ATTACHMENT 1

TRADE AND / OR DEVELOPMENT ARRANGEMENTS IN SOUTHERN AFRICA AND BY SOUTHERN AFRICAN COUNTRIES

Attachment 1a

Regional Cooperation / Integration Arrangements in Eastern and Southern Africa

Box A.1.1 The Southern African Customs Union (SACU)

The Southern African Customs Union (SACU) was created in 1910 between the newly established Union of South Africa and the separate protectorates of Botswana, Lesotho, and Swaziland. The agreement was renegotiated in 1969 and Namibia joined this regional group in 1990. SACU currently comprises 5 member States: SA and the so-called 'BLNS' countries, namely Botswana, Lesotho, Namibia, and Swaziland.

A. Main Objectives

The SACU had three main goals:

- Encourage economic development and diversification of member countries;
- Focus on the economic and social development of less-advanced member States;
- Ensure that the benefits arising from intra-regional and international trade are equally shared among the member countries.

B. Rules

The 1969 SACU agreement stated that member countries should apply the customs, excise, sales, antidumping and safeguard duties to goods imported from third countries non-SACU members. The treaty left some room of freedom: a SACU-member could join other trade agreements, provided the terms of such agreements did not conflict with the provisions of the SACU agreement (SACUA). Each SACU-member kept its own legislation on quantitative restrictions on goods imported from outside the group. Goods grown, produced or manufactured in the SACU area could be freed from any duty or quantitative restriction. Member countries could also not impose any duties on imports from any other member of goods which were imported from outside SACU. In order to protect infant industries of less-developed countries, SACU-members, other than SA were allowed to apply additional duties or increase duties. For a common regional development purpose, all customs, excise, sales, and additional duties collected by SACU members were pooled and distributed to members. The BLNS Countries benefited from the highest shares of collected revenues to compensate for losses they might have incurred resulting from their participation in SACU. A revenue distribution formula was designed to compensate the smaller economies for the drawbacks of being in a customs union with a much larger and more developed country whose own trade and industrial policy determines tariff levels. A formula was used to calculate revenue shares for the BLNS countries, with SA's share of the revenue being the residual after payments to the smaller member states had been determined. To compensate the BLNS countries for polarization, loss of fiscal and industrial policy sovereignty and trade diversion, the formula had an in-built multiplier that enhanced BLNS revenue receipts by a nominal 42%. However, it was soon found that what the BLNS countries received in this way tended to widely fluctuate from year to year. This problem was addressed by the introduction of a stabilized revenue rate, i.e. the rate of revenue earned on imports and excisable consumption. Since 1977 the revenue rate had been stabilized by means of an averaging formula that ensures that deviations around a target level of 20 percent are kept to a minimum and within the band of 17% as a minimum and 23% as the maximum.

C. Negotiation of a New Agreement

The operations of the 1969 SACUA have been criticized by all the SACU members, each from their own perspectives. In 1994 when the new South African Government came to power the re-negotiation of the SACUA were initiated. The terms of reference of the renegotiation included the following, which encapsulated the criticism of the respective members:

- The lack of consultation and the democratization of SACU's decision-making procedures;
- The establishment of a permanent SACU authority (a secretariat) to regulate and manage the affairs of the institution as well as the provision of dispute settlement and customs tariff consultation mechanisms;
- Specific complaints of the BLNS economies, notably the price-raising effect of the South African tariff, delays in the disbursement of revenue and the perceived influence of SACU provisions and practices on the industrial development of the BLNS;
- An appropriate industrial strategy and closer cooperation regarding industrial development policies, including infant industry protection and the development of industries that are of major importance to the members of the Customs Union;
- The development of agriculture and agro-industries and the marketing of agricultural products in the CCA; and
- The retention or exclusion of excise duties as part of the revenue pool.

The renegotiation of the SACU Agreement was largely concluded in 2001, except for some institutional arrangements, and now requires ratification by the countries' parliaments. The new agreement envisages two major changes:

Institutional: The SACU Council of Ministers will decide external tariff changes and recommendations on such tariff changes will be made by a new Tariff Board (composed of independent experts) or the SACU Commission (senior officials reporting to the Council). A new secretariat, responsible for SACU's administration, will be established either in Lesotho, Namibia or Swaziland. This decision is still outstanding.

Revenue Sharing: Unlike the existing formula, the new one would be bound to the actual amount of customs and excise revenue collected. The new agreement simplifies the formula, eliminates the revenue floor and shortens the time lag between actual trade and distribution of tax receipts: According to this new formula, the total revenue accruing to each member state will be calculated as follows:

- Customs revenue will be distributed in proportion to the value of imports from other SACU countries;
- Excise revenue – 85% will be distributed on the basis of relative GDP of the five countries, and the remaining 15% will be distributed on the basis of per capita income, in the form of development assistance.

Box A.1.2 Multilateral Monetary Agreement (MMA)

The Multilateral Monetary Agreement (MMA) creates a CMA (Common Monetary Area) with four countries as members, namely SA, Lesotho, Namibia and Swaziland.

A. Major features are the following[1]

- The South African Rand serves as a *de facto* common currency that is widely used and accepted in the participating countries. In terms of the MMA, member states are entitled to issue their own national currency and all three smaller countries have made use of this provision. These currencies are *de jure* legal tender only in the issuing country.
- The currencies of these countries have been pegged to the South African Rand at par since their introduction and their banknotes are freely convertible into Rand, but are not legal tender in SA. Swaziland cancelled the legal requirement of a 1:1 linkage between the Rand and the Lilangeni in 1986, but has maintained parity to date.
- Owing to the parity maintained against the South African Rand by currencies of the three other member states, all countries in the CMA have the same exchange rates against outside currencies. The smaller CMA members, with the exception of Swaziland, do not have the option of changing their exchange rates to attain or maintain external competitiveness.
- The countries share a common pool of foreign exchange reserves primarily managed by the South African Reserve Bank. The other members nevertheless also have the right to hold foreign assets managed by them, which are adequate for their own immediate needs. In this regard, central banks and authorized foreign exchange dealers in these countries have access to the foreign exchange market in SA for permissible transactions and the South African Reserve Bank will, on request, make the required foreign exchange available.
- The system of exchange control in force in SA, as amended from time to time, is in all material aspects substantially in agreement with rules applied by the other three member states relative to third countries. The contracting parties are obliged to enter into consultations on related matters, particularly where control provisions of another contracting party are evaded.
- In terms of the provisions of the MMA, the government of SA must make compensatory payments to the other contracting parties. These payments represent an imputed return on the Rand currency circulating as legal tender in their areas. As Swaziland suspended the use of Rand as legal tender in 1986, it has since that time not been entitled to any payment in terms of this arrangement.
- The contracting parties hold regular consultations to facilitate and ensure continued compliance with the MMA with the view of reconciling their different interests in the formulation and implementation of monetary and foreign exchange policies for the CMA. For this purpose and for any matter arising from the MMA, a Common Monetary Area Commission was established, consisting of a representative and some advisers from each member.
- The MMA has a built-in flexibility to accommodate the changing needs of participants. Various bilateral agreements were entered into in the past, mostly between SA and one of the member states, to provide for greater autonomy for the other countries within the framework of continued monetary co-operation in the region.
- There are no restrictions on the transfer of funds, whether for current or for capital transactions to or from the areas of any other contracting party. Some exceptions are allowed. A party may, for example, apply restrictions as part of the prudential investment or liquidity requirements prescribed for financial institutions, provided that such restrictions do not discriminate against any other contracting party and that proper notification is given. The free movement of capital within the CMA in terms of the MMA is a crucial aspect of this agreement and possibly one of the major benefits to the smaller member states. This implies that there is no restriction on cross border investments from SA to the other members, which, of course, contributes to economic integration.
- Institutions in the public and private sector in the LNS countries, subject to relevant financial laws and policies applicable to counterparts in SA, have a right of access to the South African capital and money markets.

B. Some Implications for its Member States

- A relatively high level of monetary integration has been attained between the four members of the CMA and the agreement has proved to be relatively successful in its aims.
- Although the required legal linkage between the currencies of SA and Swaziland was cancelled in 1986, Swaziland has not floated its currency against the rand,
- The free movement of capital within the CMA could benefit the LNS countries in various ways. Foreign investors could for example channel their capital outlays through the stronger economy of SA. The free movement of goods in terms of the Customs Union Agreement between the four CMA members and Botswana is also partly facilitated by unrestricted capital flows within CMA.
- The depreciating value of the rand over the long period has increased the cost of imports from the rest of the world for the LNS countries. Their exports to the rest of the world, however, could have benefited from the ongoing depreciation of their currencies.
- The strict anti-inflation policy of the South African Reserve Bank during the past years has made itself felt throughout the CMA. Regional capital mobility has mostly ensured that interest rates within the region are determined simultaneously in the unified market.

Source **Brummerhoff W. 1999.** *Financial Integration in Southern Africa - A Perspective from the SA Reserve Bank.* Unpublished paper delivered at a Seminar hosted jointly by WITS, RAU and London University, Johannesburg, SA

Box A.1.3 East African Community (EAC)

Dating back to the 20th century, with another failed attempt to integrate between 1996 and 1997, the EAC was established by Treaty on July 7, 2000 and comprises three countries: Kenya, Uganda and Tanzania.

A. Main Objectives

The EAC seeks three priority objectives:

- Equitable development among member States;
- Establish a single market and investment area in the region; and
- Promote sustainable utilization of the region's natural resources and effective protection of the environment.

B. Areas of Priority

The EAC's programs and actions are aimed at:

- Facilitating the free movement of people, goods, services and capital;
- Providing adequate basic infrastructure;
- Harmonizing standards, specifications, trade documentation and investment policies;
- Harmonizing macroeconomic and sectoral policies;
- Providing trade financing and other facilities to the growth of exports;
- Achieving convertibility of the three East African currencies.

C. Work Agenda

The EAC's work agenda focuses on selected activities to accelerate the process of regional integration including:

- Trade liberalization, with the establishment of a customs union by 2004,
- Private Sector Development,
- Regional Infrastructure Systems,
- Natural Resource Development,
- Strengthening the Organizational Structure of the Secretariat,
- Institution Building, and
- Human Resource Development.

D. Achievements

The EAC's main achievements, among others, are: (i) the realization of full convertibility of the three East African currencies as well as full liberalization of the external current account, and progress towards the opening of the capital account; (ii) the development of a macroeconomic framework for the region to guide countries towards economic convergence; (iii) the involvement of the private sector organizations to promote cross-border trade and investments through the formation of East African Business Council; and (iv) the implementation of tripartite agreements for the avoidance of double taxation, road transport, and inland waterways.

Box A.1.4 The Indian Ocean Commission (IOC)

The IOC was created in 1984 by the General Agreement of Co-operation in Victoria (Seychelles) and comprises five members: Madagascar, Mauritius, Seychelles, Comoros and Reunion Island.

A. Mission

To contribute, through regional co-operation, to the permanent development of the Member States of the IOC.

B. Ten-year Objectives

- Strengthening of Political and Strategic Dialogue
- Preparing the region and its economic actors to face the challenge of globalization.
- Affirming and enhancing the Indian Ocean Identity
- Representing the region's interests in regional and international fora
- Promoting and facilitating sectoral co-operation

C. Areas of Cooperation

Areas of cooperation include:

- Trade
- Investment
- Flexibility in the movement of people
- Agriculture
- Fishing and ecosystem conservation
- Cultural, scientific, technical and educational areas

The IOC has a strong focus on the development of trade as reflected in the implementation of an Integrated Regional Program for Development of Trade (PRIDE). PRIDE contains two components:

- a general framework of actions aimed at liberalizing trade in goods and services, investment, capital movements, and the free circulation of people; and
- a program aimed at facilitating business contact and partnerships through trade exhibitions and organizations of trade missions.

The IOC members, being members of COMESA as well, also participate in the trade integration strategy of COMESA.

Box A.1.5 Intergovernmental Authority on Development

A. Creation and History

The Intergovernmental Authority on Drought and Development (IGADD) was formed in 1986. Its mandate was confined to the issues of drought and desertification. In the 1990s, the founding member States decided to revitalize the organization. Its mandate was expanded to issues of politics, economics, development, trade and security. On March 21 1996, the Heads of State and Government, at the Second Extraordinary Summit in Nairobi, approved and adopted a new charter, structure and new name for the Authority, which then became the Intergovernmental Authority on Development (IGAD). The member States are: Eritrea, Ethiopia, Djibouti, Kenya, Uganda, Sudan, and Somalia.

