

The Economic Partnership Agreements between SADC and EC

**Regional Integration of SADC and Namibian interests
within negotiations**

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Abbreviations

| | |
|--------|--|
| ACP | African, Caribbean and Pacific States |
| ANSA | Angola, Namibia, South Africa |
| AU | African Union |
| BLNS | Botswana, Lesotho, Namibia, Swaziland |
| BLS | Botswana, Lesotho, Swaziland |
| BRICs | Brazil, Russia, India, China |
| CEMAC | Communauté économique et monétaire de l'Afrique Centrale |
| CFA | Communauté Financière Africaine |
| CMA | Common Monetary Area |
| COMESA | Common Market for Eastern and Southern Africa |
| DRC | Democratic Republic of Congo |
| EAC | East African Community |
| EBA | Everything But Arms |
| EC | European Commission |
| ECDPM | European Centre for Development Policy Management |
| EPA | Economic Partnership Agreements |
| ESA | Eastern and Southern Africa |
| EU | European Union |
| FTA | Free Trade Area |
| GATT | General Agreement on Tariffs and Trade |
| GDP | Gross Domestic Product |
| GIGA | German Institute of Global and Area Studies |
| GSP | General System of Preferences |
| IEPA | Interim-Economic Partnership Agreements |
| ISO | International Organization for Standardization |
| LDC | Least Developed Countries |

| | |
|--------|---|
| MFN | Most Favoured Nation |
| MMTZ | Malawi, Mozambique, Tanzania, Zambia |
| OECD | Organization for Economic Co-operation and Development |
| PTA | Preferential Trade Agreement |
| REC | Regional Economic Community |
| RI | Regional Integration |
| RISDP | Regional Indicative Strategic Development Paper |
| SACU | Southern African Customs Union |
| SADC | Southern African Development Community |
| SADCC | Southern African Development and Cooperation Conference |
| SAIIA | South African Institute of International Affairs |
| SIPO | Strategic Indicative Plan for the Organ |
| STABEX | Système de Stabilisation des Recettes d'Exportation |
| TDCA | Trade, Development and Cooperation Agreement |
| TRALAC | Trade Law Centre for Southern Africa |
| WTO | World Trade Organization |

Introduction

The international development cooperation is characterized by numbers of negligent and inconstant strategies of various actors, which compete for the title as the most gracious and effective partner for developing countries. Since the independence of several African countries, numerous concepts boosting for economic growth, eradication of poverty and good governance besiege the less developed countries and afford more confusion than clear success. One of the most important partners for Sub-Saharan-Africa is the European Union. In line with the Global-Europe-Strategy, Regional Integration focuses the development cooperation between the EU and the ACP-States. Scholarships seem to agree about the assumption that RI should be a basic principle and the major way supporting the inclusion of ACP-states into World Economy. RI is a factor of political stability, vast economic growth and the gradual opening of trade. The EU demonstrates oneself as the prototype of successful RI. However, is this theory of RI comparable with African realities at all? Jacqueline Jaspert reveals that the European concept of strengthening RI in ACP-States can't be copied unexamined in other parts of the world. From her point of view the EU could not be the benchmark for evaluating other regionalism projects. African Regional Communities have to apply for a different benchmark, which take into account the historical context and the political power structure of the region and its members (Jaspert 2010:183).

Thus, RI *“[...]can also have negative economic and social impacts, notably when the domestic regulatory framework is inadequate or not implemented effectively.”* (Schade; Matomola 2006:3). Critics ask rightly: *“Is the explanation for the differences, between the EU and African governments, to be found in a lack of a common philosophy as to what integration is about; the practical approaches to adopt and about the role of legal instruments in the process? Do the two parties share the same understanding of how integration is to be promoted?”* (Erasmus 2011:1).

Regional Integration in African RECs should be encouraged through *Economic Partnership Agreements*, which proved to be explosive. The major obstacle for EPA-negotiations is the overlapping membership of African countries in several RECs, which is indicated in Fig.1.

“It has been suggested that countries would deliberately seek membership to several groupings with the hope of maximizing the benefits of integration and minimizing losses by spreading risks. In the case of economically weaker countries, this reason may be a strong incentive for aligning to several integration blocs.” (Ndomo 2009:12).

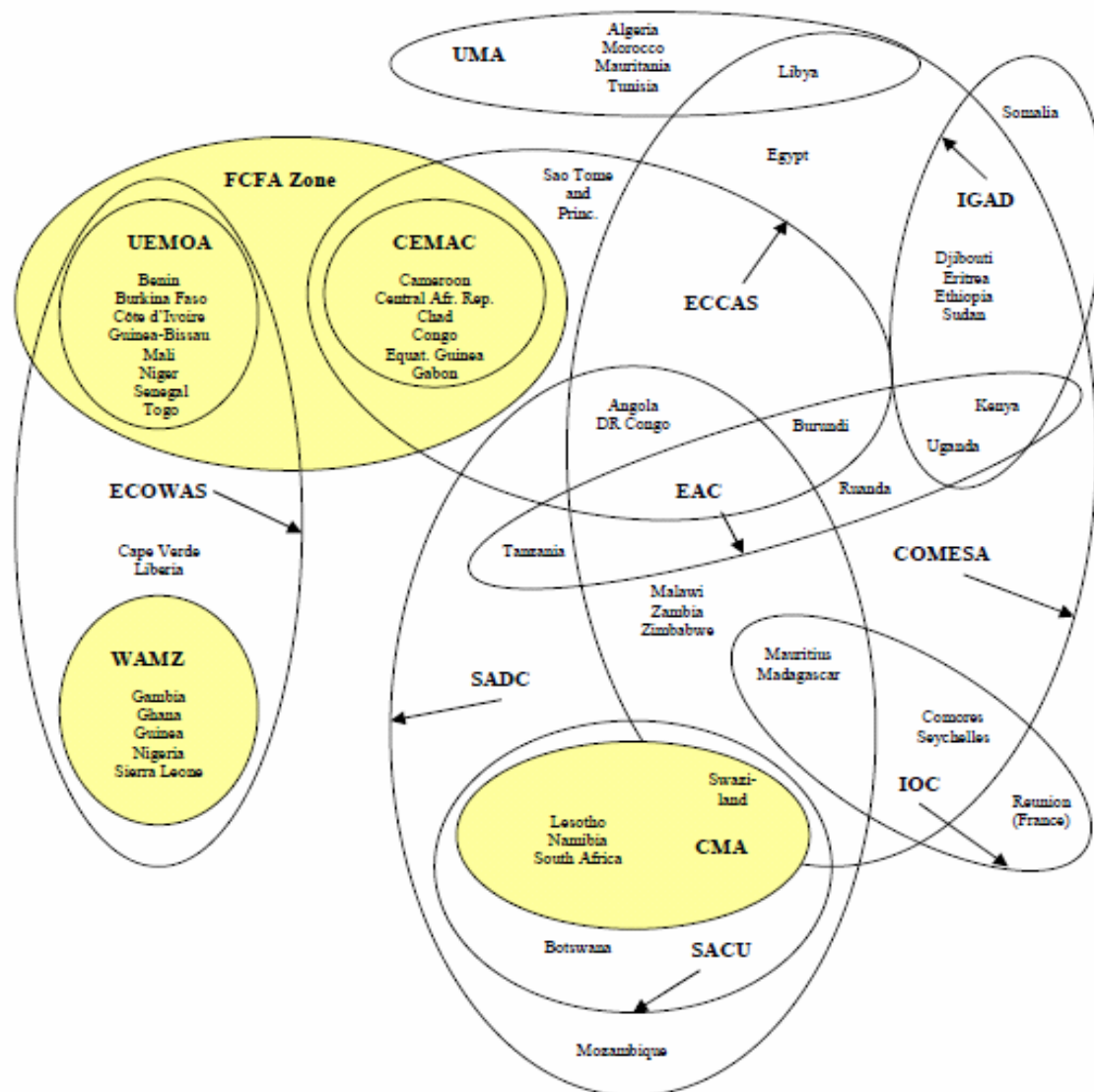


Fig.1: Source: New Spaghetti and Rigatoni (Asche. In: Hanf; Weiler; Dickow 2009:70)

It was difficult to pitch on concrete negotiation groupings. Each country was pressured to choose one REC for EPA negotiations with the European Commission. Indeed, that was an excessive demand of the EC. One negotiation group is the Southern African Development Community (SADC), consisting of 15 countries.¹ This paper will firstly discuss the EPA process in SADC and will try to give an answer to the justifiable question: Do the EPAs undermine or strengthen the Regional Integration in Southern Africa?

¹ Angola, Botswana, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe

According to that, EPAs could bring two possible realities: “*The EPAs can either be a blessing (the catalyst for deeper liberalisation in the region) or a curse (a serious distraction and threat to the regional processes).*” (Khumalo 2008:61).

Secondly the paper will highlight the significant role of Namibia within these negotiations, which is only one of the SADC-members that face numerous threats from trade-negotiations with the EC. In general, there are understandable anxieties of the African regional communities and its members about the outcome of the EPA-negotiations.

