



**MEETING OF THE SADC SUMMIT OF HEADS OF STATE AND
GOVERNMENT**

WINDHOEK, NAMIBIA

16-17 AUGUST 2010

RECORD

1. ADOPTION OF THE AGENDA

Summit considered and adopted the Agenda (SADC/SM/1/2010/1), presented by the Secretariat.

2. ELECTIONS

2.1 Election of Chairperson and Deputy Chairperson of Summit

Summit elected His Excellency Hifikepunye Pohamba, President of the Republic of Namibia, and His Excellency José Eduardo Dos Santos, President of the Republic of Angola, as Chairperson and Deputy Chairperson of Summit, respectively.

2.2 Election of Chairperson and Deputy Chairperson of the Organ on Politics, Defence and Security Cooperation.

Summit elected His Excellency Rupiah Bwezani Banda, President of the Republic of Zambia, and His Excellency Jacob Gedleyihlekisa Zuma, President of the Republic of South Africa, as Chairperson and Deputy Chairperson of the Organ on Politics, Defence and Security Cooperation, respectively.

3. STATUS OF MEMBER STATES CONTRIBUTIONS

3.1 Summit noted the approved estimates of expenditure for 2010/11 of US\$68.2 million an increase of 26% from 2009/10 (US\$54.1 million) to be funded by Member States contributions and Development Partners as outlined in Table 1(a) below:

Table 1(a): Funding Arrangements for 2010/11 Budget

Item	2010/11	2009/10	Increase /Decrease
Funded By:			
Annual Member States' contributions	26,039	24,871	5%
Accumulated Funds	1,800	0	100%
Member States, HIV and AIDS contributions	3,025	0	100%
Sub-total Member States' contributions	30,864	24,871	24%
Development Partners	36,877	28,391	28%
Other sources	780	826	-5%
Repayment to reserves	(300)	0	-100%
Total	68,221	54,088	26%

3.2 Summit noted:

- (i) the status of payment of annual Member States contributions for 2010/11 as outlined in Table 1(b) below:

Table 1(b): Status of Payment of Annual Member States Contribution

Count	Member State	Amount	Remitted	Balance
1	Angola	4,284,000	-	4,284,000
2	Botswana	1,406,000	1,406,000	-
3	DRC	1,393,000	9,796	1,383,204
4	Lesotho	1,312,000	1,316,543	- 4,543
5	Madagascar	1,365,000	-	1,365,000
6	Malawi	1,329,000	1,329,000	-
7	Mauritius	1,370,000	1,113,696	256,304
8	Mozambique	1,376,000	1,376,000	-
9	Namibia	1,376,000	1,376,000	-
10	Seychelles	100,000	100,000	-
11	South Africa	5,188,000	4,075,887	1,112,113
12	Swaziland	1,323,000	1,255,356	67,644
13	Tanzania	1,460,000	2,702	1,457,298
14	Zambia	1,413,000	1,275,392	137,608
15	Zimbabwe	1,344,000	1,344,000	--
Total	Balance	26,039,000	15,980,372	10,058,628

- (ii) that Angola and DRC provided evidence of the remittances of their contribution, which were yet to be reflected in the Secretariat's accounts;
- (iii) that Tanzania indicated that she had initiated the process of remitting her contribution and that the funds would be reflected into the Secretariat's accounts before the end of the current session of Summit;
- (iv) that Swaziland and Zambia indicated that they were in the process of remitting their annual contributions;
- (v) that the balance on South Africa's contribution was due to the increase in the share of South Africa's annual contribution in 2010/11 which was not provided for in her current budget. South Africa would remit the outstanding balance during the course of the year;
- (vi) that in order to enhance funding predictability and sustainability, annual Member States contributions should be determined and fixed over a medium term period of 3 – 5 years;
- (vii) that the Finance Committee underscored the urgency of reviewing the Member States contribution distribution formula; and
- (viii) that new SADC programmes, projects, institutions and staffing requirements proposed by SADC Sectoral structures would only be considered after financial implications had been assessed by the competent structures of the organisation.

3.3 Non-payment of Annual Member States Contributions

3.3.1 Summit noted that:

- (i) Council, at its meeting held in Kinshasa, DRC, in February 2010, decided that suspended Member States should continue to remit their annual contributions;
- (ii) Madagascar, currently under suspension, had arrears of US\$1, 338, 116 in respect of annual Member States contributions for 2009/10; and
- (iii) the Secretariat sent the necessary documentation to Madagascar to facilitate payment of 2009/10 and 2010/11 annual Member States contributions and follow up on communication on the matter.

Decision 1

4. STATEMENT BY THE OUTGOING CHAIRPERSON

Summit noted the Statement of the Outgoing Chairperson delivered during the official opening of the 30th Ordinary Summit of SADC Heads of State and Government on 16 August 2010.

5. REPORT OF THE CHAIRPERSON OF THE SADC ORGAN ON POLITICS, DEFENCE AND SECURITY COOPERATION

Summit considered the Report (SADC/SM/1/2010/5) presented by the Chairperson of the SADC Organ on Politics, Defence and Security Cooperation, in particular, the following:

- (i) implementation of the Hashim Mbita Project;
- (ii) implementation of the Strategic Indicative Plan of the Organ (SIPO);
- (iii) consolidation of democracy in the Region;
- (iv) defence and security matters in the Region;
- (v) political and security situation in the Region; and
- (vi) implementation of UNIVISA System in the Region.

Decision 2

Summit approved the Report of the Chairperson of the Organ.

5.1 The Political and Security Situation in the Region

5.1.1 The Political Situation in the Kingdom of Lesotho

- 5.1.1.1 Summit considered the Report of the Mediation-Facilitation Team on the post-electoral political dialogue in the Kingdom of Lesotho which, among others, highlighted that:

- (i) the Christian Council of Lesotho (CCL) assisted the dialogue process in the Kingdom of Lesotho after the retirement of Sir Ketumile Masire, former President of the Republic of Botswana and the Eminent Person of Post-Electoral Dialogue in the Kingdom of Lesotho;
- (ii) the CCL and SADC Facilitation Team worked together on finding a lasting solution to the post-election challenges of Lesotho; and
- (iii) the stakeholders supported/facilitated adoption of a redefined roadmap.

5.1.1.2 Summit noted the achievements of the CCL-SADC Facilitation Team, in which the stakeholders:

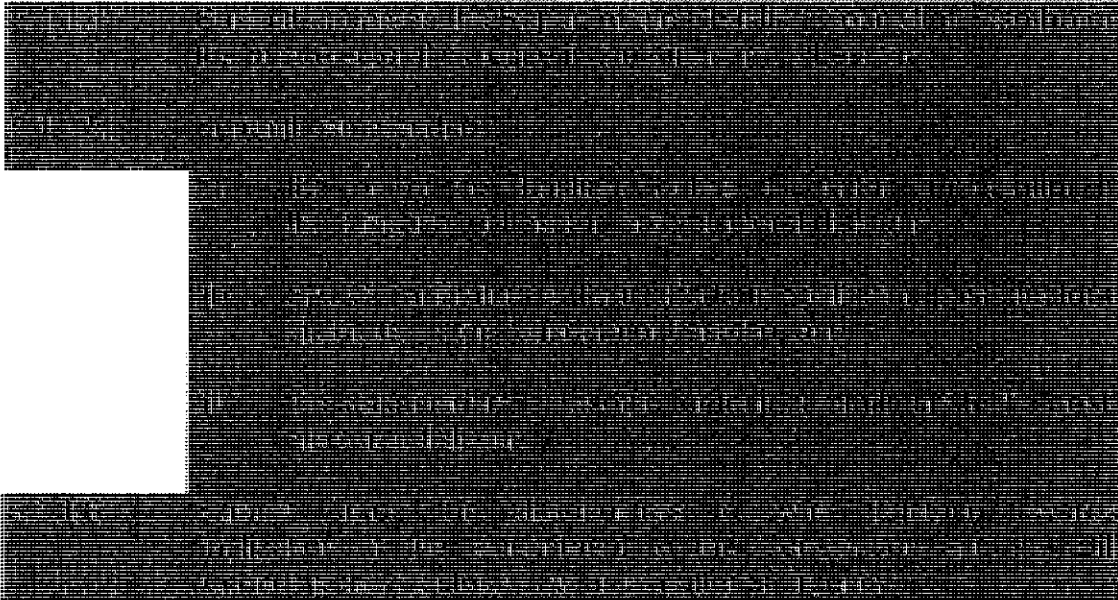
- (i) engaged each other on contentious issues relating to post-electoral process;
- (ii) safeguarded the Mixed Member Proportional (MMP) Model in the country;
- (iii) signed a Thaba Bosiu Declaration committing themselves to maintain peace and stability in the country; and
- (iv) agreed:
 - (a) on convergent and divergent issues;
 - (b) to review the Constitution and the Electoral Law;
 - (c) to close dialogue and move forward; and
 - (d) that there is no conflict between the Constitution and Salaries Act on the Leader of Opposition.