B. Three Areas of Cooperation

Priority areas of co-operation include:

- Conflict Prevention, Management and Resolution and Humanitarian Affairs;
- Infrastructure Development (Transport and Communications);
- Food Security and Environmental Protection.

C. Activities

The main recent activity is the establishment of two Sub-committees by the IGAD Council of Ministers. Their mission has been to deal with the civil war in Sudan as well as the conflict in Somalia.

Box A.1.6 Regional Integration Facility Forum (RIFF)

The Regional Integration Facility Forum (RIFF) follows on the Cross-Border Initiative that was launched in the early nineties. The RIFF is a loose regional initiative aimed at helping faster reforming countries in Eastern and Southern Africa and the Indian Ocean to promote trade and investment. It currently comprises 14 countries: Burundi, Comoros, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe. The initiative is co-sponsored by the World Bank, the IMF, the EU and the African Development Bank.

A. Main Objectives

The object and purpose of the RIFF is to facilitate participating countries to manage and implement outward-oriented economic policy reforms. The initiative enables countries to fast track their reform process in order to increase cross-border trade and payments. The RIFF also promotes the interaction between private and public sector and their involvement in the design and implementation of economic policy measures.

B. Agenda

The RIFF focuses on four key areas:

1. Trade liberalization, including through: (i) reduction of tariffs and elimination of non-tariff barriers such as export and import licensing, and quotas; and (ii) simplifying customs documentation and procedures to facilitate trade. In the context of the Trade Road Map adopted in March 1995, the following objectives were added-up: (iii) reduction of the trade weighted average of external tariffs to no more than 15 percent; (iv) simplification of the tariff structure to one having no more than three (non zero) rates with a maximum rate of 20-25 percent covering all import-specific taxes and charges; (v) elimination of tariffs on intra-regional trade by 1998; and (vi) reduction in customs duty exemptions to a minimum consistent with international treaty obligations.

2. Payments and Exchange Systems, with the main goal being to open up the financial and liberalize the payment system. Measures include: (i) increasing competition in the financial sector and facilitating cross-border activities by commercial banks and other financial institutions; (ii) relaxing exchange controls and other restrictions on current account transactions; and (iii) relaxing controls on the capital account.

3. Investment, with the major objective being to improve the investment environment by: (i) simplifying investment codes and procedures, including a maximum period for approvals and a one-stop investment facilitation centre; (ii) investment guarantees; and (iii) elimination of double taxation.

4. Labor Markets, with the objective to ease the movement of persons by simplifying visa requirements and regulations for processing of residence and employment permits.

5. Institutional Development, aimed at the development of capacity building among the public and private sector in formulating and analyzing economic policies. The National Technical Working Groups established by the RIFF have the responsibility to advise respective governments on regional integration issues. Subsequently, Regional Technical Working Groups have been formed to address the latter issue.

C. Overall Effectiveness and Results Achieved

- The implementation of the RIFF agenda has been remarkable, though uneven. Uganda and Zambia have implemented many of the RIFF-supported reforms contained in the Concept Paper, while for some other countries such as Malawi and Zambia the RIFF has served as an incentive in favor of the implementation of the economic reforms. However, the agenda is far from accomplished.
- On the trade side, many countries have made progress in opening trade regimes. Five countries moved to open trade regimes compared to zero at the outset of the RIFF. As of January 2000, Kenya, Malawi, Rwanda, Tanzania, Uganda and Zambia have lowered their maximum tariffs to 25 percent or below while Madagascar has reduced its maximum rate to 30 percent. Five Countries (Comoros, Kenya, Rwanda, Uganda and Zambia) have met the RIFF target of no more than three non-zero rates. Seven countries (Kenya, Namibia, Rwanda, Swaziland, Tanzania, Uganda and Zambia) have reduced their trade weighted average tariff to 15 percent or less. However, progress towards the elimination of tariff exemptions remains modest. In most of the participating countries, government imports, parastatals and new investments still benefit from exemptions. The elimination of non-tariff barriers remains on the agenda. Many countries still apply import bans, quotas and import licensing. For instance, as of January 2000, bans and quotas were still required in Seychelles and import licensing in Namibia, Seychelles, Swaziland and Zimbabwe. Government owned monopolies exist in some countries: Comoros (petroleum), Mauritius (cement and petroleum), Namibia (food crops), Seychelles (a wide variety of goods), Swaziland (maize), Tanzania (petroleum) and Zambia (petroleum and maize).
- On financial issues, almost all countries have liberalized the current account and have moved to market determined exchange rates. Nearly all RIFF countries implemented Article VIII Sections of the IMF Articles of Agreement.
- In many countries the business environment has been substantially improved by the simplification of investment application and approval procedures.

D. Arguments in Favor of RIFF

Arguments for RIFF have included the following:

- As a 'virtual organization', it is a flexible regional structure that permits countries to join and or withdraw when they judge appropriate.
- It provides a regional framework for participating countries to determine the reform agenda and implement

economic reforms at their own speed.

- It facilitates collaboration between the co-operating partners and members to discuss trade and investment issues.
- It has addressed the missing 'regional dimension' within the Bank-Fund structural adjustment packages.

E. Arguments against RIFF

Arguments against RIFF have included the following:

- RIFF, a concerted liberalization effort for strengthening regional integration by a group of countries, does not embed national / unilateral action within a coherent regional framework which is enforceable (although RIFF's predominant regional framework is that of COMESA). Thus it could be seen as a forum for information exchange and as a peer-pressure mechanism rather than a 'useful' mechanism for regional integration.
- The initiative is only a mechanism to accelerate Bank-Fund supported structural reforms. It has had limited success in crowding in additional funds from donors.
- Swaziland and Namibia's ability to implement aspects of the RIFF agenda such as tariff reforms and relaxation of foreign exchange controls have been limited due to SA's non-participation in the initiative.

Box A.1.7 The Common Market for Eastern and Southern Africa (COMESA)

The Treaty establishing the PTA was signed in Lusaka in December 1981 and came into force on 30th September 1982, after being ratified by more than seven signatory States. COMESA was created in November 1993, by Treaty, superseding the Preferential Trading Agreement (PTA) for Eastern and Southern African States that existed since 1981. The Treaty was then ratified in December 1994. The inception of COMESA was to take advantage of a larger market size, to share the region's common heritage and destiny and to allow greater social and economic co-operation with the ultimate objective of creating an economic community. COMESA currently comprises 20 member states: Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

A. Main Objectives

The aims and objectives of COMESA, as defined in the Treaty and its Protocols, are to facilitate the removal of the structural and institutional weaknesses in member states, so that they are able to attain collective and sustained development. Specifically, the mandate of COMESA as envisaged in Article of 3 of the Treaty is:

- To attain sustainable growth and development of the member States;
- To promote joint development in all fields of economic activity and the joint adoption of macro-economic policies and programs;
- To co-operate in the creation of an enabling environment for foreign, cross border and domestic investment including the joint promoting of research and adaptation of science and technology for development;
- To co-operate in the promotion of peace security and stability among the Member States;
- To co-operate in strengthening the relations between the Common Market and the rest of the world, and the adoption of common positions in international fora; and
- To contribute towards the establishment progress and realization of the objectives of the Africa Economic Community.

B. Goals

The Treaty and Protocols establishing COMESA define the main objectives and can be summarized as follows:

- Setting-up of a **full free trade area** that ensures the free movement of goods and services produced within the COMESA region, and the removal of all non-tariff barriers;
- Establishment of a **customs union** with a single tariff rate that will be applied to goods and services imported from non-COMESA countries by 2004;
- The **free movement of capital and investment**. The adoption of common investment practices will facilitate capital and investment movement;
- The **free movement of persons** supported by the adoption of common visa arrangements;
- A progressive setting-up of a **payments union** based on the COMESA Clearing House; and
- Establishment of a **common monetary union by 2025**.

C. Areas of Priorities

The COMESA strategy has so far been to emphasize the removal of trade and investment barriers and with specific focus on trade liberalization and facilitation; payments systems; monetary cooperation; competition policy; aspects of the investment environment to promote private sector activity; immigration and free movement of persons. Although good progress has been made using this approach, the progress in this agenda remains incomplete. The agenda is expected to broaden during the next decade, by giving increased prominence to targeting the supply side of integration, by focusing on e.g. investment in the productive sectors and infrastructure, and promotion of financial markets. In implementing its vision and strategy, the following key targeted areas of development form the core of COMESA's integration agenda:

- Trade Development – moving towards a Customs Union and Monetary Union
- Investment Development - Industrial co-operation and development, including competition policy and public procurement system, capacity building, implementation of the COMESA agricultural strategy and private sector

support programs

- Infrastructure Development - transport infrastructure development, transport facilitation, liberalization of air transport services, harmonization and development of communication and information facilities, energy development, and environment conservation.
- Science and Technology Development – supportive policy environment, and adaptation and transfer of new and emerging technologies.

D. Recent Developments

The Free Trade Area: The COMESA Free Trade Area (FTA) has been effective since October 2000, when 9 countries became members of the FTA: Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe. At the time, the other Member Countries of COMESA did not join but were applying tariff reductions from 0% to 80%. A customs union with a common external tariff (of 0 percent, 5 percent, 15 percent, and 30 percent on capital goods, raw materials, intermediate goods and final goods respectively) is planned by the year 2004. The rules of origin indicate that to qualify as an 'originating good' (i) the c.i.f. value of imported materials contained in such good shall not exceed 60% of the total cost of the materials used in the production of such good, or (ii) the value added resulting from the process of production accounts for at least 35% of the ex-factory cost of the goods[1], or (iii) the goods are classified or become classifiable under a tariff heading other than the tariff heading under which they were imported.

In order to promote free trade, the COMESA Secretariat is currently implementing a program aimed at improving the transport and communications systems of the region, including through the adoption of Harmonized Road Transit Charges, a Yellow Card (vehicle insurance) Scheme, Customs Bond Guarantee Scheme, and an Advance Cargo Information System. Three specialized institutions, a Trade and Development Bank, Reinsurance company, and the COMESA Clearing House have been created to develop the financial infrastructure. In the area of institutional support, a Court of Justice has been established in June 1998 and provides COMESA with rules, which can be enforced through a court of law. The protocol on a free movement of persons is gradually implemented.

Other Activities, include:

- **Competitiveness and business environment:** COMESA has commenced a study on the impact of the CET on the competitiveness of the private sector.
- **Telecommunications:** the commissioning of a USAID-funded study on how to harmonize telecommunications policy and regulations; the COMTEL Project intended to create a regional terrestrial telecommunications interconnectivity; and the COMESA plans to foster E-Commerce in Southern Africa.
- **Transport:** the design of an infrastructural master plan for the COMESA region.
- **Financial Sector Cross-Border Payments and Settlements Systems:** the development of a cross-border or regional payment and settlement system (REPSS). Key issues that the region faces to establish a cross-border payment and settlement systems include: (i) the management and holding of regional currencies by central banks and the exposure risk; (ii) the issuance of letters of credit in local currencies; (iii) movement to market-determined exchange rates by all participants in the system.

Relationship with other RIAs: At the Sixth COMESA Summit held in Cairo, Egypt, 22-23 May, 2001, SADC and COMESA agreed to establish a joint COMESA / SADC Task Force at Secretariat level to coordinate the programs and activities of both institutions and to report on progress through their relevant policy organs. Collaboration is ongoing in a number of areas such as customs procedures, statistical trainings and a study on the impact of the various trade regimes on the private sector. Recently, the COMESA and EAC Secretariats have also entered into an agreement to exchange information and cooperate on programs.

[1] Only Egypt has maintained a 45% value added criteria.