Hence, the paper is structured in four chapters: The first chapter will give an introduction in RI theory in general as a factor of sustainable development. Then I will analyse the RI process in SADC (South-South Relations) to prove whether sustainable development is achieved or not. In the last part of the chapter the specific role of Namibia in SADC will be indicated briefly. The second chapter deals with the EPA negotiations between SADC and the European Commission (North-South Relations). What are the objectives of the EPAs? What kind of complications arrived within SADC-EPA negotiations? According to that, South Africa as a non ACP-State will play a major role.

Do the EPAs impede RI in SADC instead of promoting it?

The third chapter will just concentrate on Namibia’s role in EPA negotiations. What are the claims of Namibia and what is the current state of play? In the last chapter I will give an outlook about the matter how to move forward in these shoreless negotiations. References I get inter alia from *ecdpm*, *saiia*, *tralac* and the *agritrade-forum of Namibia*.

1. Regional Integration in Theory

1.1. Regional Integration as a development factor

“*Regionalism is a term used in international relations. It refers to the expression of a common sense of identity and purpose combined with the creation and implementation of institutions that express a particular identity and shape collective action within a geographical region.*” (Wikipedia definition). Regional Integration is often regarded as a key for accelerated and sustainable economic growth. In fact, there are sceptics about that. It comes up the *new regionalism* approach, which is in a broader framework characterized by observing the development and the present situation of the social system in that specific

region. In addition, the *new regionalism* questions the conception of the state as the most important actor in the international system and tries to include, next to the formal process, the regionalism at informal level. Thus, like already mentioned above, we have to set different benchmarks (along the *new regionalism* approach) when evaluating African regionalism projects. Scholarships do not agree about the relevance of RI in African context. The question is: Is RI a panacea for a better development in Africa? If it is so, how could Regional Integration to be promoted? Indeed, Regional Integration processes could occur on different dimensions. This paper will focus on economic integration efforts. Integration processes at other platforms (for instance on the field of security policy) won't be considered because of the shortage of space, although an interdisciplinary reflection should be adequate. In the beginning of the monograph "*Regionalismus im südlichen Afrika*", written by Jacqueline Jaspert, she makes clear that, compared to the EU, requirements for a well-functioning RI are not ideal for developing countries. While industrial countries initiated regionalism to consolidate already achieved wealth, developing countries worry about numerous lacks and challenges, which should be first resolved, before Regional Integration will succeed (Jaspert 2010:31). The challenges are to be found in the less advanced intra-regional trade relations, and thus the grievous dependence on external trade. Furthermore, most developing countries are less diversified in their production, which is obviously one of the most awkward problems for Regional Economic Communities. Depending on the region or the country, specific risks affect the integration process as well. Jaspert mentions five of them: The resource-, social, ecological, political and food risks (ibid). Although most of these lacks are not resolved it is hoped that Regional Integration will play a crucial role in providing economic growth and general stability. Jaspert mentions three examples, which do not doubt on that assumption, but which show that basic challenges should be prioritized.

1. Free trade within a regional community will strengthen the competition in productivity and efficiency. This leads to the utilization of the economies of scale to maximum, which therefore results in decreasing production costs, followed by increased productivity at lower production costs. Thus far the theory. The implementation in Africa is much more complicated, because of the scarce supply of goods, the moderate demand, high transaction costs and the unreliable revenues of the consumers. In addition, an efficient competition requires also largely similar institutions and structures of production. These are, especially in industrial production, in many countries far from perfect (Jaspert 2010:34).

2. By creating a common external tariff the imports of cost-effective produced goods at the World Market will be avoided. This should lead in developing countries to trade diversion. The states are forced to increase their production because they can no longer import unlimited cheap goods from the industrialized countries. But, there is the risk not to provide complete compensation, because not all essential goods can be manufactured or provided for the full need (ibid:32).

3. Regional Integration evolves at several steps and must be organised and coordinated long term. In the course of construction it is a matter to form an economic interdependence between the members of the Regional Community. Thus, not every country must establish identical industries. Each country must specialize and build together with the industries of other nations, a network and thus form a common internal market. However, this needs an agreement for a just distribution of sectors. Political and social conflicts within the region or within a state can counteract this agreement (ibid:37).

Other potentials and risks will be explained in this work using the example of SADC and the supporting role of Namibia. Which stages of Integration within SADC are achieved and what challenges must be overcome? Simplified, in theory an ideal for economic integration carried out in four main stages.

Most important is the preferential area. At least two states allow on both sides common commercial merits, for instance through tariff reduction. The relationship can be strengthened, in which the duties are completely eliminated in a second phase. The external tariffs initially remain regulated individually. Then, in the third phase, they agree on a common external tariff. Furthermore, the free mobility of capital and labour provide the prerequisite for a common market. This means that the state is also in politics made more accountable inter alia to reduce non-tariff barriers. The last step is the harmonization of economic conditions, such as with the formation of a common monetary union (ibid:40).

1.2. Regional Integration Process in SADC

With the start of EPA-negotiations, it was first important to find the right partner. This search proved, due to strong overlapping memberships in several regional communities, as extremely difficult (Asche 2009:69). The SADC group has been chosen among others. However, it is

characterized by uncertainty and a spongy and bustle of the countries to decide for themselves a community. More difficult is the decision by EU pressure. Additionally, it is not a regional community to eye level with the EU. Rather it is an organization of extremely unequal economies, their supra-national goals have hardly been able to implement. This section will give some insight into the SADC process.

The already in 1980 established *Southern African Development Co-ordination Conference* (SADCC) “was created to foster economic cooperation among its members. It also focused on reducing economic reliance on the then apartheid government of South Africa.” (Afadameh-Afeyemi; Kalula 2010:5). The effectiveness of the ambitious goals remained low. “Although SADCC was meant to promote economic cooperation among its members, it had a loose institutional structure. It had no binding legal framework [....]” (ibid.). In 1992, the necessary transformation of SADCC to SADC (*Southern African Development Community*) was made. Since then, two plans dominate the development projects of the SADC to expand the economic and political integration. These are firstly, the *Regional Indicative Strategic Development Plan (RISDP)*, which addresses economic challenges. That plan has the integration of markets and the combating of poverty in the SADC member countries to target (von Soest; Scheller 2006:2). And secondly, the *Strategic Indicative Plan for the Organ (SIPO)*, which addresses issues of security policy. The common objectives of the SADC countries were clearly set. A joint free trade area (FTA) should be established by 2008, 2010 a customs union, 2015 a common market, 2016 a monetary union and finally a common currency. But the 15 member states could not implement these highly ambitious goals so far (ibid:3).² It remains the question: Is the SADC in some sense an economic community? It is difficult to answer on that question and it’s easier to say what the SADC is not (Asche 2009:76). The SADC is not even a free trade zone.³ Looking at the tariff phase downs as set out in the SADC Trade Protocol, then it is clear that the SADC can only be a preferential trade area (PTA) (ibid). The trade liberalization takes place after the partition of certain groups of goods:

² The following 10 states were founding the SADC: Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, Zambia, Zimbabwe, Swasiland, Tanzania. In 1995, Mauritius and South Africa appeared. That brought a sharp change in economic dependencies within SADC. In 1998, the Democratic Republic of Congo and the Seychelles became part of SADC. Finally, also Madagascar became a member.

³ A FTA should liberalize, after WTO definition, “*substantially all trade*”, which is interpreted as 90%.

Category **A** **immediate** liberalization of goods, which already had weak imposed duties

Category **B** **gradual** liberalization:

Front-Loading: in SACU – tariff lines are reduced by equal instalments from year 1 to year 8

Mid-Loading: in Mauritius and Zimbabwe – tariff lines are reduced by equal instalments from year 4 to year 8

Back-Loading: in MMTZ – tariff lines are reduced by equal instalments from year 6 to year 8

Category **C** tariff reduction of sensitive products (goods of economic importance); occurs only after the 8 years (except SACU)

Category **E** **Exclusion List** – Exemptions for some products for instance second-hand textiles or fired arms
(Peters 2010:148).

In this regard, Helmut Asche has determined the following results: SACU members and Non-LDCs as well as LDCs, which are not in the SACU, have to liberalize at different rates. The practical implementation is much more complicated in relation to the graduated procedures. And what is more important: After 8 years it is unambiguous that just the liberalization in Category **A** is met. In other categories not much happened (Asche 2009:78). The objectives of the SADC Protocol, concerning the gradual liberalization, could not be implemented today. Economic growth and diversification of production should be accelerated by SADC much better. The intra-regional trade is shockingly low (as indicated in Fig 2), in face of numerous efforts in promoting Regional Integration within SADC. There are many reasons for the weak growth in SADC, which are set out below. However, this paper can take up the real complexity only in small dimensions.

