 7). The enablers of integration are increased infrastructure inter-connectivity and more homogenous regulatory environments. However, hard and soft infrastructure constraints affect African states' competitiveness and manifest because they are less developed than other regions of the world.

3.5.3.1 Challenges of economic integration in Africa

Whereas the above outlined problems for regional integration more generally, this section focuses more specifically on *economic* integration.

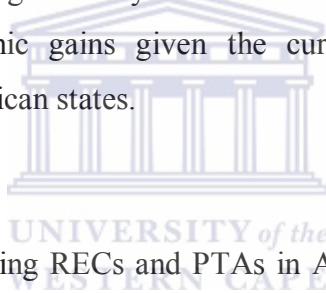
According to Trivedi (2005, p. 17-21), successful economic integration can only occur if certain economic and non-economic preconditions are in place, namely structural stability

³⁷Infrastructure such as roads; railways, and ports.

³⁸Infrastructure such as airports.

(i.e. peace and security), rule of law, good governance and macro-economic and monetary stability. In similar vein, Buthulezi (2006, p. 11-12) mentions that key constraints to economic integration are differences amongst states that typically encompass income levels, development, economic size and infrastructure (i.e. transport; communications, and energy).

Leshaba (2002, p. 4-5) highlights that inappropriate economic policies; inward-looking developmental strategies; an emphasis on import substitution behind high barriers to trade; lack of political will; local conflicts and civil strife, and insufficient knowledge to implement integration measures as well as a lack of private sector involvement manifest the lack of increased intra-regional trade within Africa. As noted before, African states are characterised by under-development and lack the outlined pre-requisites with regards to economic and non-economic factors to fully benefit from market integration. In other words, at the outset of economic integration, Africa is significantly at a disadvantage and less likely to be able to extract any meaningful economic gains given the current economic environment and particular individual plight of African states.



The primary motivation for forming RECs and PTAs in Africa is to increase trade between member states. When evaluating the outcomes of RECs in Eastern and Southern Africa, intra-regional trade has not increased substantially since adopting the fundamentals of market integration. For example, in 2011, South Africa's minister for Trade and Industry, Rob Davies, mentioned that the SADC has significantly lowered tariffs over the last few years. Notwithstanding, this has not culminated in an increase in intra-SADC trade. The negligible affect that PTAs and by extension RECs had on intra-regional trade indicate that their primary rationale has not been met. This can be attributed to, amongst other factors, the fact that Africa lacks the supply side industrial base to trade in goods that are subject to the lowering tariff barriers. On average, total exports between African states only accounts for approximately ten percent (ECA, 2010, p. 3). The 'trade in goods' agenda will only become viable if Africa diversifies its economic base to take advantage of the lowering tariff and non-tariff barriers.

African states have been fixated on the static and dynamic benefits of economic integration that have done little to improve economic development in Africa. A key approach to economic integration in Africa has been to reduce integration to the factors that affect trade in goods. The former is a classical way of defining integration. McCarthy (2010, p. 20) notes that economic integration agreements in Africa have historically focused on removing tariff and non-tariff barriers that ascribe to the classical elements of PTAs. The majority of African states are heavily reliant on revenue from tariffs that creates a significant barrier to achieving a so-called 'trade in goods' agenda.

In addition, McCarthy (2010, p. 20-21) maintains that the classical aspects of integration do not necessarily cover trade in services that have been playing a more prominent role in supporting trade in goods across various regions. According to UNCTAD (2009, p. 77), a remarkable feature of the recent wave of RTAs is the inclusion of provisions in trade in services due to amongst others the growth of world goods trade and the emergence of international production networks that have highlighted the importance of services and the enabling role for telecommunications, finance, logistics and other professional services. None of the RECs in Africa have established agreements on trade in services and hence, are falling behind other regions of the world in this regard.

The quotation below reflects on Africa's struggle to achieve economic gains from RTAs:

“Africa's regional integration initiatives have achieved limited results, raising doubts about the approach adopted to addressing factors that inhibit regional trade. Barriers to trade that raise the costs of doing business can be classified as border or behind-the-border measures, and primarily on tariffs. Tariffs are undeniably an important barrier but they may not be the most important one. Abundant anecdotal evidence suggests that time-consuming and inefficient border procedures may be more important than tariffs in inhibiting intra-regional trade. Multiple border crossings for goods to reach landlocked countries add significantly to the transaction costs of intra-regional trade” (WTO World Trade Report, 2011, p. 152).

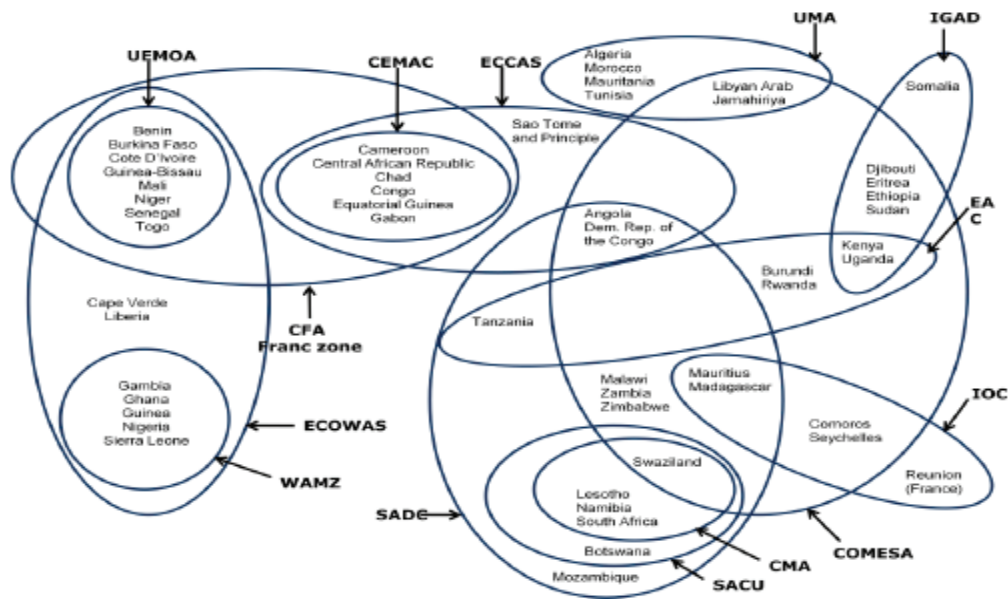
Following from the above quote, it could be deduced that the traditional and strict adherence to the linear integration model has not assisted African states in increasing trade amongst them. A possible reason for this is that the traditional conception of gains to be acquired by entering into PTAs, when viewing the trade creation and diversion effects, focuses on finished goods and has been recognised for its limitations in the developing country context (Cattaneo, 2008, p. 5). Thus, the traditional analysis has been criticised for its limited applicability within the context of developing African countries. Therefore, deeper elements of economic integration are required in Africa that would enable much needed trade in the goods agenda. Such an approach will assist African states to bridge new generation trade issues with the traditional trade in goods agenda.

3.5.3.2 Overlapping Membership

It has been acknowledged by African leaders that the multi-plicity of overlapping memberships in RECs constrain the integration aspirations of the entire region. Overlapping membership of RECs is a result of various historic; political, and strategic interests of individual states entering into RTAs (Jakobeit *et al*, 2005, p. 30). The degree of integration of the various RECs differs. As a result, as each REC moves deeper into the levels of economic integration, it is unfortunately unavoidable that multiple memberships of RECs will become legally and technically even harder to maintain. Part of the tensions between the various sub-regional integration agencies derives from differences in the approach to integration; the degree, scope and speed of liberalisation; and the ultimate objective of the integration process (Oyejide, 2000, p. 7-16). Some states have sought the benefits of these agreements by entering into as many as possible in the region. The corresponding lack of commitment to a single REC inherently weakens the integration exercise and places significant constraints on all RECs to forward and realise their respective mandates.

Below is an illustration of the overlapping and complex regional arrangements that exist in Africa:

Figure 3.5: Overlapping membership of regional arrangements in Africa



Source: Keane, Cali and Kennan, 2010, p. 4

The multiplicity of RECs have several drawbacks, namely fragmented economic spaces and approaches to regional integration, increased cost of membership in RECs, unhealthy rivalry for donor funding, contradictory obligations and loyalties for member states, inconsistent objectives and conflicting operational mandates, duplicated efforts and reduced ability for RECs to pursue coherent and effective integration programmes (ECA, 2006, p. 7). Member states that have overlapping membership make it even harder to facilitate inter-regional trade. The reason for this is that a consequence of these overlapping memberships are the adoption of different RoO, administrative duplication and fundamentally different trade regimes, which ultimately have different costs to doing business (ECA, 2010, p. 4). Viewing overlapping membership from this point of departure indicates a lack of a cost benefit analysis in entering into regional arrangements and strengthens the view of the ECA (2006) that found political reasons to be the major reason for overlapping membership with economic factors taking the proverbial back seat.

The three recognised RECs in Eastern and Southern Africa have expressed their willingness to move deeper into the levels of economic integration. However, the EAC is already a CU;

the SADC has an FTA in place, and COMESA has established a CU in 2009 comprising a few commodities. The overlapping membership issue is most complex in Eastern and Southern Africa. For example, COMESA has six countries (i.e. the DRC; Madagascar; Malawi; Mauritius; Seychelles, and Swaziland) that overlaps with the SADC, and two (i.e. Burundi and Kenya) that overlaps with the EAC. Similarly, the SADC has four member states (i.e. Botswana; Lesotho; Namibia, and Swaziland) with SACU membership and one with EAC membership; while all of these members are also part of a CU. The EAC shares three states (i.e. Burundi; Kenya, and Rwanda) with COMESA and one (i.e. Tanzania) with SADC. From this it can be viewed that the three RECs are presently in competition with each other, presenting opportunities for conflict instead of co-operation.

Within the region there is currently an emerging CU issue. The EAC shares four members with COMESA and one with SADC; five SADC members are part of the SACU and also shares eight members with COMESA as well as one from the EAC. COMESA shares eight members with SADC and one with the EAC. Therefore, 10 members across the SADC, COMESA and EAC are part of CUs. All of them are negotiating alternative CUs to the ones they currently belong to. COMESA and the SADC have seven members in common that is not part of CUs but is preparing ones with SADC and COMESA (COMESA-EAC-SADC, 2008, p. 2). There is no rationale for member states to be part of two customs unions with different external tariffs unless tariff regimes are rationalised (Jakobeit et al, 2005, p. x and Buthulezi, 2006, p. 3). It is however important to note that none of the RECs in the region has actually progressed to a fully-fledged CU (McCarthy, 2010, p. 8). This situation has, as was mentioned in chapter one, culminated into the so-called 'spaghetti bowl' of trade and political arrangements, and this is making it hard for individual states to maintain and start programs of any of the regional bodies they belong to (Baldwin, 2006, p. 11-34 and Draper, Halleeson and Alves, 2007, p. 25-29).

Overlapping membership is especially inhibiting to the goal of African economic integration and the ARIP. The latter relies heavily on the ability of RECs to cooperate with each other and not compete in order to form the AEC. The duplication, competition and lack of a clearly defined rationale, which is encapsulated in the overlapping membership issue, illustrate that

harmonisation and rationalisation might be the only answer to overcoming multiple trade regimes in the COMESA, EAC and SADC.

3.6 Conclusion

This chapter provided an overview of regional integration in Africa. An historical account was given by exploring the colonial and independence periods which illustrated the continent's unique developmental circumstances. Those circumstances have influenced the way African states view and pursued regional integration since independence. The rationale for regional integration has not changed since independence; it is still about overcoming the legacies of the past and uniting Africa in political and economic terms. However, the strategies employed by African states, especially with regard to regional integration have changed. They are now geared towards neo liberal market integration strategy across the RECs, which mirror the rest of the world's integration attempts. It was clearly shown that Africa is struggling to reap any benefits from market integration with many challenges to consider, including factors that straddle the rationale for market integration, ability for African states to extract gains given their particular low levels of development and overlapping membership of RECs. The T-FTA is born out of the challenges that Africa face by utilising market integration. The next chapter elaborates on the emergence of the T-FTA against the backdrop of the challenges mentioned above.

Chapter 4: The Tri-partite Free Trade Area

4.1 Introduction

The idea of a Tri-partite Free Trade Area (T-FTA) has been pursued by the COMESA, EAC and SADC as a response to the growing contradictions that are materialising in Eastern and Southern Africa in terms of regional integration. This has been viewed more generally as a promising move towards rationalising the integration processes in the region. However, for the T-FTA to become a credible initiative, it will need to be more pragmatic about the challenges that are facing regional integration in Eastern and Southern Africa.

A key aim of this chapter is to elaborate on what the T-FTA is and *vice versa*. It is worth mentioning at this point that the stance of this study is not to regard the T-FTA as strictly about creating an enlarged FTA. Importantly, the tri-partite process offers much more than just a narrow quest towards economic integration, which has been the norm of the second wave of integration in Africa. Certainly, an economic rationale will be shown to be one of the primary factors that have motivated the emergence and conception of the tri-partite initiative. Nevertheless, a general contextualisation of the realities; aspirations, and challenges of the T-FTA will illustrate how the T-FTA draws from, and impact on far more than simply just economic factors.

The evolution of the tri-partite initiative since the 2008 Summit will be explored in order to assess the key areas and analytical work done leading up to the negotiations. Even though the T-FTA is important, there are many other positive developments to consider in terms of moving towards a more holistic approach to the problems that are facing regional integration in Africa. This is why exploring the progression of the tri-partite process since the 2008 Summit is imperative to get an overview of all programs of work that are being instituted or developed. By exploring all of these, it will become clear that there is a much more holistic interpretation of the challenges that are facing the successful implementation of an FTA in all the regions concerned.

Lastly, The WTO provides the international framework for FTAs and CUs; and as a consequence it is important to note the requirements for them at the multi-lateral level. The former will provide a firm understanding of what the T-FTA agreement would be reviewed against in order to qualify as such at the global level. The majority of tri-partite member states are members of the WTO and as such have to give notification of an FTA or CU grouping (Erasmus, 2011, p. 86). The chapter aims to give a broad account of the T-FTA and its revised draft agreement leading up to the negotiations that are in place at the time of writing.

4.2 Contextualising the T-FTA

The globalised economy and the dominance of neo-liberal development paradigms have led to the notion that increasing trade is generally good for economic growth and development in states. African policy makers too, have come to view growing trade between African states as a way to achieve economic development and growth. The plethora of regional initiatives and more specifically RECs are a justification of this viewpoint regarding Africa. The previous chapter highlighted the growth of regional integration in Africa and that RECs have utilised market integration to forward the agenda of increasing trade amongst them. This section elaborates on that discussion, but more specifically turns the focus to the T-FTA.

4.2.1 Why FTAs are important in Africa and the T-FTA

Africa lacks a good track record with regards to the implementation of FTAs between states in the RECs. This is particularly crucial when considering the multiplicity of these RECs in Eastern and Southern Africa. The strict adherence to the linear progression of market integration in Africa is problematic because the Euro-centric idea of how to move towards closer economic unification through market integration is not easily applicable to the African context. Specifically, “the fact that a large number of RTAs have done little to promote intra-regional trade, or to enhance the global trade performance of African countries, raises questions about the appropriateness of the linear model for addressing the real challenges that inhibit Africa’s regional and global trade performance” (Hartzenberg, 2011b, p. 12). Therefore, the question can be posed why Africa’s RECs continue to use PTAs. Surely they must have a purpose, goals or objectives that continue to create such a need; optimism and

belief in their benefits? It will be argued here that PTAs are pursued to increase trade as well as for reasons of political solidarity to achieve developmental goals.

James Gathii (2011, p. xxix) says the following about the nature of RTAs in Africa:

“African Regional Trade Agreements (RTAs) are not predicated on a vision of market-led integration. Instead, they are largely designed as forums for a variety of initiatives, such as facilitating cooperation around common resources... and cross border challenges that include trade, security and health... Rather than simply using the expansion of intra-regional trade as a framework for industrial growth, product diversification and the improvement of the global competitiveness of these products as ways of overcoming small domestic markets, African RTAs were and continue to be seen as frameworks for development cooperation as well. This approach to integration is therefore committed to cooperation at the level of production in the arenas of capital and labour, as well as to coordinated programming and infrastructural development”.

The unique African historical context has to a large degree disadvantaged the prospects for development that encompass a much wider set of challenges than just strictly economic considerations, and they are in many respects challenges that are beyond the scope and/ or jurisdiction of individual states. Africa has in this context used RTAs in order to formalise and legalise groupings as a strategy to bind them together in a more comprehensive manner. From the above quotation it is clear that economic integration, which is fostered by RTAs in Africa, have a wider mandate (Gatthi, 2011, p. xxix). For example, creating the T-FTA increases the reach of regionalism in Africa, and more so than any individual REC. Member states thus have a mechanism that binds them closer together in terms of economic integration at the tri-partite level.

A key theme that has emerged recently from Africa's regional initiatives and the tri-partite process in particular, is a renewed push to increase intra-regional trade. As will be shown in this chapter and the next, the RECs in the regions are for the most part WTO-compliant in terms of multi-lateral norms that have been established to facilitate freer trade. This is in line with the notion that trading on the multi-lateral level is a primary goal of all states in the current international system. However, the emergence of the tri-partite process as well as the challenges it presents, indicate that it is primarily focused on improving intra-regional trade first. Between 2000 and 2009, intra-REC exports in the SADC stood at 9.5 percent; while it was 5.4 and 8 percent in the COMESA and EAC, respectively. For its part, intra-REC imports stood at an average of 15 percent. It should be stressed, though that this figure is misleading because the imports are only destined for a few countries (Hartzenberg, 2011b, p. 11-12). According to the ECA (2010, p. 61-69) Africa has to increase intra-regional trade given the current global economic consensus, where the logic is that increased trade promotes growth. Thus, increased intra-regional trade amongst African states will, following the aforementioned logic, bolster economic growth and development outcomes, which in turn could enhance the prospects of Africa to 'enter' the global economy and participate in the economic activities that generate wealth. It should be kept in mind that the basis for forming FTAs between partner states is to improve trade and the tri-partite initiative places a high premium on this objective.

4.2.2 The tri-partite process and Africa

The T-FTA should not be solely viewed as an FTA. The tri-partite process has emerged since its inaugural political Summit in 2008 as an enlarged framework to promote a key element of the AEC, namely co-operation on a wide scale amongst the three RECs. The T-FTA is the most ambitious regional integration undertaking Africa has proposed since establishing the Treaty of Abuja and politicians see it as one of the building blocks in creating a single African economic and monetary area (i.e. with a single currency and central bank, like the EU) by 2025 (Bisseker, 2011). The three RECs are building blocks to the formation of the AEC and in line with this they are implementing regional integration programmes in trade and economic development by establishing FTAs, CUs, MUs and CMs as well as regional infrastructure development programmes in ICT, transport and energy as a first step in contributing to the establishment of the AEC (COMESA-EAC-SADC, 2008, p. 2).

Accordingly, the scope of the tri-partite process on a fundamental level includes a focus on overcoming the challenges that limit the ability of African states to move towards forming the pan-African ideal of forming the AEC.

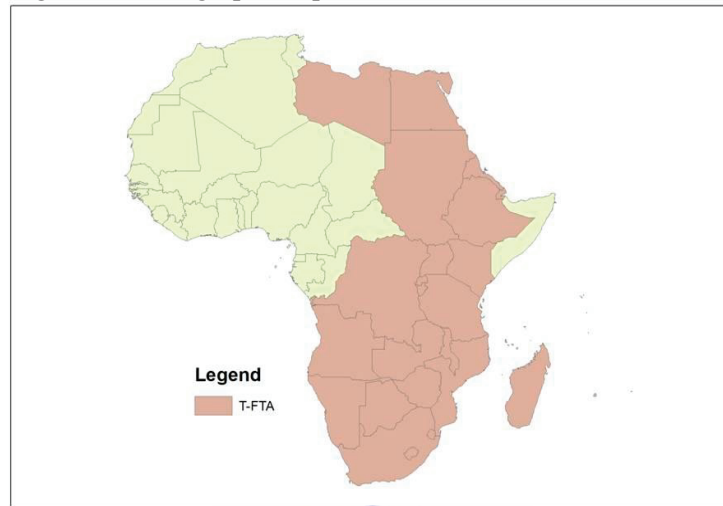
The tri-partite process, which was endorsed by African leaders in June 2011, has received widespread praise on a continental level and is viewed by the AU as an initiative that can assist in reaching the pan-African goals of the continent (Kulabako, 2011). The AUC (2011, p. 11), instituted its *Minimum Integration Plan* as a guideline to further garner continental coherence in the process of regional integration in Africa, and has acknowledged the possible value of the T-FTA. In this regard, the Plan notes: “Concerning the multi adherence of member states to more than one REC, it is observed that in pursuance of the new approach of cooperation and harmonisation of programmes between the RECs, concretised by the initiative taken by the three RECs (T-FTA) namely COMESA, EAC and SADC, this problem would not be an obstacle to the integration process in Africa if and only if this example is crowned with success. This is because it can serve as a model for Africa.” This implies that the AUC views the T-FTA as a strategy that can mitigate the effects of the overlapping membership issue in the Eastern and Southern African regions, as well as provide a workable model in achieving effective and comprehensive economic integration viewed against the backdrop of pan-African continental economic unity.