Box A.1.8 The Southern African Development Community (SADC)

The Southern African Development Community was created in August 1992 to replace the former Southern African Development Coordination Conference (SADCC). SADC currently comprises 14 member states: Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, SA, Swaziland, Tanzania, Zambia, and Zimbabwe. The Treaty **principles** (Article 4) commit SADC and its Member States to:

- *'Sovereign equality of all member States;*
- *Human rights, democracy and the rule of law;*
- *Equity, balance and mutual benefit;*
- *Peaceful settlement of disputes.'*

A. Main Objectives

1. Economic

- eradication of poverty
- achieve development and economic growth, enhance the standard and quality of life of the peoples of Southern Africa and support the socially disadvantaged through regional integration
- promote self-sustaining development on the basis of collective self-reliance, and the interdependence of Member States
- promote and maximize productive employment and utilization of resources of the Region
- achieve sustainable utilization of natural resources and effective protection of the environment
- Combating and mitigating HIV/AIDS

2. Political and Security

- evolve common political values, systems and institutions
- promote and defend peace and security

3. Others

- achieve complementarities between national and regional strategies and programs
- strengthen and consolidate the long standing historical, social and cultural affinities and links among the peoples of the Region

B. Main Strategies

- Cooperation among member states in 20 sectors, including transport, health, tourism, mining, and water, through legally binding protocols.
- Establishment of a Free Trade Area within eight years after ratification as defined in the Protocol on Trade, signed in August 1996, and which commenced implementation on September 1, 2000. The agreement allows for tariff cuts on 12 000 defined product areas in the sub-region. By 2008, 85% of intra-SADC trade would be tariff free and from 2008 to 2012, sensitive products will be liberalized to create the FTA. Tariff and non-tariff barriers to trade will be phased out gradually and asymmetrically. The least developed countries in the group benefit from special treatment as embodied in the rules of origin and tariff reduction phasing. The so-called 'sensitive products' (in agriculture, agro-industry, and manufacturing, i.e. dairy products, wheat, sugar, cotton, fabrics, leather footwear, and vehicles) receive special treatment in trade liberalization among the members of the group.

C. New Structure, New Approach and New Priorities

Due to the misalignment between its institutions and strategy as well as the unfocused nature of its regional strategy, SADC has embarked on a major institutional restructuring and strategy refocusing initiative since early 2001. It is moving from an approach based on decentralized activities under the responsibilities of each member state to the creation of a centralized Secretariat that will conduct the regional economic integration agenda. At the Extra-Ordinary Summit of Heads of State and Government, held in Windhoek, Namibia, on 9 March 2001, SADC member states have agreed to establish an Organ for Politics, Defense and Security, SADC National Committees (in member states) as well as **four Directorates,** the latter within the SADC Secretariat and under which all the existing sectors will be clustered. These Directorates will be: **Trade, Industry, Finance and Investment**; **Infrastructure and Services**; **Food, Agriculture and Natural Resources** (FANR); and **Social and Human Development and Special Programs**. The centralization of existing sectors and their institutions would be undertaken within two years and directorates would be established in accordance with the following time frame:

- March –August 2001: establishment of the Directorate on Trade, Industry, Finance and Investment;
- August – December 2001: establishment of the Directorate on Food, Agriculture, and Natural Resources;
- The remaining Directorates would be established in 2002 and 2003.

Furthermore, SADC has introduced a new formula for membership contributions and has institutionalized a Troika management system for its major policy organs.

A **10-year Regional Indicative Development Plan**, with a rolling budget, will be developed to provide strategic direction to all components of its socio-economic integration agenda.

Attachment 1b

SADC Bilateral Trade Agreements

SADC BILATERAL TRADE AGREEMENTS, WTO REGIME AND SADC TREATY: CONFLICT OR COMPATIBILITY?

Bilateral trade agreements are being phased out under the new WTO regime since they may be contradictory to the concept of 'Most-favored nation (MFN)' treatment. Following the 'MFN' principle, a country which grants 'MFN' treatment to one WTO member is obliged to extend the same treatment to other WTO members. Bilateral trade agreements signed between SADC countries may therefore be incompatible with the 'MFN' principle, corner stone of the GATT process under WTO. In addition, the WTO has not been notified of these agreements. However, within the context of article XXIV that allows regional arrangement, these bilateral agreements may become compatible with WTO agreements. The SADC Treaty does not prohibit Member States from concluding bilateral trade agreements with each other or with third countries. Article 8 of the Treaty permits Member States to enter into agreements with other States, regional and international organizations provided that their objectives do not conflict with the objectives of SADC and the provisions of the Treaty. Moreover, the *enabling clause* provided by GATT Agreement recognizes the granting of special and differential treatment in favor of developing countries by developed countries as a permanent feature of the world trading system. The following describes such possibility:

> *Notwithstanding the provisions of article 1 of the general agreements, contracting parties may accord differential and more favorable treatment to developing countries, without according such treatment to other contracting parties.*

The provisions of paragraph 1 apply to the following:

- Preferential treatment accorded to products originating in developing countries in accordance with the General System of Preferences (GSP);
- Regional or global arrangements entered into amongst less developed contracting parties for the mutual reduction or elimination of tariffs and, in accordance with the criteria or conditions where contracting parties, for the mutual reduction or elimination of non-tariff measures, on products imported from one another.

Since SA is considered as a developed country, paragraph 1 of the enabling clause allows its bilateral trade agreements with other SADC countries to be compatible with WTO principles. However, in terns of paragraph 2(2), SA is not allowed to grant special tariff preferences to developing countries such as Zimbabwe, Malawi and Mozambique, on selective (therefore discriminatory) basis to the exclusion of other developing countries that meet the same conditions. SA may therefore be obliged to grant similar preferential treatment to other developing countries.

EXISTING BILATERAL TRADE AGREEMENTS BETWEEN SADC COUNTRIES

A number of bilateral agreements have been signed between SADC countries, which are summarized in Table A.1.1. However, a description of these is limited to a few due to a lack of information.

Table A.1.1 Existing Bilateral Trade Agreements- SADC Member States

	Ang	Bot	DRC	Les	Mal	Mau	Moz	Nam	SA	Swa	Tan	Zam	Zim
Ang		T					T	T			T	T	T
Bot	T				T			S	S	S		T	T
DRC													
Les		S					T	S	S	S			
Mal		T					T		T	T	T	T	T
Mau									T				
Moz	T			T	T				T	T	T	T	T
Nam	T	S		S					S				T
SA		S		S	T	T	T	S		S			T
Swa		S		S	T		T	S	S		T	T	T
Tan	T				T		T			T		T	T
Zam	T	T		T	T		T			T	T		T
Zim	T	T		T	T	T	T		T	T	T	T	

Source: Adapted by authors based on **DBSA, 1996.** *Bilateral Agreements on Trade Concluded by SADC Member States*. Development Paper No. 111, January 1996. Midrand, DBSA.
T= Trade agreement
S= SACU members

1 Angola

Angola has signed six bilateral agreements with other SADC countries, including Botswana, Mozambique, Namibia, Tanzania, Zambia and Zimbabwe. The Angola / Mozambique trade agreement is described below.

1.1 Angola/Mozambique

a) Objective and trade facilities

This trade agreement was signed in Luanda on September 5, 1978 and aims at strengthening the already existing trade and military relations between the two countries.

b) Most-favored nation treatment and other trade facilities

The MFN treatment is to apply to all aspects of trade between the two countries. However this treatment is not to apply to: (i) advantages that either country has or shall grant to neighboring countries to enhance cross-border trade and (ii) privileges and advantages that stem from the membership of either country to a regional organization, free-trade area of common market.

Freedom of movement of goods from a third country destined to one of the contracting parties or from either contracting party destined to a third country shall be guaranteed. Re-exportation of imported goods from the other party destined to third countries shall be submitted to the prior written authorization of the responsible persons of the importing country. Article 8 provides categories of products that shall enjoy free customs duties, rates and other related fees. These include the following: (i) sample and advertising material, without any commercial value, imported into the territories of either party from the other party; and (ii) products and equipment imported or introduced into the territory of one party by the other party intended for trade fairs or exhibitions, subject to the condition that these shall not be sold without prior written authorization of the importing party.

Table A.1.2. Traded Goods between Angola and Mozambique

Exports from Mozambique to Angola		Exports from Angola to Mozambique
All types of men's ladies' and spacers for railway sleepers	Zinc sheets	Dried fish
Welding electrodes	Beans	Fish metal
Coal flat -irons	Sugar	Fish oil
Irrigation pipes	Tea	Coffee
Hoses	Lemons	Wheat bran
Jute and raffia bags	Desiccated coconut	Leather and fur
Wooden furniture	Fruit juice and jam	Peanut and coconut husk
Concrete lighting poles	Children's clothing	Electric wires and cables -plaster
Railway sleepers in wood or concrete	All styles of men's, ladies and children's footwear;	Paper pulp
Tiles	Vehicle batteries	Cardboard and paper
Matches	Alarm clocks	Petrol and derivatives
Ball-point pens	Transformers for mercury vapor lamps	
Various types of ploughs	Ballasts for fluorescent lamps	

Welders Hand rakes Levelers Cooking oil Condensed milk Preserved and tomato paste Pasta Margarine Cashew nuts Cassava and cassava flour Trailers under 40 tons Trailers-tanks One, two or three-axle trailers Railway coaches Cranes Locks Sheets and pipes in asbestos cement	Bicycles for men Bicycles for children Tricycles for children Refrigerators Bottles for beer and soft drink Household products in aluminum Items in hardened glass Textile All types of ploughs Disk harrows Manual mills for cereals Hammer mills Square and pointed shovels Nails, metal fences, bolts and barbed wire Taps and valves Metallic and hospital furniture	

Source: Adapted by Authors based on **DBSA 1996**, *Bilateral agreements on trade concluded by SADC member States. Development Paper No. 111, January 1996.* Midrand: DBSA.

2 Botswana

In addition to its membership of SACU, Botswana has trade agreements with Angola, Malawi, Zambia and Zimbabwe. The agreements with the last two mentioned countries are described below.

2.1 Botswana/Zambia

a) Objective

The main objective of this agreement, as emphasized in Article 1, is to promote the mutual import and export of products, goods and services between the two countries.

b) Most-favored nation treatment and other trade facilities

The MFN treatment is to apply in all matters related to trade. However, the two parties shall ensure that this provision is consistent with any customs union, free trade area, or other international trade agreement to which either party is or may become a member. Article 7 of the agreement indicates the categories of goods that shall be exempted from duties and charges. These include: (i) articles sent as samples; (ii) articles sent for exhibition, competition and fairs; (iii) tools and machines used in connection with the assembly and installation of equipment; and (iv) articles to be transformed or repaired or materials necessary for such equipment, provided that these articles or materials are not sold, leased or lent, and are re-exported on or before the date to be agreed upon with the importing country in each case.

c) Rules of origin: Potential conflict with COMESA's rules? The agreement indicates that goods or products shall be accepted as originating in the country of a contracting party if:

- they have been wholly produced in the country of the contracting party; or
- they have been produced in the country of the contracting party and the value of the materials imported from a foreign country which have been used at any stage of the production of the goods does not exceed 70% of the ex-factory value of the goods, provided that the last process in the production or manufacture of those goods has taken place in the country of the contracting party.

The import content rule may be contradictory to that of COMESA and hamper trade between these two countries. For instance, if Zambia (member of COMESA) produces a good with imported materials from a partner of COMESA (say Zimbabwe), it may be difficult to determine which rule should be applied for such a good to be qualified as originating in the country. Within the context of the above agreement, the value of the imported materials shall not exceed 70%; while the corresponding rule for COMESA is that the c.i.f. value of such materials may not exceed 60%.

2.2 Botswana/Zimbabwe

a) Objective and preferential tariffs

This trade agreement seeks to expand trade between the two countries and serves as a means for employment creation. Article 5 of this agreement indicates that goods originating from either contracting party shall be free of customs duty when entering the territory of the other party. However, a contracting party may apply an equivalent duty or tax where this is a countervailing duty or tax to: (i) sales or similar taxes levied and paid in the importing country; (ii) excise duties or other taxes levied and paid on goods produced in the importing country.

b) Rules of origin

The provisions of this agreement apply to goods grown, produced or manufactured in the territory of either contracting party. In addition goods must be exported directly to the territory of the other party. To qualify as originating from either contracting party, goods grown or wholly produced in the territory of either contracting party shall be:

- mineral products extracted from its soil
- vegetable products harvested or gathered therein
- live animals born and raised therein
- products obtained therein from live animals
- products obtained therein by hunting or fishing
- forest products harvested herein, and
- goods obtained therein exclusively from products specified in the list above, inclusive of this paragraph

  goods manufactured wholly or partly from imported materials, parts or components in the territory of either contracting party shall be deemed to originate in the territory of either contracting party and shall be determined in accordance with the rules of origin contained in the Attachment.