Overlapping membership and less diversification: Mozambique is the only country that only belongs to one economic community. The remaining 14 countries are members in at least two integration groups. The overlapping can be associated with different goals and implementations. That leads to an inscrutable muddle of economic agreements. The unholy mess can hardly contribute to the stability of the SADC. In this respect, the liberalization

attempts by the EPAs can initially lead to the necessary breakup of these overlaps, to ultimately help the newly constructed communities to stable integration (Asche 2009:74).

| | Year established | Year of entry into force | Type | Merchandise exports within bloc (% of total bloc exports) | | | | | | |
|---|------------------|--------------------------|------|---|------|------|------|------|------|------|
| | | | | 1990 | 1995 | 2000 | 2003 | 2004 | 2005 | 2006 |
| Economic and Monetary Community of Central African States (CEMAC) | 1994 | 1999 | CU | 2.3 | 2.1 | 1.0 | 1.4 | 1.2 | 0.9 | 0.9 |
| Common Market for Eastern and Southern Africa (COMESA) | 1994 | 1994 | FTA | 4.2 | 5.4 | 3.7 | 4.4 | 4.1 | 3.4 | 3.2 |
| East African Community (EAC) | 1996 | 2000 | CU | 13.4 | 17.4 | 20.5 | 18.3 | 16.7 | 15.1 | 16.5 |
| Economic Community of Central African States (ECCAS) | 1983 | 2004 ^b | NNA | 1.4 | 1.5 | 1.1 | 1.0 | 0.9 | 0.6 | 0.6 |
| Economic Community of West African States (ECOWAS) | 1975 | 1993 | ES | 8.0 | 9.0 | 7.6 | 8.5 | 9.3 | 9.3 | 8.3 |
| Indian Ocean Commission (IOC) | 1984 | 2005 ^b | NNA | 4.1 | 6.0 | 4.4 | 6.2 | 4.3 | 4.6 | 4.7 |
| Southern African Development Community (SADC) | 1992 | 2000 | FTA | 6.8 | 9.2 | 9.4 | 10.1 | 9.7 | 9.2 | 9.1 |
| West African Economic and Monetary Union (UEMOA) | 1994 | 2000 | CU | 13.0 | 10.3 | 13.1 | 13.3 | 12.9 | 13.4 | 13.1 |

Source: Power Point; Lecture: Africa in World Economy. Helmut Asche. 2009. Leipzig.

A special role in this problem plays the SACU. It applies for the better functioning regional community inside of SADC. This additionally complicates the allocation of preferences granted to each other (ibid:79). For instance, SACU-States levy a common external tariff, both for the other SADC countries, as well as apply for non-SADC members. With that system it put all the non-SACU members on one stage, although some of them are organized in a joint regional community, namely the SADC. This raises the SACU over the SADC. The latter becomes increasingly demoralized.⁴ In addition, SACU structures and mechanisms do not exist in SADC, at least in their efficiency.⁵ This kind of *box-in-the-box phenomenon* will also bring complications in the EPA negotiations with SADC. The SADC, in contrast to other regional communities, has at least one member who disposes over a significant industrial sector and its companies play an important role in the world market, can actually look forward optimistically to the future development (von Soest; Scheller 2006:4).

⁴ Accountability is further complicated by bi-lateral agreements between SACU and SADC members, for instance Namibia and Zimbabwe (Asche 2009:80).

⁵ The Revenue Sharing Pool is one of these mechanisms. The Pool collects all customs receipts in a kind of funds and distributes them to the SACU members, according to the necessities. Hence, an attempt is made to compensate the revenue losses, created by trade liberalization.

Nevertheless, the role of South Africa within SADC, and also in the EPA negotiations, is controversial and creates distrust in the rest of SADC.

The majority of SADC produce clearly below the world average, which makes mutual trade difficult. The countries are poorly diversified in their product line and have to import many goods from abroad (EU, South Africa, China, India, USA). Of other SADC members they can probably benefit little. A detailed presentation of flows of trade within SADC would be very interesting in this context. But this turns to be difficult, because of weak and incomparable data of the member countries. The reason for the rather unreliable data, are functional deficiencies of the SADC institutions

SADC institutions and their challenges: “[...] *economic cooperation requires the delegation of power to a supranational body entrusted with the task of safeguarding the interest of both the multinational grouping as well as that of the individual member states.*” (Afadameh-Adeyemi; Kalula 2010:10). The SADC is made up of eight institutions with different but also intertwined tasks. At the top is the twice yearly summit of the head of the government. Here, the guidelines and the necessary legal measures are identified which should apply for the whole SADC. At this meeting the persons in charge will also decide about the admission of new members into SADC (Jaspert 2010: 82). Although these meetings are still held, the outcome is very limited, due to lack of will and weak enforcement power. Similar to the SADC Secretariat, which is, considered rude, responsible for the implementation of SADC projects and financial management, the summit is more a platform for members of the government to articulate their national interests less into line with regional targets (von Soest; Scheller 2010:82). The reform of the organizational structure in 2001 has so far not much changed the situation. The reforms, however, created a so-called Troika, which will expand the functionality of the summit by another chairmanship of SADC organs. The Troika consists of the current, previous and future chairmen of all organs, to effect a better cooperation and a greater interdependence. Hence, you can mute the complementarity of the individual interests. The involvement of all national interests into a common SADC policy is addressed by the SADC National committees. Located on the level of nation states, they are composed of representatives of the national government, civil society, as well as the employers and workers. Its task is the advisory involvement in the framing of a common SADC policy and coordination of the implementation of SADC programs at the national level (Jaspert 2010:83). The Council of Ministers, consisting of all members of SADC foreign ministers, is considered the most important consultative body to the summit and meets for

times a year. The Integrated Committee of Ministers, in submission to the Council of Ministers, is responsible for including the expanded conceptualization of the RISDP.

The regional court (SADC Tribunal) is to carry out procedures in order to resolve conflicts and disputes within the SADC. Despite a multitude of conflicts, the Tribunal rarely came to act, because of structural complications. The SADC Tribunal has even been exposed for an indefinite time (ibid 2010:84). The structural deficiencies of the SADC organs lead to a low effectiveness of combining national and regional interests. Furthermore, the low capacity and human skills are critical in these organs. Additionally, the funds, which are mainly applied by the members themselves, can hardly increase the efficiency of implementation. Moreover, it lacks on viable monitoring-systems that dates successes and weaknesses adequately. Hence, it can be prepared ahead of forecasts to encourage a preventive action of organs for possible failures. In sum, the functional deficiencies have to be fixed in order to strengthen the regional integration process. What obstacles block the regional integration are still be shown in the third point.

Other lacks: Robert Kappel executes, in a study published by the GIGA, eight issues. Seven of them are significant with respect to the weak growth of regional communities, like SADC. (ibid 2008:5).

1. The infrastructure and logistics, which cause high transaction costs, are insufficient and difficult to expand mutual trade.
2. The heavy and costly access to telecom and energy in general impede fair competition of enterprises.
3. The elimination of non-tariff-barriers has to be pushed.
4. There is a lack of similar production structures in the trading countries. Also same product standards have to be established (which comply with ISO standards). Non-adapted standards act otherwise as non-tariff-barriers to trade.
5. The Rules of Origin have to be simplified, because their restrict access to European markets.
6. To compensate the liberalization associated revenue losses, mechanisms within the region should be created. Until these mechanisms work, however, the international community must ensure effective financial compensation for all member countries.
7. The OECD countries, China and India have to dismantle the agricultural subsidies, so that African farmers have a better chance at the world market.

One can attach many other factors that stand in the way of a positive regional integration in SADC, including political, social or environmental lacks.

This section has shown that the SADC is hard to grasp. The real, material existence of the SADC is questioned by many scientists.

2. The Economic Partnership Agreements

2.1. The objectives of the EPAs

Trade relations between the EU and the ACP-countries go far back and have always been accompanied by complications and problems.⁶ The EPAs should be consistent with the start of negotiations in the year 2002, make the trade relations to a new level. A new regulation was necessary, because the non-reciprocal trade relations, in the context of the Cotonou Agreement, contradicted the principles of the WTO. There was criticism that the EU in the trade chapters of the agreement provides non-reciprocal favours in trade only to ACP-countries, but not to other developing countries in Asia or Latin America (Jaspert 2010:255). For many years the EU granted specific trade preferences to African countries, while the latter shielded its markets through tariffs and non-tariff barriers. This asymmetry should now be abolished.

“A waiver allowed derogation from the Most Favoured Nation (MFN) cause of the General Agreement on Tariffs and Trade (GATT) until its expiry at the end of 2007. The Cotonou Agreement did not provide for an extension of the waiver, which implied that meeting the end 2007 deadline was an imperative.” (McCarthy. In: Asche; Engel 2008:109).