The pan-African ideal behind the T-FTA is strengthened by the following:

“The T-FTA is not an *ad hoc* plan. It is linked to the implementation of an African programme on continental integration, while being anchored in specific regional experiences. It is premised on ideas about ‘development integration’, but constrained by unique national needs and agendas. There are suggestions now to use this COMESA-EAC-SADC FTA as the core building block for establishing a continental FTA by 2017 and a CM by 2020” (Erasmus & Hartzenberg, 2012, p. 4).

The figure below provides a geographical representation of the contribution that the T-FTA could make towards a continental FTA.

Figure 4.1: Geographic representation of the T-FTA



According to Woolfrey (2011); Erasmus (2011, p. 96), and Hartzenberg (2011b, p. 20), the framework around which the T-FTA is to be realised are based on three pillars, namely market integration, infrastructure development and industrial development, coupled with a developmental approach. Cattaneo (2008, p. 5) notes that a development integration approach uses economic integration as a vehicle for regional industrial development by lowering the costs of protecting industrial sectors. This is achieved by a larger regional market coupled with cooperation in transport and infrastructure development.

4.2.3 The immediate challenges and opportunity

The immediate challenge of the T-FTA will be to consolidate the wide variations in economic development amongst partner states. Chapter two illustrated that for economic integration to occur on a sustainable basis there has to be congruence in developmental levels in order to foster trust and avoid marginalisation of weaker states. The table below encompass key economic and other indicators for the 26 member states that are currently negotiating the T-FTA.

Table 4.1: Tri-partite member states' economies; population size, and other indicators

Number	Country	GDP USD	% share of total GDP	Population	% share of total population	GDP per capita
1	Angola	75,492,890,278	8.79	18,497,632	3.15	6,187
2	Botswana	11,822,741,858	1.38	1,949,780	0.33	6,064
3	Burundi	1,325,009,348	0.15	8,303,330	1.41	160
4	Comoros	535,336,308	0.06	659,093	0.11	812
5	DRC	10,575,489,480	1.23	71,712,867	12.21	147
6	Djibouti	1,049,054,417	0.12	864,202	0.15	1,214
7	Egypt	188,412,876,658	21.94	82,999,393	14.14	2,270
8	Eritrea	1,873,235,772	0.22	5,073,279	0.86	369
9	Ethiopia	28,526,277,751	3.32	82,824,732	14.11	344
10	Kenya	29,375,775,194	3.42	39,802,015	6.78	738
11	Lesotho	1,578,614,711	0.18	2,066,919	0.35	764
12	Libya	62,360,446,571	7.26	6,419,925	1.09	9,714
13	Madagascar	8,589,541,847	1.00	19,625,030	3.34	438
14	Malawi	4,727,486,011	0.55	15,263,417	2.60	310
15	Mauritius	8,588,729,727	1.00	1,275,323	0.22	6,735
16	Mozambique	9,790,246,565	1.14	22,894,294	3.90	428
17	Namibia	9,264,803,489	1.08	2,171,137	0.37	4,267
18	Rwanda	5,215,852,721	0.61	9,997,614	1.70	522
19	Seychelles	764,296,578	0.09	87,972	0.01	8,688
20	South Africa	285,365,879,676	33.23	49,320,150	8.40	5,786
21	Sudan	54,680,784,788	6.37	42,272,435	7.20	1,294
22	Swaziland	3,000,995,335	0.35	1,184,936	0.20	2,533
23	Tanzania	21,368,198,751	2.49	43,739,051	7.45	489
24	Uganda	16,042,841,225	1.87	32,709,865	5.57	490
25	Zambia	12,805,027,606	1.49	12,935,368	2.20	990
26	Zimbabwe	5,625,000,000	0.66	12,522,784	2.13	449
Total		858,757,432,665	100.00	587,172,543	100.00	

Source: Kalenga, 2011a, p. 6

The above table highlights that the combined GDP of the 26 countries are \$858 billion with a population of over 587 million people. This is a significantly larger market than any single REC. If and when realised, the T-FTA would only be rivalled by China and India in terms of market size and would be ranked 15th in the IMF's list of world economies by nominal GDP (van den Bosch, 2010). The tri-partite region would in strict economic terms have a larger scope to be able to reap the benefits of economies of scale, industrial diversification and strengthened infrastructure around regional goals that would improve Africa's current lack of competitiveness in the global economy (Woolfrey, 2011). Africa has since the first wave of regional integration explicitly stated that these are the benefits they hope to achieve through regional integration. These figures suggest that the T-FTA would provide a sturdy platform to achieve these benefits.

The 26 member states that form the tri-partite region are significantly different from each other in economic terms. For instance, Angola, Libya, and Sudan account for 22 percent of the entire region's GDP; which is based on their richness in oil. Nonetheless, they have almost no industrial base to speak of. For their part, Burundi, Comoros, Djibouti, Eritrea, Lesotho, Malawi, Rwanda, Seychelles, Swaziland and Zimbabwe contribute less than a percent individually since they, together, only account for three percent of the GDP in the tri-partite region. Egypt, Kenya and South Africa are the most diversified economies with a relatively large industrial base and account for roughly 60 percent of the total GDP, with South Africa being responsible for a third of the total economic value of the tri-partite region.

It is often assumed that the most developed economies in the region stand to gain more from the envisaged FTA, while others might be confronted with possible economic polarisation (Kalenga, 2011a, p. 7). In fact, it has been debated that an enlarged market (which is a strong driver for economic integration) between countries of unequal size or levels of development will mainly benefit producers in stronger economies such as South Africa (Cattaneo, 2008, p. 13). This then also accounts for the most pressing concern regarding the market integration aspect of the tri-partite process.

Table 4.1 above indicates that the wide variation in the capability of partner states will mean that during the negotiations each state will bring different interests to the table. This will provide a significant challenge given the difficulties already experienced at REC level to reach consensus. This reality is a significant challenge moving forward and will require effective dispute settlement mechanisms to resolve the economic conflicts that might emerge given the size and heterogeneous make-up of the tri-partite region. It is clear that the T-FTA will be difficult to realise, especially within the stipulated timeframes.

4.2.4 Fundamental Challenges

The multiplicity of regional initiatives and the corresponding overlapping and conflicting trade regimes have led to tremendous challenges in removing the barriers to trade within Eastern and Southern Africa. In turn, this gave rise to a large body of research that has called for member states to choose one regional arrangement or begin a process of harmonisation and rationalising of the existing regional configurations. Trade experts warn of potential legal issues given that regional trade blocs already exist and could in themselves be barriers to an enlarged FTA. Also, RECs have failed to take advantage of FTAs on a smaller scale within themselves (Palitza, 2011). The emergence of the tri-partite initiative, though, indicates that harmonising and rationalising the existing regional arrangements are the way forward to overcome multiple memberships as well as to build a more comprehensive and unified regional approach.

The likelihood of a successful T-FTA will depend on the willingness of states to prioritise a regional agenda over the narrow nationalistic tendencies in Africa. That said, if certain countries attempt to dominate negotiations by pushing for national as opposed to regional interests, coupled with refusing to 'foot the bill' for adjustment costs, economic inequalities in and between the different regions are at risk of being intensified at an even greater scale (Palitza, 2011). This could pose a significant challenge in realising an enlarged FTA, because national self-interest behaviour will ultimately pit countries against each other based on their economic strength, or conversely, their lack thereof (Palitza, 2011). Thus, the tripartite process, especially the market integration aspect of it, has the potential to de-generate the integration process in the regions. States will have to act in good faith and be willing to

compromise in order to pursue goals and objectives that extend beyond their narrow national interests.

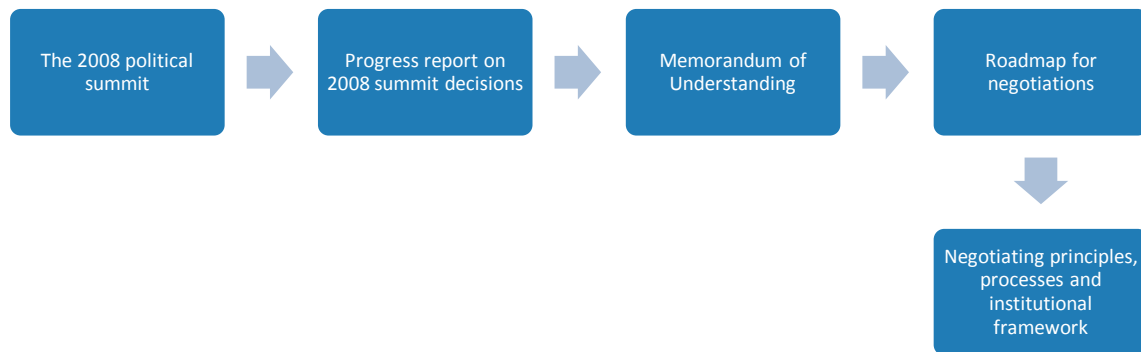
4.3 Progress of the T-FTA: Preparation for Negotiations

The tri-partite process has been significantly refined since its official political endorsement during the 2008 Summit, and for this reason, it is necessary to describe its evolution since then. This is needed in order to clarify what its actual purpose is presently. Such a description will be a useful exercise, because it will eliminate any confusion regarding the processes envisioned in creating the T-FTA. Also, it will help in clarifying what the tri-partite process is and is not, furthering the understanding of what can be expected from the negotiations moving forward. Further to this, a key aim of this section is to make clear that the T-FTA should not be viewed strictly as an economic exercise. Rather, it has since its official establishment in 2008 emerged as an enlarged inter-REC regional forum where key issues that have been commonly associated with Africa's problems can be resolved. Particularly interesting about the evolution of the tri-partite initiative is that it has already, to be elaborated on below, achieved progress in advancing a purposive move towards the integration process in Eastern and Southern Africa by conceptualising what such a process should ideally encompass.

The intention of the next section is to illustrate the progression of the tri-partite initiative by exploring the documents that emanated from the working processes thereof. Providing a primary account of what the tri-partite initiative aims to achieve, these documents include; the:

- 2008 Political Summit document;
- 2011 Progress Report on the 2008 Summit decisions;
- Memorandum of Understanding (MoU); and
- Draft Roadmap for negotiations and Negotiating Principles, Processes and Institutional Framework.

Figure 4.2: Interpretation of the tripartite initiatives primary documents



4.3.1 The 2008 Summit

The purpose of the Summit was to provide a platform for the three RECs to discuss and make decisions on areas that enhance integration amongst them (COMESA-EAC-SADC, 2008, p. 3).³⁹ This is a formalisation of the cooperation that was already in place following the agreements and decisions as concluded between the COMESA and SADC secretariats in 2005. The EAC was co-opted by the COMESA and SADC secretariats, and this led to the creation of the Tri-partite Task Force (TTF). The TTF met several times since its inception, discussing and cooperating on programmes focusing on harmonisation of programmes that are already underway in individual RECs in the areas of trade, customs, free movement of people, and infrastructure development.

“The main objective of the Summit is to provide strategic and policy direction relating to cooperation on trade and economic liberalisation including a roadmap for establishing a pan-African regional FTA encompassing the three RECs and a joint programme for free movement of persons and infrastructure development” (COMESA-EAC-SADC, 2008, p. 3).⁴⁰

It is recognised in this that “one of the main challenges facing COMESA-EAC-SADC in the implementation of their integration programmes is the overlapping membership issue.” This

³⁹ See paragraph 8 of the First COMESA-EAC-SADC Tripartite Summit document.

⁴⁰ See paragraph 9 of the First COMESA-EAC-SADC Tripartite Summit document.

has been mainly informed by the emergent CU issue that seems to be an inevitable outcome as individual RECs within the region move towards deeper economic integration. “This has led to the recognition by the three RECs of the need to initiate a process of coordination and harmonisation of their regional integration programmes as a way of mitigating the challenge of overlapping membership” (COMESA-EAC-SADC, 2008, p. 3).⁴¹ In addition to overlapping membership, the following have been highlighted as challenges by the COMESA-EAC-SADC (2008, p. 7) for inter-REC integration:⁴²

- “Risk of trade deflection due to multiple memberships of member states in different RECs with different trade regimes;
- Multiplicity of trade regimes and instruments for different trade arrangements which have created legal and administrative bottlenecks;
- Market expansion restriction due to varying tariff and non-tariff barriers to trade between RECs;
- Lack of competitiveness at regional and international levels;
- Varying trade facilitation instruments between regions which impact on inter regional business activity;
- Unattractive investment environment across the regions;
- Restrictions in the movement of persons, in particular business persons;
- Limited capacity development;
- Underdeveloped regional infrastructure; and
- Low levels of industrial developments.”

It is clear that the dominant challenges informing the working processes of the tri-partite initiative are economic in nature. As a result, the move towards advising on creating a pan-African FTA between the COMESA-EAC-SADC makes sense. Promising in this regard is that the T-FTA is to be based on a process of coordination and harmonisation of existing programmes to build on the successes and mitigate the negative aspects that have surfaced in the regions. One of the key problems of regional integration is the competition that exists

⁴¹ See paragraph 5 of the First COMESA-EAC-SADC Tripartite Summit document.

⁴² See paragraph 26 of the First COMESA-EAC-SADC Tripartite Summit document.

between RECs that had a ripple effect in terms of cooperation between them. The Summit formalised a forum for interaction and this serves as an avenue for the RECs to cooperate and work together to solve the disagreements amongst them.

The following strategies were highlighted by the COMESA-EAC-SADC (2008, p. 7) for inter-REC integration, namely:⁴³

- “Promoting and establishing trade arrangements among COMESA, EAC and SADC;
- Enhancing inter-REC economic cooperation;
- Facilitating free movement of business persons;
- Enhancing cooperation with multilateral and bilateral partners;
- Promoting industrialisation; and
- Enabling intra-regional investments.”

These strategies indicate the dominant areas that the tri-partite initiative will be based on. Topping the agenda is the promotion of trade arrangements amongst the RECs; this is where the enlarged FTA emanates from. Enhancing inter-REC economic cooperation deals with the issues that relate to an FTA but are not explicit elements of a trade agreement. Typically they are deeper elements of economic integration, including the movement of business people. Enhancing cooperation with bi- and multi-lateral partners reflect the need in the regions to work towards common positions with external actors. This could be facilitated on a multi-lateral level with the WTO, and on an inter-regional level with, for example, the EU. Promoting industrialisation and enabling intra-regional investments point towards a realisation of the need to enter into production sharing and fragmented trade, and this will be explored later in this chapter.

The COMESA-EAC-SADC (2008, p. 7) notes the objectives of inter-REC trade arrangements and are to:⁴⁴

- “Promote trade through the region by creating a wider market;

⁴³ See paragraph 25 of the First COMESA-EAC-SADC Tripartite Summit document.

⁴⁴ See paragraph 27 of the First COMESA-EAC-SADC Tripartite Summit.

- Increase inter-REC and extra-REC investment flows;
- Enhance competitiveness of the region through improved production efficiency and value addition;
- Develop cross-regional infrastructure;
- Develop inter-REC financial and capital architecture; and
- Strengthen the region’s negotiating positions in multilateral and bilateral trade arrangements.”

The objectives underlined above are expected outcomes in creating an enlarged FTA.⁴⁵ Indeed, this has the potential to reap economies of scale. Investment between partner states in the RECs is critical for diversification of industry and extra-regional flows are important for capturing FDI. Hence, the trade arrangements are envisioned to create an enabling environment to facilitate investment both within and from the outside, presumably with traditional and if possible new development partners. Developing cross-regional infrastructure is an interesting element to add to the trade arrangement’s objective and reflects the need to enhance the physical connectivity of member states in order to facilitate smoother movement of goods for trade. The requisite inter-REC financial and capital architecture will be needed to create the platform from which payments and investments can be made easily accessible. Including negotiating positions in both the bi-and multi-lateral contexts are significant, because it could impact on existing trade arrangements as well as new ones such as the T-FTA agreement. Thus, at least on paper, the trade arrangement’s objectives are aimed at achieving a wide range of goals that if realised could greatly strengthen regional integration in Africa.

The document culminating from the 2008-Summit proceeds to stress the following crucial to enhancing inter-REC economic cooperation (COMESA-EAC-SADC, 2008, p. 7):

- Promoting inter-REC investment flows;
- Co-operation regarding competition policy;
- Effective financial and payment systems;
- Co-operation in terms of developing capital markets;

⁴⁵ Also, see the discussion on the primary drivers for the T-FTA in section 4.2.3 of this study

- Development and cooperation with regards to commodity exchanges; and
- The free movement of business persons; by means of a binding agreement or protocol.⁴⁶

In addition, the areas of co-operation in terms of EPAs and WTO trade negotiations are also emphasised (COMESA-EAC-SADC, 2008, p. 10).⁴⁷ The idea is to create greater convergence regionally in relation to third parties (in this case the EU) and eventually moving towards common approaches in the context of multi-lateral trade negotiations. It should be stressed that issues pertaining promoting industrialisation and enabling intra-regional investments have no priority areas for co-operation, which suggests that work on conceptualisation still needs to be done in these areas.

Keeping the above in mind, the following areas were recommended as programmes of work vital to economic cooperation between the RECs (COMESA-EAC-SADC, 2008, p. 10-11):

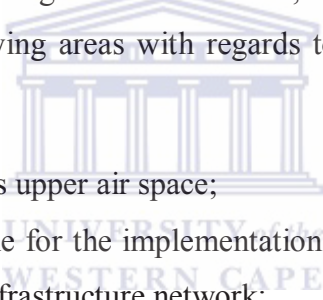
- “Establishing an FTA encompassing the member states of the three RECs within five years;
- The three RECs should develop a roadmap within six months for the establishment of the proposed FTA taking into account the principle of variable geometry;
- Direct the secretariats to develop a legal and institutional framework as a constituent part of the roadmap; direct member states to facilitate freer movement of business persons across the three RECs in one year;
- Direct the secretariats of the three RECs to develop joint programmes that enhance cooperation and strengthen coordination on competition policy, financial and payments systems, capital markets, commodity exchanges and industrial policies; and
- Direct the three secretariats to coordinate and develop common positions on the EPA negotiations and other multilateral and bilateral negotiations.”

⁴⁶ See paragraphs 31, 32, 33, 34, 35, 36, 37, 38 and 39 of the First COMESA-EAC-SADC Tripartite Summit document.

⁴⁷ See paragraphs 40, 41, 42 and 43 of the First COMESA-EAC-SADC Tripartite Summit document.

The Summit acknowledged that the above-mentioned areas of co-operation in trade liberalisation and economic cooperation are not on their own able to facilitate economic integration as well as overcoming the wide range of challenges in Eastern and Southern Africa. “Regional trade liberalisation initiatives outlined above, on their own, cannot have the desired effects in terms of promoting economic growth and poverty reduction. Inadequate investments in infrastructure, services and utilities coupled with skills deficiency and inappropriate reforms of the regulatory regimes among others, have led to depressed socio-economic development. Enhancing physical interconnectivity therefore, is an important factor in speeding up development and facilitating inter-regional trade” (COMESA-EAC-SADC, 2008, p. 11).⁴⁸

The state of infrastructure was identified as key to the lack of competitiveness and physical connectivity between states in the region. Based on this, the Summit recommended that the TTF gives attention to the following areas with regards to infrastructure (COMESA-EAC-SADC, 2008, p. 22):⁴⁹

- 
- “Develop a single seamless upper air space;
 - Develop a joint programme for the implementation of an accelerated, seamless inter-regional ICT broadband infrastructure network;
 - Develop a harmonised policy and regulatory framework that will govern ICT and infrastructural development in the three RECs;
 - Coordinate and harmonise the Regional Transport Master Plans of the three RECs; and
 - Coordinate and harmonise the Regional Energy Priority Investment Plans and the Regional Energy Master Plans of the three RECs”.

Another important area that the Summit document highlighted is the need to establish a legal and institutional framework. The TTF was established at the level of the Secretariats, but this is not enough to facilitate the broad agenda of the tri-partite initiative. Accordingly, the

⁴⁸ See paragraph 45 of the First COMESA-EAC-SADC Tripartite Summit document.

