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THE POSSIBILITY OF SOUTHERN
AFRICAN CUSTOMS UNION IN
INTEGRATING
SOUTHERN AFRICA
THE VIEW OF SOUTHERN AFRICAN,
DEVELOPMENT COMMUNITY

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article
abstract

THIS ARTICLE PROVIDES A CRITICAL ANALYSIS OF THE PLACE OF SOUTHERN AFRICAN CUSTOMS UNION WITHIN SOUTHERN AFRICAN REGIONAL INTEGRATION AS VIEWED BY THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC). IT EXECUTES THIS TASK BY EXPLORING ITS POSITION ON SIX ISSUES. THESE ARE, FIRSTLY, WHETHER SACU AS A CUSTOMS UNION IS ADVANCING SOUTHERN AFRICAN REGIONAL INTEGRATION. SECONDLY, WHETHER SACU CAN BE USED AS A MODEL FOR REGIONAL INTEGRATION? TO WHAT EXTENT DOES IT PROVIDE A MODEL FOR REGIONAL INTEGRATION? THIRDLY, WHETHER THERE ARE STRUCTURAL CHALLENGES IN USING SACU AS SUCH A MODEL? FOURTHLY, ARE THERE OBSTACLES TO SACU'S EXPANSION? FIFTHLY, ARE THERE OPPORTUNITIES AVAILABLE TO SACU TO ADMIT OTHER SADC COUNTRIES OR EVEN THE COMMON

MARKET FOR EASTERN AND SOUTHERN AFRICA COUNTRIES AS NEW MEMBERS? SIXTHLY, WHAT ARE THE IMPLICATIONS OF THE IMPLEMENTATION OF THE DECISION OF SACU HEADS OF STATE AND GOVERNMENT TO TURN SACU INTO AN ECONOMIC COMMUNITY ADVANCING SOUTHERN AFRICAN REGIONAL INTEGRATION? ANSWERING THESE QUESTIONS, THE PAPER CALLS FOR THE INTEGRATION OF SACU INTO SADC AS A MEANS OF DOING JUSTICE TO THE BEST AND EFFECTIVE WAY OF CONTRIBUTING TOWARDS REGIONAL INTEGRATION. THIS WILL SERVE THE PURPOSE OF STRENGTHENING SADC IN ITS MANDATE TO ACHIEVE BROADER LONG-TERM STRATEGIC REGIONAL INTERESTS.

SACU, SOUTHERN AFRICAN INTEGRATION,
SADC, SACU INTEGRATION INTO SADC

keywords

INTRODUCTION

This article provides a critical analysis of the future and possibility of Southern African Customs Union (SACU) in integrating Southern Africa. Is the advancement of regional integration SACU's objective? Can SACU be used as a model for regional integration? What are structural challenges in using it as a model for regional integration? Are there obstacles for SACU to

expand or admit other Southern African countries as its members? Are there opportunities for it to expand? Our answers to these questions enable us to create scenarios presenting a possible reality of SACU's future. We create and discuss these scenarios upon answering these questions. We do this in our conclusion.

AVOIDING SACU'S SOURCES OF INFORMATION?

Literature produced by some writers on Southern African Customs Union (SACU) is ignorant of its place within Southern African regional integration as viewed by Southern African Development Community (SADC) and SACU itself. Some of these writers do not use SACU's sources of information in analysing its place within regional integration. Mzukisi Qobo maintains that "while SADC could retain its function as a political and economic mechanism geared towards achieving balanced development, the specific task of deepening integration should be driven elsewhere" by SACU, which he argues has a "potential for managing and promoting deeper integration"¹ and that it is "SACU, rather than SADC, that offers the more realistic possibility for fast-tracking regional integration"² in Southern Africa. He concludes that countries "joining SACU are likely to do so bearing in mind their likely benefit by way of revenue transfers and security of access to the South African market."³ The substantial restructuring of SACU's revenue sharing formula and its extension to possible members are against the needs and interests of the majority of its members whose development levels are different.

As this work demonstrates, these two issues are some of the key obstacles to SACU promoting regional integration and to its capability to absorb other SADC countries as its members. Qobo himself does not address one of the fundamental obstacles to SACU's expansion and what he regards as its potential to "manage and promote deeper integration." He states that one of these fundamental obstacles is the defence of their interests within SACU is one of the key reasons behind their opposition to its expansion.⁴ SADC as "a political and economic" organisational "mechanism geared towards achieving balanced development," as Qobo correctly maintains, is the reflection that it has a broader mandate, vision and mission, which are appropriate to achieve regional integration. This is also supportive of the

1 Qobo 2005: 53.
2 Qobo 2005: 83.
3 Qobo 2005: 83.
4 Soko 2008: 63.

fact that regional integration is the political project. The efforts towards the achievement of "balanced development" are of strategic importance towards the realisation of regional integration. SACU's mandate, vision and mission are narrow and limited. They are not conducive means to achieve regional integration. They are appropriate in the facilitation of trade for the purpose of sharing the revenue, which is precisely what SACU is.