In addition to the compliance with the WTO-compatibility the EPAs should strengthen economic growth and enhance regional integration in order to introduce the end of poverty and create sustainable development. The EPAs are a new strategy to achieve these goals, because no previous reforms met the desired expectations. The optimism has evaporated due to the frequently unsuccessful development strategies, which can be illustrated even in these uncertain and hesitant EPA negotiations with the EU. The relationship between the EU and

⁶ Robert Kappel mentions five reasons: 1. the diverse interests make it difficult to cooperate; 2. Compensatory mechanisms in the fall in prices (as STABEX) were used inadequately; 3. French interests in francophone Africa played against EU interests, thus, it decreased the competitiveness of CFA-countries, due to the connection of the currency at the revaluated Euro; 4. It lacks an effective industrial policy; 5. Asymmetric trade relations (ibid 2008:3).

the African regional integration can therefore be described as very unstable. Kappel summarizes the key integration goals of the EPAs in four points (ibid 2008:5).

1. The integration into the global economy of the ACP countries is considered the chief target.
2. The ACP-countries need to be empowered to take on the challenges of globalization and to create incentives for foreign investors.
3. To strengthen the intra-regional trade, partnerships have to be expanded.
4. The necessary measures and steps need to consider the different stages of development and social and political contexts of individual countries.

The EPAs are not purely economic agreement and will also make a contribution to development issues. The ACP-states are calling for more trade-related development aid and binding commitments by the EU to address administrative, capacity related and infrastructural problems (Reichert; Spielmans; Mengel; Frein; Lanje 2009:10). The EU does not directly provide funds in the EPA process, because the European Development Fund and the *Aid for Trade-Program* are development specific commitments already made. Nevertheless, the EPAs will be a means to promote regional integration in general. But, is that possible without an active setting of development components on the EPA agenda? For remembrance, the *new regionalism* is characterized by observing the development and the present situation of the social system in that specific region (Jaspert 2010:183). Be taken that, if the EU is honestly striving for a better regional integration in the RECs, then additionally to the economic agreements, a political and social development agenda should be applied in the EPA negotiations. Instead, the integration projects threaten to burst, through the *contentious issues* that force the negotiations in the extensions since the 2007 deadline. The SADC EPA negotiation process and the ever-occurring challenges demonstrate the assumption that the EPAs are aimed at promoting regional integration, far over calls.

2.2. EPA Process in SADC

When the EPA negotiations with the ACP states began in 2002, the SADC had enormous difficulties to bring its 15 members together and motivate them to move to a common strand. The SADC was, as already stated, splintered into several groups in order to enforce their national interests instead of developing a supra-national position. The SADC negotiations started 2004, which brought up to the present time, a reduction of SADC 15 to SADC7. The heterogeneity and the strong splitting of the SADC are an indication that major conflicts during the EPA negotiations have occurred (Jaspert 2010:256).

The problems encountered in the first chapter of regional integration in SADC EPA seem to complicate the process and bring the negotiations to the length. Especially the questions of, which sectors should be liberalized in what time and how much, as well as which infant industries are still to be protected with duties from foreign competition, could not be clarified. The ambitious goals, concluding complete EPAs to 2007, as we know now, failed.

The schedule was extremely high-flying. Overall, the ACP countries had at most seven years to plan and organise their own regional integration, in parallel to develop a common strategy for the negotiations with the EU, which should be concluded successfully in 2007 (Reichert; Spielmans; Mengel; Frein; Lanje 2009:12).

The EU saw that the pressure was too high and the content of the EPAs have not yet been sufficient or not satisfactory. Thus, the European Council called for the negotiations to show maximum flexibility. The flexibility was expressed first in the so-called interim-EPAs. On the one hand the IEPAs illustrate the despair of the EU itself. They seem not to have the process under control and thus continue to lose respect in African countries. On the other hand, IEPAs can be considered as a necessary obligingness to pay more attention to developmental contexts of the member countries in further negotiations. However, due to the consideration of individual interests in the IEPAs the differences are even more clearly to the fore, which might jeopardize an additional splitting of the SADC. This can again raise the question: Is RI really settling as the primary objective (highest priority)? Or do the unequal economies raised, firstly, to a similar level, as it is practiced in the EU as well. *“Do the two parties share the same understanding of how integration is to be promoted? [...] Do they sing from the same hymn book?”* (Erasmus 2011:11).

Even before the drafting of the IEPAs, which only create the transition to full EPAs (including *Singapore Issues*)⁷, the SADC members Madagascar, Malawi, Mauritius, Zambia, Seychelles and Zimbabwe decided to join the EPA negotiations within ESA. The DRC decided to be part of the CEMAC negotiations. Ultimately, Tanzania changed the negotiating group to ESA. It remained the SACU members, as well as Mozambique and Angola. The decay of SADC15 to SADC7 made clear, that no common regional interest within SADC existed. In addition, the LDCs within SADC possessed anyway-free market access to EU markets under the EBA initiative. They had, in contrast to the non-LDCs, advantageous options, that concluding an EPA was not necessary to them.⁸ The split in the SADC seems to consolidate and the present and past Africa strategy of the European Union carries a significant complicity in this construction (Jaspert 2010:259). Since the beginning, the negotiations have been marked of controversy and deep suspicion. That was enormously contributed by the autocratic tenor performed by the former EU Trade Commissioner Peter Mandelson. This rough guidance of negotiations became limited, due to the office take-over to Catherine Ashton. However, she also could not solve the inhibited integration problems effectively. Particularly, the case of South Africa and the recent conflict of interests with Namibia complicated the affairs of integration process.

2.3. The role of South Africa and TDCA

The most developed country in SADC, South Africa, is also simultaneously a member of SACU. In both regional communities South Africa plays a dominant role, because it acts as the main trading partner for all SADC states. The SACU was founded in 1910 and was completed in 2002 on a new footing. All members, BLNS and South Africa, agreed on a common external tariff. During the renewal of the SACU Protocol, South Africa has, ahead of the EPA negotiations, negotiated a separate economic agreement (TDCA) with the EU.⁹

⁷ Issues that should be prioritized, in connection with trade and development: 1. Trade and Investments (protection of investments, transparency, equal treatment of domestic and foreign companies); 2. Trade and Competition (basic principle of future agreements to regulate the combating of so called hard-core cartels); 3. Public Procurement (procedures and rules for the tendering for public contracting); 4. Trade Facilitation (reduction of bureaucratic barriers)

⁸ LDCs could not profit from the EPAs short-term, since they already had market access to the EU under EBA initiative. Instead, non-LDCs, if not signing, would fall back on the GSP-system, which has far more unfavourable terms of trade.

⁹ For more information about TDCA Agreement I can recommend the report (2004) of the SAIIA Conference by Talitha Bertelsman-Scott and Peter Draper (vide bibliography).

“It largely deals with the movement of goods but there are provisions related to services and investment as well as other issues, such as government procurement, competition policy and intellectual property. [...] With regard to market access, the EU is required to eliminate tariffs on approximately 95 % of goods currently traded, and South Africa on 86 %.” (Grant 2006:3).

South Africa has made this arrangement with the EU alone, without involving the remaining SACU states. Nevertheless, BLNS are *de-facto* part of this agreement, because first, the SACU Protocol does not allow an agreement with third countries without the permission of other members and second, because of the common external tariff of SACU. Thus, BLNS are also forced to liberalize 86 % of their products, which in some countries leads to huge revenue losses. Due to the TDCA Agreement, according to calculations, Botswana loses 10 % of their total revenue (ibid. 2006:4). Then 2004, the EPA negotiations were taken up with the SADC. As a non-ACP state, but a member of SADC and SACU, it was obvious that South Africa could become a problem child. Must South Africa be included in negotiations? And if so, should the better developed South Africa be treated the same development-friendly as other SADC members (Reichert; Spielmans; Mengel; Frein; Lanje 2009:13)? Not to jeopardize the integration of SACU, which was already cracked by the TDCA, the EU decided to include South Africa into EPA negotiations, but with separate rules for South African exports to the EU (Roux 2009:2).

“However, the EU concern is that treating South Africa – an economy which in GDP size and level of industrial development is in a different league than the other ACP countries – on par with BLNS could reserve some of the tariff liberalisation and market access achieved under the TDCA.” (McCarthy. In: Ashe; Engel 2008:119).

At this point, it was already clear, that the deadline for concluding the EPAs in late 2007 was not observed. The pressure from the EU, especially from Peter Mandelson, became larger. The inclusion of South Africa and therefore the challenge to reconcile the TDCA with EPAs in away, that all remaining SADC members (also non-SACU members Mozambique and Angola) accede, clearly collided with the idea of the EU Commissioner to conclude the EPA negotiations until the end of 2008. This time pressure under these difficult conditions led only to more confusion and confrontation within the SADC⁷. Like already mentioned, even within

the IEPAs there were many controversial issues on which the SADC members were not united among themselves. Additionally, the EU urged to include the Singapore Issues in the EPA. While some states had no objection, South Africa tried to resist, because it was afraid the European competition could sacrifice the national economy. However, the IEPAs should start simply and exclusively govern the trade of goods and prepare the liberalisation of markets. The IEPA negotiation state of play in the year 2008 was as follows: Within SADC, BLNS have initialled an IEPA, while Namibia agreed to only reluctantly. This agreement, however, differs from the TDCA free trade agreement between South Africa and the EU. Mozambique, as a non SACU member, has initialled its own IEPA with special liberalization timetables. Angola has not initialled an IEPA and continues to enjoy free access to the EU market under EBA. IEPAs that at the time are only initialled, have the advantage that particularly controversial rules can be changed before the government finally sign and ratify the agreement. The real role and dominance of South Africa both in the South-South relations and in the North-South relations, is still difficult to assess.