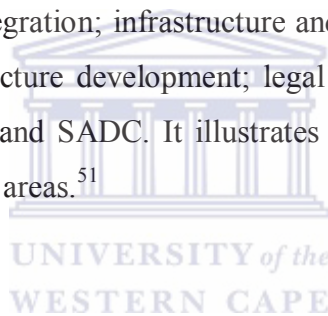
⁴⁹ See paragraph 100 of the First COMESA-EAC SADC Tripartite Summit document.

envisioned institutional structure of the tri-partite Framework will consist of the following, namely (COMESA-EAC-SADC, 2008, p. 23):⁵⁰

- “Tripartite Summit of Heads of State and Government;
- Tripartite Council of Ministers;
- Tripartite Sectoral Ministerial Committee on Trade, Customs and Economic Matters;
- Tripartite Sectoral Ministerial Committee on Infrastructure; and
- Tripartite Task Force of the Chief Executive Officers of the RECs”.

4.3.2 The 2011 Tri-partite Task Force Progress Report on 2008 Summit Decisions

The 2011 Tripartite Task Force Progress Report assesses the status of implementation of the various decisions made at the 2008-Summit. Broadly contextualised, the document covers trade, customs and economic integration; infrastructure and trade facilitation; joint financing and implementation for infrastructure development; legal and institutional framework, and the merger of COMESA, EAC, and SADC. It illustrates that the tri-partite framework has already progressed in a variety of areas.⁵¹



4.3.3 Memorandum of Understanding (MoU)

The Memorandum of Understanding (MoU) on Inter-Regional Cooperation and Integration (2011)⁵² lays out the basis for relations between the three RECs in terms of moving towards the broad goals of the tri-partite initiative. It basically formalises the decisions made at the 2008-Summit and provides the institutional framework around which future tri-partite working processes will be conducted. The COMESA-EAC-SADC (2011b, p. 3) mentions that cooperation between the parties shall relate but will not be restricted to the following areas:⁵³

⁵⁰ See paragraph 103 of the First COMESA-EAC-SADC Tripartite Summit document.

⁵¹ The purposes of this chapter are only to highlight the technical work that has already been done in moving towards the negotiations. The detail of the areas of progress will be reserved for chapter five which deals with prospects and challenges of the T-FTA.

⁵² From here on the MoU will be cited as COMESA-EAC-SADC, 2011b.

⁵³ See Article 1 (3) of the MoU on inter regional cooperation and integration.

- “Trade liberalisation and customs cooperation generally, establishing an FTA and any other deeper form of integration agreed by the RECs;
- Development of programmes to enhance movement of business persons, labour and services across the region;
- Development of joint infrastructure programmes, financing and implementation;
- Development of joint programmes for agriculture development and food security;
- Maintenance of close collaboration in preparation of common regional positions and strategies in multilateral and international trade fora; and
- Other activities of mutual interest as may be agreed to from time to time”.

Thus, the MoU has formalised the resolutions taken at the 2008 Summit.⁵⁴

The most important element emanating from the MoU is the establishment of a Tri-partite Coordination Mechanism, with the following organs (COMESA-EAC-SADC, 2011b, p. 5):⁵⁵

- “The Tripartite Summit which will meet at least once every two years and is the highest organ of the tripartite arrangement;
- The Tripartite Council of Ministers meeting at least once every two years;
- The Tripartite Sectoral Ministerial Committee on Trade, Finance, Customs, Economic Matters and Internal Affairs; as well as Tripartite Sectoral Committees on Infrastructure and legal affairs that has to meet at least once every year;
- Any other Ministerial Committees that the Tripartite Council of Ministers may establish to meet at least once a year;
- Tripartite Committees of Senior Officials and of experts which shall meet at least once every year;
- Tripartite Task Force of the Secretariats of the three RECs which will meet at least twice a year”.

⁵⁴ See Articles 2, 3, 4 and 5 of the MoU on inter regional cooperation and integration.

⁵⁵ See Article 6 of the MoU on inter regional cooperation and integration.

To further the enmeshment of the tri-partite initiative within the individual RECs, it is highlighted that “each party shall establish within its Secretariat a permanent unit for the coordination of the mechanism for the harmonisation of the programmes agreed upon” (COMESA-EAC-SADC, 2011b, p. 6).⁵⁶ Collectively, the three units are known as the Tri-partite Coordination Secretariat and they will meet every six months to review the implementation of the MoU. It is clear that for the tri-partite initiative to achieve harmonisation and coordination it will require an institutional presence in each REC.

4.3.4 Roadmap for Negotiations

The Draft Roadmap for Establishing the T-FTA provides an activity matrix with the negotiations designated to transpire over a five year period that is from January 2011 to January 2016. The Roadmap puts forward the sequence of events and processes of work that has led up to the negotiations as well as the time-frames for the realisation of the phases in which the T-FTA will be concluded. The first step according to the Roadmap is the signing of the MoU by the REC chairpersons by January 2011, while the Tri-partite Ministerial Committee; Council, and Summit were supposed to meet between May and June 2011. In addition, the principles; processes, and institutional framework as well as the Draft Roadmap for establishing the T-FTA were also to be approved during the afore-mentioned period (COMESA-EAC-SADC, 2011c, p. 1). The above-mentioned deadlines were all met on time by the relevant people and institutions.

Following from the above, the post-launch pre-negotiations preparations have taken place with a time frame of six to twelve months. During this phase, information exchange, including applied national tariffs and trade data as well as measures have been circulated. Adopting Terms of Reference (TOR) and rules of procedure follows; with adoption of a schedule for negotiations; with an applicable monitoring and evaluation mechanism established. National negotiating positions will be prepared for core FTA items that will lay the foundation for negotiations. The actual negotiations will commence after these processes have been finalised.

⁵⁶ See Article 6 (6) of the MoU on inter regional cooperation and integration.

According to the COMESA-EAC-SADC (2011c, p. 1) Phase 1 will last for a period of between 24 to 60 months with two separate tracks that will run parallel to each other. The tracks consist of trade in goods and movement of business persons. Phase 1 will undergo a continuous review by the Ministerial Council with a provision to revise the timeline of the roadmap upon review. Phase 2 will only occur once Phase 1 has been concluded implying that the deeper elements of PTAs, such as services, Intellectual Property Rights (IPRs) and competition are not a priority at this stage of the T-FTA.

4.3.5 Negotiation Principles, Processes and Institutional Framework

Thus far, the first political Summit in 2008 was discussed, followed by a brief overview of the 2011 progress report of said Summit and its resolutions. These two documents indicate that the tri-partite initiative is not solely an economic exercise, and more importantly, that progress has been made to get negotiations underway. The MoU was then perused in order to show that the foundation for future relations between tri-partite states has been laid. The Roadmap for establishing the T-FTA has been conceived and illustrates that a timeline has been set for negotiations. Logically then, the 'Negotiation Principles; Processes, and Institutional Framework' is the next step that prescribes the basis for how negotiations should proceed.

The 'Negotiating Principles, Processes and Institutional Framework' document⁵⁷ provides the general areas of significance that form part of the T-FTA negotiations. It notes that these negotiations will be effected in two phases. On the one hand, the first will cover tariff liberalisation, RoO, dispute resolution, customs procedures and simplification of customs documentation, transit procedures, non-tariff barriers, trade remedies, technical barriers to trade and SPS measures. It should be stressed that the movement of business people are to occur during the same phase on a parallel but separate track. On the other hand, the second phase will cover trade in services; intellectual property rights; competition policy; trade, and development as well as competitiveness.

⁵⁷ From here on cited as COMESA-EAC-SADC, 2011d.

The COMESA-EAC-SADC (2011d, p. 1-2) highlight that negotiations of the T-FTA agreement are guided by the following:

- *The negotiations will be member and partner state driven:* Being member and partner state driven means that the T-FTA agreement negotiations will not be an REC negotiation, except where CUs are in effect such as the EAC and SACU countries. Thus, the negotiations will largely be an individual state to state interaction that is going to attempt bringing 26 member states together and give them space to articulate their own interests instead of regional goals.
- *Variable geometry:* Variable geometry is an important aspect to include in the negotiating context because it allows groupings within economic arrangements to move faster ahead with liberalisation than others. For example, the EAC is viewed as a fast track of COMESA. In this way, those member states and REC groupings that are at a fairly advanced stage of economic integration will be allowed to continue doing so.
- *Flexibility and special and differential treatment:* Including flexibility, coupled with special and differential treatment, indicates that the least developed states in the tripartite region will be allowed to receive concessions in terms of opening up their markets. This is an important provision to prevent de-industrialisation but can also be a double-edged sword as member states could use this provision to slow down liberalisation and by extension slow down economic integration.
- *Transparency, including the disclosure of information with respect to the application of the tariff arrangements in each REC:* A key aspect of negotiations will be transparency. This illustrates 'good faith' in the negotiating context and will be valuable in terms of information sharing to avoid duplication as well as to be able to align the needs of all stakeholders.
- *Building on the acquis of the existing REC FTAs in terms of consolidating tariff liberalisation in each REC FTA:* Building on the *acquis* of existing RECs illustrate that the 'best practice' elements of the three RECs will be important. It is viewed that the T-FTA negotiations will build on the current successes and failures of the COMESA, EAC and SADC in order to achieve the T-FTA (Kalenga, 2011a, p. 8).

- *A single undertaking covering phase one on trade in goods*: This principle is the most ambitious as all trade in goods agenda factors will be dealt with in one phase. Traditionally, it has been hard to reconcile all the trade in goods agenda aspects within RECs.
- *Substantial liberalisation*: Including substantial liberalisation implies that the T-FTA will attempt rapid opening up of markets. Not all tri-partite states can afford to substantially liberalise their economies but those who can; will be expected to commit themselves to regional liberalisation.
- *MFN treatment*: The MFN principle will be discussed later in this chapter but basically implies subscribing to the multi-lateral norm of MFN. The MFN rule applies to all 'border measures' such as tariff duties and quantitative restrictions, but also applies to all internal taxes and regulations for goods and services (Mathis & Breaton, 2011, p. 25). By doing this, tri-partite states that are members of the WTO would be acting in accordance with established trade rules.
- *National treatment*: This principle means that member states commit to treating foreigners as equal to their locals.
- *Reciprocity*: Reciprocity implies that tri-partite states are going to equally open up markets. This means that whereas special and differential treatment is not the goal of this FTA, equal liberalisation across the expanded economic space indeed is.
- *Decisions will be taken by consensus*: Decisions made at the negotiations will be done by reaching a consensus. As mentioned before, the tri-partite region consists of 26 countries with different development levels all having to reach agreement on various issues. Coupled to this is the fact that each member state brings their own interests to the negotiating table. In this regard, it will be interesting to see how the negotiations will progress as African states have historically voted according to consensus and have at the same time struggled to reach agreement at REC level.

The negotiation rules articulated above are largely similar to those that are standard in African regional integration negotiations.

The institutional framework of the negotiations will be as follows with the TTF providing the technical and administrative support for the negotiations:

- Summit of the Heads of State and Government;
- Tripartite Council of Ministers;
- Tripartite Sectoral Ministerial Committees;
- Tripartite Committee of Senior Officials; and
- Tripartite Trade Negotiation Forum (TTNF).

In line with the institutional framework the Tripartite Sectoral Ministerial Committee will be responsible for the overall monitoring; supervision, and provision of leadership during the negotiation process. The chairperson of the TNNF will monitor the negotiations through quarterly reports compiled by the Tripartite Sectoral Ministerial Committee responsible for trade.



4.3.6 Declaration Launching the Negotiations for the Tri-partite Free Trade Area

The Declaration Launching the Negotiations for the T-FTA was presented on 11 May 2011 in Johannesburg, South Africa. It formalises the processes that have been underway since the 2008-Summit. The most important element of the Declaration is that it reconfirmed the commitment of the Heads of State and Government towards establishing a T-FTA spanning the three RECs. This T-FTA aims to ultimately adopt a developmental approach built on three pillars, namely industrial development; infrastructure, and market integration. Negotiations will be member and partner state driven spanning two phases. On the one hand, phase 1 will deal with trade in goods with movement of persons being negotiated during this phase on a separate track. Phase 2, on the other hand, will cover trade-related areas, and reflecting the deeper elements of economic integration.

The Declaration signals the political intent of African heads of state to begin a process of harmonisation and rationalisation of the COMESA, EAC and SADC trade regimes in the first

phase of negotiations. This is an important milestone and marks the formal start of negotiations that are envisioned to conclude in 2016.

4.3.7 The Second Summit

The Second Summit was held on 12 June 2011 in Johannesburg, South Africa. The following milestones were achieved at this event:

- The declaration launching the negotiations for the establishment of the T-FTA was both signed and launched;
- A Roadmap for establishing the T-FTA was adopted;
- In addition, the Negotiating Principles; Processes, and Institutional Framework for the establishment of the T-FTA were adopted;
- It was determined that a program of work and roadmap be developed for the industrialisation pillar;
- Infrastructure development was noted and international donors pledged donations for projects within the North-South corridor; and
- The chairpersons of the COMESA-EAC-SADC signed the MoU on Inter-Regional Cooperation and Integration.⁵⁸

4.4 Fitting the T-FTA into the international trade regime

The WTO commonly sets the rules for international trade and as a result it has to be notified of the formation of FTAs before these could be operationalised. According to Hoekman (2002, p. 41-42), the main function of the WTO is to serve as a forum for international co-operation on trade-related policies through the creation of codes of conduct for governments globally. He goes on to say that the basic principles of the WTO framework are:

- Non-discrimination;
- Reciprocity;
- Binding and enforceable commitments;
- Transparency; and

⁵⁸ This will be explained in chapter 5.

- Safety valves.

These above-mentioned principles are mostly applicable to multi-lateral negotiations in order to create an environment of fairness (i.e. reciprocity); enforcement of decisions (i.e. binding and enforceable commitments); access to information (i.e. transparency), and a means to restrict trade (i.e. safety valves).⁵⁹ T-FTA member states that are a part of the WTO have to abide by these principles in order to forward the ideal of a rules based multi-lateral trade system as well as follow best practices. In return, membership provides them recourse in cases of unfair trade practices, and the opportunities to accrue the possible benefits of foreign markets.

The formation of FTAs and CUs are an exception to the most fundamental principle of the WTO, which is non-discrimination. The MFN rule is enacted by Article I of the GATT and determines that a product manufactured in one member country should be treated no less favourably than a 'like' (i.e. similar) good that originates in any other country. Similarly, the national treatment principle basically promotes the same agenda but in the domestic regulatory environment, such as taxation. When a group of states decide to form an FTA or CU they are treating each other more favourably than other WTO members. Thus, this qualifies as an exception to non-discrimination within the WTO framework and therefore the WTO has to be notified. There are two avenues for notification of FTAs and CUs that could be selected, namely under article XXIV of the GATT or through the enabling clause that accommodates the particular realities of developing countries. An important question to be asked here is which notification criteria will be appropriate for the T-FTA.

4.4.1 GATT Article XXIV

The GATT highlights what FTAs and CUs are *vis-à-vis* the WTO. According to the GATT (1994, p. 41), "A customs territory shall be understood to mean any territory with respect to

⁵⁹ The means to restrict trade refers to the anti-dumping and trade remedies provisions in the multi-lateral trade regime. Developing states are particularly vulnerable at the multi-lateral level to the relative economic strength of more powerful states. For example, economically powerful states can flood local developing markets with cheaper goods, making it extremely difficult for these states to sell their own manufactured goods within their own territory.

which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories”.⁶⁰ This is an important conceptualisation because it allows for a CU to be considered as a customs territory due to their common trade policy through the CET. In other words, FTAs are recognised to have individual member states that form autonomous trade policy. Hence, they are also viewed as a customs territory within this provision. This basically recognises that an FTA and CU are larger economic spaces, but their different economic characteristics are accounted for within this provision.⁶¹ This is important for the T-FTA if one keeps in mind that two CUs (i.e. the EAC and SACU) and two FTAs (i.e. the COMESA and SADC) are currently functioning, and there is a need for them to be distinguished as different economic entities with different economic characters.

In terms of the GATT (1994, p. 42), the FTA or CU parties are not allowed to raise barriers with third party countries. This is also referred to as external trade requirements. Other provisions important to note in relation to the formation of either an FTA or CU include the following; that with respect to:⁶²

- A CU (or interim agreement leading to the formation of one), that the duties or other regulations of commerce with contracting parties will not be on the whole higher or more restrictive than those in place before the establishment of one; and
- An FTA (or an interim agreement leading to the formation of one), that the duties and other regulations of commerce with contracting parties will not be higher or more restrictive than those in place within constituent territories before the establishment of the FTA.

This provision ensures that those members party to such an agreement do not raise their barriers to trade as a bloc in the case of a CU, or individually in the case of the formation of an FTA.

⁶⁰ See paragraph 2 of Article XXIV.

⁶¹ An FTA allows member states to determine their own trade policy whereas a CU has a CET. The provision acknowledges this difference in character.

⁶² See paragraph 5 (a) and (b) of Article XXIV.

The GATT (1994, p. 43) also determines that it is the supposed duty of an FTA or CU to diminish any possible barriers to (fair) trade.⁶³ The former is referred to as coverage requirements. Accordingly, within a CU or FTA duties and other restrictive regulations of commerce must be eliminated on Substantially All Trade (SAT).⁶⁴ According to Hudec, James and Southwick (1999, p. 50-51) this provision suggests that for RTA members to qualify under article XXIV they have to deviate from the non-discrimination principle, i.e. they must in fact discriminate to a substantial degree. This paragraph has been subject to problems of interpretation and application as the language used in this provision is ambiguous.

It should be noted that it is often left to contracting parties to decide what SAT actually entails in terms of trade liberalisation. For example, there exist two contrasting viewpoints about the SAT principle relating to whether it refers to the quantity or quality of the trade being liberalised. There are two different ways to interpret quantity, that is either through a percentage test where 90 percent of total trade between member states is at zero tariff duty (i.e. volume of trade), or the percentage of tariff duty lines (i.e. not volume of trade) that have been reduced to zero (Mathis & Breaton, 2011, p. 35). The quality aspect refers to which sectors are actually being liberalised for tariff duty elimination. According to Mathis and Breaton (2011, p. 35), this is particularly important if the remaining 10 percent of either the volume of trade or tariff duty lines constitute the major traded sectors between member states. Here even the term ‘major’ encounters the same difficulty of interpretation as ‘substantially’. These issues remain unresolved within the WTO framework but have not led to the cancellation of FTAs or CUs by the WTO oversight committees whom are notified of the agreements (Erasmus, 2011, p. 99). In this way, protectionism is still a common occurrence and actually built into the global economy, and this is highly evident within the agricultural sector.⁶⁵

⁶³ See paragraph 8 of Article XXIV.

⁶⁴ See paragraph 8 (a) and (b) of Article XXIV.

⁶⁵ The problem with protectionism for developing countries is that they are expected to reciprocate trade preferences. Developing countries and Africa in particular are most competitive in the agricultural sector, thus, it is an important area where they can make economic gains. However, developed nations such as the EU and USA continue to subsidise their farmers with no inclination to stop this protectionist policy, while insisting that the developing world open up markets and avoid protectionism.

4.4.2 The Enabling Clause

The enabling clause was enacted by WTO members in 1979 and is titled *Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries*. This provision was made for developing countries and through its detail implies a much weaker instance of trade liberalisation and legal commitments within the bloc (than the GATT Article XXIV). This is reflective of the particular realities of the developing world, especially LDCs. “Notwithstanding the provision of Article I of the General Agreement, contracting parties may accord differential and more favourable treatment to developing countries, without according such treatment to other contracting parties” (WTO, 1979, p. 191).⁶⁶ This is applicable to preferential tariff treatment to products originating in developing countries as well as differential and more favourable treatment concerning non-tariff measures governed by the multilateral instruments of the GATT (WTO, 1979, p. 191).⁶⁷ This allows developing countries to maintain a preferential arrangement with each other by utilising the basic instruments of trade policy measures, tariff and non-tariff barriers.

The enabling clause is driven by consensus and states that “regional or global arrangements entered into amongst less-developed contracting parties for the mutual reduction or elimination of tariffs, in accordance with criteria or conditions *which may be prescribed by the contracting parties*, for the mutual reduction or elimination of non-tariff measures, in products imported from one another”.⁶⁸ This illustrates that with regards to the criteria for coverage, there are no obligations to contracting parties to eliminate SAT. Therefore, unlike article XXIV, the preferences that are exchanged need not entirely eliminate duties or any other barriers to trade in respect to SAT under the enabling clause (Mathis & Breaton, 2011, p. 45). From this it can be argued that states party to such an agreement are allowed considerable leeway in terms of which measures will be included. The only obligation is to be consistent with the multi-lateral framework provided. This allows for “special treatment of the least developed among the developing countries in the context of any general or specific measures in favour of developing countries” (WTO, 1979, p. 191).⁶⁹ In effect, even further

⁶⁶ See paragraph 1 of the Enabling Clause.