5.1.1.3 Summit also noted that Hon. Pakalitha Mosisili, Prime Minister of the Kingdom of Lesotho, confirmed that:

- (i) the review of the Constitution and the Electoral Law are under way;
- (ii) the stakeholders agreed that 25% of votes remain the threshold for the Leader of Opposition in the Kingdom of Lesotho; and

- (iii) the Bill Amending the Electoral Law will be submitted to Parliament before Christmas recess after receiving the inputs from all stakeholders.

Decision 3



5.2 The Political Situation in the Republic of Madagascar

5.2.1 Summit recalled that:

- (i) His Excellency Joaquim Chissano, former President of the Republic of Mozambique, was appointed Leader of the Joint Mediation Team for Madagascar (JMTM), to facilitate dialogue among the stakeholders in the Republic of Madagascar; and
- (ii) since the appointment of the Mediator, the stakeholders were able to reach three (3) agreements, known as Maputo Agreements, and Addis Ababa Additional Act.

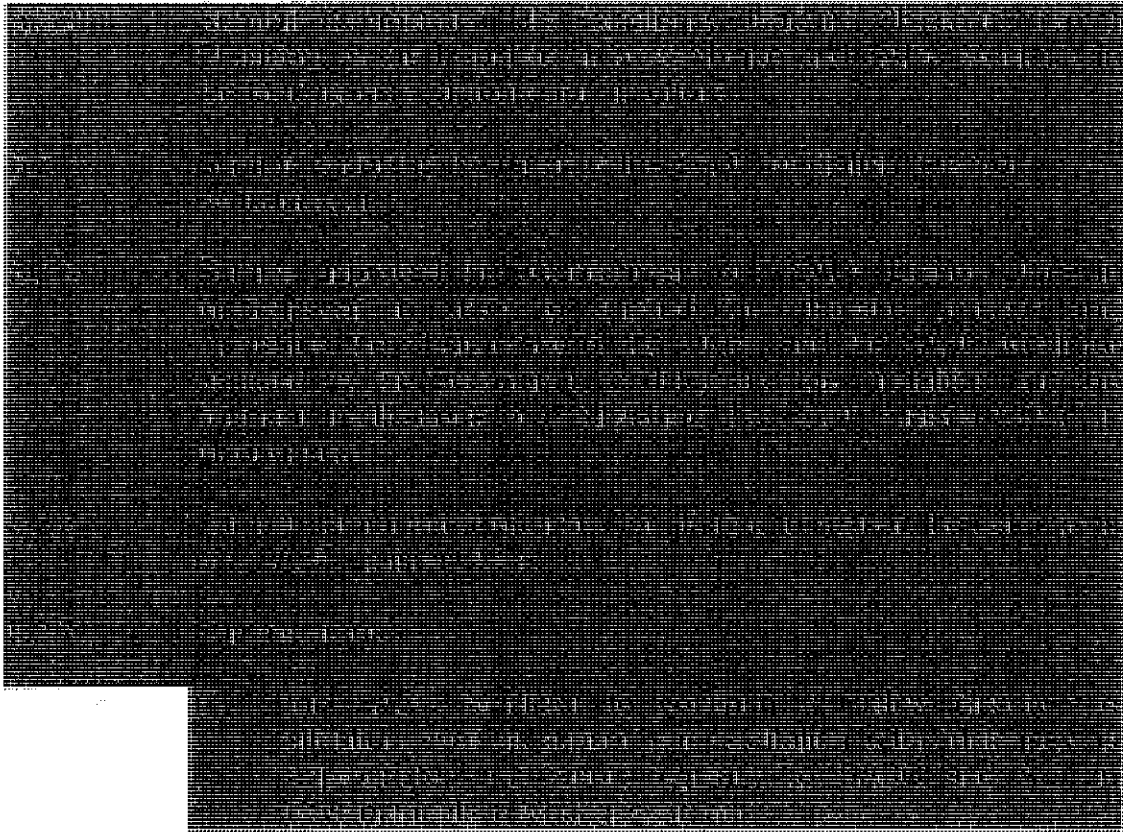
5.2.2 Summit noted that:

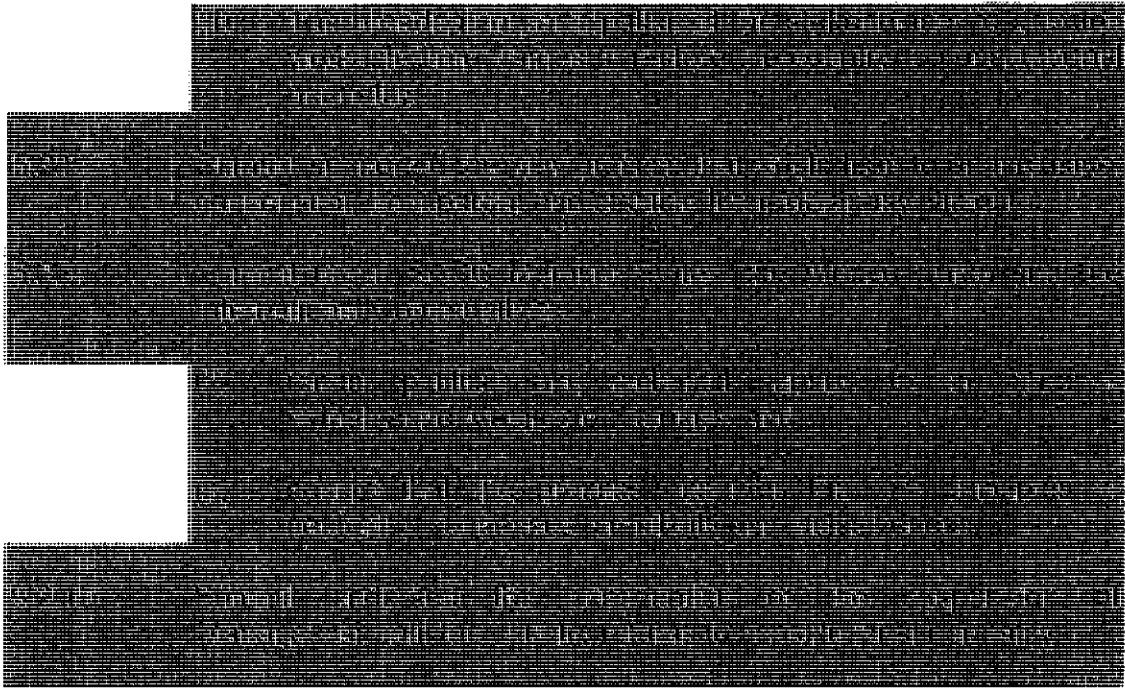
- (i) subsequent to the above agreements, the High Transition Authority decided unilaterally to proceed with the formation of a transitional government and to abrogate the Maputo Agreements and the Addis Ababa Additional Act.
- (ii) in line with the decision of the 14th Conference of the Heads of State and Government of the African Union, held in February 2010, the Peace and Security Council (PSC) of the

African Union met to review the political and security situation in Madagascar. During its meeting, the PSC mandated the SADC Mediator to engage the parties to go back to dialogue, failure of which sanctions would be imposed.

- (iii) the Malagasy stakeholders have decided on the Malgacho-Malgache Dialogue under the Civil Society, in which the Malagasy take the lead in the internal dialogue;
- (iv) the stakeholders are engaged in the preparation of a conference on Inter-Malagasy Dialogue and they have agreed on a roadmap informed by the Maputo Agreements;
- (v) SADC and International Community continue to support the Malgacho-Malgache Dialogue; and
- (vi) that Mauritius offered to provide operational support to the ongoing SADC mediation efforts through its Embassy in Madagascar.

Decision 4





5.3 The Political Situation in the Republic of Zimbabwe

5.3.1 Summit considered progress on the political situation in Zimbabwe, as presented to the Summit Troika by His Excellency, President Jacob Zuma, Facilitator of the Zimbabwe Political Dialogue.