For Qobo, it is realistic to expect SACU to absorb SADC, not SADC to absorb SACU. He views SACU as the regional economic community which will absorb other SADC countries and even Common Market for Eastern and Southern Africa (COMESA) countries. He maintains that the SACU 2002 Agreement "offers a chance to move towards a deeper level of integration that could go far towards resolving the present muddle of multiple regional integration schemes with overlapping memberships."⁵ Contrary to this position, for SACU to become a regional economic community, it will contribute towards increasing and complicating the problem of multiple memberships to regional economic communities. He is hopeful of "an expanded SACU which could include COMESA members."⁶ This is also the position of Robert Kirk and Matthew Stern. They maintain that "SACU could form the core of a new regional customs union that could gradually expand to include other members of SADC and possibly COMESA."⁷

Relying on the position maintained by Kirk and Stern, Qobo argues that "the democratisation of SACU" will offer its "current and prospective" or future members "greater security of access to the South African market." For South Africa, SACU's "strategic importance lies mainly with the leverage it provides for competitive liberalisation and the achievement of major foreign economic policy objectives."⁸ This is basically the position of Andrew Hurrell upon which Qobo bases his argument. Hurrell justifies acceptance of the United States strategic interests by other North American Free Trade Agreement (NAFTA) members in his discussion of "a rule-constrained hegemonic order" in the context of the balance of incentives within NAFTA where the acceptance of the United States objectives is traded for security of access to the United States national market.⁹ Far from this theoretical constructed arrangement making for "a symbiotic relations within a rule-constrained, hegemonic order that over time is likely to generate further

5 Qobo 2005: 52.
6 Qobo 2005: 80-1.
7 Kirk, Stern 2003: 17.
8 Qobo 2005: 81.
9 Hurrell 1995: 51.



momentum for deeper regional integration,”¹⁰ as Qobo argues, the United States in pursuit of its strategic objectives is either constrained or enabled by the balance of forces, not rules.

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CONTRIBUTING TOWARDS THE ACHIEVEMENT OF REGIONAL INTEGRATION, SOUTH AFRICA SHOULD SHOULDER THE PRIMARY RESPONSIBILITY IN BRINGING SACU TO AN END

Regional integration is a political project driven by political actors to achieve broader socio-political, economic, peace and security objectives. This view of regional integration as the political project goes against the position that regional integration is a mere economic project. The view that regional integration is economic project is formed by narrow imperatives of corporate economic and trade interests. It reduces the project to its economic and trade aspects. This position is maintained by Peter Draper. He argues that the “best vehicle” for South Africa as “indispensable to a viable economic integration project” is through SACU, not SADC.¹¹ Reducing regional integration to its trade aspect by viewing it as a means to facilitate trade or for “trade facilitation” or that “deepened regional integration is critical” for “trade facilitation,”¹² Draper and Nkululeko Khumalo conclude by calling upon South Africa to play a leading role in expanding SACU.¹³ Providing a reason behind this call Draper maintains: “An enlarged SACU could absorb SADC or even parts of COMESA if it works well.”¹⁴

Other writers maintain that SACU is advancing regional integration. This position is basically the attribution of the advancement of regional integration to SACU. This position is best articulated by Gavin Maasdorp when he maintains that “SACU offers an advanced form of economic integration hardly matched elsewhere in the world” and that it represents “a core around which economic integration in the wider region needs to be built.”¹⁵

10 Qobo 2005: 81-82.

11 Draper 2005: vi.

12 Draper, Khumalo 2005: 18.

13 Draper, Khumalo 2005: 28.

14 Draper 2005: 100.

15 Maasdorp 1993: 245.

The issue is not only that literature produced by some writers on SACU ignores its position within Southern African regional integration as it is viewed by SADC and SACU itself. Another issue is that some of these writers do not use SADC and SACU sources of information, particularly on the view of SACU’s place within regional integration. In other words, some of these writers do not use primary sources of information in their analysis of SACU’s place within regional integration. This is one of the profound weaknesses. The point is that one should use sources of information produced by SACU in providing a critical analysis of its place within regional integration.

THE ROAD FROM SACU TO SADC: THE ROLE OF SOUTH AFRICA

South Africa established SACU in 1910. The formation of SADC is directly linked to key issues behind the establishment of SACU. The problem of SACU as an obstacle towards the achievement of regional integration should be resolved. This problem should have been resolved immediately in 1994 or in the late 1994 by South Africa acting together with SADC as a member of the organisation. This has not been done. This has been a failure of South Africa and its SADC partners regarding their regional integration agenda. Any obstacles towards the realisation of the objectives of this agenda should be resolved as SACU’s existence depends on South Africa. Contributing towards the achievement of regional integration, South Africa should shoulder the primary responsibility in bringing SACU to an end.