⁶⁷ See paragraph 2 (a) and (b) of the Enabling Clause.

⁶⁸ See paragraph 1 (c) of the Enabling Clause.

⁶⁹ See paragraph 1 (d) of the Enabling Clause.

preferences can be granted to those developing countries which are at the bottom of the economic spectrum (variable geometry).

4.4.3 Possible options for the T-FTA notification

It is difficult to determine which measure will be selected to notify the WTO of the T-FTA. The COMESA and EAC have enacted their trade regimes under the enabling clause, while the SADC has notified theirs according to Article XXIV (Mathis & Breaton, 2011, p. 52). Given that more than two thirds of the tri-partite member states are LDCs, this could lead towards choosing to notify under the enabling clause, given its weak commitment obligations. However, as explained in the preceding sections it is clear that the T-FTA seeks to liberalise substantially in order to reap the benefits of a wider market. Thus, Article XXIV of the GATT, with its quite detailed requirements, will provide a considerable technical and legal framework to work from. Although, for this to become a reality in theory it will have to consolidate the fact that some states would struggle to be able to meet the obligations, given that their economies are so small. These are important matters to consider, because ultimately they will determine whether multi-lateral trade standards (if Africa is to participate meaningfully in the global trade regime) are what the tri-partite region hopes to move towards in the future and with haste.

The negotiations will have to create a thorough plan and schedule for trade liberalisation if the T-FTA will notify under Article XXIV. The understanding is that under Article XXIV forming an FTA has to be done within a 'reasonable length of time' (GATT, 1994, p. 42).⁷⁰ The 'reasonable length of time' principle should not exceed 10 years; and this is only exceeded under 'exceptional cases' (Kessie, 2011).⁷¹ However, notification in terms of the enabling clause has no time period assigned to it.

⁷⁰ See paragraph 5 (c) of Article XXIV

⁷¹ There is no definition of what constitutes 'exceptional cases'.

4.5 The negotiating context and Draft Tripartite-FTA

Hartzenberg (2011a, p. i) comments on the emergence of the T-FTA as follow:

“The Heads of State and Government of the 26 member states of the COMESA, EAC and SADC agreed in October 2008 to establish a grand FTA which is now referred to as the T-FTA. This integration initiative has in the (almost) three years since this political decision, followed a course rather different from other regional integration initiatives in Africa. Since October 2008 various task teams of technical experts have been engaged in analytical work and prepared a Draft Agreement and 14 Annexes, dealing with issues, in addition to tariff liberalisation, ranging from RoO to the Movement of Business Persons and Dispute Resolution. The most recent iteration of this technical process has produced drafts of these instruments, dated November 2010... Negotiations, however, were only officially launched at a summit, held in SA, in June 2011. It is, therefore, very important to recognise that the T-FTA does not exist yet and substantive negotiations have not yet begun. The Draft Agreement and the 14 Annexes lack official status, yet it is a useful exercise to review them”.

In accordance with the already noted Roadmap, the negotiations are now in effect and are expected to be concluded by 2016. The context wherein these negotiations are to transpire is important since it could afford opportunities for tentative conclusions concerning the likely success of the entire process. Kalenga (2011a, p. 1-2) asserts that the negotiations are not about the merger of the three RECs (at least for now); rather it is concerned with merging existing FTAs in the COMESA-EAC-SADC into a single wider FTA (i.e. intra-regional liberalisation). Hence, it is not about establishing a CU as per the initial inclination. Also, the negotiations are not an REC negotiation process but member state driven, and based on consensus, except where CUs already exist in the EAC and SACU that are presumed to negotiate as a bloc.

4.5.1 The Draft T-FTA

Perusing the revised Draft T-FTA agreement⁷² is useful in determining if the enlarged FTA seeks to achieve anything new within the existing trade regimes of the COMESA-EAC-SADC. Kalenga (2011b) emphasises that the conceptual framework used in the creation of the T-FTA by the REC technocrats suggests a shift from the conventional FTA design in Africa. According to COMESA-EAC-SADC (2010), the specific objectives thereof are to:⁷³

- Eliminate all tariffs and nontariff barriers;
- Liberalise trade in services;
- Facilitate cross-border investment and movement of business people;
- Harmonise customs procedures and trade facilitation measures;
- Enhance co-operation in infrastructure development; and
- Promote cooperation in all trade related areas amongst partner states and others.

The above approach to what the T-FTA agreement should feature in scope and coverage are significantly more expansive than existing FTAs in the regions by virtue of explicit reference to trade facilitation and infrastructure. The intended aim appears to be to reconcile the shortfalls within existing FTAs by creating a 'super' FTA that will filter down to the individual RECs. However, the T-FTA should be wary of being too ambitious in its endeavours.

As mentioned before, the starting point of the T-FTA is to reconcile the traditional trade in goods agenda. Furthermore, in its attempts to harmonise the existing trade arrangements in the COMESA, EAC and SADC, it makes provision for the:

- Elimination of import duties;
 - Prohibition of export duties;
 - Elimination of NTBs; and
- Elimination of quantitative restrictions and RoO (COMESA-EAC-SADC, 2010).⁷⁴

⁷² From here on cited as COMESA-EAC-SADC, 2010.

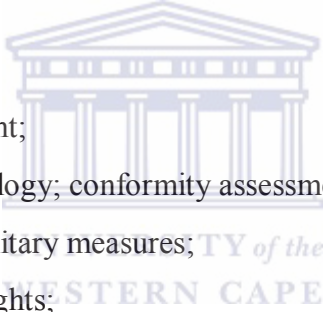
⁷³ See Article 4 of the Draft T-FTA.

⁷⁴ See Articles 8, 9, 10, 11 and 12 of the Draft T-FTA.

However, in line with the idea that the T-FTA could be a paradigm shift in FTA strategy, there seems to be acknowledgement that the agreement seeks to delve into deeper integration. Part 4 of the agreement deals solely with co-operation and trade facilitation efforts and emphasises the following:

- Simplification and harmonisation of customs legislation and procedures;
- Trade and customs documentation and information;
- Trade facilitation;
- Re-exports; and
- Transit trade and transit facilities (COMESA-EAC-SADC, 2010).⁷⁵

For its part, Part 6 of the agreement deals exclusively with the factors associated with deeper integration. These areas include:

- 
- Competition;
 - Cross border investment;
 - Standardisation; metrology; conformity assessment, and accreditation (SMCA);
 - Sanitary and phyto-sanitary measures;
 - Intellectual property rights;
 - Infrastructure development;
 - Movement of business persons; and
 - Trade in services (COMESA-EAC-SADC, 2010).⁷⁶

For the T-FTA to realise any form of deeper integration it would require predictability; consistency, and implementation of the agreement's provisions. Correspondingly, the agreement makes provision for the establishment of the tri-partite committee on trade and customs. This committee is responsible for overseeing the implementation of the T-FTA with functions that include regular reviews; policy analysis; reception and consideration of reports, as well as to implement and monitor measures taken by the tri-partite process.⁷⁷

⁷⁵ See Articles 13, 14, 15, 16 and 17 of the Draft T-FTA.

⁷⁶ See Article 23, 24, 25, 26, 27, 28, 29 and 30 of the Draft T-FTA.

⁷⁷ See Article 37 of the Draft T-FTA.

The agreement also provides for a dispute settlement mechanism⁷⁸ *vis-à-vis* trade remedies.⁷⁹ This is crucial in resolving disputes associated with international trade and include anti-dumping and countervailing measures and others (Viljoen, 2011, p. 109). Finally, the agreement pursues an enhanced sense of a continental community.⁸⁰

4.6 Conclusion

The T-FTA has been hailed as an important step towards rationalising the contradictions between the RECs in Eastern and Southern Africa. The tripartite initiative, in both rationale and structure, is geared towards an economic agenda; and has progressed speedily since its political endorsement in 2008. A comprehensive plan has emerged that covers market integration, infrastructure development and industrial development as the pillars of the T-FTA. The tripartite initiative is thus ambitious and innovative by including infrastructure development (to solve physical integration constraints) as well as industrialisation (to resolve supply side constraints) as enablers of the 'trade in goods' agenda. The T-FTA is grounded in a developmental approach and has already created tripartite structures to facilitate the wide ranging goals that have emerged. Exploring the state of play at REC level under each pillar will elucidate what lays ahead in implementation and likelihood thereof. The following chapter gives a broad sweep of the three pillars including aspects that underlie successful tripartite integration.

⁷⁸ See Article 38 of the Draft T-FTA.

⁷⁹ See Articles 18, 19, 20, 21 and 22 of the Draft T-FTA.

⁸⁰ See Articles 36 and 39 of the Draft T-FTA.

Chapter: 5 Prospects and Challenges under the Tripartite Framework

5.1 Introduction

The emergence of the T-FTA has been viewed as a promising move towards attempting to rationalise the regional integration process in Eastern and Southern Africa and is grounded in a larger African integration agenda. However, realising the goals and objectives of the tripartite framework will not be an easy task. Thus, the broad purpose of this chapter is to scrutinise the tri-partite process, i.e. the three pillars and factors related to realising the T-FTA as well as underlying issues *vis- á-vis* the current realities in the regions. This will require investigation of a broad array of areas, such as those related to the economic arena, physical integration, multi-lateral trade agreements and legal standpoints as well as emerging issues that have a bearing on the prospects and challenges of the T-FTA.

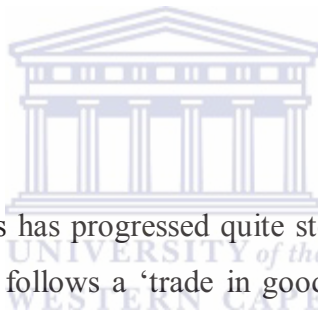
The Draft T-FTA explicitly states that it will build on the milestones already achieved by the RECs in the regions. Given this, the prospects and challenges for increased harmonisation and coordination depend on the strengths and weaknesses of the RECs in terms of their treaty and protocol specifications, as well as the realities of implementation at grassroots level, where applicable. This chapter will be structured around the three pillars that the tri-partite process is based upon, namely market integration; infrastructure development, and industrial development. Also, a normative approach will be utilised in evaluating what is the ideal outcome of the T-FTA and outlining the tasks necessary to realise the successful implementation of the T-FTA.

This will be followed by aspects which are not explicit elements of the tripartite process but nonetheless has an impact in varied ways that will be explained as the chapter progresses. The chapter will thus proceed as follows. It will start by outlining the importance of a rule based integration process as well as a look into the important case of the SADC Tribunal. Then, the EPAs will be discussed in relation to the deadlines of EPA and T-FTA negotiations. Finally, underlying issues which are relevant to the tripartite process will be discussed, namely political will, economic polarisation and stability of individual states within the tripartite region in an effort to outline the areas which are relevant to the realisation

of the tripartite. From this it will enable a determination of prospects and challenges moving forward, in terms of the negotiations, implementation and beyond.

5.2 The market integration pillar

A number of sub-areas are relevant to the realisation of an enlarged FTA with regards to the market integration pillar. Trade facilitation has become an important component to assist in removing the barriers to trade and is envisioned to assist in creating a competitive business environment in the region. Trade in services are amongst the most important new generation issues within PTAs and could greatly assist the regions in economic development. The current status of trade liberalisation, RoO, trade facilitation and trade in services in the respective RECs will be juxtaposed with the envisioned situation when the T-FTA becomes operational.



5.2.1 Trade liberalisation

Trade liberalisation in the regions has progressed quite steadily since the notification of the FTAs in the respective RECs. It follows a ‘trade in goods agenda’ in Africa, and as such, fosters a largely classical process of economic integration. The trade in goods agenda primarily focuses on tariff reductions including excise duties and quotas. Optimism to achieve harmonisation and coordination of trade liberalisation is the most promising aspect of the market integration pillar under the T-FTA, where consensus can be reached and harmonisation quickly achieved.

Within the COMESA, FTA trade liberalisation covers trade in goods only. According to the COMESA (1992, p. 26), “the member states shall reduce and ultimately eliminate by the year 2000, in accordance with the program adopted by the PTA Authority, customs duties and other charges of equivalent effect imposed on or in connection with the importation of goods which are eligible for Common Market treatment”.⁸¹ Hence, the COMESA FTA is comprehensive and has no sensitive products, exclusions or exceptions in its founding

⁸¹ See Article 46 (1) of the COMESA Treaty.

provisions. However, Kalenga (2011a, p. 10) notes that there are a few cases where this has not been wholly implemented in the REC. For instance: Kenya has been allowed to restrict trade in wheat; flour, and cane sugar by means of applying a tariff rate quota; whereas the Seychelles has excluded a limited number of products from duty free treatment; and Swaziland, for its part, does not have to reciprocate trade preferences in COMESA because of their membership to SACU. Likewise, Eritrea, and Uganda as well as Ethiopia are not part of the COMESA FTA yet, but are preferentially trading in the REC with close to 80 percent of intra-COMESA trade (Kalenga, 2011a, p. 11). COMESA has a long history of regional integration with a progressive movement since 1980 towards establishing an FTA. Therefore, given its size and geographic coverage, it could provide meaningful lessons for the T-FTA.

The EAC has moved the fastest with regards to trade liberalisation in the tri-partite region. From January 2005, the EAC countries started trading on duty and quota free terms. According to the EAC CU protocol (2005, p. 14) goods to and from Uganda to Tanzania, as well as goods from Uganda and Tanzania into Kenya, are to be duty free.⁸² This however, was not immediately implemented, because exports to Uganda and Tanzania from the strongest economic power in the configuration, Kenya, charged duties on a progressively reducing basis for five years, only ending in 2009 (EAC CU Protocol, 2005, p. 14).⁸³

The trade liberalisation efforts in the SADC substantially deviate from those of both the COMESA and EAC. Instead of implementing an across the board elimination of tariffs and duties as is the case in the COMESA and EAC, SADC has adopted the principle of asymmetry to trade liberalisation with different categories or tariff lines that have different time-frames in order to reduce applicable tariffs (SADC, 1996).⁸⁴ Also, unlike the COMESA and EAC with their across the board liberalisation in goods, the SADC upheld exclusions regarding its tariff liberalisation commitments (Ndlovu, 2011a, p. 4-6).

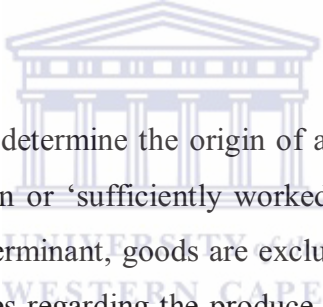
⁸² See Article 11 (2) of the EAC CU Protocol.

⁸³ See Article 11 (3) of the EAC CU Protocol.

⁸⁴ See Article 3 of the SADC Trade Protocol.

5.2.2 Rules of Origin

The purpose of RoO within an FTA is to ensure that the goods being traded is not redirected from the lowest external tariff of a member state into the preferential market. The idea behind it is to ensure that the trade that is given preferential treatment is confined to those states who are party to an FTA. However, in practice, these can be used as an effective tool to restrict trade and protect domestic industries of national importance against members of a trade bloc. RoO are a considerable challenge in the respective regions as they have been viewed as a tool to reproduce mercantilist and protectionist trade strategies to protect domestic industries in Africa (Hartzenberg, 2011b, p. 6-7; Kalenga, 2011a, p. 15 and Naumann, 2011, p. 257-266). This contradicts the fundamental aim of an FTA, which is to assist in promoting trade through the opening up of markets and not restricting it between member states. Given the history of tough negotiations pertaining RoO within the RECs in the region, this will be the hardest and immediate challenge within the first phase of negotiations to address.



Generally, there are two ways to determine the origin of a product. It can either be ‘wholly produced’ in the country of origin or ‘sufficiently worked’ (or processed) in a given state. Under the ‘wholly produced’ determinant, goods are exclusively produced in the country of origin and as such no complexities regarding the produce arise. Amongst the most common goods that are ‘wholly produced’ are minerals extracted from the ground or seabed; vegetable products harvested in the beneficiary country; live animals born and raised in the country; products obtained by hunting or fishing, and goods produced exclusively from the aforementioned products (Kalaba, 2009, p. 5 and Naumann, 2011, p. 259). This list is not the only one to consider and some modifications may be applicable.

The complexity of RoO is most common regarding so-called ‘sufficiently worked’ produce since there is no universal prescription in determining the origin of produce. Kalaba (2009, p. 5) and Naumann (2011, p. 259) mention three tests or rules that could be utilised to determine origin with regards to the ‘sufficiently worked’ determination process. These include the minimum value added (VA) rule that prescribes a minimum value addition locally; the Change of Tariff Heading (CTH) rule that determines whether the products have been substantially transformed to justify a different tariff heading than the imported inputs used,

and the specific process (SP) rule that prescribes a specific process that has to be undertaken to produce a particular good in the country claiming preferential treatment.

5.2.2.1 RoO in the COMESA-EAC-SADC

The RoO in the COMESA and EAC are largely the same with only a few exceptions. COMESA (2002, p 8), in its Protocol on RoO, prescribes the following independent criteria to determine the origin of produce:

1. They can either be ‘wholly produced’ in a member state;
2. Cost, insurance, and freight (c.i.f) value rule of 60 percent ex factory cost of imported materials.
3. A general value added rule of 35 percent for local content, or 25 percent if the Council of Ministers designates goods as having particular economic importance.

The EAC’s RoO mirrors COMESA’s requirements. The only difference is that the EAC does not have a 25 percent exception to the 35 percent value added rule (Kalenga, 2011, p. 16).⁸⁵ If they meet any of the criteria mentioned above they are considered to be originating within the bloc. COMESA and EACs RoO are thus relatively simple in terms of determining origin. Therefore, COMESA and EAC have set a good platform to align their RoO.

The RoO of the SADC are much more complicated as opposed to that of both the COMESA and EAC and determine that goods will be accepted as originating in a member state and receiving preferential treatment to another member state if they are ‘wholly produced’ and/ or ‘sufficiently worked’ or processed (SADC, nd-a).⁸⁶ It could be argued that the SADC follows a line by line approach regarding its approach to RoO by determining origin at the product or sector level, rather than a single rule for all products (Naumann, 2011, p. 260).

⁸⁵ See Rule 4 of the EAC CU (RoO).

⁸⁶ See Rule 2 of the SADC Amendment to Annex I concerning the RoO for products to be traded between member states of SADC.

The table below illustrates the RoO of the COMESA, EAC and SADC *vis-à-vis* the proposed T-FTA RoO.

Table 5.1: RoO in the COMESA, EAC and SADC *vis-à-vis* T-FTA

RoO	COMESA and EAC	SADC	Tripartite Draft
Basis for determining origin	Wholly obtained or substantial transformation	Same	Same
Tests for substantial transformation	Non-originating materials $\leq 60\%$ based on total cost of materials. Or Value-added $\geq 35\%$ ex-factory cost.	Product-specific rules based on maximum non-originating content, CTH, SP Methodologies (or in combination)	Non-originating materials $\leq 70\%$ based on ex-works price of product. Or value of originating materials $\geq 30\%$ based on ex-works price of product.
	CTH (EAC: If included in special list, and subject to conditions)	n/a	Special rules (CTH or SP) if included in Appendix 1.
	Value-added $\geq 25\%$ if designated as 'economically important' (not applicable to EAC RoO).	n/a	n/a

Source: Naumann (2011, p. 271)

The above table highlights three possible problems:

- Non-originating materials in the T-FTA is required as such based on a 70 percent ex-works⁸⁷ price of product, whereas in the COMESA and EAC the ex-works price is 60

⁸⁷ Ex-works is a method of calculating business charges. It is commonly associated as a British term and only focuses on the cost of products that originate from the producer's premises, all charges from there on, such as delivery, distribution and commissions, are borne by the buyer (BusinessDictionary.com, 2012).

percent and SADC on a product specific basis with flexibility in the methodology to be adopted;

- The value added basis in the T-FTA is 30 percent whereas in COMESA and EAC it is 35 percent and SADC product specific; and
- The CTH and special rules tests still require some clear definitions, and need to be dealt with in greater detail in negotiations.

Keeping the above in mind, it is clear that the RoO of the T-FTA differ from those applicable to the individual COMESA, EAC and SADC ones. This could be problematic given that RoO have historically been the hardest part to consolidate within the trade in goods agenda of the RECs. Significant work will be required to reach consensus on the RoO issue because they will as a matter of urgency need to be less restrictive than it is currently within individual RECs.