In terms of Article 6, the agreement leaves some room for the imposition of restrictions. After consultation with each other, either party may impose: (i) export restrictions temporarily applied to prevent critical shortages of foodstuffs; (ii) import and export restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities; (iii) import restrictions that do not discriminate among exporting countries on agriculture and fisheries products necessary to the enforcement of government measures; (iv) import and export restrictions on wild animals; (v) import and export restrictions on arms, ammunition and implements of war; and (vi) import and export restrictions on gold and other precious metals in any form, currency, and rough uncut precious stones. The agreement prohibits dumping practices. Article 12 stipulates that goods exported to the territory of the other contracting party that are priced below the fair market value of such goods in the exporting territory of the other contracting party, as determined in accordance with GATT rules, and inflict material damage on the economy of that contracting party, will be subject to countervailing or antidumping duties.

3 Malawi

Malawi has signed seven bilateral trade agreements with other SADC countries, including with Mozambique, SA, Zambia, Zimbabwe, Botswana, Swaziland and Tanzania. The first four agreements are described below.

3.1 Malawi/Mozambique.

a) Objective

This agreement signed in Blantyre on October 23, 1984, aims at expanding trade between the two countries with the ultimate goal of accelerating their economic development and diversifying their economies.

b) Most-favored nation treatment

The 'MFN' treatment shall be applied to imports and exports between the two countries. However, the agreement forbids the implementation of such provision to: (i) goods imported from the country of either contracting party which are wholly produced in the country of a third party, without prior written consent of the contracting party; and (ii) advantages, concessions and exemptions which either contracting party has or grant to adjacent countries to facilitate frontier traffic or to partners countries of a customs union or a free trade area or monetary zone already established; or to other countries with which it has entered into a specific trade agreement.

Table A.1.3 Traded Goods between Malawi and Mozambique

Goods to be exported by Malawi to Mozambique		Goods to be exported by Mozambique to Malawi
Fish-fresh, smoked or dried	Staples, studs, spikes, etc. of iron or steel	Salt
Cassava, dried	Water pumps	Prawns
Tea, packed	Articles for sport	Rasped coconut
Rice, bulk and packed	Fishing nets, twine	Cooking coal
Flour of cereals	Polypropylene bags	Steam coal
Sunflower seeds	Biscuits	Cement
Molasses	Hoes	Ropes and sisal thread
Beer	Animal-drawn agricultural implements	Glassware
Beverages	Canned vegetables, fruits, juices and jams	Radio
Animal feeds	Processed nuts	Mosquito gauze
Tobacco (processed and unprocessed)	Nut butter	Dry cells
Electric current	Carpets and rugs	Fruits (fresh)
Pharmaceuticals	Blankets	Harwood timber
Paints and enamels	Enamel hollowware	Beans
Cosmetic and toilet preparations	Metal beds, furniture, doors and windows (or steel)	
Polishes and waxes (including candles)	Spices	
Sheets, strips, plastic	Plastic ware	
Piping and tubing (PVC)	Liquors and spirits	
Articles of leather	Zips	
Veneers and sheets for plywood	Bath towels and napkins	
Swan wood	Matches (panga) and grass-cutters	
Industrial plywood and backboard	Toothpaste	
Boxes, cases, crates and any other wood-based products	Spare parts	
Plastic crates	Agricultural products (e.g. beans, peas, maize, etc.)	
Ready-made garments (cotton, cotton polyester)	Seeds for planting	
Textile (cotton, cotton polyester)	Electricity transmission poles	
Footwear	Meat and meat products	
Sheets and plates, tinned, unworked, of iron or steel	Poultry and poultry products	
Wire nails of iron or steel		

Source: Adapted by Authors based on **DBSA, 1996**, *Bilateral Agreements on Trade Concluded by SADC Member States. Development Paper No. 111, January 1996.* Midrand: DBSA.

3.2 Malawi/SA

This trade agreement has been considered as the most successful. It has helped Malawi increase its exports so that 25 percent value-added Malawian products have had duty-free access to the South African market.

a) Objective

The trade agreement was concluded on June 19, 1990; is **non-reciprocal** and aims to decrease the huge trade imbalance between Malawi and South Africa; and provides for duty-free access into SA for Malawian goods except for those agricultural products that require a permit.

b) Trade facilities

The agreement authorizes all goods grown, produced or manufactured in Malawi to access SA's market free of customs duty. However, imports of coffee, tea and sugar are subject to control when entering SA. Goods grown, produced or manufactured in SA are to be imported into Malawi under a certain rate of duty, but exports of rough and uncut diamonds produced in SA shall be free of export duty for industrial use in Malawi. In addition, to facilitate exports to SA, the agreement stipulates that under normal trade and market conditions in any calendar year import permits shall be issued for

quantities not less than 300 000 kilograms of un-manufactured tobacco; 750 metric tons of groundnuts, shelled or with the shell; and 100 metric tons of processed groundnuts. Malawi also exports other agricultural products to SA, including coffee, tea, and sugar.

c) Rules of origin

Goods are qualified as being:

- originating from SA if the last process of manufacture has been performed in SA, and such goods contain not less than the 'specified country content'; or have been subjected in SA to a specified process of manufacture;
- originating from Malawi if at least 25% of the production cost of those goods shall be represented by materials produced and labor performed in Malawi, and the last process in the production or manufacture of such goods shall have taken place in Malawi.

3.3 Malawi/Zambia

a) Objective

This trade agreement came into force on October 10, 1978 and simply aims at expanding trade between the two countries.

b) The most favored nation treatment and trade facilities

The MFN treatment shall apply to all imports and exports between the two countries, except to: (i) goods imported from the country of either contracting party which are wholly produced in the country of a third party, without prior written consent of the other contracting party; (ii) advantages, concessions and exemptions which either contracting party has granted or may grant to adjacent countries or to fellow member countries of a pre-existing CU or a FTA or a monetary zone and other countries with which it has entered into specific or technical cooperation. In addition, the agreement permits the two parties to grant each other licenses for the importation and exportation of goods specified in table 4 below.

c) Rules of origin.

Goods are considered as having been grown, produced or manufactured in the country of the contracting party that supply them if at least 25% of the production of such goods is represented by materials wholly produced in such country and the last process in the production or manufactured of such goods has been taken place in such country.

Table A.1.4 Traded Goods between Malawi and Zambia

Exports from Zambia		Exports from Malawi
Blankets	Fishing nets	Timber
Radios and radiograms	Explosives	Fish-fresh, smoked or dried
Rock drilling bits and other mining input	Fertilizers	Bone meal and fish meal
Machine sewers and rivets	Footwear	Cane sugar, raw or refined
Parquet-flooring fingers or assembled panels	Cooper and cooper products	Cottonseed cake and groundnut cake
Furniture-steel or otherwise	Lead	Pipe tobacco
Cement	Zinc	Footwear
Lime	Bottled beer	Tarpaulin PVC
Talc	Pharmaceutical products	Hessian
Asbestos cement products	Kapiri glass bottles	Ploughs and cultivators
Cups, saucers and other household crockery	Day-old chicks	Metals beds, furniture, doors and windows
Lead acid batteries and dry cells	Tobacco	Clothing other than clothing made wholly from cotton
Doors, window frames and metal beds	Groundnuts	Radios and radiograms
Metal cabinets	Chrome ore	Blankets
Clothing	Tin concentrates Bedspreads	Fishing-flies
		Rice
		Dry cell batteries
		Putty
		Toilet paper reels
		Handbags and suitcases
		Safety matches

Source: Adapted by Authors based on **DBSA, 1996**, *Bilateral Agreements on Trade Concluded by SADC Member States. Development Paper No. 111, January 1996.* Midrand: DBSA.

3.4 Malawi/Zimbabwe

a) Objective

This bilateral trade agreement came into force on October 1st 1986 and aims at promoting, developing and facilitating trade and economic relations between the two countries.

b) The most favored nation treatment and trade facilities

The agreement allows each contracting party to grant to the other MFN treatment to goods originating from each country. However, this provision is not to be applied to advantages, concessions and exemptions either contracting party has granted or may grant to neighboring countries or under a FTA, a CU, a monetary zone or an economic community to which it participates.

The following goods could be imported/exported free of customs duties, taxes and other similar levies or charges not related to the payment for the services: (i) samples of goods or commodities and publicity materials required for obtaining orders and for advertising; (ii) goods imported temporarily for trade fairs and exhibitions; (iii) goods or commodities imported temporarily for repair and re-exportation; (iv) goods from a third country and transported through the country of one of the contracting parties destined for the country of the other contracting party.

Table A.1.5 Traded Goods between Malawi and Zimbabwe

Exports from Malawi	Exports from Zimbabwe
Accounting machines, calculating machines and similar machines incorporating a calculating device, statistical and data-processing machines	Compound lard
Hardboard	Vermouth
Handicrafts	Parquet blocks
Fishing - flies	Veneer sheets
Fishing -nets and sports nets	Plywood and blackboard
Candles	Gramophone records
Brushwork	Brushwork

Source: Adapted by Authors based on **DBSA, 1996**, *Bilateral Agreements on Trade Concluded by SADC Member States. Development Paper No. 111, January 1996.* Midrand: DBSA.

3.5 Malawi/Botswana

These two countries have shared a customs union agreement since 1965. However, most companies do not know about its existence. The agreement allows all goods grown or produced in Botswana to be exempted from import duty.

4 Mozambique

Mozambique has signed eight bilateral trade agreements with other SADC countries, including SA, Tanzania, Zimbabwe, Swaziland, Angola, Lesotho, Malawi, and Zambia. The first four agreements are described below.

4.1 Mozambique/SA

a) A non-reciprocal trade agreement

This agreement signed in 1989 is a **non-reciprocal tariff concession** granted to a short list of specified goods of Mozambican origin by the SA to enter the country in the form of full rebate of the import surcharge or customs duty. The list of products is open-ended.

b) Most-favored nation treatment

MFN duties are charged on Mozambican goods coming into SA. If the duty is less than 3% it is lifted, but subject to quotas. Goods not included in the Attachment or imports in excess of the quotas do not qualify for the rebate of import surcharge or customs duty. SA grants tariff rebate to specified goods of Mozambican origin. This tariff concession takes the form of a full rebate of the import surcharge on customs duty.

c) Rules of Origin

Goods are considered to originate from Mozambique if at least 35% of the production cost of such goods is represented by materials produced and labor performed in Mozambique.

d) Re-export

Goods imported from Mozambique under this preferential tariff arrangement are only for consumption in SA. For any export of goods of Mozambican origin from SA to the other SACU countries (Lesotho, Swaziland, and Namibia), the import surcharge and the difference in duty must be paid to the South African customs authorities before re-exporting again.

Table A.1.6 List of Mozambique Quotas

Description of products	Quotas in tons or USA $
Fish, fresh or chilled,	}
Fish, frozen	} 2000 tons
Fish, dried	}
Crayfish	200 tons
Shrimps and prawns	2500 tons
Crabs, frozen	500 tons
Langoustines	1000 tons
Squid	100 tons
Octopus	100 tons
Clams, live, fresh, chilled	50 tons
Clams, frozen, dried, salted	50 tons
Cashew nuts	1000 tons
Citrus fruit	5000 tons
Coconut oil	5000 tons
Cashew nuts, shell, liquid	500 tons
Cottonseed oil cake	6000 tons
Cigarettes	USA $600 000
Cotton fabrics	USA $500 000
Texlene/Trevira woven fabrics (70% polyester, 30% viscose)	USA $835 000
Clothing	USA $790 000
Blankets	USA $250 000
Asbestos-cement roofing tiles	USA $300 000
Wooden furniture	USA $500 000
Handicrafts	USA $300 000

Source: Adapted by Authors based on **DBSA, 1996**, *Bilateral Agreements on Trade Concluded by SADC Member States. Development Paper No 111, January 1996.* Midrand: DBSA.

4.2 Mozambique/Tanzania

a) Objective

This trade agreement aims at facilitating the increase of the volume of trade between the two countries.

b) Most-favored nation treatment

The MFN treatment applies to import, storage, transit of goods and their transportation and clearing from bond. It also applies to sample and advertising materials as well as materials forwarded for testing or experimental purposes or for display in fairs and exhibitions, including equipment materials and containers necessary for this purpose. The MFN does not apply to the following: (i) privileges and advantages granted by any of the two parties to neighboring states to facilitate cross-border trade; and (ii) privileges and advantages arising out of joining a regional organization, common market agreement, customs union or a free trade zone by the two contracting parties.

c) Rules of Origin

The country of origin is the country in which the products have been produced and manufactured or in which the final stages of the main processing have been carried out. In the case of unprocessed agricultural products it will be the country in which the production of such products is actually carried out.