Upon colonising the whole of Southern Africa in 1910, Britain established SACU with Botswana, Lesotho, South Africa and Swaziland as members. Britain struggled for Botswana, Lesotho and Swaziland to become an integral part of South Africa politically and economically. Its efforts were reflected in the 1910 SACU Agreement. As all these countries were British colonies, Britain used South Africa in maintaining its political and economic domination over the others. When whites began to exercise state political power in South Africa in 1961, they tried to incorporate these three countries into South Africa. They failed. This failure was due to the anticolonial struggle by the people of Botswana, Lesotho and Swaziland. Botswana and Lesotho achieved political independence in 1966 and Swaziland in 1968. Their negotiation with South Africa as independent countries led to the 1969 SACU Agreement. South Africa’s economic and trade dominance of its SACU partners was reflected in this agreement. As a means of protecting and expanding its regional economic and trade dominance, South Africa

struggled for its SACU partners to support these processes against its own domestic interests and externally in the region and beyond.

When South Africa failed to politically incorporate Botswana, Lesotho and Swaziland as the British High Commission territories into itself, it proposed to establish Southern African common market, a regional political and economic formation with itself as a dominant member in 1963. This basically became later what was known as the Constellation of Southern African States in 1979 as an integral part of its policy objective to maintain and expand its long-term strategic interests not only in Botswana, Lesotho and Swaziland, but also throughout the Southern African region. Upon achieving political independence, these countries became members of the Rand Monetary Area from which Botswana subsequently withdrew its membership and continued as members of the Southern African Customs Union through which South Africa exercised enormous economic power and authority over them.

South Africa, as the settler colonial force, embarked upon an interlinked programme of actions. Among others, it firstly supported the colonial rule in Angola, Mozambique and Zimbabwe politically, economically, financially, technologically, militarily and in terms of human resources development and trade. Secondly, it formulated and implemented a destabilisation policy against independent countries of Southern Africa. Thirdly, it consolidated its status as the strategic partner of Western powers in the region. Fourthly, it intensified its struggle to remain the colonial power in Namibia. While this programme of actions prolonged its settler colonial rule, it mobilised the regional, continental and global forces opposed to racism and colonialism against itself in the process. Relatively developed compared to other African countries, there was hope that in the post-apartheid era South Africa could use its political, economic, financial, trade, human resources development, technological and military resources in the service of completing the African decolonisation agenda and contribute towards regional and continental integration. Thanks to these factors, the Southern African region and the African continent invested enormously in the end of its colonial rule. It is for these reasons that the struggle against the colonial rule in South Africa became the most truly Pan-African cause after apartheid.

As a response to the socio-historical alliance between South Africa and the Western countries (particularly on socio-political, economic, financial, trade, human resources development, technological and military issues and support to the apartheid rule), the Front Line States formed the Southern African Development Coordination Conference (SADCC). Its aims, among



others, were to reduce dependence of Southern African independent countries, particularly but not only, on South Africa. When South Africa re-introduced its Constellation of Southern African States in 1979 as a regional policy objective with declaration for its members to share political, economic, security and defence benefits within the regional imperatives it determined, the Front Line States in the same year prepared plans to launch an alternative organisation for regional political and economic integration and cooperation. It was for this reason that SADCC, consisting of Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania and Zambia as members, was formed in April 1980 in Lusaka, Zambia to serve as organisational means for restructuring regional economic relations in order to reduce the dependency of its member countries, particularly but not only, on South Africa. SADCC was later transformed into SADC. As a result of the end of the settler colonial rule and the achievement of political independence in 1994, South Africa became a member of SADC on 30 August 1994.

SACU depends on South Africa for its institutional democratic governance achievement. This framework came into being as a result of South Africa's efforts. It materialised as a result of the 2002 SACU Agreement. It took SACU many years since 2002 to establish the Council of Ministers, the Customs Union Commission, the Technical Liaison Committees and the Secretariat. As these governance structures deal primarily with operational issues, it is only the Council of Ministers which deals with policy formulation. Its 2002 Agreement provides for the establishment of the seven structures. This means that the most important structures have not been established yet. These are the Tariff Board, the National Bodies and the Tribunal. So far only South Africa has established its national tariff board. Its International Trade Administration Commission executes the tasks of SACU's Tariff Board.

SACU depends also on South Africa's institutional and legal frameworks and technical capacity. Botswana, Lesotho, Namibia and Swaziland (BLNS) are dependent on South Africa on these issues. According to the 2002 SACU Agreement, all SACU members have the right to set tariffs. The challenge BLNS face is that they have no institutional or legal frameworks and the technical capacity to create national tariff boards themselves in order to take decisions in setting tariffs. Briefly, they do not have tariff boards. The consequences are that the International Trade Administration Commission of South Africa executes these tasks for SACU's organisational tariff board and national tariff boards of BLNS, which are still to be established. The key reason why Botswana, Lesotho, Namibia and Swaziland have no national tariff boards for them to take decisions in setting tariffs is their lack of technical capacity or commitment; the fact remains that countries which maintain that they do not possess the institutional and legal frameworks or

technical capacity to have such national tariff boards in order to set tariffs, have no right to claim that the organisation of which they are members is capable of integrating their region.

SACU's well-entrenched dependence on South Africa for its institutional democratic governance, institutional and legal frameworks, technical capacity, and financial resources supports the fact that it does not possess the means to pursue regional integration. This is one of its fundamental obstacles to integrate Southern Africa. This article provides an analysis of these obstacles, which South Africa should play a leading role in solving. The solution to this problem is to end the existence of SACU through its incorporation or integration into SADC. This will enable South Africa in using its resources to strengthen SADC as it is the best and most effective organisational driver of regional integration.