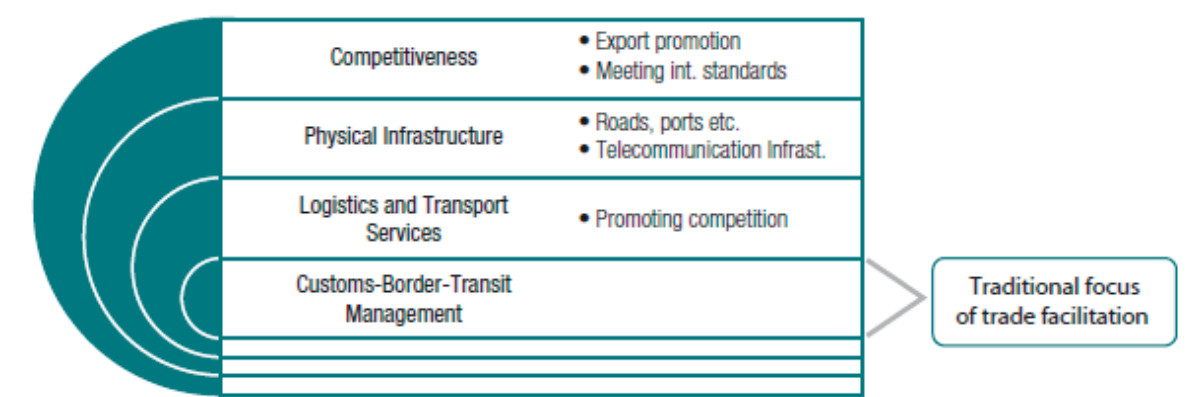


5.2.3 Trade facilitation

Defining trade facilitation is not an easy task since there is no universal prescription as to what trade facilitation should entail. Trade facilitation refers to the simplification and harmonisation of international trade procedures covering the activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade (WTO, 2012). It attempts to achieve a more predictable, secure and cost-efficient trading environment through simplification; standardisation, and harmonisation of trade and transport procedures; documents, and information associated with cross-border trade (UNCTAD, 2009, p. 79). The rationale for trade facilitation is to ensure that cross border trade is simple; transparent, and more predictable.

The figure below illustrates the factors that accounts as trade facilitation measures.

Figure 5.1: The extended spectrum of Trade Facilitation measures.



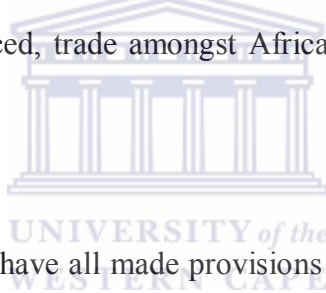
Source: Brenton and Isik, 2012, p. 75

The idea behind trade facilitation is to promote those aspects affecting trade that do not fall within the ambit of traditional trade liberalisation areas. The latter include tariffs; quotas; excise duties, and RoO. In other words, trade facilitation deals with issues that are not explicit barriers to trade. Studies have shown that although tariff barriers are important in trade liberalisation they may not be the most important issue (ECA, 2004, p. 155-158). The reason why trade facilitation has become so important is that the dynamics of the global economy have resulted in goods and services crossing borders in larger volumes than before. This means that impediments such as non tariff barriers to cross border trade affect competitiveness more so than tariff barriers (ECA, 2004, p. 156). UNCTAD (2009, p. 79) has found that key determinants such as non tariff barriers and other cross-border procedures give rise to unsuccessful attempts to market access. In fact, these factors continue to impede intra-regional trade in Africa.

Businesses are becoming increasingly frustrated by high trade transaction costs. For example, processing times at the border and unnecessary waiting times often add up to 15 percent the total transaction cost of doing trade (ECA, 2010, p. 196). In Southern Africa, the operating costs are not excessively higher if compared to Europe. For instance, in 2008 it was similar (i.e. \$0.08 per ton kilometre). However, queues at border posts and restrictions to the market increase rates on international routes, making it between 10 to 30 percent higher (Foster & Briceno-Garmendia, 2008, p. 206). For these reasons, it remains more onerous; costly, and

time-consuming to export and import goods and services in and to Africa (Hartzenberg, 2011b, p. 16). Thus, resolving and harmonising the issues at the border, as well as eliminating unnecessary non tariff barriers, are important for trade to thrive amongst states. The dormant effect of successful trade facilitation measures is an increase in competitiveness that has the potential to increase efficiency and specialisation of African industry by reaping the benefits of economies of scale. Also, the regions will become attractive venues for FDI through the proper implementation of trade facilitation programmes.

It is clear that appropriate trade facilitation programmes will boost competitiveness in trade related areas, and this could hold direct and/ or indirect economic benefits for the tri-partite region. Trade facilitation holds numerous advantages for developing countries because it could lead to efficient border procedures; harmonised standards, and technological modernisation to facilitate and enhance cross border trade. Xinhua (2011) underlines that if non tariff barriers could be reduced, trade amongst African states could rise as much as 22 percent over the next 10 years.



The COMESA, EAC and SADC have all made provisions for resolving non tariff barriers in their respective founding treaties. On the one hand, the SADC (1996) stresses that states must adopt policies and implement measures to eliminate all existing forms of non tariff barriers and refrain from imposing any new ones.⁸⁸ The EAC (2000, p. 57-58), on the other hand, also explicitly provides for the elimination of non tariff barriers.⁸⁹ On its part, the COMESA (1992, p. 27) urges that its member states undertake to eliminate all the existing non tariff barriers *vis-à-vis* member states with an exception for imposing new ones for protection of new industries.⁹⁰ Accordingly, it is clear that a regional framework does exist to eliminate non tariff barriers, coupled with a realisation that their existence seriously impedes trade amongst member states.

⁸⁸ See Article 6 of the SADC Trade Protocol.

⁸⁹ See Article 75 (c) of the EAC Treaty.

⁹⁰ See Article 49 of the COMESA Treaty.

The T-FTA provides for an excellent opportunity to implement measures that would open up the regional market, given its expanded geographic coverage. According to Pearson (2011) within the regions, reducing non tariff barriers, border and customs procedures, immigration procedures, and transport procedures; and establishing a joint competition authority linked to air transport liberalisation are the core areas of trade facilitation which the tripartite has identified. Some of these areas are interrelated with the infrastructure constraints faced in Africa generally and the regions specifically. When considering transport procedures and air transport for example, only a partial picture exists and has to be viewed in conjunction with the infrastructure pillar. Also, the challenges which exist in immigration procedures link up with the movement of business persons.

5.2.3.1 Comprehensive Tri-partite Trade and Transport Facilitation Programme (CTTTFP)

The tripartite region has developed the Comprehensive Tripartite Trade and Transport Facilitation Programme (CTTTFP) to address the core areas as identified in the above section (COMESA-EAC-SADC, 2011a, p. 9). The CTTTFP targets the following:

- Customs procedures;
- Integrated border management systems;
- Regional customs bonds;
- Simplification and harmonisation of transit cross-border procedures and regulatory requirements for commercial vehicles;
- A regional third party motor vehicle insurance scheme;
- Vehicle overload control system;
- Harmonisation of vehicle dimensions and standards;
- Road user charges;
- A self-regulating regional road transport management system; and
- Establishing corridor initiatives (COMESA-EAC-SADC, 2011a, p. 9).

It is clear from the above that the CTTTFP has a broad mandate in terms of trade facilitation. The same is applicable considering its responsibility to resolve the aspects that will create a more conducive trading environment. The CTTTFP will fulfil its

mandate if it succeeds in, for example, resolving the so-called behind-the-border and border constraints.

By 2006, the tri-partite process already started to create trade facilitation programmes in the three regions. One of the projects that were conducted by the joint task force in that year was to create one-stop border posts. This initiative aims at creating a common control zone between two countries' border agencies that share one facility in order to ultimately eliminate duplication (Bisseker, 2011). The Chirundu border crossing between Zambia and Zimbabwe is the first crossing to implement this initiative. It has more than 15 agencies from both governments, each enforcing different legislation (Foster & Briceno-Garmendia, 2008, p. 159). Based on this, it is evident that co-ordination and harmonisation is definitely required to streamline border crossings for business at Chirundu. This project is viewed as one of the first successes under the auspices of the T-FTA (Bisseker, 2011).

Resolving the prevalence of non tariff barriers has grown in importance within the regions and the tri-partite initiative has already seen some progress in this regard. The TTF, together with member states, has established a framework and web-based mechanism for identifying; monitoring, and eliminating non tariff barriers in a transparent and structured manner. The mechanism enables governments; traders; organised business, and service providers involved in trade facilitation to report non tariff barriers when encountered by them (COMESA-EAC-SADC, 2011a, p. 4). This is an important development because it includes not only governments, but also the private sector, indicating that the latter's role is starting to be acknowledged as important within the context of regional integration. The table below illustrates how, by May 2011 the mechanism succeeded in addressing non-tariff barriers by resolving two thirds (i.e. 221 out of 331).⁹¹

⁹¹ For a more detailed account of the NTBs which have been resolved through this mechanism it is possible to view them at the NTB website (www.tradebarriers.org).

Table 5.2: Progress of the Tri-partite non tariff barrier mechanism

Category	Total number reported	Number resolved	Number unresolved	Proportion resolved	Proportion unresolved
Government participation in restrictive practices tolerated by governments	56	34	22	60.7%	39.3%
Customs and Administrative entry procedures	56	34	22	60.7%	39.3%
Technical barriers to trade	30	22	8	73.3%	26.7%
Sanitary and phytosanitary measures	23	18	5	78.3%	21.7%
Specific limitations	97	64	33	66.0%	34.0%
Charges on imports	60	48	12	80.0%	20.0%
Procedural problems	8	1	7	12.5%	87.5%
Other	1	0	1	0.0%	100.0%
Total	331	221	110	66.8%	33.2%

Source: COMESA-EAC-SADC, 2011a, p. 4

5.2.4 Trade in services

The importance of services in the economies of states has grown substantially and is one of the characteristics of globalisation. In 2004, global trade in services was estimated to be \$1025 billion, representing a quarter of global merchandise trade, and approximately 20 percent of world trade as well as 60 percent of FDI flows (Hildegunn, 2011). Hildegunn (2011) observes that 75 percent of this trade is in intermediate outputs and these could lead to new economic activities being added into an economy in the form of new markets with higher profit margins.

The term 'services' are extremely broad and covers a number of areas that do not directly relate to economies. Examples of these include, but are not limited to business; communications; construction; and engineering as well as transport (Ministry of East African Community Affairs, nd, p. 4). The communication; transport, and financial sectors are key in services trade (Stern, Truen & Ramkolowan, 2011, p. 18). Also, a lack of certain services could negatively impact on the growth of a country's manufacturing sector, which in turn could affect the potential for trading in goods.

Services trade also has a bearing on the viability of infrastructure projects, especially those that are regionally and continentally aligned. To illustrate: One could build the best road from the Cape to Cairo, but if officials do not negotiate and make provision for service sectors that are required maintain it, then the viability of the whole project is in jeopardy. Related to the former is that fact that the physical integration of infrastructure networks will only be effective if countries have harmonised regulatory frameworks as well as administrative procedures that allow for the free flow of services across national borders (Foster & Briceno-Garmendia, 2008, p. 144). Enabling infrastructure such as roads needs the services sector to ensure that these projects are economically viable and to prevent them from being reduced to being white elephants.⁹² For these reasons, services liberalisation is imperative and manifests itself in such a multi-faceted and complex manner that one often finds it hard to quantify.

Regional integration in Africa has followed a trade in goods agenda with no comprehensive implementation of agreements that include services within the COMESA-EAC-SADC. In terms of the progression of economic integration a trade in services agenda is only relevant when a CM is formed. None of the RECs in Africa are at that stage of economic integration that could explain why they have not as yet comprehensively adopted a trade in services agenda, keeping in mind that they seem to be following a strict adherence to the linear model of economic integration.

⁹² Trudi Hartzenberg, Executive Director of the Trade and Law Research Centre for Southern Africa, noted as much in a presentation held at the University of the Western Cape focusing on the T-FTA. Roughly a month later (August 2012) at an informal meeting at the Tralac office in Stellenbosch she articulated the same example regarding infrastructure and services within the tripartite context.

In its *World Trade Report*, the WTO (2011, p. 103) emphasises that the crucial difference between liberalising trade in goods and liberalising trade in services are that the latter requires changes to domestic regulations and removal of restrictions on the movement of foreign investment. This is the reason why trade in services are considered to be part of a deeper economic integration agenda and more importantly requires more from partner states in terms of surrendering some sovereignty than if goods were liberalised, which only requires tariff reductions. Liberalising trade in services by default requires a movement towards homogeneity in national policies *vis-à-vis* either the multi-lateral or regional level. This has not been an easy task globally due to the economic importance of services to individual states, which in the developed country economy context exceeds manufacturing by far.

5.2.4.1 The General Agreement on Trade in Services: Multi-lateral context

The General Agreement on Trade in Services (GATS) provides the ‘rules of the game’ for liberalising services at the multi-lateral level. This is the framework in which the RECs in the regions have experienced the process of liberalising services, and for the most part it accounts as the only exposure to liberalising services (Kruger, 2011, p. 151-155). According to Adlung et al (2002, p. 259), the GATS applies to four modes of supply through which services could be traded. These are:

- Mode 1: Cross-border supply not requiring the physical movement of supplier or consumer;
- Mode 2: Movement of the consumer to the country of the supplier;
- Mode 3: Services sold in the territory of a member by foreign entities that have established a commercial presence; and
- Mode 4: Provision of services requiring the temporary movement of natural persons.

Regarding services, the GATS provides an avenue for economic integration agreements. Furthermore, the GATS maintains that trade in services has two main elements, namely substantial sectoral coverage and the elimination of substantially all discrimination in this regard (Ajumbo, 2009, p. 5).⁹³ Even though the GATS covers the issue of liberalisation of

⁹³ See Article V of the GATS.

goods, there are no tariffs or flow of goods to measure, creating serious data constraints and leeway for individual GATS members to interpret and contend with economic agreements that include services (UNCTAD, 2008, p. 6-7). In other words there is not as yet a multi-lateral standard to determine what ‘substantial sectoral coverage’ should be and/ or are.

Kruger (2011, p. 148) mentions that the liberalisation of services are not as yet at a sufficient level of implementation across the three RECs in the regions and as such cannot be easily compared. The table below refers to the scheduled commitments that the 20 WTO member states in the tri-partite regions have committed themselves to in order to liberalise services in ‘good faith’, and within the WTO multi-lateral context.

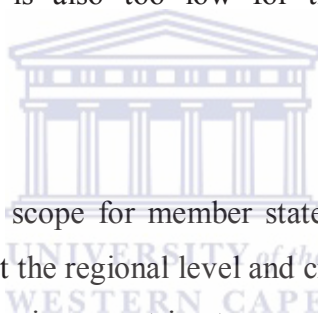
Table5.3: Multilateral services liberalisation of tripartite states who belong to the WTO

Countries	Sectors Committed (out of 12)	Sub-sectors Committed (out of 160)	Commitments Negotiated (out of 1280)	Partial Commitments made	Full Commitments without restrictions	Percentage Liberalised Commitments
Angola	3	9	72	13	52	5.08%
Botswana	3	20	160	74	54	10.00%
Burundi	5	28	224	62	162	17.5%
DRC	6	12	96	24	72	7.50%
Djibouti	3	30	240	53	63	9.06%
Egypt	4	29	232	28	99	9.92%
Kenya	5	59	472	195	203	31.09%
Lesotho	10	78	624	165	326	38.36%
Madagascar	1	4	32	4	12	1.25%
Malawi	5	29	232	58	174	18.13%
Mauritius	3	28	224	113	110	17.42%
Mozambique	1	13	104	26	78	8.13%
Namibia	2	3	24	0	24	1.88%
Rwanda	4	10	80	4	76	6.25%
South Africa	9	91	736	239	345	45.63%

Swaziland	3	9	72	0	56	4.38%
Tanzania	1	1	8	2	4	0.47%
Uganda	2	11	88	42	46	6.88%
Zambia	4	16	128	32	96	10.00%
Zimbabwe	3	19	152	51	101	11.88%
Average	3.85	25	200	59.25	107.65	13.04%

Source: Kruger (2011, p. 151)

The table above makes it clear that on average, tri-partite states have only committed around 13.04 percent of their total services sectors to be liberalised. This implies that these states fall short from the requirement in terms of substantial sectoral coverage and this could hamper their attempts to notify the T-FTA as a valid economic integration agreement. The above-mentioned percentage of 13.04 is also too low for the SAT principle applicable for liberalising services.



Nevertheless, there will be more scope for member states to negotiate a larger amount of services sectors to be liberalised at the regional level and cross regionally in the T-FTA given the hesitance of especially developing countries to commit themselves at the multi-lateral level. UNCTAD (2008, p. 7) notes that RTAs can in principle target deeper integration amongst members as opposed to an agreement at the multi-lateral level. The UNCTAD proceed to assert that if substantial liberalisation of services is the objective then it would be politically feasible to move towards liberalising regionally. Once the T-FTA is fully operational it would be of value to gauge whether services liberalisation gains prominence on the regional level in Africa and if the T-FTA could create any urgency towards realising this goal.

5.2.4.2 Progress of services trade in the COMESA, EAC and SADC

The three RECs have provisions in their founding documents to provide for a trade in services agenda.⁹⁴ It is crucial to explore the progress of the COMESA, EAC and SADC in terms of their progression towards a regional approach to services trade. This is done to illustrate that the RECs are at significantly different stages in moving towards regional services. Thus, the likelihood of moving towards a tri-partite trade in services will be difficult to achieve.

The SADC has created a revised protocol on services in 2009 that provides an opportunity to gauge what priority sectors are envisioned as well as the vision for this agenda. According to the SADC (2009, p. 11-12), there are six priority services sectors to liberalise, namely communication, construction, energy-related, financial, tourism and transport services.⁹⁵ The preamble of the services protocol mentions that the REC seeks to achieve coherence in the region's intra-regional, inter-regional and multi-lateral commitments and negotiations on trade in services. This implies that the SADC will proceed incrementally in this regard in order to consolidate the services agenda within the REC, outside the region in relation to, say, the EPAs and in the tri-partite context, as well as on the multi-lateral level (Kruger, 2011, p. 156). The SADC lags the farthest behind in the regions in terms of garnering trade in services, as the scheduling of commitments ahead of negotiations is at this point undefined and the revised protocol is still in the process of being approved (Kruger, 2011, p. 157). In fact, services liberalisation has not yet been a subject of negotiations, because more energy was required in the protracted trade in goods negotiations, especially around sensitive products (Negasi, 2009, p. 20-21).

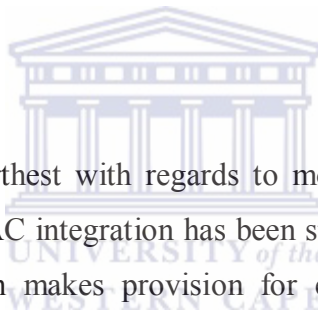
The COMESA has started the process of moving towards a trade in services agenda within the trade liberalisation plan of the REC. The member states in COMESA agreed to adopt necessary measures to progressively achieve the free movement of persons, labour and services (COMESA, 1992, p. 87).⁹⁶ The member states agreed to, in accordance with a

⁹⁴ See Article 23 (1) and (2) of the SADC Trade Protocol; Article 76 (1) of the EAC Treaty, and Article 6 (e) of the COMESA Treaty.

⁹⁵ See Article 16 (2) of the SADC's revised Protocol on Services.

⁹⁶ See Article 164 of the COMESA Treaty.

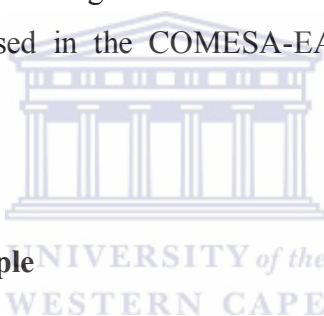
programme to be adopted by the Council, remove restrictions on the freedom to provide services by the year 2004 (COMESA, 1998).⁹⁷ However, it was only in 2009 that the programme actually got underway with the Council of Ministers adopting the *Regulations on Trade in Services* as drafted by legal and trade experts between 2007-2009 (COMESA Services Program, 2010, p. 2 and Kruger, 2011, p. 158). According to the COMESA Services Program (2010, p. 3), a committee on trade in services was established under the protocol and adopted Rules of Procedure, Guidelines for Services Negotiations and a roadmap for negotiations. Also, seven priority sectors was highlighted for liberalisation, namely business, communications, transport, finance, tourism and travel, energy and construction (COMESA Services Program, 2010, p. 3). Consequently, the second meeting of the Committee on Trade in Services adopted in May 2010 four priority sectors of communication, finance, transport and tourism for the first round of negotiations with no limitations imposed for future inclusions (Kruger, 2011, p. 159). Thus, COMESA seems to have at least reached the level of starting negotiations on services.