4.3 Mozambique/Zimbabwe

a) Objective

The objective of this trade agreement is to increase the volume of trade between the two countries and contribute to their development.

b) Preferential tariffs

Article 1 of the agreement indicates that goods grown, produced or manufactured in the territory of either party may be imported into the territory of the other free of customs duty. Article 3 states that such goods shall also be exempt from the imposition of any quantitative import or export restrictions. However, a contracting party may impose an equivalent duty or tax where this is a countervailing duty or tax to: (i) sales or similar taxes levied and paid in the importing country; and (ii) excise duties or other taxes levied and paid on goods produced in the importing country. In addition, after consultation, either party may impose: (i) export restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party; (ii) import and export restrictions necessary to the application of standards or regulations for the classification, granting or marketing of commodities; and (iii) import restrictions that do not discriminate among exporting countries, on agricultural and fisheries products necessary for the enforcement measures.

c) Rules of Origin (Article 2)

The following categories of goods are considered as grown or produced in the territory of a contracting party:

- Mineral products extracted from its soil;
- Vegetable products harvested or gathered therein;
- Live animals born and raised therein;
- Products obtain therein from live animals;
- Forest products harvested therein;
- Fish and other fish products gathered therein or from its marine economic zone; and
- Manufactured goods if they qualify under the rules of origin contained in the Attachment.

d) Complementary agreement of execution

Article 5 indicates that the two countries agree to the importation and exportation, free of customs duties and other similar levies or charges, not related to the payment for services, of the following:

- Samples of goods and publicity materials required only for obtaining orders and for advertising purposes, which are not for sale and are of no commercial value;
- Goods imported temporarily for experiments and research activities;
- Goods imported temporarily for the purpose of trade fairs and exhibitions;
- Goods imported temporarily for effecting repairs and which are re-exported;
- Goods originating in or from a third country and are transported through the country of one contracting party destined for the country of the other contracting party.

Table A.1.7 Traded Goods between Mozambique and Zimbabwe

Exports from Zimbabwe to Mozambique	Exports from Mozambique to Zimbabwe
Cattle (bovine)	Fish, fresh or frozen
Beef and veal-fresh and frozen	Prawns, frozen
Canned meat	Pineapples
Dairy products	Desiccated coconut
Maize	Salt (coarse)
Wheat and bran	Fuel
Untreated tobacco	Diesel
Seeds	Cut wood (non-coniferous)
Medical and pharmaceutical products	Railway sleepers
Insecticides and disinfectants	Ammonium sulfate
Tires and rubber inner tubes (sizes that are not manufactured in Mozambique)	Copra and copra oil
Paper and printing cardboard as well as paper or cardboard including the containers	Tires and inner tubes in rubber (sizes not manufactured in Zimbabwe)
Agricultural machinery	Marble
Textile	
Clothing	

Source: Adapted by Authors based on **DBSA, 1996**, *Bilateral Agreements on Trade Concluded by SADC Member States. Development Paper No. 111, January 1996.* Midrand: DBSA.

4.4 Mozambique/Swaziland

a) Status and Objectives

This trade agreement was signed in Maputo on October 22, 1977 and aims at promoting and developing economic, industrial and technical cooperation between both countries.

b) Most-favored nation treatment

The 'MFN' treatment applies to all aspects of trade merchandise and products from both countries, and import and export licenses. However this provision does not apply to:

- Benefits granted by a party to its neighboring countries to improve the border trade;
- Advantages resulting from the membership of a customs union or from a free or preferential trade arrangement.
- Goods originating from either party and imported by the other party will not be re-exported unless authorized by the exporting party.

5 Namibia

Apart from its trade links with SACU countries, Namibia has signed only one bilateral agreement with one country in southern Africa, namely Zimbabwe.

a) Status and Objectives

This trade agreement was signed on August 17, 1992 and aims at improving the existing trade relationship between the two countries.

b) Preferential tariffs

As mentioned in article 1, goods of origin may be imported into the territories of the other party free of customs duty. The parties also agreed to the importation and exportation, free of customs duties, taxes and other similar levies or charges, not related to the payment for services, of the following products (Article 6):

- Samples of goods and publicity materials required only for obtaining orders and for advertising purposes, which are not for sale and are of no commercial value;
- Goods imported temporarily for the purpose of trade fairs and exhibitions;
- Goods imported temporarily for experiments and research activities;
- Goods imported temporarily for effecting repairs and which are re-exported;
- Goods originating in or from a third country and are transported through the country of one of the contracting parties destined for the country of the other contracting party.

c) Rules of origin

Article 2 provides categories of goods to be considered as grown or produced in the territory of a contracting party:

- Mineral products extracted from its soil;
- Vegetable products harvested or gathered therein;
- Live animals born and raised therein;
- Products obtained therein from live animals;
- Forest products harvested therein;
- Fish and other marine products gathered therein or from its marine economic zone;
- Products obtained therein exclusively from products specified in the list above.

The two countries also agreed to facilitate freedom of transit through their respective territories of goods originating from the countries of either of them and destined for a third country, or from the country of a third party and destined for the country of either of them.

6 Tanzania

Tanzania has signed six bilateral agreements with other SADC countries, including Angola, Malawi, Mozambique, Swaziland, Zambia, and Zimbabwe. The agreement with Zambia is described below.

6.1 Tanzania/Zambia

a) Objective

The objective of this trade agreement is to encourage, expand and develop economic cooperation between both countries.

b) Most-favored nation treatment

The 'MFN' treatment applies to goods and commodities of both countries in all questions regarding customs duties, fees and charges, the regulations and formalities relating to customs procedures on transit and the warehousing of goods (Article 3). The importation and exportation of the following will be free of customs duties, taxes and other similar duties not related to the payment for services:

- Samples of goods and publicity material of no commercial value;
- Objects and goods imported for the purpose of fairs and exhibitions on condition that they may not be sold;
- Goods originating in or from a third country and transported through the country of one of the contracting parties and destined for the country of the other contracting party.

In addition, re-exportation of goods exchanged between both countries is subject to the prior written consent of the country of origin of such goods.

c) Rules of Origin

Article 4 (ii) stipulates that goods will be considered to have originated from the country of either of the contracting parties if the finished goods were produced or manufactured in that country, or in the case of partly manufactured goods if the final operations took place in that country and have altered to an appreciable extent the character, composition and value of such goods imported into that country.

7 South Africa

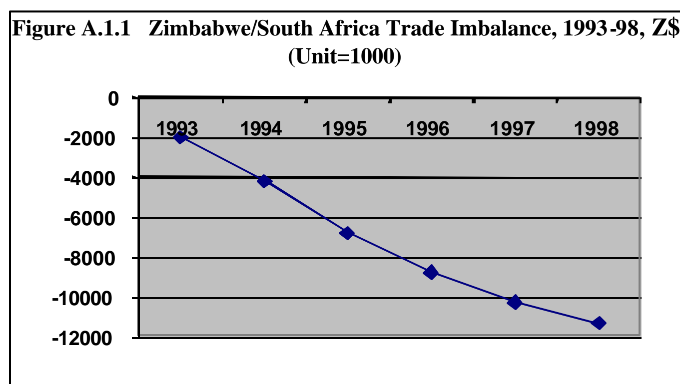
SA has signed bilateral trade agreements with three countries in Southern Africa: Zimbabwe, Mozambique and Malawi.

7.1 SA/Zimbabwe.

This agreement has a long history and is dated prior to the foundation of GATT. It turned into a bone of contention between the two countries. While the 1964 agreement allowed Zimbabwean clothing and textiles to enter the South African market at a customs rate of 20%, in 1992 SA raised the tariffs on many Zimbabwean goods. This had huge ramifications for the Zimbabwean economy in terms of

industry closures and job losses. A new agreement on textiles and clothing was reached in August 1996. However, the growing negative trade balance between the two countries led SA to increase the quotas allocated to Zimbabwe producers in the clothing and textiles sector.

Figure A.1.1 Zimbabwe/South Africa Trade Imbalance, 1993-98, Z$ (Unit=1000)



Source: By Authors, data from **IMF, 2000.** ***Direction of Trade Statistics.***

a) Preferential tariffs

Article 5 of the agreement stipulates that goods produced in Zimbabwe will enter SA at the rate of duty specified for such goods in Attachment B of the Agreement. Goods produced in SA shall be admitted into Zimbabwe at a specified rate of duty. Rough and uncut diamonds produced in SA and exported to Zimbabwe must be free of export duty if certified as being for industrial use in Zimbabwe.

b) Other facilities

Quantitative import and export restrictions other than those in force in the agreement must not be imposed upon the movement between the countries or the parties of goods produced in those countries.

c) Rules of Origin

The provision of this agreement applies to goods produced in the country of either party and entered for consumption in the country of the other party. However, manufactured goods must not benefit from the terms of this agreement in the case of: (i) clothing manufactured in Zimbabwe and specified in Parts III and IV of Attachment B of the Agreement, unless the Zimbabwean content of such clothing is not less than 20%, and all the operations, such as cutting and sewing required to manufacture such clothing from piece goods, have been performed in Zimbabwe; (ii) other goods manufactured in Zimbabwe unless the last process in the manufacture of such goods has taken place in Zimbabwe and the Zimbabwean content of such goods is not less than 25%; (iii) in the case of goods manufactured in SA, unless the last process of manufacture has been performed in SA, and they must contain no less than such proportion of the material and labor of SA and they must have been subjected to such process of manufacture in SA.

Attachment 1c

Eastern and Southern Africa's International trade and / development relations

The African Growth and Opportunity Act

1 Objectives

On May 18, 2000, the 'Trade and Development Act of 2000' which included the Africa Growth and Opportunity Act (AGOA) was signed. It has the following five objectives:

- Expand Africa's access to the USA markets and improve the ability of African nations to increase growth and ease poverty;
- Increase trade between the US and SSA;
- Expand the US assistance to regional integration efforts in SSA;
- Reduce tariff barriers and non-tariff barriers to trade;
- Negotiate trade agreements.

2 Eligibility Criteria [1]

Countries are eligible for AGOA benefits if they are determined to have established or are making continual progress toward establishing the following:

- A **market-based economy** (that protects private property rights, incorporates an open-rules-based trading system, and minimize government interference in the economy);
- The rule of law and political pluralism (political pluralism and equal protection under the law);
- The **elimination of barriers to US trade and investment** (provision of national treatment and measures to create an environment conducive to domestic and foreign investment, protection of intellectual property, resolution of bilateral trade and investment);
- A **system to combat corruption** (such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions);
- **Economic policies to reduce poverty** (increase the availability of health care and educational opportunities, expand physical infrastructure, etc.);
- **Protection of human rights and worker rights** (the right of association, the right to organize and bargain collectively, etc.);
- **Elimination of certain child labor practices**;
- Countries must be GSP eligible in order to receive AGOA's trade benefits, but the reverse does not hold, i.e. GSP eligibility does not automatically translate into AGOA eligibility.
- The country does not engage in activities that undermine US national security or foreign policy interests and does not engage in gross violation of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

Table A.1.8 AGOA Eligible Countries

Countries and Membership	Date Declared AGOA Eligible	Date Declared Eligible for APPAREL PROVISION	Date Declared Eligible for SPECIAL RULE for APPAREL
SADC and COMESA			
Malawi	October 2, 2000		October 2, 2000
Mauritius	October 2, 2000	January 18, 2001	N/A
Namibia (SACU)	October 2, 2000		N/A
Seychelles	October 2, 2000		N/A
Swaziland (SACU)	January 17, 2001		January 17, 2001
Zambia	October 2, 2000		October 2, 2000
SADC Non COMESA			
Botswana (SACU)	October 2, 2000		N/A
Lesotho (SACU)			
Mozambique	October 2, 2000		October 2, 2000

[1] Section 104 of the AGOA: Eligibility Requirements.