NO ALTERNATIVE TO SACU'S INTEGRATION INTO SADC

SACU has structural obstacles to integrate Southern Africa. The reality is such that there is no alternative besides its integration into SADC. SADC is the regional economic community through which Southern African countries have a mandate from the African Union to integrate their region. Recognised by the African Union as the driver of the Southern African integration it is through SADC that the countries of the region contribute towards African continental integration.

The advancement of regional integration is not SACU's objective. While SACU can be used as a model for Southern African regional integration on the basis of being a customs union, this possibility is challenged by the fact that it has not integrated its five members. Any level of integration of its members has not been its own achievement. It has inherited this state of affairs from the developed countries that used South Africa to integrate SACU's members and other Southern African countries into the global capitalist social order.

These obstacles are structural challenges in using SACU as a model for regional integration. Central to these are the obstacles to SACU's expansion or admission of other countries as new members. This means that there are no opportunities for SACU to expand. This structural fundamental problem has been accompanied by the organisational problem of the failed efforts to promote integration as the regional objective.

IS THE ADVANCEMENT OF REGIONAL INTEGRATION SACU'S OBJECTIVE?

The process of the advancement of Southern African regional integration has never been SACU's objective. SACU never provided for the advancement of regional integration beyond it being a customs union. The advancement of regional integration was not an objective in its 1910 and 1969 Agreements, and hasn't been provided for in its 2002 Agreement. SACU was not established to advance development and regional integration in Southern Africa. This opinion is supported by Richard Gibb, a leading authority on SACU, who emphasises that in reality, SACU was never designed to promote development and regional integration in Southern Africa.¹⁶ The institutional structures of its 1910 and 1969 Agreements "undermined democratisation and peripheralised Botswana, Lesotho, Namibia and Swaziland."¹⁷ This was the programme of action embarked upon by the apartheid state, which was against democracy internally in South Africa. As the regime was also against national integration in South Africa it was opposed to democracy within Botswana, Lesotho, Namibia and Swaziland in particular, but likewise in the broader region and blocked Southern African regional integration in general. It struggled for Botswana, Lesotho, Namibia and Swaziland to become closer to South Africa and be far removed from the rest of the region, especially regarding the advancement of democracy and regional integration in Southern Africa. On the relationship between the 1910 and 1969 SACU Agreements and South Africa's interests in Southern Africa, Gibbs correctly maintains that:

"The 1910 Agreement reflected Britain's geostrategic desire to transfer HCTs [High Commission Territories] and create a 'Greater South Africa.' The 1969 Agreement was a pragmatic framework for managing trade and was used by Pretoria to preserve the geopolitical status quo of South African dominance. It was not in South Africa's interests for SACU to be a strong, democratic regional organisation."¹⁸

On the relationship between the 2002 SACU Agreement and Southern African regional integration, Gibbs correctly maintains that while its 2002 Agreement has "democratised many of the activities performed under the 1969 Agreement, it failed to expand the competence of SACU and promote deeper regional integration."¹⁹ Briefly, the 2002 SACU Agreement does not

16 Gibbs 2006: 603.

17 Gibbs 2006: 603.

18 Gibbs 2006: 603.

19 Gibbs 2006: 603.

even provide SACU with the competence to promote Southern African regional integration.

CAN SACU BE USED AS A MODEL FOR SOUTHERN AFRICAN REGIONAL INTEGRATION?

SACU can be used a model for Southern African regional integration. It has been providing the means for integration among its members on the basis of it being the customs union. These means can best be understood if we come to grips with the reality that SACU members are highly integrated. They share similar historical, cultural, linguistic and colonial factors. They also share a similar legislative background and common legal frameworks. Botswana, Lesotho, South Africa and Swaziland were British colonies. Namibia used to be a German colony. The international balance of forces between Britain and Germany led to Namibia finally becoming a colony of South Africa before it could achieve political independence.

There exists a relative free movement of goods within SACU members. In addition they are other factors characterising the fact that they are highly integrated: Lesotho, Namibia, Swaziland and South Africa are in the Common Monetary Area. The South African rand is used in Lesotho, Namibia and Swaziland. Their currencies are pegged to the South African currency. They implement the South African monetary policy. Together with South Africa, they meet on a quarterly basis to coordinate monetary policy. This has resulted in more financial stability because they use the South African currency is internationally tradable. Also there is a free flow of capital between these four countries. Botswana's monetary policy is still benchmarked on the model of the South African monetary policy.