The EAC has progressed the farthest with regards to moving towards a regional trade in services agenda. The depth of EAC integration has been strengthened by a recent movement towards Article (76, (1)), which makes provision for establishing a CM. According to Weggoro (2010, p. 7), the EAC CM was negotiated in 2009 and entered into force on 1 July 2010. This represents a second stage of deeper cooperation between member states. However, the CM is still a work in progress with various deadlines being established for the period spanning 2010 to 2015 (Kruger, 2011, p. 160). EAC states have their own set of commitments with respect to trade in services, which are contained within Annex V to the Protocol (Ministry of East African Community Affairs, nd, p. 8 and Kruger, 2011, p. 160). The initial round of services negotiations has focused on several core sectors, namely business, communication, distribution, educational, financial, tourism and travel related, as well as transport services (Ministry of East African Community Affairs, nd, p. 8 and Kruger, 2011, p. 160). Taking the above into account, it is expected that some (further) liberalisation will occur between the time of writing, and deadline of 2015 with regards to services liberalisation.

⁹⁷ See Article 10 of the COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence.

Services trade is one of the ‘new generation’ trade issues *vis-à-vis* African economic integration. From the above it can be observed that only the EAC is in a position to begin the process of regional services trade.⁹⁸ COMESA is making slow progress, but has laid the foundation to begin negotiations on trade in services. SADC will be the biggest stumbling block towards tri-partite services trade negotiations as they have not yet signed the revised protocol on services meaning that SADC member states do not have anything to bring to the negotiating table except the priority sectors listed in the services protocol. According to the COMESA-EAC-SADC (2011c), the key output expected from the negotiations is to reach an agreement on trade in goods and movement of persons in phase I of negotiations. Only once phase I has been concluded will the second phase begin, and includes the tri-partite trade in services. Thus, given the reality of non-existent REC regional service trade and the prerequisite of completing phase I of the negotiations in the tri-partite context, it seems unlikely that services trade will be realised in the COMESA-EAC-SADC region in the short to medium term.



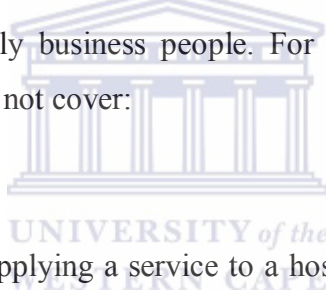
5.2.5 Movement of business people

The movement of business people; labour, and natural persons have always been a contentious element of trade liberalisation. Among the most pressing concerns are that foreign nationals who enter countries to seek employment, often become permanent residents of these countries and hence, put increased strain on public authorities and resources (Cronje, 2011, p. 193). Due to this, a distinction is required between natural persons and business people or labour. Natural persons refer to the movement of people from a home country to another in order to seek employment or live there; whereas the movement of business people and labour refers to the movement for the purpose of conducting an economic activity, thus not indefinite settlement. Thus, the movement of people reflect a social character when referring to natural persons or economic character in relation to the movement of business people and labour.

⁹⁸ The EAC can be viewed as a ‘special case’ because the east African REC is significantly smaller geographically, with only five states to negotiate the terms of services trade. Services trade is made easier when there are fewer members at the negotiating table.

The movement of business people are partially covered in the multi-lateral framework of the GATS for services under Mode 4. However, Mode 4 only covers the suppliers of services and movement of natural persons from one member state to another and as a result does not cover all the areas when movement of business persons are to be considered, especially in the regional context. For example, under the GATS, the movement of persons are only applicable for temporary movement *vis-à-vis* trading in service, but it is silent with regards to instances where more permanent residence is required in order to pursue more longer term and/ or even permanent services trade. This implies that although there is a multi-lateral standard for movement of persons, it is by no means used by states as a standard to facilitate this type of liberalisation. It is worth mentioning that in many respects movement of people is closely associated to a broader trade in services agenda. Therefore, a causal relationship is evident.

It is thus clear that Mode 4 of the GATS in terms of how services could be traded is lacking explicit provisions for specifically business people. For instance, Rubia (2011, p. 47-48) claim rightfully that Mode 4 does not cover:

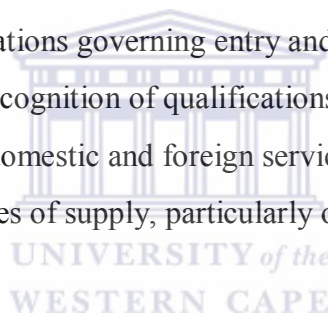


- Self-employed persons supplying a service to a host country, company or individual, referred to as Independent Professionals;
- Employees of a foreign services company without commercial presence in a host country, who enter the territory of another WTO member to supply a service based on a contract between their employer and the host country that is using the service. This is known as Contractual Service Suppliers;
- Employees of a foreign services company with a commercial presence in the host country who are transferred to the establishment, known as Intra-corporate Transferees; and
- Foreign national persons seeking entry into another member's territory for the purpose of setting up a commercial presence or negotiating a sale of a service on behalf of a services company to facilitate future transactions, known as Business Visitors and Services Sales Persons.

In the tri-partite context, the free movement of business people targets people engaged in cross border trade and investment and aims to enhance their mobility by relaxing visa requirements for business people and other professionals (Rubia, 2011, p. 46). However, within the regional integration programmes of the COMESA, EAC and SADC, attempts have been made to enhance the temporary movement of people not just for the purpose of trade but also for other general purposes such as social, recreational and educational, with varying levels of success (Rubia, 2011, p. 49). Thus, when viewing the progress of the RECs in question requires a degree of flexibility, in that the COMESA, EAC and SADC have not solely focused on the economic aspect of movement of people.

According to Chanda (2002, p. 304-305), the major impediments to the movement of natural persons and labour are:

- Immigration related regulations governing entry and stay of service providers;
- Regulations concerning recognition of qualifications, work experience and training;
- Differential treatment of domestic and foreign services personnel; and
- Regulations on other modes of supply, particularly on commercial presence.



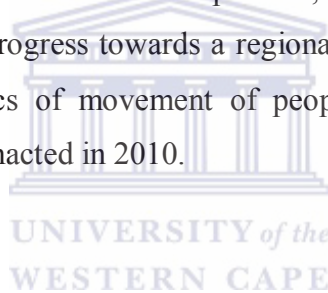
In order to facilitate the movement of people, national policies have to be harmonised and adapted to regional aspirations. This has not been an easy task globally, especially when considering how sensitive the issue of movement of persons is to the national interest of respective states. In fact, remittances by labourers in the diaspora have been adversely affected by the global financial crisis with even more restrictions to be expected in this regard (Arieff, Weiss and Jones, 2009, p. 7). However, in Africa, there has been a tradition of regionally based initiatives that have demonstrated the idea of freer or ultimately free movement of people (Oucho and Crush, 2001, p. 140).

5.2.5.1 Progress of movement of people in the COMESA, EAC and SADC

The SADC has made little progress regarding the process of regional movement of people. Nevertheless, since its establishment it has created a number of protocols and provisions to support the movement of people. These have been created to conform to the existing multi-

lateral commitments that member states made under the GATS (Makochekanwa & Maringwa, 2009, p. 10). The process of moving towards a regional approach in the SADC have two main documents at its centre, namely the 1995 Draft Protocol on the Free Movement of Persons and its most recent iteration, i.e. the 2005 Protocol on the Facilitation of the Movement of Persons within SADC.

The EAC has the most ambitious and progressive process of facilitating the movement of persons. This has been driven by the Treaty Establishing EAC that provides for the free movement of persons, labour, services, right of establishment and residency (EAC, 2000, p. 87-88).⁹⁹ The CM Protocol (2009a, p. 10-15) makes explicit provision for the free movement of persons and labour, and this is coupled with a move towards a standard identification system, travel documents, harmonisation and mutual recognition of academic and personal qualifications, as well as harmonisation of labour policies, law and programmes.¹⁰⁰ The EAC has definitely made significant progress towards a regional movement of people by not just focusing on the labour dynamics of movement of people. This has been strengthened considerably since the CM was enacted in 2010.



COMESA has created a number of programmes as an illustration of its willingness to create an environment that is conducive to the regional movement of people. The Treaty establishing COMESA (1992, p. 87) stipulates that the REC would create measures to gradually facilitate the free movement of persons, labour, services and to move towards the right of establishment and residency.¹⁰¹ This was strengthened by the Protocol on the Free Movement of Persons, Labour, Services, and Right of Establishment and Residency; as well as the Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements (Rubia, 2011, p. 51 and Cronje, 2011, p. 207-208). This indicates that the COMESA plans to create a more general environment for the movement of people and not just those involved in economic activities. However, according to Rubia (2011, p. 51), to date only four of COMESA's 19 member states signed the protocol. Of these, Burundi, Rwanda and Kenya overlap with the EAC, while Zimbabwe overlaps with the SADC.

⁹⁹ See Article 104 of the EAC Treaty.

¹⁰⁰ See Articles 7, 8, 9, 10, 11 and 12 of the EAC CM Protocol.

¹⁰¹ See Article 164 of the COMESA Treaty.

The prospects of moving towards the tri-partite movement of people within the context outlined above do not look promising. To date, no concrete strategy has been created by the tri-partite initiative to facilitate or move towards the free movement of people, except that it will be dealt with on a separate track during the first phase of negotiations. Thus, given that the T-FTA will 'build on the *acquis*' of RECs, it can be assumed that regarding the movement of people, that not much is expected other than what is currently in progress at the REC level.

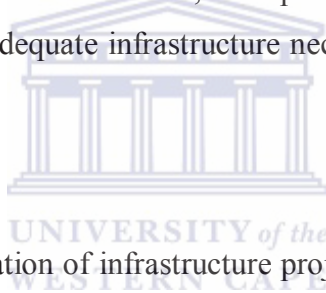
5.3 Infrastructure Development

Chapter three highlighted that Africa expects greater economic growth in the future and as a result there will be an increased demand for adequate infrastructure to facilitate the expected growth, coupled with ensuring that this growth is sustainable. In other words, infrastructure is important, because a symbiosis exists between it and economic growth, due to the fact that it is foundational in establishing the costs of trade; global competitiveness of individual countries, and the prospects of development as a result. Within the same breath, a lack of sound infrastructure would decrease the mobility of the means of production (i.e. labour; goods, and finance) (ECA, 2010, p. 295). Infrastructure should accordingly be regarded within both a demand and supply dynamic that bears interrelated implications that could impact economic growth.

The deficiencies in infrastructure across Africa, and not just the tri-partite region, are well documented. These have been commonly associated with the lack of competitiveness as well as physical connectivity of the regions. No meaningful regional integration will take place in Africa until an effort is made to address the hindrances of infrastructure backlogs (Rathumbu, 2008, p. 172). According to the ECA (2004, p. 10), in order to deepen trade in Africa a comprehensive and well-coordinated approach in improving infrastructure must be adopted, and efficient and competitive roads, railways, ports, ICT and energy must be provided. The most pressing areas pertaining the infrastructure pillar are surface transport, ICT and energy.

Despite the surge in regional infrastructure projects and initiatives in Africa, it must be noted that they are considered in many respects to remain public goods. The primary role player in delivering infrastructure for the public good is individual governments. Thus, individual states are tasked with implementing and delivering infrastructure whether it is for national or regional plans. However, the small scale of many sub-Saharan country economies means that they cannot adequately fund the fixed costs in infrastructure development (Foster & Briceno-Garmendia, 2008, p. 144).

Due to the public good element of infrastructure, it has the potential to positively impact across borders. This means that states can share and make provision for joint projects that increases the scale of construction; operation, and maintenance (Foster & Briceno-Garmendia, 2008, p. 144). It could be argued that African states are increasingly realising the value of proper infrastructure and for this reason, have placed a growing emphasis and scope on regional approaches to build adequate infrastructure necessary for the development of the continent and its people.



Therefore, outlining the configuration of infrastructure projects in the areas mentioned above in the three regions under examination is relevant in the tri-partite context. The T-FTA as noted in chapter four is proposed to build on the initiatives currently underway within the RECs and AU framework. Strengthening regional approaches already underway can most likely bring about positive outcomes *vis-à-vis* regional integration in the short to medium term through increased coordination and harmonisation.

On the continental level the AU has created the Programme for Infrastructure Development (PIDA). The PIDA's main objective is to assist African leaders in establishing a strategic framework for creating regional and continental infrastructure based on establishing strategic objectives, sector policies and programmes and priorities (ECA, 2010, p. 301). In line with this vision, the Tri-partite Task Force has already geared towards creating a joint programme on ICT, regional infrastructure coordination, energy and power interconnectors as well as the North-South Corridor initiative (COMESA-EAC-SADC, 2011a, p. 7-10). Thus, glancing at

this from a bird's eye-view, the tri-partite process is assisting in realising the goals and objectives of the PIDA, and in turn contributing to pan-African aspirations.

5.3.1 Surface Transport

Surface transport in Africa is considerably less developed if compared to other regions of the world. Within the ambit of surface transport roads, railways, ports and harbours as well as air transport are relevant. Infrastructure in a regional context provides for the physical connectivity between states. Thus, within the broad generalisation of surface transport, it is perhaps the most tangible aspect of physically connecting infrastructure that would strengthen regional integration. This section will briefly highlight these areas.

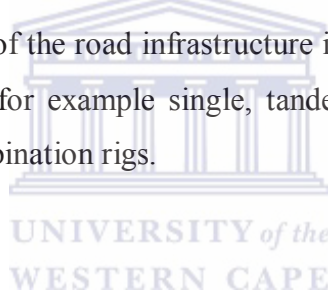
5.3.1.1 Roads

The road networks in many African countries are underdeveloped and as a result they remain poorly connected. According to ECA (2010, p. 296), this is especially important when you consider that in Africa, transportation by means of roads, accounts for more than 90 percent of passenger and freight transport compared with 50 percent for freight in Europe. Additionally, Africa has seen an increased diversion of rail freight to road transport, and this puts pressure on existing roads (Mutambara, 2008, p. 35). A worrying figure is that of Africa's general population, only 34 per cent has access to roads compared with 50 percent in other geographic zones. This implies that a large percentage of the continent's population will in the future also need to utilise roads (ECA, 2010, p. 296). Thus, Africa and the COMESA-EAC-SADC countries are highly dependent on road infrastructure to facilitate the movement of goods and people.

Clearly, there is considerable demand for well-connected and effectively maintained road systems across African borders for economic and social purposes. Africa has since the 1970s worked towards creating the Trans-African Highway (TAH), which in conception has nine highways to connect Africa's capitals and economic centres (ECA, 2010, p. 301-303). Africa's road network is estimated to be 2.3 million kilometres long, of which only 20 percent is paved (Mutambara, 2008, p. 35 and ECA, 2010, p. 303). The continental road

network is poorly developed, badly maintained and have not been updated to accommodate larger vehicles (ECA, 2004, p. 158). As a result, despite their regional character, transit transport systems have continued to operate as fragmented national systems rather than integrated regional systems in Africa (UNCTAD, 2001, p. 21). The poor standard that exists between African states in terms of the road network impacts on the cost of trade considerably, given the volume of traffic on them. This affects the competitiveness of the regions and Africa as a whole.

Roads are the primary means of transporting goods and as trade between African states increase, so will the size of the vehicles and the range of products that they carry. Effective planning, provision, maintenance, monitoring and enforcement of standards will be required across the regions to improve intra-regional linkages (physical integration) and ensure a workable lifespan of road networks. The COMESA-EAC-SADC (2008, p. 16) maintains that a key issue in the harmonisation of the road infrastructure in the regions was to agree on axle load limits for freight vehicles, for example single, tandem and triple axles (with varying numbers of tyres) as well as combination rigs.



The tri-partite region is working towards applying these standards to freight transport in the regions to improve the lifespan of roads. However, “not all countries in the regions apply these axle loading limits so the load weight on a freight vehicle is limited to the load which is in compliance with the lowest axle load limit along the entire route” (COMESA-EAC-SADC, 2008, p. 16). Another problem associated with axle loads are that vehicles are often overloaded, adding evens more to the pressure on road infrastructure. This points to a lack of enforcement on roads and in general a lack of harmonisation when viewing the axle load issue. Accordingly, if roads are the dominant channel of transport, especially in Africa, then certainty in terms of road life, the conditions of these roads will become of paramount importance in future.

It is clear that transport infrastructure is of paramount importance to general development and more specifically facilitating trade. The first Tri-partite Summit instructed the three RECs to create regional transport master plans. Presently, COMESA and EAC have completed theirs,

whereas the SADC is completing an infrastructure master plan and is also in the process of preparing a comprehensive transport master plan (COMESA-EAC-SADC, 2011a, p. 9). The tri-partite master plan will consolidate the COMESA-EAC-SADC master plans and feed into the PIDA (COMESA-EAC-SADC, 2011a, p. 9). Presumably, this would feed into the maintenance and development of the TAH network as well.

5.3.1.2 Railways

Africa's railway network has declined considerably since the 1980s. This is due largely to increased liberalisation of national economies, resulting in better access and provision of roads that has created strong intermodal competition (Foster & Briceno-Garmendia, 2008, p. 229). The network represents a density of only 2.5 km per 1,000 square metres. This compares badly with the 40 km per 1,000 square metres in Europe (ECA, 2010, p. 306). Industrialised nations have sophisticated rail networks that link various economic centres and this allows large amounts of cargo to be transported efficiently.

The importance of railway networks to connect states and economic centres has the potential to increase intra-regional trade considerably in Africa. Also, the current lack of competitiveness between road and rail transport in the regions can be overcome through a well-functioning rail system that is aligned towards a regional goal. A key challenge in this regard is the incentive to increase the rail network given its deteriorating applicability in the current economic and trade links between states in Africa. Trade between African countries (other than to and from South Africa) has always been minimal, largely due to the similarity in products exported, which suggests that inter-regional rail links would not be utilised comprehensively, even if they existed (Foster & Briceno-Garmendia, 2008, p. 230). Thus, economic diversification would actually be the strongest driver for new rail systems.

The national rail networks in sub-Saharan Africa are predominantly independent of each other, except the Eastern and Southern Africa rail systems, which are interconnected (ECA, 2010, p. 306). However, within the regions, the railways are mostly built according to the Cape gauge of 1,067 mm between the rails, with the exception of the Tanzania Railways

Corporation (TRC) system in Tanzania, the Kenyan – Ugandan, and the Ethiopia – Djibouti systems that have a 1,000 mm gauge. As a result, there is almost no railway connectivity between Eastern and Southern Africa (COMESA-EAC-SADC, 2008, p. 14). Based on this, it will be a considerable challenge to harmonise the railway network within the tri-partite region. However, if this could be resolved it has the potential to greatly increase trade and link landlocked states in the tri-partite region to ports and economic centres that would assist them to overcome their particular reliance on coastal states with weak transit infrastructure.

No initiatives have been directed specifically at overcoming the challenge of railway connectivity in the COMESA, EAC and SADC. It is likely that this aspect of transport infrastructure is awaiting the completion and culmination of the above-mentioned transport master plans of the RECs. Once there is a bigger picture of what the regions will aspire to in terms of their regional transport plans, clarity in terms of how rail fits into the overall transport picture will be available.



5.3.1.3 Ports and harbour

The significance of port and harbour infrastructure to international trade is immense. Besides air transport, ports and harbours are the primary infrastructure that connects states for overseas trade. Maritime ports play a vital role in developing world trade and commerce, since more than 90 percent of Africa's international trade passes through ports (ECA, 2010, p. 309). Thus, if African states want to engage in international trade they need sufficient and capable access to ports and harbours.

This is particularly important for landlocked countries (LLCs) that rely on their neighbours with coastlines and sufficient ports to connect them with international trade. East Africa has three LLCs (i.e. Burundi, Rwanda and Uganda) with two transit countries (i.e. Kenya and Tanzania) (UNCTAD, 2003, p. 4). For its part, Southern Africa has six LLCs (i.e. Botswana, Lesotho, Malawi, Swaziland, Zambia and Zimbabwe) with four transit countries (i.e. Angola, Mozambique, Namibia and SA) (UNCTAD, 2003, p. 4-5). The main transshipment points for regional traffic are Abidjan in the Ivory Coast; Dar es Salaam in Tanzania; Djibouti in

Djibouti; Durban in South Africa; and Mombasa in Kenya (Foster & Briceno-Garmendia, 2008, p. 250-257).

From the above it is clear that within the Eastern and Southern African regions, there are only a few ports that can facilitate international trading opportunities. These ports will need to be able to handle the larger volumes of shipment cargo and vessels that travel between ports in a global economy as well. Presently, many ports are poorly equipped and inefficiently operated with container handling standards that fall well below international norms. The port charges associated with both containers and general cargo are substantially higher than in other regions of the international system (Foster & Briceno-Garmendia, 2008, p. 249). The higher costs associated with Africa's ports are a result of African countries continuing to impose high port tariffs that discourage traffic and increase cost (Africa Infrastructure Knowledge Program, 2011b). Africa's ports are thus uncompetitive and comparatively small *vis-à-vis* the ones in other regions of the world.