2.4. Contentious Issues in general

“As has been mentioned above, a number of ‘contentious issues’ were identified in the IEPAs concluded by many African states.” (Bilal; Ramdoo 2010:13). In its *Discussion Paper of ECDPM*, Bilal and Ramdoo describe how the contentious issues vary by region and how these issues have to be treated differently in further negotiations. They mention six contentious issues (ibid.):

1. The exact interpretation of the WTO requirement to liberalize “*substantially all trade*”
2. The implementation of the *Most Favoured Nation Principle*
3. Measures which restrict the exports
4. *Bilateral safeguards* and the protection of *infant industries*
5. The simplification of the *Rules of Origin*
6. The implementation of a *Standstill Clause*

First: The requirement of the WTO to liberalize “*substantially all trade*” is interpreted by the EU on its own way. Namely, they were setting the policy that all ACP states should grant at least 80 % of their products duty-free access, within 15 years. There is no clear definition of it. The interpretation of the ACP states may of course be completely different. Many African

RECs perceive the EU-interpretation as unreasonable and demand a more flexible interpretation and implementation for weaker economies. Particularly for the LDCs arise large revenue losses because of the high rate of liberalization. And they mostly have little competence and capacity to compensate these losses.

“Despite various arguments put forward by EPA regions, in particular LDCs, regarding their low levels of development and hence the difficulty to meet such requirements, the EU has shown little flexibility to accept market access offers that did not meet the 80 % threshold [...]. The EU has indicated that it could consider countries’ proposals on a case-by-case basis.” (ibid. 2010:14).

The liberalization offers of the SADC states are different. BLNS and South Africa, the complete SACU, want to liberalize 86 % by 2020. The BLNS follow the TDCA agreement that the equivalence of the SACU is not be further minimized. Mozambique, as a non-SACU member, wants to liberalize 81 % by 2020. Angola has so far put no offer on the table because it is satisfied with the EBA initiative.

Second: In each IEPA a *Most Favoured Nation Clause* should be included. This MFN clause requires, that ACP states, which offer preferences to third countries in other agreements, also need to grant the EU. If for example Mozambique will negotiate an additional free-trade agreement with India, then the same conditions in the agreement shall also apply for the EU. That steals the ACP countries more scope of action to protect their own markets. Their ownership is ignored. The clause is certainly justified by the fear of the EU to lose their title as the most important trading partner in Africa to new players like the BRICs, although a progress in South-South relations could be very meaningful for the economic growth in Africa. The EU-arguments for the MFN clause are based purely on the fairness and non-discrimination, a development policy and a pro-poor growth argument can’t be determined (Reichert; Spielmans; Mengel; Frein; Lanje 2009:21). In the SADC, the countries could agree so far only on a vague and half-hearted solution. The clause should not apply for South Africa, but for the other members, however, but modified. This means that the countries, before concluding a free trade agreement with third countries, have to consult about it together with the EU. However, there are no liabilities. What conditions are crucial and what range for the new agreement is valid, that is not clear defined. This underlies far-reaching

interpretations (Asche; Engel 2008:254). That shows again the confused and ‘mercantilist’ attitude of the EU (Reichert; Spielmans; Mengel; Frein; Lanje 2009:21).

Third: The third issue deals with the export restrictions to be completely abolished with the implementation of the EPAs, even though they are in many countries of great importance. With export duties one gains additional revenues and infant industries can be protected from the competition. Furthermore, export duties serve as an effective means to promote the value creation of many products. Also in this EU requirement one searches in vain for an altruistic, developmental reason. Rather the goal is to simplify their own access to resources (ibid 2009:21). In the SADC basically, the EU prohibited to increase not to mention to rebuild export restrictions. If a country would like to oppose this ban, it has to request a consultation with the EU. The country must demonstrate a reason to justify a specific need for export restrictions (ibid 2009:22). However, there are also no clear criteria by which the EU decides.¹⁰ That happens quite arbitrary. In addition, countries often lack the data and a functioning monitoring system, which may prove the necessity of export restrictions.

Fourth: A common reason for the justification of export restrictions is the protection of infant industries, a fourth major contentious issue in the IEPAs.

“Currently, under IEPA, the provisions for the temporary protection of an infant industry are provided under the general bilateral safeguards clause, and therefore subject to the same conditions as any other product that would face a surge in imports that may cause or threaten to cause serious injury to an industry. The provision is also temporary and is subject to a sunset clause, [...]” (Bilal; Ramdoo 2010:24).

The EU does not negate the importance of the special provisions for the protection of infant industries, but keeps the current rules for completely sufficient. A further flexibility, such as through a required *stand-alone-clause*, would endanger the interpretation of *substantially all trade-default*. This required *stand-alone-clause* does not include a *sunset clause* and would ultimately reduce the time pressure. That was among other things, the requirement of the SADC countries in Swakopmund in 2009. But the EU prevailed and set a clear time period:

¹⁰ *“Temporary export duties can be introduced in case of: specific revenue needs, protection of infant industry, protection of environment, in case of critical shortage or to ensure food security, where the country can justify industrial development needs.”* (Bilal; Ramdoo 2010:23).

The non-LDCs have the right to protect their infant industries, through specific provisions, 12 years after the binding onset of IEPAs. The LDCs have three years longer (ibid 2010:25).

Fifth: A fifth issue within the EPAs is not treated so far, the *Rules of Origin*. This work can only explain very briefly the essential contents of *Rules of Origin*. These Rules were enacted to ensure that the goods, which are exported to favourable conditions, were actually produced in that country. This is to prevent, that third countries, such as China, first move its products to Mozambique in order to get duty-free access to the EU. However, because just a few products are today manufactured completely in only one country the rules had to be extended. Thus, there are specific criteria to determine the origin status.¹¹ The so-called accumulation is also possible that poorly developed ACP-states, which contribute only a small portion of processing a t-shirt, although the cotton comes originally from the USA, get attributed to the origin and benefit from improved market access. With the EPA negotiations, this possibility has also deteriorated. From before 71 ACP-states, 38 countries have initialled an IEPA. This means that the number of states, which can accumulate with each other, for almost minimizes the half. The other states are subject to separate *Rules of Origin* under the GSP-System. An exception is South Africa, which may accumulate within the EPA-zone – a measure not to shake the stability of the SACU (Reichert; Spielmans; Mengel; Frein; Lanje 2009:24).

Sixth: The last contentious issue is the implementation of a *Standstill Clause*. The tariffs for all products must be frozen at the currently applied level (ibid 2009:19). Because many states have set so far relatively low tariffs, although the WTO law actually allows for more, the ACP states' re-scope is hereby restricted. The standstill clause will even apply for sensitive products that require just the special protection. Therefore the SADC called for that the standstill clause “*would apply only to the product subject to liberalisation [...]*” (Bilal; Ramdoo 2010:28).

2.5. Do the EPAs undermine or strengthen RI in SADC?

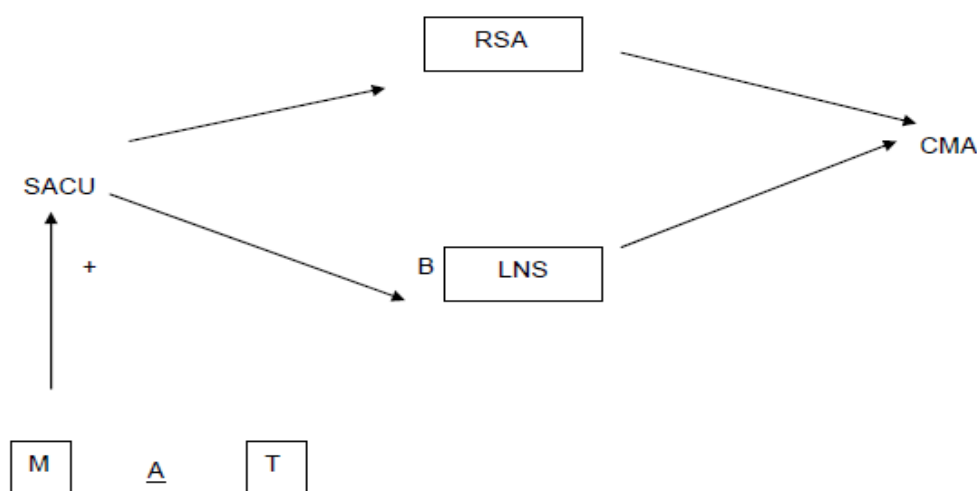
Like all EPAs, also the SADC EPA text aims in “*promoting regional integration, economic cooperation and good governance [...]*” (Erasmus 2011:3). In addition “*the parties*” have to “*recognise that regional integration is an integral element to their partnership and a*

¹¹ The origin status is determined according to criteria of value, the change in the classification of goods or the nature of the manufacturing process, or the combination of several methods (Reichert; Spielmans; Mengel; Frein; Lanje 2009:23).

powerful instrument to achieve the objectives of this Agreement.” (ibid). This goal was probably not achieved. But who’s to blame? Is it the lack of political and economic will in the SADC countries, or is it the EPA, that differences between the SADC members brought clearly to light? One should be noted:

“It will, however, be a mistake to view SADC as a tightly consolidated and effective legal arrangement which will now be disrupted by the SADC-EPA. [...] There was no sinister EC plan to divide and rule Africa through the EPAs. We still lack clear schemes and firm rules for the RECs qua integration arrangements.” (ibid 2011:4).