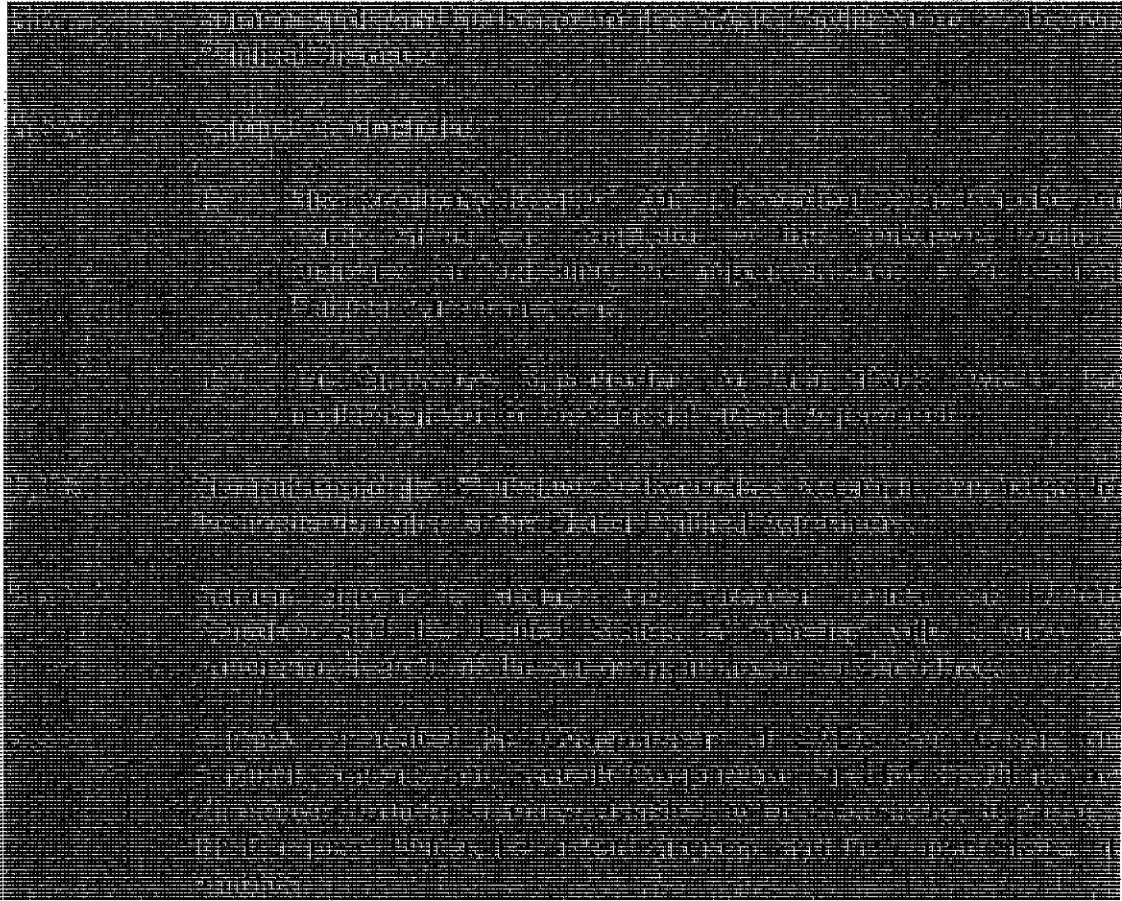
5.3.2 Summit noted a brief by HE Robert Mugabe, President of the Republic of Zimbabwe, which highlighted that:

- (i) the report of the Facilitator is the true reflection of the progress made in the implementation of the Global Political Agreement (GPA);
- (ii) the constitutional review process is underway;
- (iii) a referendum will be conducted and thereafter elections will be held; and
- (iv) outstanding issues in the implementation of the GPA should be addressed independent of the lifting of sanctions.

5.3.3 Summit noted progress made in Zimbabwe following the formation of the Inclusive Government. Summit however noted that targeted sanctions imposed on Zimbabwe have detrimental effects on the people of Zimbabwe and the Region as a whole. As a result, Summit established a need to engage the International Community that imposed sanctions on Zimbabwe, namely the European Community, the United States of America and Australia.

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Decision 5

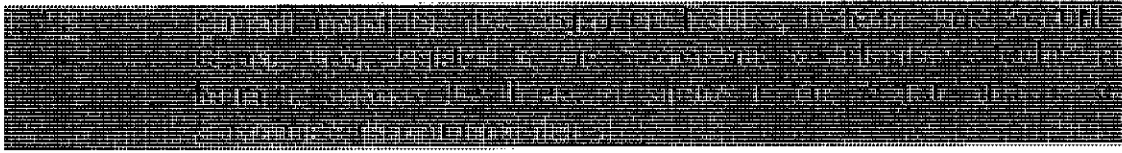


5.4 Threat of Piracy in Seychelles

5.4.1 Summit noted:

- (i) the concern expressed by Seychelles on the threat of piracy in and its impact on the economy of Seychelles;
- (ii) piracy as a threat and established the need to assess the extent of piracy in the Region;
- (iii) that the Secretariat had already sent an Assessment Mission to the United Republic of Tanzania and Seychelles in June 2010, to establish the extent of the threat of piracy; and
- (iv) the recommendations made by the Assessment Mission which among others recommended that a technical team be sent to Seychelles to establish the extent of the threat.

Decision 6



6. REPORT OF THE MINISTERIAL TASK FORCE ON REGIONAL ECONOMIC INTEGRATION

Summit considered the Report (**SADC/SM/1/2010/6**) presented by the Chairperson of the Ministerial Task Force on Regional Economic Integration.

6.1 Summit noted that the Task Force:

- (i) held a regional Strategic Forum followed by its Ministerial Meeting, in Johannesburg, South Africa in February 2010. The Task Force reflected on the SADC regional economic integration agenda and took strategic decisions on the way forward in the light of new developments that have a direct bearing on the SADC regional integration agenda, including the:
 - (a) proposed COMESA-EAC-SADC Tripartite FTA;
 - (b) launching of the COMESA Customs Union;
 - (c) signing of the EAC Common Market Protocol in 2009; and
 - (d) overlapping membership challenge in so far as it affects the SADC integration process.
- (ii) reaffirmed commitment to the SADC regional integration process and identified the following as current priority focus areas within its mandate:
 - (a) consolidation of the SADC FTA by addressing outstanding implementation issues and constraints towards effective implementation as well as urging the remaining Member States to take definitive steps to join the FTA;
 - (b) work towards the attainment of the Customs Union should continue. The 2010 deadline for establishing a SADC Customs Union will not be attainable and a review of the timeframe should be informed by a

common understanding of the necessary conditions required for the promotion of regional growth and integration; and

- (c) simultaneously work towards the Tripartite FTA programme whilst accelerating efforts in attaining the Customs Union; and
- (iii) met in August 2010 in Windhoek, Namibia, to assess progress since its February 2010 meetings and to prepare its report to Summit.

6.2 Consolidation of the SADC Free Trade Area

Summit noted the issues arising from the 2010 Audit on the implementation of the Protocol on Trade, in particular the following:

6.2.1 Tariff Reductions

6.2.1.1 With the exception of Malawi and Zimbabwe, implementation of the tariff phase down offers is on course.

6.2.1.2 Through its 2010/11 Budget, Malawi has effected tariff amendments for both SADC and COMESA trade regimes. As a result more than 1,000 tariff lines were zero rated as part of fulfilling its obligations under the SADC Trade Protocol. Malawi indicated that following these tariff changes, around 80% of its tariff lines under the Protocol on Trade are now at zero. The Secretariat will undertake an assessment of Malawi's recent tariff reductions relative to its commitments under the Protocol on Trade and will submit a report to the Committee of Ministers of Trade (CMT). Malawi is also due to submit information supporting its application for derogation.

6.2.1.3 Zimbabwe has not implemented the 2009 and 2010 tariff reductions on sensitive products and is also requesting derogation from implementing further tariff reductions until 2014 as its industry was still recovering from the challenges it had experienced in the recent past. Zimbabwe will submit the required information in support of its application for derogation for consideration by the CMT.

6.2.1.4 The Task Force noted that reversals of agreed tariff phase down commitments may have negative economic impact on other Member States, in particular on the smaller economies and generally on the gains to be derived from effective implementation of the agreed commitments. Therefore, a study to assess the impact of derogations will be undertaken.

6.2.2 Implementation of the Revised Rules of Origin

6.2.2.1 Following the approval of the revised Rules of Origin by the Committee of Ministers of Trade (CMT) in July 2008 all Member States except Lesotho, Malawi and Zimbabwe are implementing the revised Rules.