There is no explicit reference made to strengthening the ports and harbours within the tri-partite context. Like rail infrastructure, it is likely that strengthening ports and harbours within the tri-partite context will only be possible once there is a bigger picture of how transport infrastructure will look like.

5.3.1.4 Air Transport

Air transport has been growing in importance in Africa since the implementation of liberalised air transport policies within the framework of the Yamoussoukro Declaration (YD) and improved competition regulations (COMESA-EAC-SADC, 2008, p. 17).¹⁰² However, Africa's share in global air transport remains modest at about 5.2 percent of passenger traffic and approximately 3.6 percent of freight traffic in 2004 (ECA, 2010, p. 314). Africa's air industry grew at about six percent annually between 2001 and 2007, with aggregated figures showing growth in all types of scheduled air travel, including

¹⁰² The YD is an arrangement for the gradual liberalisation of scheduled and non-scheduled intra Africa air transport services (YD, 1999).

intercontinental and international traffic within Africa (ECA, 2010, p. 313). Intercontinental traffic in sub-Saharan Africa depends on three major hubs, namely Johannesburg, Nairobi and Addis Ababa (ECA, 2010, p. 314). These hubs account for the strong growth in Eastern and Southern Africa air traffic (Africa Infrastructure Knowledge Program, 2011d).

There are no real backlogs or major constraints in terms of airport infrastructure over the short to medium term in Africa. At present, 280 airports receive regularly scheduled services, and this number is stable with enough runways to handle traffic in the near future. Similarly, runway capacity is not a limiting factor (ECA, 2010, p. 315). However, this does not highlight the general and/ or important constraints with regards to air transport as experienced in Africa. These are as follows:

“Air transport in Africa is expensive, connections are patchy, and safety is a problem. Landing charges are high owing to the absence of support from concessions enjoyed across the world. Operating costs have soared with fuel prices, choking off air connections in many countries. Air traffic control requires major upgrades to improve the continent's baleful safety record. Policy challenges include strengthening regulatory oversight and achieving full liberalisation of the air transport sector” (Africa Infrastructure Knowledge Program, 2011d).

From the above it is clear that significant work is still required in bringing air transport in Africa in par with internationally competitive standards and pricing, and the latter could be improved through regional and continental initiatives. Achieving full liberalisation will be conditioned on the ability of air transport to be competitive and open up new routes intra and inter regionally as well as continentally.

A commitment was made at the 2008-Summit to strengthen the YD by forming a Joint Competition Authority (JCA) on air trade liberalisation within the tri-partite framework (COMESA-EAC-SADC, 2011, p. 6). The JCA is in the process of being operationalised and

has seven members, including two members each from the COMESA, EAC and SADC plus a chairperson on a rotational basis (COMESA-EAC-SADC, 2011, p. 6). The aim is to create a single seamless upper air space in the tri-partite context.

5.3.2 Information and Communications Technology (ICT)

The prevalence of globalisation has been spurred on by technological revolutions that have drastically impacted the global economy. States, regions and continents that have grown their ICT infrastructure are able to participate in what has been termed the ‘knowledge economy’ (primarily through internet access). Gilpin (2000 and 2001) views this as the most recent economic revolution similar to that of the industrial revolution. In the context of this section, ICT refers to fixed-line telephones, mobile cellular telephones and Internet services.

If Africa wants to develop and grow their economies they will have to increase their ICT infrastructure and general access to it. It is not a precursor to growth, but it is hard to see how countries can develop and grow in a global economy that relies on information sharing, communicating and using technology to increase efficiency and competitiveness. For example, electronic data interchange and electronic commerce are replacing the more tedious and somewhat outdated paper trail (UNCTAD, 2003, p. 1). The use of ICT globally is standard, and as such Africa has to reach that standard in order to be competitive in both regional and world markets.

Yet, as of March 2011, Internet users in Africa represented only 5.7 percent of global users, while Internet penetration is only 11.4 percent compared with the world average of 30.2 percent (Internet World Stats, 2012). An E1 2 mbps broadband access point costs on average \$4000 in Africa compared to \$100-\$250 in India and \$10-\$20 in developed countries (Katiti, 2010). Thus, bridging the digital divide in Africa is a particularly important objective within the broader infrastructure goals of the continent as well as regionally. This will require the development of infrastructure and services that support fixed-line, mobile telephones and broadband access to and for Internet services.

Africa has been steadily increasing its access to ICT through reforms that have occurred in the past two decades in the sector. These reforms have led to a shift from fixed line users, to mobile and wireless services in Africa (COMESA-EAC-SADC, 2008, p. 18). This is indicative of a lack of fixed-line infrastructure across the continent, symptomatic of Africa's vast land mass that has made it difficult to roll out fixed-line networks, and consequently almost 90 percent of telephone subscribers are also mobile users (Internet World Stats, 2012). In fact, fixed-line services are limited and unreliable, with high call charges, especially for calls abroad (COMESA-EAC-SADC, 2008, p. 18). The reason why this is so important in Africa is that call charges are routed via Europe and the USA, making it more expensive, and this results in a foreign exchange drain in the sub-regions by more than \$150 million annually in transit charges (COMESA-EAC-SADC, 2008, p. 18-19). Therefore, a key objective is to minimise such outflows in Africa and the COMESA-EAC-SADC region in particular, since this could only have a positive impact for consumers and business.

As one of its main infrastructure goals, NEPAD envisages to rationalise and develop the broadband ICT network in Africa. The key features of this initiative in the three regions are to establish a submarine cable for East Africa that would complete the fibre optic ring around the African coastline in conjunction with other submarine cables; and to connect countries in Eastern and Southern Africa to their neighbours, ensuring that landlocked countries have access to at least two cable landing stations (NEPAD, nd, p. 1). Within the tri-partite context, the backbone ICT infrastructure that is being developed is based on existing networks and projects, namely the SADC's Regional Infrastructure Initiative (SRII)¹⁰³, COMESA Telecommunications Company (COMTEL)¹⁰⁴ and EAC Broadband ICT Infrastructure Network (EAC-BIN),¹⁰⁵ which interconnects landlocked countries to undersea cables. This stresses the priority that has been given to linking continental terrestrial networks to the global ICT network through undersea cables (COMESA-EAC-SADC, 2011a, p. 7).

¹⁰³ The SADC has established the Southern African Telecommunications Association (SATA) that deals with issues of technical standards, tariffs and the SRII concerning ICT (Adam, 2005, p. 20).

¹⁰⁴ COMESA undertook a study in 1998 that led to the establishment of COMTEL, a regional telecommunications network (Adam, 2005, p. 19).

¹⁰⁵ The EAC have created the EAC-BIN network to strengthen regional ICT in the REC.

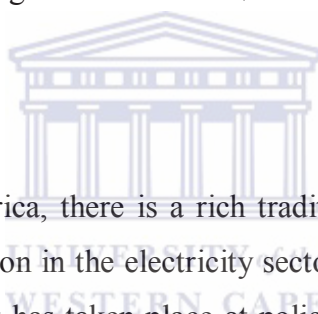
5.3.3 Energy

Energy is the cornerstone of all economies. Without it, no economic development can occur. According to the International Energy Agency, sub-Saharan Africa has the lowest electrification rate of any major region in the world. In terms of world energy electricity production, Africa's power generation represents only 3.1 percent of the total global output (ECA, 2004, p. 117). The entire installed generation capacity of African countries is 125 gigawatts, with sub-Saharan Africa having 68 gigawatts, which is no more than Spain's generation capacity. In addition, approximately one-quarter of the afore-mentioned capacity is in fact unavailable due to aging plants and poor maintenance (Foster & Briceno-Garmendia, 2008, p. 182 and Fakir, 2012, p. 5). This is especially worrying when the following is taken into consideration:

“Of the 68 gigawatts installed generation capacity, some 44.3 gigawatts need to be refurbished. An additional 7000 megawatts of new generation capacity need to be built each year to meet suppressed demand, keep pace with projected economic growth, and provide additional capacity to support the rollout of electrification. Compare that with expansion of less than 1000 megawatts a year over the period 1990-2005. The bulk of this new generation capacity will be needed to meet non-residential demand” (Foster and Briceno-Garmendia, 2008, p. 185).

Africa's power sector is characterised by small systems, with over three-quarters of the continent's installed capacity emanating from South Africa and North Africa (ECA, 2007, p. 36-37). In fact, in 2008, out of the 68 gigawatts installed capacity in sub-Saharan Africa, if South Africa's electricity provider (i.e. Eskom) is excluded, the installed capacity would only be 28 gigawatts (Foster & Briceno-Garmendia, 2008, p. 185). According to Fakier (2012, p. 5) sub-Saharan Africa is the only region in the world where per capita consumption of electricity for ordinary citizens are falling compared to other developing countries. If current trends continue, fewer than 40 percent of African countries will have universal access by 2050. Thus, on average Africa has relatively small and concentrated power generation capacity and supply.

Moreover, Africa has vast amounts of resources to produce energy but they are largely untapped. The bulk, approximately 79 percent, of Africa's electricity is produced using thermal energy because of the large coal fired stations in South Africa, and oil fired generation units in North Africa (ECA, 2010, p. 325-326). This need not be the case because Africa is well endowed with cost-effective energy resources on a large scale, and mainly in hydropower. However, these resources are located far from major demand centres with many of the countries where it is found, lacking the means to be able to develop them (Africa Infrastructure Knowledge Program, 2011d). Approximately 61 percent of the region's hydropower potential is located in just two countries, namely the DRC and Ethiopia (Foster & Briceno-Garmendia, 2008, p. 185-187). Regional trade in energy is seen to be the solution in Africa as it would make harnessing these sources of energy more attractive and economically viable through savings of as much as \$2 billion annually (Africa Infrastructure Knowledge Program, 2011d).



Within Eastern and Southern Africa, there is a rich tradition of cooperation and electricity sharing between states. Cooperation in the electricity sector is not a new phenomenon in the Southern African region either; it has taken place at policy, planning and operational levels and involved governments, power utilities and financial agencies over a period of several decades (Southern African Power Pool, nd). Thus, under the auspices of the SADC, states in the region formalised this interaction through the creation of the Southern African Power Pool (SAPP). Similarly, recognising the potential benefit from developing a regional power pool, seven East African energy ministers from Burundi, DRC, Egypt, Ethiopia, Kenya, Rwanda and Sudan signed an inter-governmental MoU for establishing the Eastern Africa Power Pool (EAPP) in 2005, followed by an inter-utility MoU by nine power utilities that heralded the formal launching of the EAPP (Eastern Africa Power Pool, 2011). However, making regional power trade work is a considerable economic and political challenge, in part because of the many missing links in the continental power-transmission network (Africa Infrastructure Knowledge Program, 2011).

The tri-partite process is fast-tracking the implementation of electric power interconnection projects, including the Zambia-Tanzania-Kenya interconnector, which will link the SAPP and EAPP, and in turn enhancing power trade within the sector (COMESA-EAC-SADC, 2011a, p. 10). This is an exciting development and can link the power pools in the regions on a tripartite level.

5.3.4 North South Development corridor

The prevalence of development corridor projects is common across the COMESA-EAC-SADC. They are micro-regionalism initiatives usually instituted bi-laterally between member states in order to facilitate specific objectives such as connecting economic centres, ports and transport systems. The tri-partite process has strengthened the North-South Corridor initiative, which is a combination of two traditional corridors, namely the Durban and Dar es Salaam corridors (COMESA-EAC-SADC Press Release, 2009, p. 1-2). In terms of development corridors, the North-South initiative has by far the largest geographic reach and likelihood of having a developmental impact in the tri-partite region.



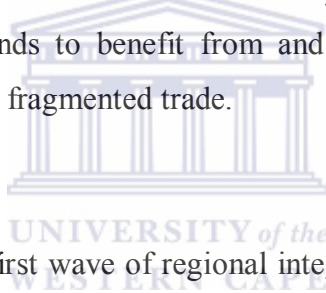
5.4 Industrialisation

Although the industrialisation pillar has been earmarked to undergo a programme of work, no proposals have been set forth as yet and it will be the most contentious and difficult pillar to realise under the T-FTA framework. It should be highlighted that since the first wave of regional integration industrialisation has constantly been excluded in Africa's regional agreements (Hartzenberg, 2011a, p. ii). A key determinant of including industrialisation within the tri-partite framework is the realisation of supply side constraints to intra-African trade. This means that many African states lack the industrial capacity for diversified manufactured goods to support trade (Hartzenberg, 2011b, p. 9).

Enhanced market access, without the capacity to produce goods and services to benefit from those opportunities, will fail to produce higher economic growth. It could be argued that the real problem facing African economies is not market access (such as border constraints) but rather the capacity to produce tradable goods (WTO World Trade Report, 2011, p. 152). This

is a primary motivation for the inclusion of industrialisation in the tri-partite framework and as such makes perfect sense amongst the pillars of market integration and infrastructure development.

The African continent significantly lacks industrial capacity to produce the manufactured goods needed for value-added trade. The continent is currently the least industrialised region in the world, while the share of sub-Saharan Africa in global manufacturing value-added trade actually declining between 1990 and 2000 (Marti & Ssenkubuge, 2009, p. 1). Emerging economies that are experiencing growth and development from economic globalisation are increasing their capacity and ability to produce goods, which are of an intermediary and finished goods nature. This means that if Africa is to increase its development in general, and economic growth in particular, it needs to follow this route. By utilising market integration, coupled with reaping the benefits of economies of scale by enlarging the market, a regional approach to industrialisation stands to benefit from and could extract positive outcomes through regional value chains and fragmented trade.



Chapter three elaborated on the first wave of regional integration in Africa and stressed that the initial impulse of regional integration was to promote industrialisation. This was encapsulated continentally through the LPA that promoted the idea of industrialisation through ISI. The ECA (2007, p. 134) maintains that industrialisation to a large measure requires diversification through investment, but this is not likely in an environment where the public-private policy mix is skewed towards fiscal policy rather than monetary policy. By virtue of the fact that most African states are faced with negative balance sheets, they are often forced to rather focus on fiscal responsibility and by extension had to overlook diversification in order to survive. For this reason, it is unclear how African states will at a fundamental level be able to finance industrialisation.

The first COMESA-EAC-SADC TTF on industrialisation met in February 2012. A work plan on industrial development was created. This plan focuses on a situational analysis of industrial trends and potential. It also proposes the facilitation of a high level stakeholder workshop. Furthermore, the plan advocates for a regional value chain analysis focusing on

agro-industry and chemicals and related products as well as mineral processing (Erasmus & Hartzenberg, 2012, p. 3).

5.5 Inter-REC Co-operation in the EPAs

In April 1976, the first Lomé Agreement came into force. It involved the developing African, Caribbean and Pacific (ACP) countries, and was re-negotiated thrice before expiring in 2000 (Venter & Neuland, 2007, p. 88). The institutionalisation of the WTO and the then European Community (EC) progressing towards the formation of the European Union (EU) has influenced negotiating new cooperation agreements between the ACP countries and Europe. These new cooperation arrangements are called the Cotonou Partnership Agreements, more commonly referred to as Economic Partnership Agreements (EPAs). The EPAs are meant to address the weaknesses of the Lomé conventions by radically reforming the ACP-EU trade relationship (Bilal & Braun-Munzinger, 2008, p.3).

Africa is particularly reliant on foreign relations with the developed world for growth and development. Until the renewed interest of China and other emerging economies in Africa, there was a trend where Africa experienced marginalisation in the global economy. This was due largely to the prevalence of unstable states; chronic underdevelopment, and small, underdeveloped markets on the continent. The EU is still an important trading, investment and aid partner in and for Africa and continuously embarks on initiatives towards fostering a lucrative developmental relationship with the continent (Venter & Neuland, 2007).

Nevertheless, the EU has been criticised for its renewed efforts to fast track EPAs with Africa across the RECs that are in existence on the continent (Yao, 2010). Jakobeit et al (2005, p. 20) note that in Eastern and Southern Africa there are two dominant EPA negotiations taking place, namely the SADC EPA and Eastern and Southern African EPA. Some African states have not entered into them according to their REC configurations, in effect aligning themselves to new groupings. This has been criticised as unsustainable for the development goals as set by African states, because the process effectively redefines current RECs (Yao, 2010). The implications of the EPAs for regional and continental economic integration in

Africa are perceived as negative and do not bode well for African states uniting under a common vision and mobilising around common developmental goals on Africa's terms. The issue of EPAs exposes a lack of coherence in the rationale for regional bodies in Africa. Various member states of African RECs have failed to identify the long term threats by entering into negotiations with the EU structured in a way that is not consistent with the current configuration of RECs.

According to the COMESA-EAC-SADC (2011a, p. 5), slow progress has been made in reaching convergence on the EPAs since the first summit in 2008. There has been a lack of consensus between member and partner countries within the three RECs *vis-à-vis* the EPAs. On the one hand, some countries are convinced and/ or encouraged by what they perceived as the possible benefits that will accrue from signing an EPA with the EU. On the other hand, others, and especially the LDCs are convinced that it will not be beneficial to their economic development in the short and long term, while other countries remain ambivalent regarding the issue at hand. This current so-called mixed stance on EPAs by African states mirrors the same situation as was evident under the first wave of regional integration in Africa where those states with stronger economies wanted to participate more in global trade as opposed to the economically weaker ones opting to rather develop through ISI. Thus, just as in the first wave, divergence can be observed from and amongst member states.

The interim SACU EPA exists among the two dominant EPA negotiations in Eastern and Southern Africa. The T-FTA explicitly deals with the COMESA, EAC and SADC; thus, their EPA negotiations will have the greatest bearing on realising the T-FTA. At the time of writing, both the EPAs and T-FTA have not been concluded and as such it is difficult to determine what the outcome will be.

The EU announced that African states that fail to sign or ratify EPAs by 1 January 2014 will lose duty free access to European markets (Atta & Gemma, 2011). This is a heavy handed approach by the EU to ensure that African states commit to their EPA configurations. However, the SADC-EU EPA has been shelved with no fixed date as to when negotiations will continue with both parties indicating that they will shift focus to domestic concerns. In

the case of the SADC, that shift is towards the T-FTA (Agritrade, 2011). As mentioned before, the T-FTA negotiation deadline according to the Draft Roadmap for T-FTA negotiations is 2016. Thus, it will be interesting to track possible convergence or divergence with the T-FTA if some member states opt for the EPA configurations.

5.6 A rules based integration process

A common theme that has surfaced amongst scholars in Africa's regional integration debate is the need to strengthen a rules based process of integration. Hartzenberg (2011b, p. 18) emphasises that an important question to ask is whether Africa's RIAs are viewed by their member states as rules based dispensations. In other words, do they respect legal agreements at the regional level and are they willing to abide by regional court decisions? Adherence to the rule of law is vital for regional integration in order to ensure that members act on the basis of rules. Ultimately, without rules, integration is impossible (Scholtz, 2011). States will not easily cooperate without a respect for rules that is encapsulated in law. This is due to a resultant lack of predictability in state behaviour and the consequent behaviour of RECs that weakens the integration process considerably. Hartzenberg (2011b, p. 18) elaborates as follows on the state of play in the progress towards a rules based dispensation in Africa:

“Missed targets in terms of the achievement of the successive steps in the linear regional integration model are common among RIAs. Delays in the ratification and domestic incorporation of regional legal instruments by member states are common across RIAs, as is the failure to implement specific provisions of the agreements such as negotiated tariff reductions. Sanctions for lack of implementation or the application of sanctions if they do exist, in Africa RIAs is notable by their absence... It's clear that RIAs and the regional institutions established to contribute to the implementation of these agreements, do not play a robust role as external anchor or agency to ensure national compliance and domestic policy, legal and institutional development as may be required by the RIAs”.

At the REC level, regional courts play the pivotal role of upholding the rule of law and ideally should be able to make decisions that are binding on member states. This is by no means standard in Africa, with few mechanisms being in place to enforce decisions (Nyirabu, 2004, p. 25). However, a feature of African RTA judiciaries is that their decisions are bold vis-à-vis member states, even though they operate in a context where adherence to national sovereignty is strong (Gathii, 2011, p. 264).¹⁰⁶

The COMESA, EAC and SADC all have regional courts to facilitate the rule of law at the regional level. The Treaty establishing the COMESA established the COMESA Court of Justice to ensure the adherence to law in the interpretation and application of the Treaty. Provisions are also made to ensure that the judgments of this Court are final and conclusive and not subjected to appeal (COMESA, 1992, p. 20).¹⁰⁷

In similar vein, the Treaty establishing the EAC established the East African Court of Justice. As with the case with the COMESA Treaty and Court, the EAC Court is in similar fashion tasked with ensuring adherence to law in the interpretation and application of the EAC's Treaty. The Court enjoys jurisdiction over interpreting and applying Treaty obligations, as well as determining that its decisions are final, binding and conclusive and not subjected to appeal (EAC, 2000, p. 30).¹⁰⁸ From this it is clear that the Courts as established by the Treaties of both the COMESA and EAC share similar duties and authority.