South Africa (SACU)	October 2, 2000	March 7, 2001	N/A
Tanzania	October 2, 2000		October 2, 2000
COMESA Non SADC			
Djibouti	October 2, 2000		October 2, 2000
Eritrea	October 2, 2000		October 2, 2000
Ethiopia	October 2, 2000		October 2, 2000
Kenya	October 2, 2000	January 18, 2001	October 2, 2000
Madagascar	October 2, 2000	March 6, 2001	October 2, 2000
Rwanda	October 2, 2000		October 2, 2000
Uganda	October 2, 2000		October 2, 2000
CEMAC			
Cameroon	October 2, 2000		October 2, 2000
Central African Republic	October 2, 2000		October 2, 2000
Chad	October 2, 2000		October 2, 2000
Congo (Republic of)	October 2, 2000		October 2, 2000
Gabon	October 2, 2000		N/A
WAEMU and ECOWAS			
Benin	October 2, 2000		October 2, 2000
Guinea Bissau	October 2, 2000		October 2, 2000
Mali	October 2, 2000		October 2, 2000
Niger	October 2, 2000		October 2, 2000
Senegal	October 2, 2000		October 2, 2000
ECOWAS Non WAEMU			
Cape Verde	October 2, 2000		October 2, 2000
Ghana	October 2, 2000		October 2, 2000
Guinea	October 2, 2000		October 2, 2000
Nigeria	October 2, 2000		October 2, 2000
Sierra Leone*	October 2, 2000		October 2, 2000
Others			
Mauritania	October 2, 2000		October 2, 2000
Sao Tome and Principe	October 2, 2000		October 2, 2000

Source: Adapted by authors from **US Treasury Report, 2001, http://**www.agoa.gov.
Note: *Effective date of designation of the Republic of Sierra Leone as an AGOA beneficiary country to be determined by the USA Trade Representative.

3 Trade Benefits

- **Preferential Tariff Treatment for Certain Articles:** In general, the President of US may provide **duty-free treatment for any article** described in section 503(b)(1)(B) through (G), **if**, after receiving the advice of the International Trade Commission, the President determines that **such article is not import-sensitive** in the context of imports from beneficiary SSA countries.

- **Rules of Origin.** The duty-free treatment shall apply to any article (described in section 503(b)(1)(B) through (G) of AGOA) that meets the requirements, except:
  - If the cost or value of materials produced in the customs territory of the USA is included with respect to that article, an amount not to exceed 15% of the appraised value of the article at the time it is entered that is attributed to such US cost or value may be applied toward determining the required percentage; and
  - The cost or value of the materials included with respect to that article that are produced in one or more beneficiary SSA countries shall be applied in determining such percentage.

- **Duty-Free / Quota-Free Treatment of Certain Textiles and Apparel**.
  The following types of textiles and apparel products imported from eligible SSA countries can enter the USA duty-free and quota-free:
  - Apparel articles assembled in SSA countries from fabrics wholly formed and cut in the USA, from yarns wholly formed in the USA;
  - Apparel articles cut and assembled in beneficiary SSA countries using USA thread, from fabrics wholly formed in the USA from yarns wholly form in the USA;
  - Sweater knit to shape from cashmere or certain wool.
  - Apparel cut or knit to shape and assemble in SSA third-country yarn or fabric in short supply;
  - Hand loomed, handmade and folklore articles;

- Certain other apparel products will be duty-free and quota-free up to a specified cap that is based on USA total apparel imports in a previous 12-month period.

  The specific products covered under the cap are:
- Apparel assembled in SSA from fabric wholly formed in SSA from US or SSA yarn;
- Apparel articles assembled in SSA from non-US, non-SSA fabric.

  Limitations on Benefits for these two categories of apparel are as follows:
  Based on the share of total USA apparel imports, measured in square meter equivalents, in previous 12-month period for which data are available.
  October 1, 2000-September 30, 2001: 1.5%
  October 1, 2001-September 30, 2002: 1.78%
  October 1, 2002-September 30, 2003: 2.06%
  October 1, 2003-September 30, 2004: 2.34%
  October 1, 2004-September 30, 2005: 2.62%
  October 1, 2005-September 30, 2006: 2.90%
  October 1, 2006-September 30, 2007: 3.18%
  October 1, 2007-September 30, 2008: 3.50%

- **Quotas on Imports from Kenya and Mauritius:** Existing USA quotas on textile and apparel products imported into the USA from Kenya and Mauritius will be terminated within 30 days after the US Government has determined that each country has adopted an effective visa system to prevent the transshipment of textile and apparel articles and the use of counterfeit importation documents.

- **Special Rule for Apparel applying to Lesser Developed AGOA Eligible Countries:**

  - **Definition of LDCs**: countries that have a per capita GNP of less than $1,500 a year in 1998 (World Bank's measure).
  - **Special Treatment:** they may export apparel wholly assembled in their countries, regardless of the origin of the fabric ('third country' fabric rule), through September 30, 2004.
  - **Eligible countries**: All SSA countries except Botswana, Equatorial Guinea, Gabon, Mauritius, Namibia, Seychelles, and SA.

4 AGOA Implementation Status Report: Country Eligibility Determinations

- The visa systems of Botswana, Ethiopia, and Malawi were approved.
- So far **nine** AGOA beneficiaries (all belong to SADC and/or COMESA) have their **visa systems approved**: Kenya, Lesotho, Madagascar, Mauritius, SA, Swaziland, Botswana, Ethiopia, and Malawi;
- Eight other countries have submitted their visa applications: Uganda, Mozambique, Zambia, Ghana, Nigeria, Namibia, and Tanzania (in chronological order);

The nine countries approved account for **94% of current exports from SSA** to the United States.

Box A.1.9 AGOA II: Terms

The terms for AGOA II being considered include:

- Confirming the duty-free status of knit to shape apparel if this has not been resolved by administrative action in the interim;
- Correcting the mistake in the AGOA provision concerning sweaters made of merino wool of 18.5 microns or finer;
- Removing from the tariff rate quota (TRQ) apparel made in SSA from African-origin yarn/fabric as a way to *de facto* increase the size of the TRQ and at the same time provide incentives for use of African yarn/fabric;

- Expanding the folkloric and handmade provisions of AGOA to include textiles and apparel made in traditional designs or where handmade elements contribute a significant portion of value;
- Modifying the *de minimis* exception so that it would apply to 7% of either the value or weight of apparel that otherwise is eligible for duty-free;
- Creating a new short supply procedure that would permit duty-free access for African yarns and fabrics that are not made in the USA; and
- Raising the $1,500 per capita cut-off between LDCs and non-LDCs so that more countries (probably just Botswana and Namibia) would be eligible to use third-country fabric.

Source: Adapted by authors based on information collected from *The African Coalition for Trade (ACT), Trade Report August 31, 2001.*

5 USA Trade Links with SSA and AGOA Beneficiary Countries

SSA accounts for **less than 1% of US merchandises exports**, and less than **2% of US merchandise imports**. In comparison, the region accounts for 3.6% of global exports and 3.7% of total imports for the EU. However, the USA is SSA's largest single market, purchasing 19% of the region's exports in 1999. The United Kingdom was second at 6.8%, and France third at 6.4%. The EU absorbed 40% of SSA's exports. Two-way trade between the US and SSA recovered strongly in 2000. Total trade (imports plus exports) soared 50% to $29.4 billion.

Table A.1.9 US Trade with SSA (US$ Million)

	1997	1998	1999	2000	Change1999-2000
USA Exports	6,174.9	6,694.0	5,568.5	5,925.8	6.4%
USA Imports	16,418.7	13,139.6	14,042.9	23,480.4	67.2%

Source: USA Trade and Investment Policy toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act. The First of Eight Annual Reports, May 2001.

USA exports to SSA grew 6.4% to $5.9 billion, although sales did not recover all the ground lost in 1999 from the record 1998 total. The increase was led by sales of aircraft to SA and Kenya, and oil field equipment to Nigeria. The top four markets - SA, Nigeria, Kenya, and Angola - accounted for 72% of US sales in 2000, with SA accounting for 52%, Nigeria for 12%, Kenya for 4%, and Angola for 3.8%. The major US merchandise exports included the following product categories: aircraft and parts; oil and gas field equipment; motor vehicles and parts; industrial chemicals; computers and peripherals; construction machinery and parts; telecommunications equipment; and agricultural machinery.

In 2000, USA exports to the AGOA group of countries were **$5.3 billion**, or **90% of USA exports to SSA**. Principal export items were: Aircraft and parts, oil and gas field equipment, wheat and meslin, ADP equipment, and motor vehicle parts.

Table A.1.10 Leading USA Exports Markets in SSA

Country	2000 Export Value ($ Millions)
SA	3,084.7
Nigeria	718.5
Kenya	238.0
Angola	226.0
Ghana	190.8
Ethiopia	165.2
Equatorial Guinea	94.9
Cote d'Ivoire	94.9

Source: USA Trade and Investment Policy toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act. The First of Eight Annual Reports, May 2001.

Table A.1.11 Leading USA Exports to SSA

Item	2000 Export Value ($ Millions)
Aircraft and parts	780.5
Oil and gas field equipment	343.0
Wheat	309.8
Motor vehicles and parts	257.5
Industrial chemicals	231.9
Computers, peripherals, and software	219.3
Construction machinery and parts	189.3
Telecommunications equipment	139.5
Agricultural machinery	68.5
Used clothing and textiles	60.7

Source: USA Trade and Investment Policy toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act. The First of Eight Annual Reports, May 2001.

USA imports from SSA surged by two-thirds to nearly $23.5 billion, due to soaring prices for crude oil. The major imports from SSA are: crude oil ($16.3 billion, or 69% of USA imports from the region), platinum group metals, and partially refined petroleum products.

Table A.1.12 Leading USA Imports from SSA

Item	2000 Export Value ($ Millions)
Crude oil	16,289.8
Platinum group metals	1,528.8
Partially refined petroleum products	969.4
Woven or knit apparel	748.1
Iron and steel products	494.9
Diamonds	433.4
Ferro- and nonferrous ores	399.1
Cocoa beans and products	311.0

Source: USA Trade and Investment Policy toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act. The First of Eight Annual Reports, May 2001.

USA imports from the AGOA-eligible countries totaled $19 billion, or about 81% of total imports from SSA in 2000, with the leading import items being crude oil, platinum, diamonds, and ferro-alloys. After crude oil, platinum, and diamonds, imports of woven and knit apparel experienced the strongest expansion in 2000, growing by 28%.

The USA merchandise trade deficit with SSA doubled in 2000 to $17.6 billion. The cumulative imbalance over the last five years is nearly $52 billion in Africa's favor. However, the associated transfer of financial resources benefits only a handful of African countries, particularly those that supply substantial amounts of crude oil or strategic minerals to the United States. Nigeria, Angola, Gabon, and SA accounted for nearly 94% of the USA trade deficit with SSA in 2000. The first three were major oil suppliers, while SA provided platinum and diamonds.

Although this increase in trade with the AGOA beneficiaries might have occurred in anticipation of the AGOA benefits, 2001 data (up till September 2001) indicates that AGOA seems to have led to substantial increases in trade values and volumes as well as new investment and job opportunities. The benefits have not been equally distributed among the eligible countries, though, with the main beneficiaries being Ghana, Kenya, Lesotho, Madagascar, Malawi, Mauritius, SA, Senegal, Tanzania, Uganda and Zambia.

The Cotonou Agreement
A New Partnership between the EU and the ACP Countries

1 Broad Overview

The new EU-ACP agreement, the so-called Cotonou Agreement, follows a 25 year-period of Lomé Conventions. It was signed in Cotonou (Benin) on June 23, 2000 and defines **three areas** of cooperation namely **politics**, **economics and trade**, and **finance**.

Box A.1.10 The Cotonou Agreement

Objectives

The Cotonou Agreement seeks to promote and expedite the economic, cultural and social development of the ACP States, with a view to contributing to peace and security and to promoting a stable and democratic political environment. The **ultimate goal of this partnership** is to reduce and eventually eradicate poverty through the objectives of sustainable development and gradual integration of the ACP countries into the world economy. Sustainable economic growth, developing the private sector, increasing employment and improving access to productive resources are therefore major objectives of this partnership.

To achieve these objectives, an **integrated approach** taking into account at the same time political, economic, social, cultural and environmental aspects of development will guide development strategies that the EU will initiate in each ACP country. The agreement also encourages **regional and sub-regional integration processes**, which foster the integration of the ACP countries into the world economy in terms of trade and private investment.