6.2.2.2 There are however still concerns that the review of the Rules of Origin has not yet produced satisfactory results. Therefore a comprehensive review is still needed as this could substantively enhance intra-SADC trade. Specifically, immediate attention needs be paid to outstanding rules on textiles, clothing and wheat flour. The review process will also take into account proposals under discussions in the context of the Tripartite FTA.

6.2.2.3 The Task Force noted concerns from Malawi that as a result of the expiry of the Malawi, Mozambique, Tanzania and Zambia (MMTZ) Textile and Clothing Arrangement, its textile and clothing industry has been negatively affected, with over three thousand (3,000) jobs already lost since termination of the Arrangement. In this regard Malawi requested for the extension of the MMTZ Arrangement pending finalisation of the review of the rules of origin applicable to textiles. The Task Force has recommended that the issue regarding the MMTZ Arrangement be included on the agenda for the next meeting of the CMT.

6.2.3 Transparency

6.2.3.1 The 2010 Audit made a first attempt to assess the level of awareness and transparency of the SADC trade regime. The need to improve availability and awareness of trade information through relevant websites, print media and awareness campaigns was recognised.

6.2.3.2 Member States will also need to be more transparent with respect to their trade relations with third parties. In this regard, it is vital that Member States share information through the Secretariat on bilateral trade relations with third parties in line with the provisions of the Protocol on Trade.

6.2.3.3 Summit noted that the:

- (i) work programme for consolidating the FTA would focus on the following:
 - (a) facilitating accession of Member States that are not yet participating in the SADC FTA;

- (b) addressing non-tariff barriers (NTBs);
- (c) improving implementation of agreed customs and trade facilitation instruments;
- (d) undertaking trade development, trade promotion and investment promotion activities;
- (e) implementing measures aimed at addressing supply-side, industrial diversification and competitiveness bottlenecks. An integrated industrial development programme would be prioritised and adequately resourced; and
- (f) implementation of complementary measures to address transparency and the need for accurate and up to date trade and economic data.

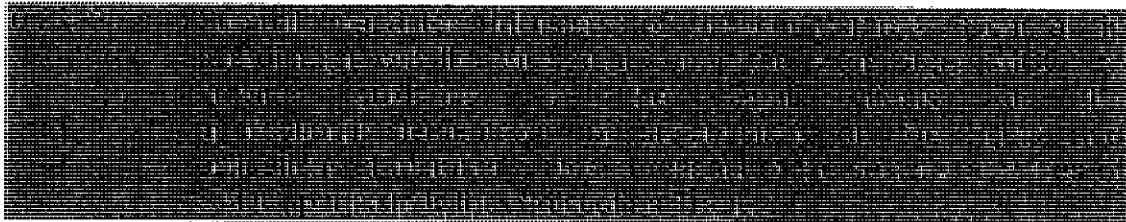
6.2.3.4 Summit noted that the Task Force adopted an Action Plan Matrix to enhance the operation and effectiveness of the SADC FTA. The Secretariat would provide regular and comprehensive reports on implementation.

6.2.4 Member States under Suspension

6.2.4.1 Summit recalled that, at its extraordinary meeting held in Pretoria, South Africa in March 2009, it suspended Madagascar from participating in all SADC institutions and organs until the return of the country to constitutional normalcy.

6.2.4.2 Summit noted that the suspension of Madagascar by Summit from participating in SADC institutions and organs did not specify the extent to which Madagascar could be involved in SADC programmes as well as the rights and obligations of Madagascar and other Member States under the various Protocols of SADC.

Decision 7



6.3 Preparations towards the SADC Customs Union

6.3.1 Summit recalled that, at its meeting held in Kinshasa, DRC, in September 2009, it noted progress on the preparatory work towards the attainment of the SADC Customs Union. Summit noted that due to outstanding work, it may not be possible to attain the SADC Customs Union in 2010 as planned.

6.3.2 Summit noted that the Task Force observed:

- (i) overlapping membership of Member States in different regional integration arrangements as the main challenge in the establishment of the SADC Customs Union; and
- (ii) that because of the divergences in economic conditions, the principle of variable geometry would need to be applied in advancing the SADC Customs Union agenda while cognisant of the need to maintain unity and cohesion of SADC. This entails that each Member State would join the Customs Union when it reaches the required state of readiness.

6.3.3 Summit noted that the 10th Meeting of the Ministerial Task Force held in August 2010:

- (i) re-affirmed commitment to establish a SADC Customs Union;
- (ii) recognised the need to establish synergies between the consolidation of the SADC FTA, the establishment of the Customs Union and the Tripartite FTA;
- (iii) adopted the principle of variable geometry that allows Member States to join the customs union when they reach the required state of readiness, while recognising the need to maintain unity and cohesion of SADC;
- (iv) approved that before December 2011, agreement and common understanding be reached on the following elements:
 - (a) parameters of the future customs union;
 - (b) the benchmarks or milestones required for the establishment of the Customs Union;
 - (c) a model SADC Customs Union; and

- (d) the modalities of implementation of a Customs Union that should be followed.
- (v) approved the establishment of a high level expert group on the SADC Customs Union, comprising two (2) representatives from relevant departments responsible for trade and finance issues from each Member State, to work with the Secretariat. The expert group would consolidate and refine all previous studies on the Customs Union and work done by the Technical Working Groups towards achievement of the tasks outlined in 6.3.3 (iv). This expert group would report to Senior Officials; and
- (vi) directed the Secretariat to mobilize adequate resources for advancing the Customs Union process.

Decision 8

6.3.4 Summit endorsed the decisions of the Ministerial Task Force on Regional Integration on paragraph 6.3.3

6.4 Proposed Tripartite Free Trade Area

6.4.1 Summit recalled that, at its meeting held in Kinshasa, DRC, in September 2009, it noted that work was in progress to finalise the report on the establishment of the Tripartite FTA as directed by the Tripartite Summit of Heads of State and Government held in Kampala, Uganda, in October 2008.

6.4.2 Summit noted that:

- (i) the Secretariats of the three Regional Economic Communities (RECs) finalised the Report incorporating a draft Roadmap and a draft FTA Agreement. National and regional consultations on the Report were in progress;
- (ii) the Task Force reaffirmed that the process of establishing the Tripartite FTA is a significant step that would contribute to continental market integration in line with the objectives of the Abuja Treaty; broaden the regional market with potential opportunities to enhance trade and investment; and overcome the challenge of multiple and overlapping membership;
- (iii) the Task Force agreed on the need for the Tripartite Programme to include Member States' engagement at

tripartite level ahead of the planned Tripartite Council and Summit meetings;

- (iv) the Secretariat would finalise consultations with other RECs on suitable dates for the next Tripartite Council and Summit with a view to convening the meetings during the first quarter of 2011; and
- (v) SADC is expected to host the Tripartite Council and Summit meeting.

Decision 9



7. REVIEW OF THE SOCIO-ECONOMIC SITUATION IN THE REGION

7.1 Review of the Impact of the Global Economic Crisis on SADC

7.1.1 Summit recalled that, at its meeting held in Kinshasa, DRC in September 2009, it urged Member States to implement measures aimed at minimising the negative effects of the global economic crisis on the SADC economy.

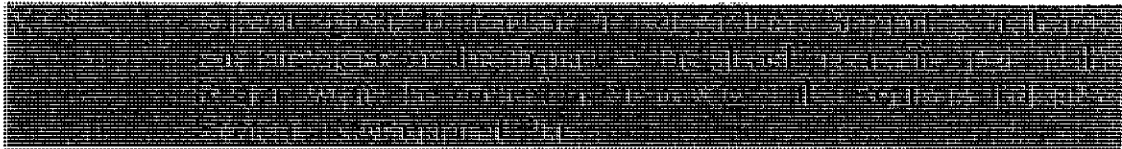
7.1.2 Summit noted:

- (i) the Report on the review of economic performance of the Region for 2009 (SADC/SM/1/2010/8A) with regard to the impact of the global economic crisis;
- (ii) economic performance of the Region improved in the latter part of 2009 driven by the significant recovery in the Global economy which was faster than previously expected:
 - (a) inflation slowed down;
 - (b) the external sector improved on the back of improvements in commodity prices from the second half of 2009; and
 - (c) some of the stock markets in the Region rebounded by the second quarter of 2009;
- (iii) notwithstanding the improvements, a number of Member States experienced challenges in foreign exchange markets, especially where reserves fell to critically low levels. The crisis entailed considerable social dislocation and suffering

- with job losses and reduced employment opportunities affecting millions of households; and
- (iv) the recovery in the global economy was largely led by the emerging economies, in particular, China and India. Recovery in the advanced economies remained sluggish and private demand remained low with rising unemployment.