The fact that SACU has been providing the means for integration among its members does not mean that it has integrated them. Its members are highly integrated not because of SACU's efforts. As mentioned above, the level of integration among its members is not its achievement, but the result of a socio-historical process whereby developed countries used South Africa to integrate its members and other Southern African countries into international capitalist social order. Such a version of the facts is articulated by the Southern African Development Coordination Conference (SADCC) formed in April 1980 in Lusaka, Zambia in its official founding document providing its objectives not only in regional, but also in international terms:

“Southern Africa is dependent on the Republic of South Africa as a focus of transport and communications, an exporter of goods and services and as an importer of goods and cheap labour. This dependence is not a natural phenomenon, nor is it the result of a free market economy. The nine states and one occupied territory of southern Africa ... were, in varying degrees, deliberately incorporated - by metropolitan powers, colonial rulers, and large corporations - into the colonial and sub-colonial structures centering in general on the Republic of South Africa. The development of national economies as balanced units, let alone the welfare of the people of southern Africa, played no part in the economic integration strategy. Not surprisingly, therefore, southern Africa is fragmented, grossly exploited and subject to economic manipulation by outsiders. Future development must aim at the reduction of economic dependence not only on the Republic of South Africa, but also on any single external state or group of states.”²⁰

SADCC was transformed into SADC on 17 August 1992. It was formed to serve as organisational means for restructuring regional economic relations in the effort to reduce dependence of its member countries, particularly but not only, on South Africa. Now post-apartheid South Africa is working together with its SADC partners to reduce and end their dependency on the developed countries.

SADCC's objective of reducing its members' global dependence on developed countries and their regional dependence on South Africa was not difficult to understand. Their dependency relations on South Africa were more pronounced and tangible in the sectors of transport, migrant labour, energy, trade, as well as the customs union and currency areas. As a relatively developed country within Southern Africa (particularly on the economic, financial, trade and technological levels), South Africa is resolving the dependency of its SADC partners on itself in the above mentioned areas. It has shouldered political, economic and financial responsibility both individually and collectively with its SADC partners in contributing to resolve political and economic problems in some countries in the region. It has played this role on behalf of SADC, in facilitating dialogue between the Zimbabwe African National Union - Patriotic Front and the two 'Movement for Democratic Change' political formations in Zimbabwe. It has enormously contributed and continues to do so towards the resolution of conflicts in

²⁰ SADCC 1980.

the Democratic Republic of Congo. It is expected to play a leading role not only in Southern African regional integration, but in African continental integration in general.

WHAT ARE THE STRUCTURAL CHALLENGES IN USING SACU AS A MODEL FOR REGIONAL INTEGRATION?

There are structural challenges in using SACU as a model for regional integration. Some of these key challenges relate to its common external tariff. If some SADC members want to join SACU as members, they will have to address their tariffs schedules and their international obligations to the World Trade Organisation (WTO). SADC and SACU officials interviewed by the author in Gaborone, Botswana in February 2013 and in Windhoek, Namibia in October in 2011 use Mauritius as an example. Mauritius has declared its movement towards a zero tariffs system. It has binding commitments to the WTO in terms of tariffs systems. Therefore, if Mauritius is admitted into SACU, either SACU should go the route to move towards a zero tariff system or it should change its position and adopt and implement that of SACU. Their view is that Mauritius will not replace its position with that of SACU.

The second structural challenge in using SACU as a model for regional integration is SACU's revenue sharing formula. The way it is currently structured is not in favour of admitting new members into SACU. This is an obstacle to the admission of new members. This is particularly the case given the way how revenue is shared among its members, but also because of the dependence of Botswana, Lesotho, Namibia and Swaziland on the revenue sharing formula, which contributes significantly towards their national budget. The way the revenue sharing formula is structured is not for a win-win situation for its members. And does not encourage any win-win solutions to problems linked to contributions to the common revenue pool and the way this pool is shared. It is a zero-sum game in terms of sharing, as the pool is definite: SACU members only receive a particular amount of the revenue pool to share. If one member gets more, another member gets less. However the issue is not of one country complaining for getting less from the pool to which it contributes significantly: If two SADC members that trade more with other SACU members are admitted into SACU, their membership will have a significant impact on the revenue change within SACU, given the fact that the revenue sharing formula is determined on the basis of SACU intra-trade. If two SADC members who trade more with other SACU

members are admitted into SACU the revenue pool gets smaller. It is not so much that the pool will shrink, but that the revenue pool remains the same while at the same time being shared by more countries.

OBSTACLES TO SACU'S EXPANSION

This part will identify the obstacles to SACU's expansion of its admission of SADC or even COMESA countries as new members. For instance, Botswana, Lesotho, Namibia and Swaziland partners are heavily dependent on the SACU revenue pool. They get enormous financial resources from SACU. It is difficult for them, like other countries throughout the world, to open a door to renegotiate a large amount of its revenue base, knowing very well that there is a high possibility for them to be negatively affected. It is difficult for them to contemplate changes negatively affecting their revenue base. SACU has been doing well in generating revenue for Botswana, Lesotho, Namibia and Swaziland to such an extent that pressure on them to improve their tax administration in order to raise revenue has been significantly reduced. When Botswana, Lesotho, Namibia and Swaziland's policy makers think about SACU they first and foremost think about the revenue from SACU.²¹ This is their primary consideration. Trade issues are only their secondary consideration. They are working hard to ensure that what they are getting from SACU would not be reduced substantially. This reality poses structural challenges to the issue of the restructuring SACU. SADC and SACU officials maintain that it is not possible for SACU to absorb other SADC countries as its members. Their position is that Botswana, Lesotho, Namibia and Swaziland are structurally opposed to the admission of other countries as SACU members. The way the SACU revenue sharing formula is currently structured, they have no material interests to see other countries joining SACU as members. The more countries join SACU the more revenue will be reduced and the less they will receive from the common revenue pool.