The thesis put forward by Gerhard Erasmus, the EPA negotiations are not to blame for the breakup of the SADC, is supported in this work. The actual material existence of the SADC was already doubtful before the EPA negotiations started (Asche 2009:82).¹² The EPAs could even be an instrument to break the existing overlaps and the consequent regional differences to establish new stable regional integration groups. But here, you have to do a reproach to the EU and the EPA. For a positive RI in SADC, perhaps it was already too late. That the autocratic and unconfident guidance of negotiation of the EU additionally split the SACU into two parties, clearly goes to the account of the EPAs. In occasion of this performance it can be truly said that the EPAs do not cause the less Regional Integration, but definitely undermine the process of Regional Integration in SADC. Colin McCarthy sums up the situation in the SADC EPA in the following scheme:



Source: McCarthy. In: Asche; Engel. 2008:122

¹² The fact that the SADC has virtual no material existence, must not be confused with the other statement, keep them for completely fictional. In negatives, the SADC exist as a clientele and patronage system of second order, which raises the neo-patrimonial fief of the member countries to the international level (Asche 2009:82).

According to that scheme the SADC is composed of SACU, Mozambique, Angola and Tanzania. While Tanzania already negotiated with the ESA group, Mozambique and Angola take a more open role in the EPA negotiations. The main focus is on the SACU, the once stable Regional Community. On one side is South Africa, which occupies a special role, as a non-ACP state. On the other side are the BLNS states. South Africa and LNS are additionally in the CMA. Botswana is not. This creates a first distance between the SACU members. A second distance was established through the IEPA negotiations, as we already know. The BLS have signed an IEPA. South Africa and Namibia have not done that. It was the SACU EPA, instead of the SADC EPA, in the eyes of many scientists as the better alternative. But what happens then to Angola and Mozambique?

“However, Angola and Mozambique are not part of SACU, hence including them into such a coherent entity would in practice mean to include these countries as part of SACU without formally joining the customs union. Such a step would be a forced integration without the consent of the SACU Member States.” (Roux; Karamata 2010:13).

That definition of the Parties (DoP) has to be clarified. Now one must state that, unfortunately, that opinion is unlikely to be meaningful, since the SACU threatens to disintegrate into every part. Become the puzzle pieces joined together again so that differences among themselves repealed and common interests are articulated, seems not to be a feasible task to be. Other alternative trading blocs are difficult to imagine, because in SADC EPA negotiations there are now too little puzzle pieces. According to that plight, Asche rightly asks: What is the conclusion of the overarching question of supra-national entities to act proactive economic policy and economic integration in Africa (Asche 2009:83)? There are too many challenges, both within the SADC, as well as in the North-South relations. These challenges extend beyond economic tasks. Many preconditions for a full EPA are not available and have to be developed. At the same time, the EU must reassess their guidance of negotiation and design a more flexible content in the EPA to the countries in Southern Africa, and elsewhere, to give more opportunities and more time to comply with certain criteria for an EPA.

“To progress in the EPA negotiations, notably on the contentious issues, it is crucial for the parties concerned to reach an agreement that both reflects the

development ambitions of the ACP and that can be jointly defended at the WTO.

This will require a careful assessment and strong political guidance.”

(Bilal; Ramdoo 2010:33).

A development-friendly and WTO-compatible progress can only be achieved if the following issues are handled: The EPA negotiations and the related requirements of the EU on SADC were bound to strict deadlines. Looking back, already many development strategies were given little time to work. Clear, but utopic deadlines for a specific outcome were set. Accordingly great was the disappointment if the expectations were not achieved. The fact, that after 2007 the deadlines for concluding an EPA were renewed regularly, indicates the lack of planning reliability of the EU. While setting the time period, they did not take into account significant possible upcoming contentious issues, which at least were not taken seriously. In addition, the tight time frame was not psychologically clever, either. The deadlines have exerted strong pressure on the different developed member countries. Further inconsistencies within SADC were constructed artificially, although SADC was already corrugated by dissent. Of course the confidence between SADC and EU is suffering, because the sovereignty of the SADC is skipped and fast solutions are to be enforced. These clear, but inadequate time schedules have weakened the North-South Relations and clearly contribute to ensuring that the negotiations are out of control. The negotiations have to be waged in the future with a more flexible time frame (ibid 2010:34). More flexibility is also required in the treatment of contentious issues, especially the question of interpretation of WTO determinations, which have no clear definitions. According to the market access the EU interpreted liberalizing *substantially all trade* as 80 % within 15 years. This interpretation is not based on a legal or political justification and neglects the unequal level of development in all the negotiating countries. Even with other unclear definitions, the EU interpretations will be regarded as the guideline, which the SADC countries must submit. Logically, this kind of arbitrariness creates a feeling of distrust in the SADC, and that leads to a spiteful reaction in SADC. Once defiance and mistrust are in the game, it is hard to open again the mentally blocked negotiations for a common goal. Also the demand to include the MFN Clause into the EPAs is blocking the negotiations. The EU sees the clause “*as a matter of fairness*” (ibid 2010:35). The word *fairness* sounds from the mouth of the EU rather curious, considering the already mentioned mercantilist guidance of the EU. Some SADC states are not in agreement with the clause and make massive resistance, because there is room for maneuver of these countries curtailed dramatically.

A compromise must also be found regarding the export restrictions. Many countries continue to rely particularly on the additional revenues, for instance to protect infant industries. Again, there is no clear guideline prescribed by the EU.

“However, strictly speaking, WTO rules do not expressly require countries to prohibit the issue of export taxes. Therefore, there is no obligation to have a clause on export restrictions in the EPAs; [...]” (ibid 2010:35).

The eager objective of the EPAs to promote Regional Integration in SADC, can't exclusively be achieved by solving the contentious issues. “[...], it is increasingly agreed that the real challenges to regional integration lie behind the border.” (Bösl; du Pisani; Erasmus; Hartzenberg; Sandrey 2011:2). These *behind-the-border-challenges* are to be found mostly in the significant lacks and problems within the SADC group, which have to be resolved to guarantee a partnership at eye level. These deficiencies are identified in the course of that work several times and are summarized again. These are among other things, the weak institutional capacity in the SADC. This includes not only the hitherto inefficient institutions of SADC, but also the incredibly important, but missing monitoring system with the reliable data analysis of the economic development of individual countries, including the needs and dangers, that should be taken into account with a new agreement. The demand for a better functioning monitoring also applies specifically for the EPA negotiations. There are no usable data, only speculations about the direct effects of such agreements. Also the EC has *lessons to learn* (Reichert; Spielmans; Mengel; Frein; Lanje 2009:28).

The biggest problem in the SADC region is probably the inconsistency and lack of political will to pursue a common strategy. The governances continue to act according to national interests. And it is very important for regional integration to find each other politically. Bilal and Ramdoo also emphasize that “[...] the EPA process is first and foremost a political issue, not a technical one [...]” (ibid 2010:36). A prerequisite for economic unity is also the political and social stability, which has not been established by the SADC if we look at the Zimbabwe crisis and the civil war in DRC.¹³ Especially in those countries, where “*authority [...] increasingly is exercised beyond the state [...]*”, and “*processes of deterritorialization [...]*” (Engel 2010: Module: Politics in Africa) take place, a division of formal and informal trade is difficult.

¹³ The Zimbabwe crisis, the trans-boarder conflicts in DRC and recently the events in Madagascar are the greatest security challenges for the SADC.

Another major shortcoming in the SADC region is the low economic diversification of the member states. To enlarge the product range of the countries, some scientists such as Helmut Asche, require a *pro-active* economic policy, which also must have a consideration in the EPAs (ibid 2008:85). In this context it appears the question, what degree of state intervention can produce an effective economic development?¹⁴ The *East Asian Miracle* serves as a model. But even with a bigger industry the gateway to the world market is still not fully open. The SADC is equipped with a lack in infrastructure, also in the logistics area, which is associated with high transaction costs. Many strategies, from the SADC as well as from the outside, have failed to develop this. These tasks are taken over by the BRICs in a big way, which in contrast to the EC do not bind their cooperation to specific conditions. This makes the BRICs to interesting new trading partners for Africa, what the EC would like to minimize through the MFN Clause including in the EPAs. Investments in infrastructure have to rise further in order to create better trading conditions for the countries of the SADC (Kappel 2008:5).