7.1.3 Summit established a need to convene an extraordinary Summit to deliberate and strategise on the impact of the global economic crisis in the Region within the context of the review of the Regional Indicative Strategic Development Plan (RISDP). The date of the extraordinary Summit would be determined in due course.

Decision 10



7.2 Agriculture and Food Security

Summit noted that Member States continue to implement the Dar-es-Salaam Declaration and Plan of Action of May 2004 on Agriculture and Food Security. A review undertaken by the Secretariat, in liaison with Member States, indicated some improvements on the food security situation for the 2010/11 marketing year as follows:

7.2.1 Cereal Production for 2010/11 Marketing Year

Summit noted that:

- (i) the 2009/10 rainfall season was generally good in most parts of the Region, although below normal rains affected a few areas in particular; southern Malawi, southern and central Mozambique and southern and eastern Zimbabwe;
- (ii) the good rainfall, availability and utilization of inputs contributed to the improved food security situation for the 2010/11 marketing year. The Regional analysis indicated an overall cereal surplus of 2.18 million tonnes compared to a deficit of 0.38 million tonnes in 2009/10 marketing year;
- (iii) country analysis of the food security situation in the 2010/11 marketing year indicated that Malawi, South Africa, Tanzania and Zambia had overall cereal surpluses of 1.12 million tonnes, 2.80 million tonnes, 0.21 million tonnes and 1.17 million tonnes, respectively; and

- (iv) in terms of maize, which usually makes up more than 75% of total cereal production, the Region estimated a surplus of 5.83 million tonnes. This was the largest overall surplus in the last 10 years. At country level, surpluses were only available in Malawi (1.16 million tonnes), Mozambique (0.06 million tonnes), South Africa (4.45 million tonnes), Tanzania (0.20 million tonnes) and Zambia (1.17 million tonnes) with the rest of the Member States indicating reduced deficits.

7.2.2 Production of Non-Cereal Food Crops, Livestock and Fisheries

7.2.2.1 Summit noted that:

- (i) production and consumption of non-cereal food crops like cassava and plantain was on the increase, even in countries where cassava is not a traditional crop, such as Swaziland and Zimbabwe. Angola, Malawi, Mozambique, Tanzania and Zambia had increased production by 84% from 14.89 million tonnes in 2003 to 27.36 million tonnes in 2009;
- (ii) meat production had increased from 4.68 million tonnes in 2004 to 5.16 million tonnes in 2009. Milk and egg production had also increased from 4.5 million tonnes and 0.5 million tonnes to 5.55 million tonnes and 0.57 million tonnes, respectively. However, the Region remains a net importer of these products; and
- (iii) contribution of fisheries to food security and nutrition continues to grow due to the recent rise in fish production resulting from improved management and expansion in aquaculture. However, challenges remain, in particular limited investment, lack of infrastructure for fish handling and preservation, and the illegal, unregulated and unreported fishing.

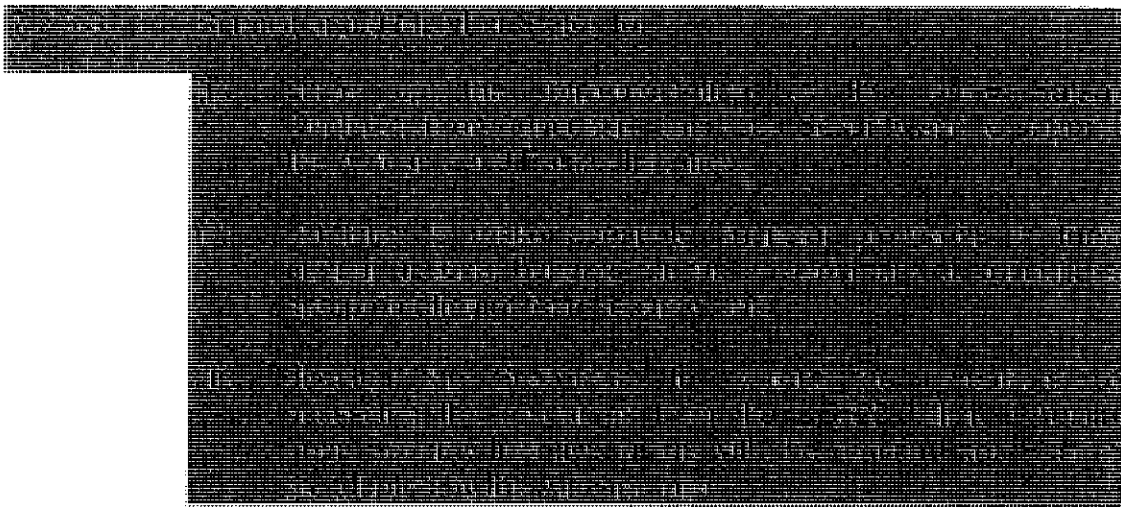
7.2.3 Humanitarian Requirements

7.2.3.1 Summit noted that, in spite of the improved overall food supply situation, the number of people requiring humanitarian assistance (food and other non-food assistance) in the Region had increased from 3.26 million in 2009/10 to 4.04 million in 2010/11 in the eight (8) Member States of Lesotho, Malawi, Mozambique, Namibia, Swaziland, Tanzania, Zambia and Zimbabwe where assessments were conducted. The increase was mostly due to dry spells, floods and cyclones that affected crop production in some Member States. Most of the affected Member States would meet the humanitarian requirements internally.

7.2.3.2 Summit noted that:

- (i) in line with the decision to implement the African Food Basket adopted at the African Union (AU) Summit of Heads of State and Government held in Kampala Uganda in July 2010, measures have to be developed for the Region to implement the AU decision; and
- (iii) there is US\$22 billion, L'Aquila Food Security Initiative which could accessed to support the African Food Basket.

Decision 11



7.2.4 Common Negotiating Position for the United Nations Framework Convention on Climate Change

7.2.4.1 Summit noted that:

- (i) SADC supported the African Common Negotiating Position at the 15th Conference of Parties of the United Nations Framework Convention on Climate Change (UNFCCC COP 15) which was held in Copenhagen, Denmark in December 2009. However, no agreement was reached in Copenhagen regarding the long term cooperative action on reduction of greenhouse gas emissions after the Kyoto Protocol in 2012. The only outcome was a Copenhagen Accord which is not legally binding;
- (ii) Council, at its meeting held in Kinshasa, DRC, in February 2010, urged Member States to develop a comprehensive SADC strategy on Climate Change in preparation for the 16th Session of the United Nations Framework Convention on Climate Change (UNFCCC COP16) negotiations which will take place in Mexico in November/December 2010;

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- (iii) the African Ministers of Environment met in Bamako, Mali, in June 2010 and agreed to maintain the 2009 African common negotiating position on climate change with minor adjustments;
- (iv) SADC Ministers responsible for Environment and Natural Resources met in Victoria Falls, Zimbabwe, in July 2010, and endorsed the Africa Common Negotiating Position which stipulates:
 - (a) that adaptation remains a priority for Africa and particularly for SADC Member States. SADC, at UNFCCC COP16, will seek a legally binding financing mechanism for adaptation, technology transfer and capacity building. The mechanism should be measurable, reportable and verifiable. Currently, it is voluntary;
 - (b) new legally binding targets on reducing emissions by at least 40% reduction of emissions below 1990 levels by 2020 and 80-95% below 1990 levels by 2050 for Developed Countries. This is based on the findings of the 4th Assessment Report of Intergovernmental Panel on Climate Change (IPCC). However, notwithstanding the findings, Developed Countries are pledging reduction of emissions far below what is required by science;
 - (c) that, with regard to mitigation, African Countries, including SADC Member States, are prepared to undertake voluntary mitigation measures. Such measures should be based on technical and financial support received from Developed Countries. The support should include enhanced technology, skills transfer and capacity building. However, Developed Countries are insisting that Developing Countries should also have binding mitigation requirements which should be measurable, reportable and verifiable. This stand is unacceptable to the Region and it is also against the principle of common but differentiated responsibilities as stipulated in the Climate Change Convention; and
 - (d) a target of below 1.5°C global temperature rise for curbing global warming, while Developed Countries insist on a target of 2°C;

- (v) in addition to the African Common Position, SADC Ministers added Reducing Emissions from Deforestation and Forest Degradation plus (REDD+) as one of its priorities; and
- (vi) South Africa will host the 17th Conference (COP 17) of the Parties of the United Nations Framework Convention on Climate Change in 2011.