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IF SACU IS TO BE USED AS A BUILDING BLOCK FOR SOUTHERN AFRICAN REGIONAL INTEGRATION ITS REVENUE SHARING FORMULA AND THE ORGANISATION ITSELF SHOULD BE CHANGED FUNDAMENTALLY

²¹ Mosisili 2010: 72.

The material interests by Botswana, Lesotho, Namibia and Swaziland are such that they are not only against the admission of new members into the organisation, but also that they are structurally opposed to SACU serving as an organisational means through which Southern African regional integration could be practically advanced. SACU's revenue sharing formula and the material interests of Botswana, Lesotho, Namibia and Swaziland from SACU render the organisation structurally opposed to regional integration. Their position is explained by Hein Marais as follows:

“SACU members are keen to expand their power and leverage within the customs union rather than stake all on the possible advantages of a SADC-wide integration project. Non-SACU members of SADC have reacted petulantly to that stance, withholding major concessions in SADC negotiations with the argument that the restructuring of SACU might well upend their bargaining positions. The upshot has been a further factor contributing to the delays in regional integration.”²²

The position of SADC and SACU officials on the structural problem relating to SACU being used as a model for Southern African regional integration is important for various reasons. If SACU is to be used as a building block for Southern African regional integration its revenue sharing formula and the organisation itself should be changed fundamentally. There has to be a win-win solution to problems characterising its revenue sharing formula. A zero-sum game is not in the interest of SACU and its members. It goes against the continued existence of SACU.

There are tensions between South Africa and its SACU partners as a result of this revenue sharing formula. South Africa raised concerns about the continuous payment of the revenue without it being seriously used by Botswana, Lesotho, Namibia and Swaziland for their socio-economic and industrial development. It called for the review of the revenue sharing formula. Despite the fact that they were concerned with losing some of the revenue money through the restructuring of the revenue sharing formula, they agreed that the formula be reviewed. The Centre for International Economics of Australia commissioned by SACU recommended a reduction of the revenue payment in its report. Hoping that the report would have provided them with increased compensation for the dominance of the South African manufacturing industry in the region, they opposed and rejected its recommendations in June 2011 in Windhoek, Namibia.

²² Marais 1998: 136.

South Africa has proposed that SACU should establish a SACU development fund. Its position is that part of customs and exercise revenue should be ring-fenced and be put aside to fund intra-SACU development projects. SACU members including Botswana and Namibia which are relatively developed compared to Lesotho and Swaziland are not receptive of this proposal. They think that they may lose what they share. And that this loss will lead to reduction in their national budget. The essence of their position is that as independent and sovereign social formations they have the right to spend these funds any way they want. They do not wish to reform the revenue sharing formula. Tensions between South Africa and its SACU partners constitute challenges to SACU and its 2002 Agreement. Its 2002 Agreement's main challenges are to address and solve three key problems:

“The first is the requirement to design institutional arrangement that will democratize decision-making in the management of SACU. The second is the need to protect the revenue of BLNS, for whose revenue distribution will remain a fundamental facet of SACU, while also addressing the fiscal concerns of South Africa. Finally, there is the objective of encouraging development through co-ordinated policy programmes that address the diverse needs of the SACU members.”²³

SACU as an organisation and its revenue sharing formula are not static. They are dynamic: Despite resistance to changes by some of SACU members, they are bound to change anyhow. As SACU officials do not anticipate fundamental changes within SACU and its revenue sharing formula, changes within SACU and its revenue sharing formula are going to be gradual and incremental. These changes are going to be based on consensus. But they will not be substantial to such an extent that the formula will no longer serve as the obstacle to the admission of new members into the organisation.

ARE THERE OPPORTUNITIES FOR SACU'S EXPANSION?

SADC and SACU officials did not point out opportunities available to SACU to expand or admit other SACU countries and even COMESA countries as members. They have provided structural challenges in using SACU as a model for Southern African regional integration. Some representatives of the Namibian state used the fact that SACU members are highly integrated and that some SADC are facing profound challenges internally and externally in

²³ McCarthy 2003: 621.

the region as implied opportunities available to SACU to serve as the driver of regional integration. This position is challenged by the fact that if these SADC countries are admitted into SACU as members, the organisation will inherit these challenges. This means, among others, that these are not real opportunities for SACU's expansion and admission of other SADC countries or even COMESA countries as members. Not a single any other SADC country has ever expressed an interest in joining SACU as a member. SACU has never expressed any interest in asking SADC countries to join it as its members.

While there are no opportunities for SACU's expansion or admission of other SADC countries and even COMESA countries as members, there are structural opportunities for SACU to be integrated into SADC. All of its five members are members of SADC.