Lesotho, Swaziland, Mozambique and Angola are still heavily dependent on tariff revenues. The losses caused by the increasing market opener can hardly be compensated. This compensation mechanism has to be created. New sources of financing can also be established due to the extension of domestic industry. But that takes much time. Until then, the International Community has to help out with development aid (ibid 2008:6).

Another essential task, both within the SADC Protocol must be discussed, as well as stronger presence in the EPAs must be, is the sustainable use of resources and environmental protection. Especially in environmental protection, there is little information so far how this is being debated in the EPAs.

A progress in the EPA negotiations with SADC is possible. However, it proves to be extremely complicated. Another obstacle for the EC was a long time even Namibia as a strong-headed trading partner, which may play a special role for a possible reunion of the SADC-EPA group. The last chapter deals exclusively with the role of Namibia in these EPA negotiations, whose interests and assertiveness could bring the current EPA situation in a better way forward.

¹⁴ Rodrik mentions ten design principles, which underline the significance of state intervention in economy to generate growth and increase diversification. These principles are to be found in the collected edition "*Negotiating Regions: The EU, Africa and the Economic Partnership Agreements*" by Helmut Asche and Ulf Engel.

3. Namibia in EPA negotiations

3.1. Namibia's role in the process / reactions in the media

After Namibia has initialled the IEPA with delay, it has become clear that Namibia does not accept some contract content. The Namibian government urged these contentious issues continue to be on the agenda. Before Namibia finally will sign the IEPA, that list of controversial issues has to be clarified. Peter Mandelson has refused to pursue the claims. South Africa and Angola also joined these points of contention and were not interested in signing the IEPA. The so-called ANSA-group thus exerted strong pressure on the EC to affiliate the contentious issues on continuative negotiations. The harsh guidance of Mandelson seemed to fail. He stepped back from his mandate in October 2008. Catherine Ashton was the follower. According to the article of Wallie Roux, she expressed with regard to the stalled negotiations as follows:

“Together with SADC, it remains our goal to consolidate the regional integration. Therefore, we have begun to discuss the concerns raised by South Africa, Namibia and Angola. Our goal is to find an agreement on all these issues that is acceptable also for the region as a whole. Even for those who have not expressed this concern.” (ibid 2009:3).

In further negotiations the ANSA group and the EC did not come to a consensus, but Ashton reiterated that no country can be forced to sign the IEPA. Ultimately, the goals are important, not the strict deadlines. The negotiation tenor became more friendly and flexible. In March 2009 a further round of negotiations took place in Swakopmund. There, the issues in the areas of Standstill Clause, MFN Clause, Export Restrictions, Food Safety and Rules of Origin should be clarified. But many other paragraphs were on the test stand. They agreed on sparse points in Swakopmund. Some vague agreements were reached concerning quantitative restrictions, food security, export taxes and infant industry protection. And no agreements were reached on the MFN Clause and on the DoP issue.

Nevertheless, the EC saw these negotiations as a success. And suddenly, the EC seemed to be in hurry and called BLNS and Mozambique to sign the IEPAs, although they wanted to provide great flexibility. Why the sudden rush to sign an unfinished agreement that does not even offer legally binding of what has been agreed in Swakopmund? The schizophrenic tenor

of the EC showed that the atmosphere indeed was a bit more gently, but the pressure on the SADC remained the same. Namibia bent not the pressure, because in spite of negotiations in Swakopmund not all misunderstandings have been eliminated. The Namibian newspaper “New Era” wrote on 21st June 2009:

“In its current form, the EPAs are a straight jacket to Namibia because the EU has not been very transparent in their way of negotiating their deals and the contentious issues in particular for Namibia. It looks like a forced deal – if a country Namibia does not want to open its services sector or many other sensitive sector, which the EU likes to include in the full EPAs, there is no sense in pushing the country to do that against its will. [...]. Besides, pointing out our concerns and needing more explanations, the EU has not been able to provide that in detail so as to enable our negotiators to understand and make informed decisions. The EU’s insistence on being given ‘most favoured nation’ status will also make it impossible for Namibia to choose more strategic trading partners in future.”

(New Era: 12. June 2009. “Should Namibia sign EPAs?”).

But the article also says that if a conjointly agreement is reached, the reverse will happen, that EPAs “*could be a salvation for development*” (ibid) in Namibia. But “[...] *Namibia will lose if the EPAs are signed in their current form [...]*” (ibid). This has been recognized by Namibia, which remained stubbornly. The EC seems to have underestimated Namibia’s justified tenacity that forced the EPA negotiations in another round. This round took place without any negotiations with the EC until September 2011. Just the Technical Working Group of SACU met several times to prepare themselves for future negotiations with the EC regarding their complaints. The last meeting was held on the 31st of August this year. Jürgen Hoffmann, Trade Advisor from the Agricultural Trade Forum (ATF) of Namibia, holds the points together in a short report. “*The issues discussed and partially solved by the group were the following: Administration of Cumulation; Products to be excluded from diagonal cumulation in the European Union; the fishery issues of Namibia; Mozambique’s interest in the fishery issues of Namibia; SACU-EU Tariff negotiations; Products excluded from standstill.*” (ibid). But I will come to some of these claims later. Negotiations with the EC were not held until September of this year. Neither the EC nor the SADC made clear statements about the further course. One receives the impression that no contention was really

solved. Finally for October this year negotiations with the representatives of the EC were announced. Instead, just the EU trade commissioner Karel de Gucht came already on the 13th of September. It was just a one day travel to Namibia to talk about the way forward in EPA negotiations. The next day he already travelled to South Africa. “The Namibian” then reported the following:

“The European Union and Namibia resolved some misunderstandings regarding the economic partnership agreement (EPA), EU trade commissioner, Karel de Gucht, has said. ‘We have discussed a number of misunderstandings about the [to be signed] EPA’, de Gucht said after meeting with President Hifikupunye Pohamba at State House on Tuesday. ‘We have cleared issues and I instructed my negotiators to wind up discussions to get ready as soon as possible for Namibia to sign the EPA in a few months.’ “ (The Namibian: 15. September 2011. “European Union, Namibia clear misunderstandings on trade”)

After two years without serious negotiations with the EC, how could some misunderstandings resolved within one day? The manner in which the EC try everything to get the signing of an EPA over as soon as possible is certainly not honourable. Now a new deadline is set.

“The European Commission (EC) finally announced [...] that countries that have concluded an Economic Partnership Agreement (EPA) but not taken the necessary steps to ratify and implement it would no longer benefit from the EPA market access to Europe as from 1st January 2014. [...]. The message is therefore clear: if countries want to continue to benefit from EPA market access, either they have to sign and start implementing their existing EPA or conclude a new regional EPA. For others, either they will fall under one of the schemes of the new GSP (i.e. Everything But Arms, Standard GSP or GSP Plus) or they will have no preferences (as might be the case for Botswana and Namibia).”
(Ramdoo 2011:ecdpm).

Namibia's Trade and Industry Minister Hage Geingob reacted in "The Namibian" as follows:

"This is not a partnership. By setting an arbitrary deadline the EU is trying to put pressure on us to sign the economic partnership agreement, [...]. There must first be progress in action regarding the outstanding issues before a deadline can be set, [...]." (The Namibian: 6. October. "EU angers Government").

Also Dr. Malan Lindeque, the Permanent Secretary of the Ministry of Trade and Industry of Namibia, expressed himself in the "Windhoek Observer" as follows: *"It is not welcome to be given such a time frame, [...]."* The article goes on to say, that

"he further noted that it was unusual that during a recent visit by the EU Trade Commission, the commission did not mention the January 2014 deadline to the acting Minister of Trade Bernhard Esau, nor President Hifikepunye Pohamba. According to Lindeque, Namibia expects another round of negotiations with the EU to take place in November. 'The list of what still needs to be agreed is getting shorter and shorter, both sides are making proposals, compromises even, and suggesting alternatives ways of addressing issues, so it is being cleared up bit by bit.' " (Windhoek Observer: 17. October 2011. "Namibia pushes for best EPA deal").

But what are the concrete claims of Namibia which remain to be agreed?

3.2. Namibia's claims

The previous section has enumerated some unresolved points and their possible consequences for the SADC countries. This chapter summarizes the specific criticisms and looks at the consequences that could occur in Namibia. Starting with the infant industry protection it must be said in general that each government in the world protects new local industries from competition against more advanced companies from abroad. With mining (uranium, diamonds), agriculture, fishing, tourism and development aid Namibia contributes to the BIP. But Namibia has one of the most unjust income distribution worldwide (UN Gini as a percentage: 74.3 %), which leads to an enormous unemployment rate (51.2 %). However, a

great number of those people are working in the informal sector. They nourish a large proportion of the population, but they can't be captured by the statistics. There is already a big problem in Namibia to secure the rights of the informal sector through a formal law. With the current EPAs this situation could be exacerbated. Next to the tenuous situation of the informal sector *“Namibia is likely to experience closure of local manufacturing ventures, especially Small and Medium Enterprises (SMEs), as they are expected to compete against multinational companies in the EU selling their goods into the Namibian market. The country is therefore likely to see increased job losses, poverty and a loss of livelihoods.”* (LARRI 2010:10).