Decision 12



7.3 HIV and AIDS

Summit considered the Report on HIV and AIDS in the SADC Region (SADC/SM/1/2010/8B) presented by the Secretariat on the Implementation of the Maseru Declaration and other commitments, in particular the following:

7.3.1 Policy Development and Harmonization

Summit recalled that Member States had adhered to several Declarations and commitments, among others, the Maseru Declaration on HIV and AIDS, the Abuja Declaration on HIV and AIDS, Malaria, Tuberculosis (TB) and other Communicable Diseases and the United Nations General Assembly Special Session on HIV and AIDS (UNGASS). These commitments informed the development and implementation of HIV and AIDS interventions in the SADC Region.

7.3.2 Achievements and Challenges

7.3.2.1 Summit noted that:

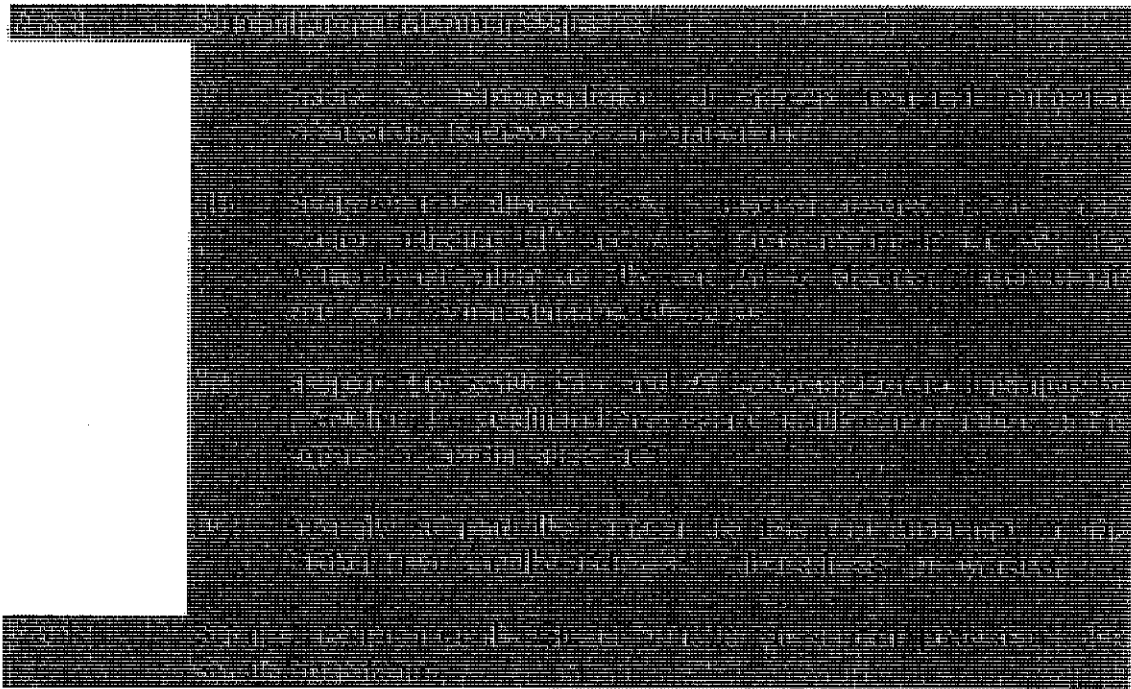
- (i) the Region continues to track progress by SADC Member States in the implementation of the agreed commitments on HIV and AIDS. In this regard, the Epidemic Update Report, 2009 reveals meaningful progress in the implementation of Anti Retroviral Therapy (ART) and Prevention of Mother to Child Transmission (PMTCT) programmes. Eight (8) Member States recorded Anti Retroviral coverage rates of 50% and

above. PMTCT is the most successful components of HIV prevention in the Region. After its introduction PMTCT programmes have rapidly expanded with five (5) Member States recording PMTCT coverage rates of 70% and above;

- (ii) the Secretariat continues to mobilise resources for the implementation of regional priorities in combating HIV and AIDS. In this regard, about US\$ 5 million would be used to fund 13 Project Proposals, which are focussing on HIV prevention, during the current budget under the SADC HIV and AIDS Fund. In addition, the Secretariat has mobilized US\$45 million from the Global Fund, for the implementation of SADC HIV and AIDS Cross-Border Initiative at 32 border sites through mobile clinics. The support is aimed at facilitating regional harmonization of protocols, policies and procedures for service delivery to mobile and vulnerable populations and the populations within the surrounding border post areas. The Global Fund would cover the cost of procuring 32 mobile clinics, salaries for health providers at 32 sites, capacity building activities for Member States to operationalise approved guidelines on treatment protocols at border sites. Member States are expected to provide Anti Retroviral (ARV), TB and Sexually Transmitted Infections medicines, condoms, and other commodities as their contribution to the initiative;
- (iii) notwithstanding the above mentioned achievements, the Region is still facing some challenges. These include:
 - (a) lack of harmonisation of treatment of HIV and AIDS across Member States;
 - (b) limited implementation of agreed key strategic frameworks, regional minimum standards and guidelines; and
 - (c) the impact of global economic recession on donor funding as reflected in the emerging trends where International Cooperating Partners (ICP) and Donors are reducing financial support to the Global Fund to fight against HIV, TB and Malaria;
- (iv) that measures are being put in place to address the above mentioned challenges within the context of the revised HIV and AIDS Strategic Framework and Business Plan 2010-2015. Top priority would be accorded to prevention and social mobilisation to “turn-off the tap” in order to reverse the

spread and impact of HIV and AIDS in the Region and to achieve sustainable access to anti-retroviral treatment.

Decision 13



7.4 Gender and Development

7.4.1 SADC Protocol on Gender and Development

7.4.1.1 Summit recalled that, at its meeting held in Johannesburg, South Africa, in August 2008, it adopted the SADC Protocol on Gender and Development. The Protocol was signed by all Member States except Botswana and Mauritius.

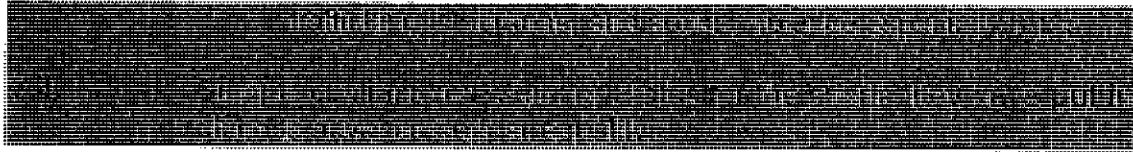
7.4.1.2 Summit noted that:

- (i) ratification of this protocol will facilitate effective and immediate implementation of the SADC Gender commitments;
- (ii) the implementation of the SADC Protocol on Gender and Development will guide specific interventions necessary for eliminating gender inequalities that threaten progress made towards the achievements of the development goals gained over the years;
- (iii) to date, only Namibia, Tanzania and Zimbabwe have ratified and deposited the Instruments of Ratification with the Secretariat;

- (iv) Angola, Lesotho, and Mozambique have completed the process of ratification at national level and are yet to deposit their Instruments of Ratification with the Secretariat;
- (v) Seychelles and South Africa are at an advanced stage of ratification of the Protocol;
- (vi) Zambia is in the process of ratifying the Protocol;
- (vii) Botswana reiterated her inability to sign the Protocol on Gender and Development due to the prescriptive nature of some provisions contained in the Protocol;
- (viii) Mauritius reiterated her inability to sign the Protocol on Gender and Development due to the constraints in her constitution;
- (xi) high levels of gender inequalities and disparities among men and women still persist in SADC Member States. Women are the poorest of the poor as they constitute more than 50% of the poor population in the Region. Gender inequalities also exist in the economic sector with women's limited access to economic reproductive resources such as land, property and employment;
- (x) gender based violence is on the increase especially rape, murder, suicides/passion killings and domestic violence;
- (xi) human trafficking is on the rise with women and girls being the main target for this illegal trade; and
- (xii) issues relating to maternal, infant and child mortality are central to gender and development, and safe motherhood.