CONCLUSION AND RECOMMENDATIONS: SACU'S FUTURE SCENARIOS

What are the scenarios presenting a possible reality of SACU's future? The first scenario is the possibility of SACU becoming an economic community advancing regional integration. This possibility is provided by the decision of SACU heads of state and government at their meeting on 22 April 2010 in Windhoek, Namibia that SACU should be an economic community advancing regional integration. They recognised the role that SACU "can play as a building block for deeper regional integration in Southern Africa."²⁴ Their vision is for SACU to be an "economic community with equitable and sustainable development, dedicated to the welfare of its people for a common future."²⁵ Among declared objectives of its mission is for SACU to "serve as an engine for regional integration and development, industrial and economic diversification, the expansion of intra-regional trade and investment, and global competitiveness" and to "serve as a building block of an ever closer community among the peoples of Southern Africa."²⁶ This declaration constitutes in essence the repetition of what SADC is doing in the area of regional integration. This raises the fundamental question why SACU heads of state and government are spending time, energy and resources to repeat what SADC is already doing by trying to transform the customs union into a regional economic community. Central to this issue is another question:

24 SACU 2010a: 1.

25 SACU 2010a: 2.

26 SACU 2010a: 2.

if they are committed to the advancement of regional integration in practice, why do they not demonstrate their commitment within SADC of which all their countries are members?

Declaring their intention to transform SACU into an economic community advancing regional integration, SACU heads of state and government at their meeting on 22 April 2010 "noted that in order to ensure that SACU (...) achieves its vision, it has to be transformed into a vehicle for regional economic integration capable of promoting equitable development."²⁷ They also declared their intention at their meeting on 16 July 2010 in Pretoria, South Africa when they "directed Ministers" or the Council of Ministers to "promote win-win solutions" to problems faced by SACU, to "conclude the establishment of institutions," to strengthen "the capacity" in the SACU "Secretariat."²⁸ SACU heads of state and government at this meeting also directed the Council of Ministers, among others, to:

- Ensuring that all work on industrial policy, competition policy, unfair trade practices and other priority commitments on the SACU Agreement are being implemented;
- Developing a SACU trade and tariff policy, and trade strategy that support industrialisation in SACU;
- Developing deliberate initiatives to promote intra-SACU trade
- Exploring the possibility of a review of the 2002 SACU Agreement
- Consideration of the sharing of SACU Revenue²⁹

The SACU heads of state and government that met on 16 July 2010 also supported the fact that SACU is not already an economic community advancing Southern African regional integration when they also directed its Council of Ministers to define "a roadmap for moving towards an Economic Community and Monetary Union" and to position it "at the centre of the regional economic integration agenda."³⁰

The second scenario is provided by the fact that the implementation of SACU heads of state and government's decision for SACU to be an economic community will have implications for SADC in its regional integration agenda. It is possible that some individuals including member countries of SADC which are not SACU members will regard this task as an attempt to supplant SADC. Adebayo Adedeji maintained that attempts by South Africa to "see" SACU "supplant SADC" will naturally raise "some doubts"

27 SACU 2010a: 2.

28 SACU 2010b: 2.

29 SACU 2010b: 2.

30 SACU 2010b: 2.

about South Africa's commitment to "pan-African economic cooperation and integration."³¹ The apartheid South Africa attempted to expand SACU through admission of some regional countries as a policy objective to consolidate its domination in the region. According to Rob Davies, the post-apartheid South Africa did not regard SACU as an alternative to SADC in its contribution towards regional integration.³²

A viable alternative is the position of viewing SACU as "an important subset" within a broader regional programme led by SADC complementing efforts to promote its equitable regional integration.³³ Central to this position is that SACU should not be expanded or enlarged by admitting other SADC countries as its members. This means that it should not challenge SADC by competing with it in advancing regional integration. This is the third scenario representing a possible reality of SACU's future.

Despite the position that SACU should not be expanded or enlarged to challenge SADC by admitting other Southern African countries as its members, the SACU heads of state and government's decision for SACU to be an economic community has implications for SADC in its regional integration agenda. If implemented, it will lead SACU challenging SADC by competing with it in advancing regional integration. The fourth scenario is the possibility of SACU challenging SADC by advancing regional integration. The fourth scenario representing a possible reality of SACU's future is that SACU heads of state and government articulate opposition to their declaration for SACU to become an economic community advancing regional integration. The evidence of this reality is provided by President Hifikepunye Pohamba of Namibia who disputed this declaration on behalf of SACU heads of state and government and SACU in his SACU centenary address on 22 April 2010 in Windhoek, Namibia as follows:

"The integration within SACU is important for the wider regional integration under the auspices of the Southern African Development Community. In this context, the integration strategy for SACU will also have positive contribution to the broader economic integration in the SADC region. After all, every SACU member state also belongs to SADC.

Throughout our discussion this morning, we recognised the important role that SADC continues to play in the integration of our region. The

31 ANC 1996: 23.

32 Davies 1997: 118-119.

33 Davies 1997: 120.

strategies that we have discussed are complementary to the SACU plan of action in respect of regional integration.