Five pillars underpin the new EU-ACP Agreement

1 A Comprehensive Political Dimension: The Agreement strongly emphasizes the role of political dialogue between ACP and EC to address all issues of mutual concern and ensure increased impact of development cooperation. It also focuses on peace-building policies to prevent and solve conflict. For this objective to be effective, the Agreement will focus in particular on regional initiatives and the strengthening of local capacities. The partnership also addresses the issue of good governance. A new specific procedure will be launched and will be applied in cases of corruption involving EDF money or in any country that benefits from EC's financial support where corruption appears to be an impediment to development.

2 Participatory Approach: The new agreement contains innovative provisions to promote participatory approaches. The objective is to ensure that civil society and economic and social players take part in the design and implementation of economic policies and programs.

3 Strengthened Focus on Poverty Reduction: Poverty reduction is a central objective of the new Agreement. The Agreement proposes a **global strategy for development** ACP Member States and the EC will work together to establish a consolidated and effective strategic framework for poverty reduction and measure progress according to results. An **integrated approach to poverty reduction strategies** is to be developed to ensure complementarity and interaction between the economic, social, cultural, gender, institutional and environmental dimensions of policies and strategies. It focuses on three areas:

- economic development with particular emphasis on private sector development and investment; macroeconomic and structural policies and reforms; and sectoral policies.
- social and human development focusing on social sector policies; youth issues; and cultural development.
- regional cooperation and integration.

In addition, cooperation also includes additional themes such as gender equality, environmental sustainability, and institutional development and capacity building.

4 New Framework for Economic and Trade Cooperation: It aims to strengthen the mutual effects of trade cooperation and development aid.

5 Reform of Financial Cooperation: Reforms include the evolution in the nature of aid towards budgetary assistance/sector programs, rationalization of the instruments of cooperation and programming reform.

2 Cooperation Strategies

Cooperation strategies will focus on four areas, namely economic development, social and human development, regional cooperation and integration, economic and trade cooperation and some cross-cutting issues (gender, environment and natural resources, and institutional development and capacity building).

2.1 Economic development

In this area, the partnership will support:

- *Investment and private sector development* by creating a favorable environment for private sector investment; and the development of a dynamic, viable and competitive private sector;

- *Macroeconomic and structural reforms and policies* by supporting ACP efforts to implement (i) macroeconomic growth and stabilization through disciplined fiscal and monetary policies that result in the reduction of inflation, and improve external and fiscal balances, by strengthening fiscal discipline, enhancing budgetary transparency and efficiency, improving the quality, the equity and composition of fiscal policy; and (ii) structural policies designed to reinforce the role of the different actors, especially the private sector by improving the environment for increases in business, investment and employment. In addition, ACP countries are encouraged to liberalize trade and foreign exchange regimes and current account convertibility; strengthen labor and product-market reforms; encourage financial systems reforms to help develop viable banking and non-banking systems, capital markets and financial services, including micro-finance; improve the quality of private and public services; and encourage regional cooperation and progressive integration of macroeconomic and monetary policies;
- *Economic sector development* through the support to sustainable policy and institutional reforms and the investments necessary for equitable access to economic activities and productive resources;
- *Tourism* by promoting the development of the tourism industry in ACP countries and sub-regions.

2.2 Social and Human Development

In this area, cooperation will focus on:

- *Social sector development:.* The objective will be to support ACP States' efforts to develop general and sectoral policies and reforms which improve the coverage, quality of and access to basic social infrastructure and take account of local needs and specific demands of the most vulnerable and disadvantaged, thus reducing the inequalities of access to these services.
- *Youth Issues:* Cooperation will support the establishment of a coherent and comprehensive policy for realizing the potential of youth so that they are better integrated into society.
- *Cultural development:* The objective will be to preserve, promote cultural values and identities to enable inter-cultural dialogue.

2.3 Regional Cooperation and Integration

Cooperation will support:

- developing and strengthening the capacities of regional integration institutions and organizations set up by the ACP States to promote regional cooperation and integration;
- fostering participation of LDC ACP States in the establishment of regional markets and sharing in resultant benefits;
- implementation of sectoral reform policies at regional level;
- liberalization of trade and payments;
- promoting cross-border investments both foreign and domestic, and other regional or sub-regional economic integration initiatives; and
- taking account of the effects of net transitional costs of regional integration on budget revenue and balance of payments.

Cooperation will also address common problems, including: infrastructure, particularly transport and communications; the environment; water resource management and energy; health, education and training; research and technological development; regional initiatives for disaster preparedness and mitigation; and other areas, including arms control, actions against drugs, organized crimes, money laundering, bribery and corruption.

2.3 Thematic and Cross-Cutting Issues

Three main issues will be addressed:

- *Gender issues:* The objective will be to help ACP countries strengthen policies and programs that improve, ensure and broaden the equal participation of men and women in all spheres of political, economic, social and cultural life;
- *Environment and natural resource:* In this area, the partnerships aim at: (i) mainstreaming environmental sustainability into all aspects of development cooperation and support programs

and projects implemented by the various actors; (ii) building and/or strengthening the scientific and technical unit human and institutional capacity for environmental management for all environmental stakeholders; and (iii) supporting specific measures and schemes aimed at addressing critical sustainable management.
- *Institutional development and capacity building:* The partnership will support the efforts of ACP States to develop and strengthen structures, institutions and procedures that help to: (i) promote democracy, human dignity, social justice and pluralism; (ii) promote universal and full respect for and observance and protection of all human rights and fundamental freedoms; (iii) develop and strengthen the rule of law; and improve access to justice; (iv) ensure transparent and accountable governance and administration in all public institutions.

3 New Framework for Economic and Trade Cooperation

Economic and trade cooperation will rely on three main principles:
- Full conformity with the provisions of the WTO;
- Building on regional integration initiatives of ACP States;
- Ensuring special and differential treatment for all ACP countries, maintain special treatment for ACP LDCs and take into account the vulnerability of small, landlocked and island countries.

3.1 General aspects
The new agreement has developed a framework to strengthen the mutual effects of trade cooperation and development aid. ACP countries and the EC will establish new trade arrangements with the purpose of accelerating trade liberalization between the parties. Economic and trade cooperation has four main objectives:
- promoting smooth and gradual integration of ACP economies into the world economy;
- enhancing production, supply and trading capacities;
- creating new trade dynamics and foster investment; and
- ensuring full conformity with WTO provisions.

To fulfill these objectives, a **new trading arrangement** will be introduced after a preparatory period. **It will enter into force by 1st January 2008** at the latest when liberalization of the trade process will start and which is to last for a transitional period of at least 12 years. The present regime will be maintained during the preparatory period (2000-2008). The EC will facilitate access to the EU's market to all imports from LDCs on the basis of GSP. Protocols on sugar, and on beef and veal will be maintained but will be reviewed in the framework of negotiations for new trading arrangements. In 2004, the situation of non-LDC ACP countries not in a position to enter into economic partnership agreements (EPAs) will be assessed and alternative possibilities will be examined. In 2006, the Community will assess progress in negotiation of the EPAs.

BOX A.1.11 Summary of the Timetable for Trade Negotiations and Liberalization Process

2000: Start liberalization of almost all imports from all LDCs on the basis of GSP.

2000-2002: Preparatory period to strengthen regional integration processes and the ACP countries' capacity to conduct trade negotiations.

2002-2008: Negotiations for a new trading arrangement.

2004: Assess situation of non-LDC ACP countries not in a position to enter into EPAs and examine alternative possibilities.

2005: By 2005, LDCs' exporters will have free access for essentially all their products on the EU market.

2006: Assess progress in negotiation of EPAs.

2008: (i) New trading arrangements to enter into force by 1st January 2008 at the latest; (ii) Start liberalization of trade by 2008, at the latest, during a transitional period of at least 12 years.

For the purpose of strengthening trade cooperation, a **Joint ACP-EC Ministerial Trade Committee** will be established. It will mainly focus on current multilateral trade negotiations and will examine the impact of the wider liberalization initiatives on ACP-EC trade and the development of ACP economies.

3.2 Cooperation in trade -related areas

- **Cooperation in international fora:** ACP countries and the EU will cooperate closely to defend their common interest in international economic and trade cooperation in particular in the WTO, including participation in setting and conducting the agenda in future multilateral trade negotiations. In addition the EU will provide ACP countries with technical assistance to enable them implement their commitments.
- **Trade in services:** The EU and ACP countries agreed on the objective of extending, after they have acquired some experience in applying the MFN treatment under GATS, their partnership to encompass the liberalization of services in accordance with the provision of GATS. The EU will support the ACP States' efforts to strengthen their capacity in the supply of services, in particular services related to labor, business, distribution, finance, tourism, culture and construction and related engineering services.
- **Competition Policy:** The EU and ACP countries undertake to implement national or regional rules and policies including the control and the prohibition of agreements between undertakings, decisions by associations of undertakings which prevent, restrict or distort competition.
- **Protection of Intellectual Property Rights:** The agreement underlines the importance of adherence to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to the WTO. The Community, its Member States and the ACP States may consider the conclusion of agreements aimed at protecting trademarks and geographical indications for products of particular interest of either Party.
- **Standardization and Certification:** The objective will be to remove unnecessary technical barriers and to reduce differences between ACP countries and EU member states in those areas, so as to facilitate trade. The agreement reaffirms the commitment of both parties under the Agreement on Technical Barriers to trade, annexed to the WTO Agreement (TBT Agreement).
- **Sanitary and Phytosanitary Measures:** The Cotonou Agreement recognizes the right of each Party to adopt or to enforce sanitary and phytosanitary measures necessary to protect human, animal or plant life or health. To this end, both parties reaffirm their commitments under the

Agreement on the Application of Sanitary and Phytosanitary Measures, annexed to the WTO Agreements (SPS-Agreement).

- **Trade and Environment:** The development of international trade should ensure sustainable and sound management of the environment, in accordance with the international conventions. The objectives of the cooperation will be to establish coherent national, regional and international policies and reinforce quality controls of goods and services related to the environment.
- **Trade and Labor Standards:** The EU and ACP countries reaffirm their commitment to the internationally recognized core labor standards, as defined by the relevant International Labor Organization (ILO) Conventions. Cooperation should be enhanced in the following fields: (i) exchange of information on the respective legislation and work regulation; (ii) the formulation of national labor legislation and strengthening of existing legislation; (iii) educational and awareness-raising programs; and (iv) enforcement of adherence to national legislation and work regulation.
- **Consumer Policy and Protection of Consumer Health:** Cooperation will aim at improving the institutional and technical capacity, establishing rapid-alert systems of mutual information on dangerous products, and exchanging information and experiences on the establishment and operation of post market surveillance of products and product safety.
- **Tax Carve-out Clause:** The MFN treatment granted in accordance with the provisions of this agreement, or any arrangement adopted under this Agreement, does not apply to tax advantages which the Parties are providing or may provide in the future on the basis of agreements to avoid double taxation or other tax arrangements, or domestic fiscal legislation.

4 Trade Regime Applicable during the Preparatory Period (2000-2008)

4.1 General Trade Arrangements

- Products originating in the ACP States will be imported into the Community **free of customs duties and charges** having equivalent effect. The list of products is elaborated in the Report to Attachment I to the Treaty.
- The Community will not apply any quantitative restrictions or measures having equivalent effect to imports of products originating in the ACP States. Exception: prohibitions and restrictions on imports or exports or goods in transit justified on grounds of public morality, public security, etc.
- The EU shall take necessary measures to ensure more favorable treatment than that granted to third countries benefiting from the MFN clause for the same products.

4.2 Concept of 'Originating Products'

Products considered as originating in the ACP States are:

- **products wholly obtained in the ACP States** (mineral products extracted from their soil or from their seabed; vegetable products harvested there; live animals born and raised there; etc.);
- **products obtained in the ACP States incorporating materials** which have not been wholly obtained in the ACP countries, **provided that such materials have undergone sufficient working or processing in the ACP States**.
- **Cumulation of origin:** materials originating in the Community or SA or in a neighboring country shall be considered as materials originating in the ACP States when incorporated into a product obtained there. There is no need for such material to undergo sufficient working or processing.
- **Non-originating materials can be used in the manufacture of a given product provided that:** (i) their total value does not exceed 15% of the ex-work price of the product; and (ii) any of the percentages given in the list for the maximum value of non-originating materials are not exceeded through the application of this paragraph.

4.3 Special Undertaking on Sugar

The EU has undertaken for an indefinite period to purchase and import, at guaranteed prices, **specific quantities of cane sugar** (raw or white), which originate in the ACP States.