Decision 14





7.4.2 Women in Politics and Decision Making

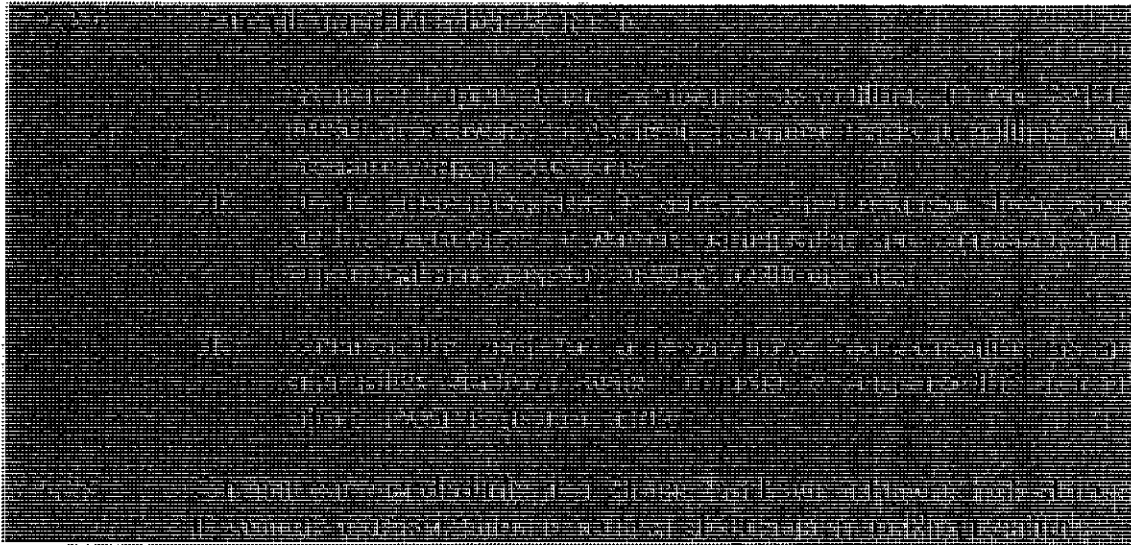
7.4.2.1 Summit recalled that, at its meeting held in Gaborone, Botswana in 2005, it urged Member States to ensure that at least 50% of all political and decision making positions are held by women. Since then, Member States have been making varied and inconsistent progress towards ensuring equal representation of women and men in political and decision making positions at all levels.

7.4.2.2 Summit noted that:

- (i) some Member States that held elections in 2009 have regressed in the representation of women in Parliament and Cabinet positions. Namibia has declined from 30.8% to 22%, with only 16 women now in the 72 Member National Assembly in the November 2009 elections. In Botswana, the proportion of women in Parliament dropped from 11% to 6.5% in the October 2009 elections. Mauritius has maintained the 17% representation of women in Parliament after their March 2009 elections;
- (ii) Malawi experienced an increase from 14% to 22% in the May 2009 elections, while Mozambique realized an increase from 38% in 2004 elections to 39% in 2009 elections;
- (iii) in South Africa, the proportion of women in the House of Assembly increased from 33% to 45% after the 2008 elections. Angola has 38.6% women representation at Parliament while Tanzania stands at 32.6%.
- (iv) over the years, progress experienced in some Member States is largely as a result of conducive electoral systems, such as proportional representation and legislated quotas. Political parties can implement legislated quotas that increase the possibility of achieving gender equality in all political positions.

7.4.2.3 Summit noted that in positions of decision making at the levels of Permanent Secretaries, Directors, and Heads of Departments, although progress was significant, a lot still needed to be done to reach the 50:50 gender parity in Member States. In the judiciary, women representation has generally improved in most Member States.

Decision 15

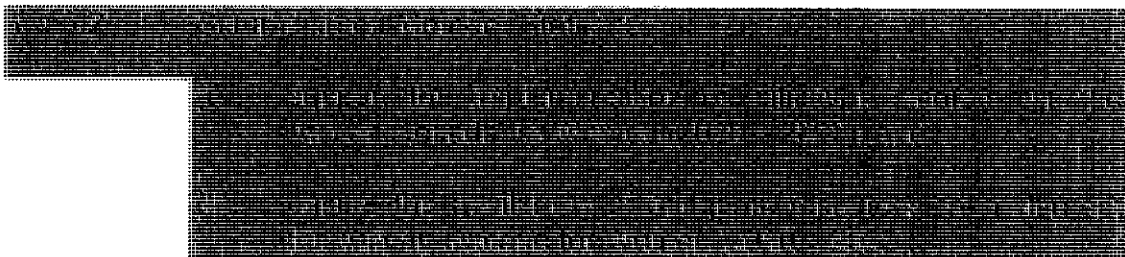


7.4.3 African Decade for Women (2010 – 2020)

7.4.3.1 Summit noted that:

- (i) the 12th Ordinary Summit of the African Union (AU) Heads of State and Government, at its meeting held in Addis Ababa, Ethiopia, in February 2009, adopted the African Decade for Women (2010 – 2020). This is a mechanism to accelerate the implementation and attainment of the goals stated in the various declarations, protocols and conventions adopted by AU Member States; and
- (ii) the Women's Decade gives AU Member States the unique opportunity to strengthen and enhance their efforts in attaining the goals towards gender equality and women's empowerment. All AU Member States are expected to formulate and implement effective strategies and policies on gender equality with special focus on women's economic empowerment to reduce poverty at national level.

Decision 16



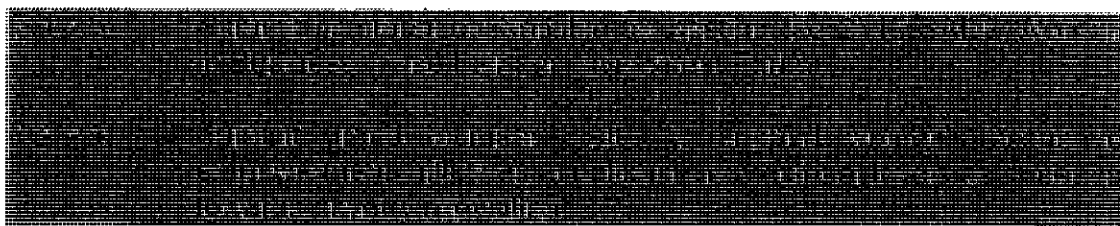
7.4.4 SADC Women in Business Trade Fair and Investment Forum

7.4.4.1 Summit noted that the Secretariat organised the 2010 SADC Women in Business Trade Fair and Investment Forum in Namibia, Windhoek, at the Windhoek Show Grounds from the 9 -18 August 2010. All the SADC Member States were represented. The objective of the SADC Women in Business Trade Fair and Investment Forum were to:

- (i) ensure economic empowerment of SADC women in business through capacity building, training and skills development;
- (ii) expose women to regional and international markets, marketing information, products, raw materials and technology; and
- (iii) facilitate exchange of information, networking and partnership creation.

7.4.4.2 Summit noted that poverty in the Region is compounded by a number of factors such as the HIV/AIDS pandemic, food insecurity and gender inequality among others. Women bear the greatest brunt of poverty as the poorest of the poor. Women also have limited access to and control over the productive resources such as land and property, thus exacerbating poverty. In view of this, specific women's economic empowerment programmes are necessary for the elimination of poverty at national and regional levels.

Decision 17



8. THE REGIONAL POVERTY OBSERVATORY

8.1 Summit recalled that, at the Conference on Poverty and Development held in Mauritius in April 2008, it adopted and signed a Declaration on Poverty Eradication and Sustainable Development in which among other things, it resolved to:

- (i) work towards the establishment of a Regional Poverty Observatory (RPO) to monitor progress made in the

implementation of actions in the main priority areas of poverty eradication; and

- (ii) acquire and develop adequate capacity both at the Secretariat and Member States level to ensure effective implementation of poverty eradication programmes.

8.1.1 Summit noted that:

- (i) Council, at its meeting held in Sandton, South Africa, in August 2008, approved the action plan to operationalise the Summit decision. The action plan included a roadmap towards the establishment of a RPO;
- (ii) in implementing the roadmap, the Secretariat carried out the following activities:
 - (a) surveys of Poverty Observatories within the Region, across Africa and internationally;
 - (b) study visits to six (6) SADC Member States; and
 - (c) held consultations and workshops with Member States and non-state actors.