We also recognised the important role that SACU, as a sub-group within SADC, can play in spearheading the integration process within the larger, Southern Africa region. In this respect, SACU maintains high levels of synergy with SADC in respect of the integration agenda."³⁴

President Seretse Khama Ian Khama of Botswana in his SACU centenary celebration address on 22 April 2010 in Windhoek, Namibia emphasised the position articulated by Pohamba as follows:

"In exploring avenues for deeper regional integration, we should be cognisant of the need to consolidate and implement our commitments as per the SACU 2002 Agreement. However, as we implement the ideals of SACU we must also take into account our membership to and objectives of SADC as we move forward in our regional integration initiatives. This is because it is only through working together as a team in the wider SADC context that we can ensure smooth regional integration in Southern Africa."³⁵

Central to the position articulated by Pohamba and emphasised by Khama is that SACU member countries contribute towards the achievement of regional integration through SADC not SACU. This position means not only that SACU is not an economic community advancing Southern African regional integration yet. It means also that as all SACU countries are members of SADC that SACU is "a sub-group within SADC" and that the integration of its members is complementary to Southern African regional integration led by SADC. It also means that the integration of SACU members is not Southern African regional integration; It is the process complementing or supporting Southern African regional integration. The issue of SACU as "a sub-group within SADC" goes against the position that SACU is the regional organisation. The contribution to regional integration by SACU on the basis of it being a customs union is highly appreciated. It cannot be seriously be rejected by those who are genuinely for integration.

The fifth scenario presents the possibility of SACU's integration into SADC. This is a more viable alternative scenario compared to the other

34 Pohamba 2010: 64.

35 Khama 2010: 68.

scenarios. It is viable for various reasons. Firstly, as its members are all SADC members, it would serve the interests of SADC as an organisation and its members by offering consolidation and not division. This would be in the best long-term strategic interests of Southern Africa, particularly for the regional integration agenda and as a project contributing to wider continental integration. SADC has declared its commitment to achieve the customs union objective in 2013.³⁶ It is clear and obvious that this objective was not achieved in 2013 and that the year for its achievement will be extended for the second time to enable its members to have more time to consolidate the implementation and gains of the Free Trade Area launched in 2008. The achievement of this objective was originally set for 2010.

Obtaining the customs union objective will have implications for SACU. According to the World Trade Organisation rules, a country which is its member cannot be a member of other customs unions at the same time. SACU as a customs union is an obstacle towards SADC achieving its customs union objective. The fact that some SADC members such as Malawi, Mauritius, Swaziland, Seychelles, Zambia and Zimbabwe are also members of the Common Market for Eastern and Southern Africa (COMESA) and that Tanzania is also a member of the East African Community likewise constitute an obstacle for SADC to achieve this customs union objective. In addition, as discussed above, SACU is also an obstacle towards SADC achieving regional integration. The integration of SACU into SADC is made more difficult by the fact that Botswana, Lesotho, Namibia and Swaziland are getting more revenue from SACU than from their internal resources.

The fact that their increased dependence on SACU's revenue is not sustainable will structurally compel them to ensure that they depend more on their internal resources than on SACU. These four countries cannot defeat other SADC countries in the adoption and implementation of their decision to integrate SACU into SADC. It will be impossible for South Africa to either ignore or act against the call of other SADC members through their decision that SACU be integrated into SADC. Its long-term strategic interests in Southern Africa, Africa and the rest of the world lay with SADC not SACU. SACU which used to be South Africa's asset in the apartheid era has become its liability in the post-apartheid era. This liability is bound to substantially increase, particularly within the context of South Africa's long-term regional, continental and global strategic interests.

This can best be understood when one comes to grips with the reality of South Africa's status as Southern African regional power and the African

continental power in its efforts to achieve its global strategic objective to be an important international power. Central to these regional, continental and global objectives is its incentive to consolidate its regional and continental status and to become a major force within the G20 en par with Brazil, Russia, India, China as a member of BRICS, and one day within the United Nations Organisation as a permanent member of its Security Council. Therefore South Africa is reviewing its membership to SACU. Central to this review process is whether it should end its membership to a custom union or continue calling for the implementation of reforms of its operations and structures. If it decides to end its membership to the organisation, SACU will come to an end. Its existence and dependence have always been based on the decisions of South Africa in both the apartheid and post-apartheid era.

The integration of SACU into SADC is a reality that cannot be prevented. It can only be delayed. Reality supports the fact that there is a structural and fundamental need for Southern African countries to substantiate their declarations in practice and that they are committed to the regional integration project. Directly related to this need is for them to practise the principle of rationale utilisation of human and financial resources in their efforts to achieve regional integration. Central to this principle is first of all a concentrated focus; Secondly, to increase their efficient and effective operations in terms of implementation of decisions in their regional integration agenda. They need to get rid of different standards, competing interests and unnecessary costs in terms of human, financial and infrastructural resources to their officials and offices to SADC and COMESA regional economic communities and the SACU customs union. Further they need a practical commitment towards the elimination of losses and disadvantages and to increase benefits and advantages by strengthening the SADC regarding integration. In addition it is also of structural and fundamental importance for them to effectively contribute towards a solid regional identity and to streamline policies in their efforts towards the achievement of regional integration and continental integration. This calls for the integration of SACU into SADC as a means of doing justice to the best and effective way of contributing towards regional integration. This would be the task of SADC regarding SACU's place within regional integration.

36 Southern Africa Today 2013: 4.

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