The Treaty establishing the SADC created the SADC Tribunal and it is tasked with ensuring adherence to and proper interpretation of the provisions of the SADC's Treaty (SADC, 1992).¹⁰⁹ The Tribunal is only consulted once partner states have exhausted all other amicable routes, and its decisions are final and binding on those concerned. Keeping this all in mind, it is clear that the relevant RECs do indeed have provisions that foster the principle of the rule of law at the regional level.

¹⁰⁶ Regional courts often make rulings on human rights issues. Their judgements are considered to be bold since individual member states' judicial systems do not make rulings on such cases.

¹⁰⁷ See Articles 19 and 31 (1) of the COMESA Treaty.

¹⁰⁸ See Articles 23 (1), 27 and 35 (1) of the EAC Treaty.

¹⁰⁹ See Articles 1 (g), 16 (1) and (2) and 32 of the SADC Treaty.

The tri-partite context of the rule of law principle is twofold. Firstly, the T-FTA deals with international trade and as a result it should ideally be able to have effective dispute settlement measures as well as remedies to resolve possible conflicts in place (Erasmus, 2011, p. 86). This is particularly important when considering that the tri-partite's membership currently entails 26 countries with different and diverse development levels. If and when the T-FTA is realised, disagreement is to be expected. Secondly, there is the question whether the judgements in terms of disputes will be respected and regarded as serious and binding by member states. The importance of these two factors within a rules based dispensation will be crucial. If present, it could create a well-functioning T-FTA that acts and operates on the basis of rules, which in turn could encourage predictability, coupled with creating an environment for regional integration that flourishes on mutual trust.

Therefore, a key factor associated with a rules based dispensation is the respect for the rule of law at the regional level, and acknowledgement of the importance of it to strengthen regional integration. The problem is that Africa states often fear that they could lose their claim to sovereignty and this is based on their claim that Africa lacks the required technical capacity and expertise to implement rules based trade arrangements (Erasmus & Hartzenberg, 2012, p. 4). This fear is qualified by the Campbell case involving a Zimbabwean national before the SADC Tribunal. Campbell claimed that his basic human rights had been violated due to the expropriation of his private property without compensation (Ndlovu, 2011b, p. 64-65 and Erasmus, 2012, p. 1). Upon deliberations, the Tribunal found that Zimbabwe was in breach of Article 6 of the SADC Treaty. Nonetheless, Zimbabwe expressed its dissatisfaction with this decision. Subsequently, at the August 2010 Summit, the SADC Tribunal was suspended (Afadameh-Adayemi & Kalula, 2011, p. 16). This decision raised serious concerns about the rule of law in the SADC and the (in) ability of its regional judiciary to ensure the protection of rights (Erasmus, 2012, p. 1). The consequent suspension of the SADC Tribunal is indicative of the strong solidarity between African countries and how they are unwilling to act in contradiction to each other's wishes and demands.

5.7 Gaps in the Tripartite Framework

The tri-partite framework certainly brings to the table elements of co-operation between the three RECs that are needed in order to rationalise and harmonise the integration process. However, the framework is silent on at least three critical issues. These include issues of political will; economic polarisation, and stability in individual states. In attempt to avoid a situation where the T-FTA fades into obscurity, it is paramount that the afore-mentioned issues are dealt with by both the existing negotiations and programmes of work underway.

5.7.1 Political Will

The tri-partite framework has not provided any concrete mechanisms to ensure that member states deliver on their obligations. This is characteristic of Africa's historical legacy of weak integration that is not backed up by implementation of agreements collectively agreed upon. More importantly, this highlights that African states still place their sovereignty as an overriding factor that guides the various national interests that they pursue. Thus, African states are still caught up in a Westphalian type of decision making. The post-Westphalian order that globalisation has created requires much more flexibility from states in terms of surrendering some sovereignty in order to forward their national goals. The success of the proposed T-FTA will, in addition to a realistic conceptual foundation, depend on the political will and commitment of member states to make it work (Erasmus, 2011, p. 86).

5.7.2 Economic Polarisation

One of the most important questions to ask in the context of the T-FTA is who stands to benefit economically. Chapter four highlighted the unequal levels of economic development between tri-partite states and this will be an important issue in the negotiations. LDCs and more developed ones are going to encounter difficulties in reaching consensus on a wide variety of issues. Keeping African states' differences with regards to economic capability and the consequent business environments in mind, it is not surprising that the fear of de-industrialisation and economic polarisation are real threats in the tri-partite context.

Kenya; South Africa, and Egypt, by virtue of their relative economic strengths, offer the most immediate threat of economic polarisation in their respective regions.¹¹⁰ South Africa has a major role to play if the T-FTA is to be realised, not just in terms of trade, but also in terms of whether it is willing to ‘foot the bill’ for the adjustment costs associated with economic integration. It is generally accepted that the EU would not exist today if its strongest economic powers (i.e. France and Germany), did not fulfil leading roles in terms of financing the integration process. For its part, South Africa should be steadfast on fulfilling the role of a leader rather than a follower, especially in those areas where it is prepared to expend resources for the regional agenda (Rathumbu, 2008, p. 172).

Negotiations have only just started and therefore, it is unclear whether South Africa will indeed take up this role in the tri-partite region. Its actions within the SADC and Africa in general have often bear the characteristics of an ambivalent player that still considers national interest to be an overriding factor in foreign policy decision-making.¹¹¹ Therefore, the threat of SA polarising the region in terms of its industrial strength is a factor that could hamper the regional integration process (Kritzinger-van Niekerk, nd. p. 10-12). For example, current trade flows in the COMESA-EAC-SADC heavily favour South Africa as the strongest economic power in Africa. It recorded a trade surplus of \$4.7 billion with the SADC; \$5.9 billion with the COMESA, and exports to the EAC worth \$1.4 billion (Naumann, 2011, p. 263-264). According to Bisseker (2011) South Africa and Mozambique stand to gain R8.8 billion and R381million, respectively if the T-FTA was to be realised through increased market access. Most other tri-partite members would only grow marginally due to their overlapping FTAs. From this it can be deduced that even though South Africa’s leadership will help the T-FTA, it is a double-edged sword in that its economic strength may skew the benefits predominantly towards South Africa. Another problem that could arise is the matter of South Africa’s leadership role being shunned by other members that could feel intimidated by its economic might.

¹¹⁰ SA will be the focus of this section as it remains the most important player in the tripartite context. Egypt and to a lesser extent Kenya have recently both experienced political instability and as a result their impact is not certain, whereas SA is politically stable and have made in-roads into Africa for business purposes.

¹¹¹ See Tshaba Tjemolane’s (2011) dissertation entitled *South Africa’s Foreign Policy, 1994 – 2010: Partner or Hegemon* for an excellent account of South Africa’s ambivalent position in Africa.

5.7.3 Stability in individual states

In recent years the prevalence of instability in Africa has declined. However, instability and conflict still exist though and have an important influence on the ability of governments to implement any sort of development strategies. Instability is also still common in the tri-partite region. For instance, at the time of writing, ten tri-partite partner states experience some form of political instability; of that number five are characterised as areas with active conflict or severe tensions while the other five are subject to political instability or sporadic internal confrontations. Therefore, almost a third of the tri-partite region is in some way unstable, making it hard for those states to implement the strategies and achieve the goals and objectives of the tri-partite initiative by virtue of their struggle to consolidate statehood and democratic transitions.

5.8 Conclusion

The tripartite initiative aspires to achieve a wide range of objectives. Under the market integration pillar it was found that significant challenges lay ahead in reaching consensus on RoO, and little or no concrete action towards the deeper aspects of economic integration. The tripartite initiative has already seen progress in trade facilitation efforts and seeks to bolster continental infrastructure initiatives. These are positive steps in the right direction if realised. The EPA issue looms amidst the negotiations currently underway for the T-FTA and will be an interesting dynamic if some member states opt for EPAs during negotiations. The role of regional courts will prove to be the linchpin that will hold the entire tripartite initiative together however; they are not respected in the regions as custodians of regional integration. Economic polarisation, lack of political will and stability in member states are issues that have not been included in the tripartite conceptualisation. This suggests that the fundamental factors of how business is done in Africa's integration experience will not change. Overall, the tripartite initiative is ambitious and will be hard to realise given the realities of the regions.

Chapter 6 Conclusion

6.1 Conclusion

The purpose of this study was to answer the following research question: How does the T-FTA propose to contribute to the ARIP, given the challenges that regional integration face in Africa? It was envisioned that the following sub questions would assist in answering the central question:

- Why do states pursue regional integration, and how has this changed over time?
- What are the challenges to regional integration in Africa?
- What are the challenges which exist specifically in EAC, SADC and COMESA in terms of regional economic integration?
- How may the challenges facing the three RECs impact on the proposed T-FTA?
- What are the goals of the T-FTA and are they attainable in terms of the challenges that the three RECs currently face?
- Is the T-FTA a suitable alternative for the overlapping membership problem in the Eastern and Southern African region?
- Will the T-FTA as it is currently envisioned contribute to the ARIP?

In order to answer the overarching research question, four areas were identified as central to the study. Broadly speaking, they include the fundamental aspects of why and how states integrate, bearing in mind that they have changed in relevance as well as prevalence in the current international system. Africa has an extensive history of regional integration, which is linked to its colonial past and as a result has also changed in relevance and prevalence in the continent. Moving towards the regional level is a challenging process. Within the African context, these challenges span the fundamental, tangible and new generation issues pertaining to regional integration. As a result, the emergence of the T-FTA is viewed with these factors in mind and assumed to exist in order to overcome them.

Chapter two addressed the issue of regional integration and how it is to be viewed within the context of this study. The starting point for this was to define regional integration. This led to exploring why states pursue regional integration and how states integrate through loose co-operative arrangements (i.e. functional) or more binding agreements (i.e. market integration) or a combination of the two. By providing a narrative of the evolution of the international system it became clear that the understandings of both why and how states integrate has changed, favouring economic integration in today's world order. How and why states have pursued economic integration presently is conditioned on the gains to be made in an increasingly globalised international economy.

Chapter three then explored regional integration in Africa by providing a brief account of Africa's history with slavery and colonialism as starting points. In doing this, insight was gained into the specific historical context that has culminated into the uniquely 'African experience' and the continent's particular developmental realities. Since its inception, Africa's regional integration has been closely associated with overcoming the historical legacies of the past that are in many ways beyond the scope and jurisdiction of individual states, given that the colonial borders fundamentally still exist.

Exploring the first and second waves of regional integration in Africa assisted in identifying what the primary motivations were/ are for the pursuit of integration. It was found that in the first wave, regional integration was subordinate to the national interest of states, reflecting the old regionalism dynamic. The factors that culminated in the failure of the first wave were also outlined. The second wave of regional integration in Africa appears to be much more fluid, with a move towards regional goals being realised as an imperative for development in Africa. This has been informed by the drivers for Africa's contemporary integration agenda as a strategy to overcome the challenges of a globalised world. The aspirations of the ARIP have not changed considerably since the first wave; overall the goal is still to unite Africa in economic and political terms. However, the processes and strategies to reach these ends have definitely changed. Africa faces various challenges if it is to realise sustainable and effective regional integration. These challenges include a lack of economic development; stability, and political will. In addition, Africa's regional integration efforts are also impeded by more tangible constraints such as hard and soft infrastructure as well as the economic activities of

African states that constrain a trade in goods agenda. These challenges contribute to the particular realities of just how difficult it is to inculcate a culture of regional integration in Africa. This is further illustrated and exacerbated by the incidences of African states entering into multiple agreements that give rise to overlapping membership. The latter extremely inhibits any rigorous attempt at African regional integration because these states are ultimately faced with the dilemma of having to adhere to different sets of rules in terms of, for example trade, since they are often members of more than one regional integration initiative.

The primary goal of chapter four was to highlight what the T-FTA is and *vice versa*. This was in an attempt to determine whether the T-FTA is a response to the growing contradictions that regional integration currently experiences within the regions. In order to do this, an exploration into the broadly conceptualised realities; challenges, and aspirations of the T-FTA is important. Both positive and negative factors were considered although the general consensus is that the emergence of the T-FTA is a promising move towards rationalising and harmonising the integration process in the COMESA-EAC-SADC region, especially when considering the multiplicity of trade arrangements (FTAs). Since the first official political Summit in 2008, the tri-partite initiative has seen a significant amount of technical work being conducted that has been comprehensive in its conceptualisation of the problems that face economic integration, and more specifically, trade integration and related factors. However, this has been a highly technical process thus far, indicating that nothing substantive have yet been agreed upon. The political leaders of the states in the tri-partite region still have to come to reach an agreement on a wide variety of areas that have historically been difficult to reconcile at the individual REC level.

The Draft Agreement of the T-FTA that is currently under negotiation, provides clues towards elucidating a tentative conclusion with respect to what the T-FTA envisions for integration. For example, within the Draft Agreement's outline of specific objectives there appears to be considerable emphasis on bridging a trade in services agenda into a market integration process; focusing on non tariff barriers; transport, and trade facilitation, while also seeking to address hard and soft infrastructure constraints (COMESA-EAC-SADC, 2010 and

Kalenga, 2011b).¹¹² This is promising as other developing regions such as the ASEAN have achieved impressive economic gains by including similar so-called deeper aspects of economic integration.

Chapter five aimed to investigate a number of issues that could influence the prospects and challenges of realising a successful T-FTA, bearing in mind that market integration is but one of three pillars to be achieved and therefore warrants a more holistic interpretation of where the tri-partite initiative can make positive contributions to the ARIP. Determining the prospects and challenges required investigation of several themes, most notably strategies of market integration; infrastructure development, and industrialisation as well as the lack of a rules based integration process in Africa. Other strategies also include the EPAs that might lead to divergence or convergence with regards to the tri-partite initiative, and finally factors that will have an impact on the successful conclusion and implementation of the proposed T-FTA, such as political will; economic polarisation, and stability in individual states.

The outcomes of this exercise were mixed. The tri-partite initiative, when evaluating the market integration pillar for example, certainly has tremendous challenges moving forward. Long standing issues in the regional integration process such as conventional trade liberalisation and RoO are yet to be fully reconciled in the COMESA, EAC and SADC, and this raises questions about whether the T-FTA can overcome them. Also, there is not much optimism to resolve new generation trade issues, such as services and the movement of persons to support trade.

Promising though is the inclusion of trade facilitation, which effectively supports the trade in goods agenda through increasing competitiveness. It was shown how the non tariff barrier monitoring mechanism and one-stop border post initiative have already reaped some benefits. Coupled with the promising aspects of the infrastructure pillar, these areas constitute the greatest contribution that the tri-partite initiative makes to the ARIP. To highlight just two successes of the infrastructure pillar:

¹¹² See Article 4 of the Draft T-FTA.

- Infrastructure master plans within the respective RECs to feed into the enlarged regional space were concluded; and
- Significant progress with regards to other African initiatives such as the PIDA.

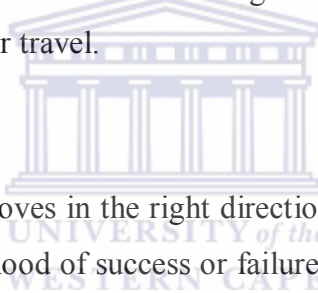
This further illustrates a much more pragmatic approach to the challenges that regional integration faces in Africa. Considerable alignment towards tri-partite aspirations is required by member states who have already agreed upon an institutional framework to give structure to the workings of the initiative.

If any of the tri-partite programmes are to be realised in a meaningful way it will require the existence of a rules based integration process. This would strengthen predictability and foster trust, but more importantly, requires the recognition of member states in the role that regional courts play in the process of regional integration as key anchors or custodians of the integration process. Consensus and good faith (which are historically lacking) will be the cornerstone of tri-partite integration. Without respect for the rule of law uncertainty will prevail. This uncertainty is propounded by the EPAs and the fact that the deadlines for EPA interim agreements and T-FTA negotiations overlap with each other. Member states have not reached consensus on the EPA issue within the tri-partite framework and as such some are indicating their willingness to go ahead with them while others are not. The outcome of the EPA negotiations will illustrate convergence towards the T-FTA goal or divergence towards the EPAs.

The following reflections on the central research question of how the T-FTA seeks to contribute to the ARIP, given the challenges that regional integration faces in Africa can be made. The tri-partite initiative seeks to simultaneously deal with a number of factors that are relevant to realising effective integration. The most immediate contribution would be to rationalise and harmonise the existing trade arrangements in the COMESA-EAC-SADC region. If this was to be achieved successfully then the overlapping membership issue would be resolved, because the trade arrangements would then be largely similar in nature. Also, the enlarged FTA is progressive, indicating a realisation of the current trends in trade agreements

globally and thus, at least in its draft form, it adds important areas that have been neglected in the African regional integration experience. A more pragmatic initiative is evident by taking a developmental approach, thereby acknowledging the inherent weaknesses of member states. In many ways, the core idea of the first tri-partite Summit in 2008 of harmonisation and rationalising of the integration process is the primary contribution to the ARIP.

The tri-partite initiative as a whole provides the three regions with promising prospects for development, which in turn could contribute to the ARIP. This is especially clear when one takes in to account the contribution to be made under the infrastructure pillar. In this respect, programmes already under way, such as the regional transport master plans, are aimed at feeding into the PIDA. The same can be observed with regards to the ICT and energy sector strategies that are aimed at strengthening and connecting infrastructure for more competitive outcomes. Similarly, the YD is envisioned to be strengthened within the tri-partite framework as a core element in liberalising air travel.



However, amid all the positive moves in the right direction, there are outstanding issues that need to be considered. The likelihood of success or failure within a comprehensive tri-partite undertaking that would ultimately have considerable developmental impact is conditioned on resolving these outstanding issues. Whether the strategy is concerned with market integration; infrastructure development; industrialisation or other relevant factors that relate to regional integration, it will only be effective and sustainable if the manner in which business is conducted in Africa is transformed for the better. Africa is well known for grand plans with impressive policy to back it up, but at this juncture, the T-FTA does not add anything new to the fundamental challenges that regional integration faces. Gottschalk and Schmidt (2004, p. 155-158) argue that Africa has a plethora of strong institutions for weak states. The implication is that these states can only achieve so much with the resources and political will they are presented with. It is clear that the AU still has an enormous task ahead to achieve the aspirations of a united Africa in political and economic terms. Low development levels and the wide disparities amongst states, unstable political environments, constant emphasis on the primacy of sovereignty and the ambivalence of the regional powerhouse (i.e. South Africa) are all factors that warrant a cautious take on the prospects and challenges of the T-FTA.

6.2 Future Research

This study has set an appropriate platform upon which future research may be conducted. As noted, the T-FTA is being negotiated and is not as yet in effect. Thus, a future research question would be to explore what the T-FTA has achieved in terms of its stated objectives when negotiations are over. The new generation trade issues which the T-FTA has brought into the tripartite initiative is in itself an interesting question to explore, does the T-FTA indicate a paradigm shift in regional integration in Africa? Lastly, in which ways can the T-FTA be contrasted to the integration process in the ASEAN?



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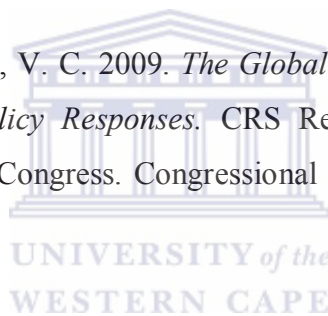
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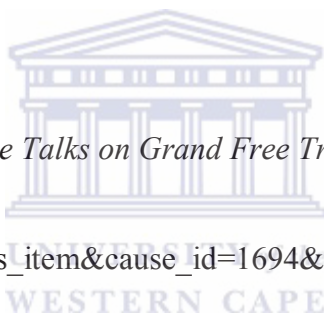
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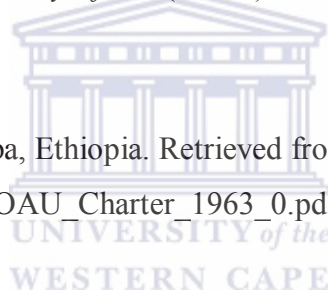
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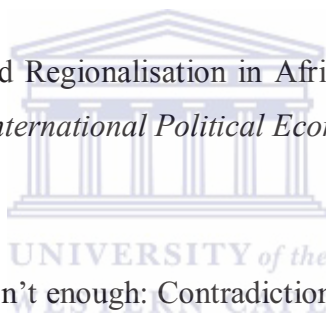
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