'Agreed quantities' for delivery in each 12-month period (expressed in metric tons of white sugar) for some Eastern and Southern African States are: Kenya: 5000; Madagascar: 10000; Malawi: 20000; Mauritius: 487200; Swaziland: 116400; Tanzania: 10000; and Uganda: 5000.

4.4 Protocol on beef and veal

Customs duties other than ad valorem duties applicable to beef and veal originating in the ACP States shall be reduced by 92%.

Reduction applies to the following quantities (expressed in boneless meat per calendar year and per country) are for: Botswana: 18916 tons; Kenya: 142 tons; Madagascar: 7579 tons; Swaziland: 3363 tons; Zimbabwe: 9100 tons; and Namibia: 13000 tons.

4.5 The Second Banana Protocol

The Community will examine and where necessary take measures aimed at ensuring the continued viability of the ACP countries' banana export industries and the continuing outlet for their bananas on the Community market.

4.6 Potential Benefits of the New Trade Framework

- The agreement puts a particular emphasis on the interaction between trade reforms and human and social development policies. The new trade agreement may therefore support and complement **pro-poor policies**.
- A central point of the agreement is to make the trade regime between ACP countries and EU **fully compatible to the WTO regime**. This should enhance the trade environment and facilitate foreign investment. In addition, a key task of the agreement is to strengthen ACP countries' capacity to negotiate WTO arrangements to best serve their needs.
- The agreement with the EC, by locking-in the economic reforms, will act as an **anchor**. The **credibility effect** would lead to more investment, strengthen economic growth and alleviate poverty.

LDCs (39 of them being in the ACP group) are granted a special treatment. By 2005, LDCs' exporters will have free access for essentially all their products to the EU market.

5 Financial Cooperation

5.1 Principles and Guidelines

- *Coherence and flexibility:* Development finance cooperation will be consistent with the objective, strategies and priorities established by the ACP States, at both national and regional levels. One programming exercise per country/region, re-grouping of the EDF instruments.
- *Evolution in the nature of aid towards budgetary assistance/sector program:* The ACP country must be responsible for its own policies and programs, including choosing projects and programs; implementing and managing projects and programs, maintaining projects and programs, etc.
- *Indications, not entitlement:* Allocations are no longer automatic and will be subject to revision in the light of developments in *need* and *performance*. Performance will be rewarded.

5.2 Eligibility Criteria

Entities or bodies eligible are: (i) ACP States; (ii) Regional or inter-State bodies to which one or more ACP States belong and which are authorized by those States; and (iii) joint bodies set up by the ACP States and the Community to pursue certain specific objectives.

5.3 Financial Instruments

The Agreement stipulates two instruments:

- The **grant envelope for support to long-term development** (€10 bn from the 9th EDF + €1.3 bn for regional programs): Each country will be allocated a lump sum, from which a range of different types of operations can be financed. The most important difference is that no resources

are locked into a specific purpose, which allows for flexibility and the re-deployment of resources as necessary.

- The **Investment Facility** (IF) to replace the Lomé IV risk capital and interest-rate subsidy facilities: The European Investment Bank will manage the IF. It will function as a revolving fund and the returns accruing from its operations will flow back to the Facility. It is aimed at developing businesses in ACP countries and will finance income earning, commercially and economically viable private businesses and if they meet these requirements, public enterprise. It will participate in privatizations and aim to stimulate the investment of internal and external savings. The Facility will thus guarantee ACP countries a certain level of resources available for private sector development.

Resource allocation from the grant facility will be allocated on the basis of an evaluation of *needs* and *performance*.

- *Needs criteria* include: per capita income, population size, economic and social development indicators (HDI), level of indebtedness and dependence on export earnings.
- *Performance criteria*: progress in implementing institutional reforms; country performance in the use of resources (transparency and accountability in the management of resources and quality of budget management); effective implementation of current operations; poverty alleviation or reduction; sustainable development measures; macroeconomic and sectoral policy performance.

The allocation to each country will be divided into two elements: (i) A Base Case to cover the forecasted, regular support the Community will provide; (ii) A High Case to cover unforeseen needs, debt relief and additional support in case of fluctuations in export earnings.

Programming of resource allocation will be based on a single **Country Support Strategy** (CSS), which will cover implementation of all operations financed from the grant envelope. The CSS will include an analysis of the political, economic and social context of the country and outline the country's own development strategies. This analysis will serve as a basis for a suitable orientation of the use of Community aid. An Operational Indicative Program will complement the CSS.

The agreed system does not imply a carry-over of the current Stabex and Sysmin Instruments, but it does allow for **additional support in the case of fluctuations in export earnings**. However, no set amount has been earmarked for this purpose; eligibility for the support has been linked to whether the loss jeopardizes overall macroeconomic stability; and entitlement to additional support limited to 4 successive years. **Eligibility criteria for additional support** are:

- a **10%** (**2%** in the case of least-developed countries) **loss of export earnings** from goods compared to the arithmetical average of the earnings in the first three years of the first four years preceding the application year; **or**
- a **10%** (**2%** in the case of LDCs) **loss of export earnings from the total of agricultural or mineral products** compared with the arithmetical average of the earnings in the first three years of the first four years preceding the application year for countries where the agricultural or mineral export revenues represent more than 40% of total export revenues from goods; **and**
- a **10% worsening in the programmed public deficit** for the year in question or forecast for the following year.

Investment and Private Sector Development Support is aimed at promoting sound policies and strategies for investment and private sector development through financial and technical assistance. Investment will be encouraged through investment promotion, investment guarantees (use of risk insurance as a risk-mitigating mechanism, guarantee funds covering risks for qualified investment), and investment protection (Articles 74, 77 and 78).

Other Areas of Financial Support include:

- *Debt and Structural Adjustment Support:* Resources provided in the Agreement will be used to contribute to debt relief initiatives approved at international level for the benefit of ACP countries.

- *Support for Sectoral Policies:* This support will be provided through sectoral programs, investments, rehabilitation , technical assistance, etc.
- *Microprojects and decentralized cooperation:* Cooperation will also support micro-projects at local level that have an economic and social impact on the life of the people.
- *Humanitarian and emergency assistance:* Humanitarian and emergency assistance will be accorded to the population in ACP States faced with serious economic and social difficulties of an exceptional nature stemming from natural disasters, wars, etc.

Technical Cooperation: The EU will assist the ACP States in the development of national and regional manpower resources, the sustained development of the institutions critical for development success. Objectives include: strengthening ACP consulting firms and organizations, exchange arrangements involving consultants from both ACP and EU firms, transfer of know-how, increase national and regional capabilities, etc.

Financial Resources: Under the 9th EDF €13.5 billion would be made available, which are to be allocated for:

- Long term allowance: €10 billion
- Regional allowance: €1.3 billion
- Investment Facility: €2.2 billion

6 Regional Cooperation

The Regional Programs:

- should correspond to programs of existing regional organizations with a mandate for economic integration. **In case the membership of several relevant regional organizations overlaps, the regional integration should correspond to the combined membership of this organization (Article 7)**.
- will be subject to a system of rolling programming. A **Regional Support Strategy** (RSS) and an operational indicative program will be established by region and subject to regular review. The performance will be measured according to the progress and prospects of regional cooperation and integration. There will be no annual review of these programs, but only a mid-term and end-of-term review.

Regional Programming: Programming will take place at the level of each region. It means: (i) preparation and development of a **Regional Support Strategy** (RSS) based on the region's own medium-term development objectives and strategies; (ii) a clear indication from the Community of the indicative resource allocation from which the region may benefit during the 5 year period as well as other relevant information; (iii) preparation and adoption of a **Regional Indicative Program** (RIP); and (iv) a review process covering the RSS, the RIP and the volume of resources allocated to each region (Article 8).

SADC and COMESA agreed in Cairo (Egypt) in May 2001 to have a joint RSS. However, there will be two regional programs: (i) COMESA, the EAC, IOC and IGAD for an amount of €223 million, and (ii) SADC for €101 million. In addition about €30 million will be allocated to South Africa.

At the beginning of the period covered by the Financial Protocol, each must receive from the Community an indication of the volume of resources from which it may benefit during a 5-year period. Determinants of this allocation are: needs and progress and prospects of regional cooperation and integration (Article 9).

7 General Provisions for the Least-developed, Landlocked and Island ACP States (LDLICs).

- **Least-Developed ACP States:** The Agreement provides for their special treatment in order to enable them to overcome the economic and social difficulties hindering their development (Article 85).
- **Landlocked ACP States:** The Agreement allows for specific provisions and measures to support landlocked ACP States in their effort to overcome the geographical difficulties and other obstacles hampering their development.
- **Island ACP States:** The Agreement also allows for specific provisions and measures to support island ACP States in their efforts to overcome the natural and geographical difficulties and other obstacles hampering their development.

Box A.1.12 Everything-but-Arms Initiative

On February 26 2001 the European General Affairs Council adopted an amendment to the EU's Generalized Scheme of Preference, the so-called 'Everything-but-Arms' Initiative (EBA).

This initiative extends duty and quota free access to all products originating in LDCs, except arms and ammunition. To the exception of fresh bananas, rice and sugar, all agricultural products are included. The three sensitive products will be liberalized gradually:

- **Fresh bananas**: full liberalization will take place between January 1, 2002 and January 1, 2006. The EU will gradually reduce the full EU tariff by 20% every year.
- **Rice**: EBA provides for full liberalization between September 1, 2006 and September 1, 2009 by gradually reducing the full EU tariff to zero. In the meantime, LDC rice can enter the EU market duty free within the limits of a tariff quota. This quota will increase annually.
- **Sugar**: full liberalization will be phased in between July 1, 2006 and July 1, 2009 by gradually reducing the full EU tariff to zero. In the meantime, as for rice, LDC sugar can access the EU's market duty free within the limits of a tariff quota, which will increase annually.

In order to protect EU producers against difficulties, the EU will monitor imports of these three sensitive products and apply safeguard measures if necessary. The Commission will report to the Council in 2005 on the extent to which LDCs are really benefiting from EBA, and whether the EU's provisions on rules of origin, anti-fraud and safeguards are adequate.

The EBA regulations foresees that the special arrangement for LDCs should be maintained for an unlimited period of time and not be subject to the periodic renewal of the EU's scheme of generalized preferences.

Box A.1.13 The World Trade Organization (WTO) and Regional Trade Arrangements Conflict or Compatibility?

Background

When the international community embarked on the Uruguay Round (UR) negotiations, the need to create an institutional structure to oversee the world trading system became increasingly evident. The result was the WTO aiming to oversee and coordinate the functioning of the multilateral trading system. It provides the institutional and legal foundation for the multilateral trading system and entered into force on January 1, 1995.

The WTO is headed by a Ministerial Conference, composed of all WTO members, which meets once every two years. However it is the General Council that is in charge of the management of the organization. The General Council has also two specific tasks: it acts as the Dispute Settlement Body and serves as the Trade Policy Review Body.

The WTO Agreement has five functions (Article III), namely:

- to facilitate the implementation, administration and operation and further the objectives of the multilateral and plurilateral trade agreements;
- to provide a forum for multilateral and plurilateral trade negotiations;
- to settle disputes that may arise between members;
- to conduct trade policy reviews; and
- to cooperate with the World Bank and the IMF aimed at achieving coherence in global economic policy making.

WTO and Regional Trade Arrangements

The fundamental principle of the GATT/WTO is non-discrimination incorporated in the **most-favored-nation (MFN) rule**. This rule requires a signatory (member) country to extend to all other contracting parties any advantage, favor, privilege and immunity affecting trade charges that it grants to another contracting party.

This principle may seem to contradict the establishment of regional trade arrangements (RTAs) between signatory countries to the GATT/WTO. However, GATT/WTO explicitly allows the creation of RTAs provided that these arrangements respect certain rules. This constitutes the most important exception to the principle of non-discrimination. **Article XXIV** of GATT/WTO provides a number of rules governing such trade agreements including:

- Parties to a RTA must eliminate duties and other restrictive regulations of commerce with respect to 'substantially all' trade between the constituents customs territories (paragraph 8).
- The level of external protection applied to third countries by signatories to an RTA, must not 'on the whole' be higher or more restrictive after the formation of the RTA compared to the level prevailing in each of constituent territories prior to the formation of the RTA (paragraph 5).
- All RTA agreements are to be promptly reported to the WTO for examination by WTO members, which then may make recommendations (paragraph 7).
- Member States of a RTA must adopt rules that minimize any possible harmful impact of such RTA.