Another Namibia-specific problem, which is not addressed clearly in the EPAs, is the provision for food security.

“In the current negotiations Namibia is seeking [...] to protect the local agronomic, dairy and horticultural industries. It is important for the government to withstand EU pressure and retain this right in order to ensure food security, employment and wealth creation.” (ibid.)

Regarding to international trade rules, countries are allowed to impose quantitative restrictions to ensure their food security, which is still a great challenge for Namibia, the Namibia Early Warning and Food Information Unit (NEWFIU) says. *“Namibia is still a young country that tries to get its feet on the ground, but it has huge potential for food production [...]”* (The Namibian: 7. July. “Food Security has growth potential, but hampered.”). The most vulnerable debated industry in case of the EPAs is the fishing industry, which *“has not fulfilled many of the highest expectations created in the early post-Independence years. That “industry [...] is fragmented, secretive and politicised and characterised by low profits and excess capacity.”* (Sherbourne 2010:105). Meanwhile the EU drives the policy to compensate their own lack of fish production through consumption in African fishing industries, as in Namibia for instance. The EPAs will help the EU to get duty-free access to those industries. This endangers the fish production for Namibian's own food supply. Thus, before the EPAs come into force, specific provisions or safeguard measures should be implemented to protect the already fragmented fishing industries against international consumption.¹⁵ After the visit of Karel de Gucht in September this year, the

¹⁵ There are of course much more claims of infant industries, such as the fishing industry, which can't be considered in this work. For more information concerning the claims of the fishing industry in Namibia I can recommend the following useful websites:

Minister of Fisheries, Bernhardt Esau, said: *“There is an understanding that we can resolve the remaining issues as soon as possible.”* (Julian; Dalleau 2011: ICTSD). However, how this solution looks like seems to remain hidden.

Another important progress in EPA negotiations must be done. To ensure industrial development, export taxes have to be imposed, especially on the much in demand raw materials. This measure is also important for Namibia’s commodity exports. It would enable the country to strengthen the domestic value-addition in some sectors (f. e. agricultural and mining sectors). But, *“the EU wanted to abolish these export taxes to ensure access to raw materials for its own industries. However, the EU has ‘agreed’ in Swakopmund to allow export taxes for [...] industrial development.”* (LARRI 2010:11). But nevertheless the Deputy Minister of Finance, Calle Schlettwein, doubts it and said: *“If we sign the EPA in its current form, we will be deprived of the opportunity to develop our own industries and to export finished goods to other large markets.”* (Brussels Newsletter 2011-11-03. “Namibia will not sign ‘bad’ Economic Partnership Agreements”).

Other very complex challenges which have to be clarified are the Rules of Origin (the administration of the cumulation), the MFN-Clause and DoP issue. This work can’t cover these topics in a short manner, because of the risk to neglect some very important aspects.¹⁶

A last major concern for Namibia is the expected loss of revenues through the liberalisation. Namibia is still dependent on these revenues.

“Namibia is a member of SACU and as such receives an annual allocation from the common revenue pool. All import duties collected by SACU go into a common pool from which each member receives an annual share. Over the past years Namibia received almost a third of its annual budget from the pool. It is expected that this contribution would decrease as a result of the EPA tariff liberalisation. This is likely to have a significant negative impact on the government’s long-term ability to provide social services to its people. Services such as health provision and education could be negatively affected.”

www.mfmr.gov.na (Ministry of Fisheries and Marine Resources)
www.nfi.com.na (Namibian Fishing Industry)
www.namsof.com.na (Namsof Fishing Enterprises)

¹⁶ For more information please check the following website: www.ecdpm.org

(LARRI 2010:14).

To avoid this, effective compensation mechanisms or other revenue sources (through new industries which have to be protected) should be established and also be considered in the EPAs.

3.3. Singapore Issues

Due to the request of the EU the full EPAs should include the so called *Singapore Issues* or *New Generation Issues*. Although these issues, set up during the WTO Conference in 1996, are not required to be WTO compatible, the EU would like to force the countries to have them in the negotiating EPAs, at least in most of them. What are these issues concretely about and what could an inclusion in the EPAs mean for Namibia?

Trade & Investment: This includes protection of investments and an equal treatment of foreign and domestic companies. LARRI is very sceptical of the possible consequences:

“The objective of coming up with a binding agreement on Investment is to give special rights to EU companies that invest in Namibia. This would make it difficult or impossible for the Namibian government to, for instance, enforce labour standards for workers employed by such companies. EU companies would then be able to determine Namibian workers’ wages and ‘legally’ trample upon workers’ rights.” (ibid 2010:16).¹⁷

These concerns are certainly justified. However, the opposite may arrive, as foreign companies through exemplary work and new input can also create incentives for local companies to enforce better labour laws.

Trade & Competition: This includes the cooperation of competition authorities, equality and fairness in the process and transparency. Of course, on the one hand it could be another strategy to support the commercial interest of the EU. But the idea itself is important in the long term, also for Namibia with a growing industry.

¹⁷ *“In recent times Namibian workers at the Ramatex textile factory have gone through similar experiences. Due to special rights accorded to this company the government was unable to intervene. Also, due to these special rights, the company was able to leave the country overnight, putting thousands of workers on the street.”* (ibid).

Agreement on services: The WTO has a clear idea of regulating Trade in Services, such as insurance, banking, transportation or telecommunications. The EPAs will expand this list and should cover services like education, health, water, energy and other social and environmental services. In the case of Namibia these topics are of course very relevant. But it is also an intervention in the Namibian *ownership*. “[...] *it provides a broad avenue for multinational corporations to invade every aspect of life in poorer countries.*” (ibid).

Public procurement: Procedures and rules for the tender of public contracting bodies have to be established. LARRI supposes:

“The proposed new rules on government procurement will reduce government’s ability to make their own decisions about how they issue contracts for work the government needs – such as building schools. African countries will have to open up government tenders to foreign multinational companies. Small, local companies that depend on government tenders will then have to compete against well-established multinational corporations in the EU. This could lead to the closure of many local businesses and resulting job losses.” (ibid 2010:17).

In a nutshell, one can say that the *Singapore Issues* are indeed of political and economic relevance. African countries do not negate this fact. But, a general and area-wide regulation is not appropriate, because many countries, including Namibia, are far from being prepared. After long negotiations the EU has finally accepted it and decided:

“Negotiations on services, intellectual property rights and competition Policy are not be included in the initial agreement, with the Namibian government being allowed to come on board on these issues when Namibia feels it is ready.” (agritrade 2011-10-06: “Namibian concerns in the EPA negotiations close to being addressed”).

Conclusion

This paper aimed to look at if the EPAs promote a regional integration in SADC or rather destroy. In order to answer this question, at least to some extent, this work had to cover three main points. First I had to clarify the different theories of regional integration. What impact can regional integration have on the individual economies? I already put it straight that regional integration as the prototype of the EU can't be seen as *the one* successful strategy for each region in the world. African Regional Communities have to apply for a different benchmark, which take into account the historical context and the political power structure of the region and its members. "*Do the two parties share the same understanding of how integration is to be promoted?*" (Erasmus 2011:1). I really doubt that the EU considers this idea of different integration concepts in the EPA negotiations. Otherwise they would have gone a more flexible way from the beginning. Because in the second part of this paper it is shown that SADC, the African REC with the most unequal economies, wasn't really stable or prepared for the pressure exerting EPAs. Nevertheless the EU perpetrated a very autocratic way (by setting arbitrary deadlines) to push the governments for signing the highly criticized EPAs. The SADC was broken into small parts (from SADC15 to SADC7). Indeed, "*it will, however, be a mistake to view SADC as a tightly consolidated and effective legal arrangement which will now be disrupted by the SADC-EPA.*" (Erasmus 2011:4). But the guidance of the EU took a major part in ensuring that even the SACU split, because of several contentious issues in the EPAs, which were indicated in the third part of this paper. The last part of the work was concentrating on the special, perhaps the re-establishing role of Namibia regarding the SADC. The claims on the EPAs of Namibia were to a large extent in line with the contentious issues. Until today, Namibia has refused to sign the current EPAs to re-negotiate all these issues. The tables were turned. Suddenly Namibia exerted pressure on the EU to offer more flexibility. Now, after some years of negotiations, efforts were made. It seems that most of the contentious issues are resolved, but as the paper mentioned in the last chapter, there are still some points, which have to be revived, before the new, gratuitous deadline in 2014 expires. EPAs "*could be a salvation for development*" (New Era: 12. June 2009. "Should Namibia sign EPAs?") in Namibia. But "*[...] Namibia will lose if the EPAs are signed in their current form [...]*" (ibid). The path to a better regional integration in SADC has experienced a sharp break. Namibia had the courage to struggle for a better agreement, but in the end the EU has more pull apparently.

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