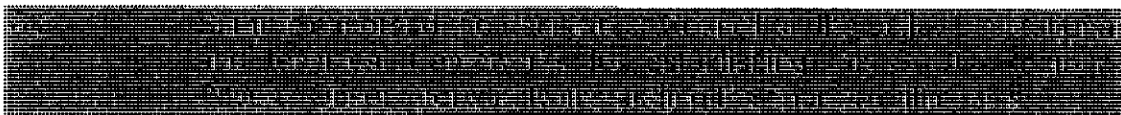
8.1.2 Summit noted the Report (**SADC/SM/1/2010/8**) which outlines the proposal for the establishment of the RPO presented by the Secretariat, in particular the policy, institutional and technical frameworks and the financial implications as follows:

- (i) policy framework: it is proposed that the RPO be established as a function that:
 - (a) provides a coordinated approach and common standards to data gathering, systematic analysis and dissemination of data including monitoring of poverty-related issues at both Member States and regional level;
 - (b) has broad-based stakeholder participation; and
 - (c) guides Member States in effective implementation of poverty reduction strategies through dissemination of information on best practices in the Region and beyond;

- (ii) institutional framework: it is proposed that:
 - (a) the RPO be established as a forum for stakeholders to deliberate on the regional dimensions of poverty and development issues affecting the Region. The stakeholders' forum is to meet once every two (2) years and its deliberations are to be at the technical level;
 - (b) a Steering Committee be set up to guide the RPO and be composed of one (1) Senior Official from each Member State; five (5) representatives from regional apex organisations; three (3) experts on poverty and development issues drawn from the Region and two (2) institutional representatives of development partners at advisory capacity. It is proposed that the Steering Committee meets at least once every year and reports to Council annually;
 - (c) the RPO function be located within the existing structures at the Secretariat;
- (iii) technical framework: it is proposed that Member States develop a definitive list of data on poverty trends and indicators to form a 'Common SADC Poverty Matrix'; and
- (iv) financial implications will be submitted to Council through the Finance Committee at its meeting to be held in February 2011. Meanwhile, activities related to Regional monitoring of poverty in the context of the RISDP are supported by funding from the Southern African Trust.

8.1.3 Summit noted that Council, at its meeting held in August 2010 in Windhoek, Namibia, approved the policy, institutional and technical frameworks for establishing the SADC Regional Poverty Observatory.

Decision 18



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9. REPORT OF THE TRIBUNAL

9.1 Non Compliance with Decisions of the Tribunal

9.1.1 Summit recalled that at its meeting held in Kinshasa, DRC, in September 2009, on the subject of the Republic of Zimbabwe's failure to comply with the SADC Tribunal's earlier decisions, and with a view to take informed action, Summit instructed the SADC Committee of Ministers of Justice/Attorneys-General to:

- (i) expeditiously hold a meeting on the legal issues regarding Zimbabwe and advise Summit accordingly; and
- (ii) review the roles, responsibilities and Terms of Reference of the Tribunal.

9.1.2 Summit considered the Report of the Tribunal (**SADC/SM/1/2010/9**) in particular that:

- (i) in *Fick:L.K. and Others vs the Republic of Zimbabwe* (case number **SADC (T) 01/2010**), the SADC Tribunal made a Ruling dated 16 July 2010, and established the existence of further acts of non-compliance by the Republic of Zimbabwe with regard to the Tribunal's earlier decisions; and
- (ii) Article 32 (5) of the SADC Protocol on Tribunal enjoins the Summit to take appropriate action to address the content of the Tribunal's Report.

9.1.3 Summit, in considering the issues pertaining to non compliance by the Republic of Zimbabwe, took into account the deliberations and advice formulated by the SADC Committee of Ministers of Justice/Attorneys-General at their meeting held in Kinshasa, DRC, in April 2010.

9.2 Re-appointment of Members of the SADC Tribunal

9.2.1 Summit recalled that, at its meeting held in Gaborone, Botswana, in 2005, it appointed Members of the Tribunal in accordance with the provisions of Article 6(1) of the Protocol on the Tribunal.

9.2.2 Summit noted that:

- (i) as required by Article 6(1) of the Protocol, the term of office for those Members appointed in August 2005 would expire in August 2010. The Article further provides that Members may be reappointed for another five (5) year term; and

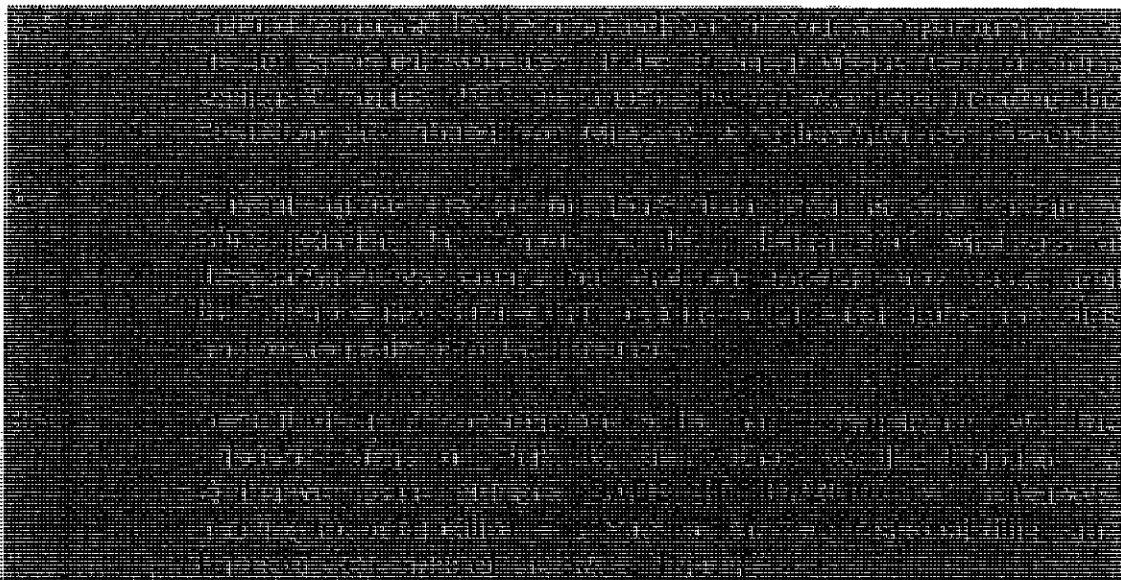
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- (ii) in terms of Article 4(4) of the Protocol, the Members are appointed by the Summit upon recommendation by Council.

9.2.3 Summit noted that Council, at its meeting held in Windhoek, Namibia in August 2010, recommended to Summit not to reappoint the following Members of Tribunal whose term of office expires in August 2010, for another five (5) year term, pending the Report on the Tribunal from Ministers of Justice/Attorneys-General:

- (i) Justice A. Pillay from Mauritius;
- (ii) Dr R. Kambovo, from Angola;
- (iii) Justice F.M. Chomba from Zambia; and
- (iv) Justice O.B Tshosa from Botswana.

Decision 19



10. REPORT OF THE SADC COMMITTEE OF MINISTERS OF JUSTICE/ATTORNEYS-GENERAL

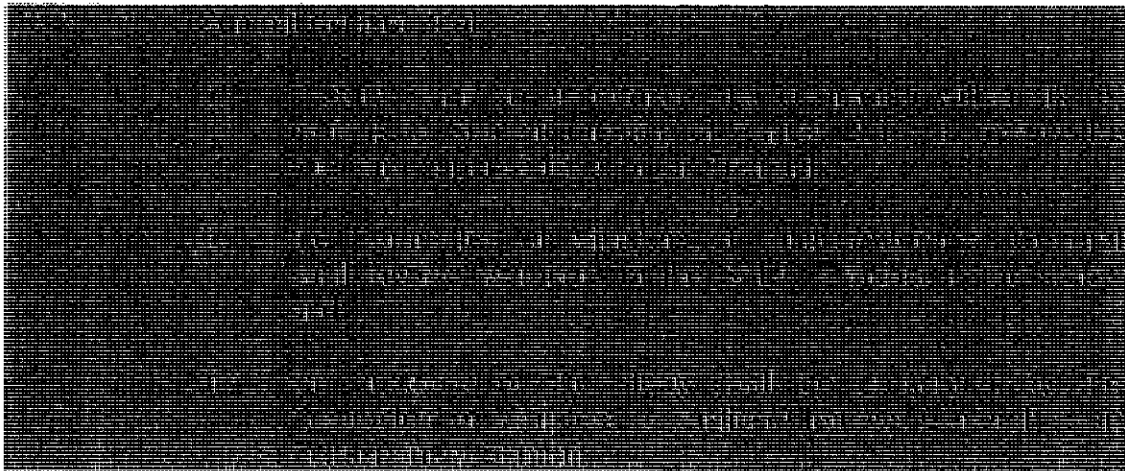
10.1 Summit considered the Report (**SADC/SM/1/2010/10**), presented by the Chairperson of the SADC Committee of Ministers of Justice/Attorneys-General in particular the following:

- (i) the SADC Committee of Ministers of Justice/Attorneys-General met in Kinshasa, DRC, in April 2010, and considered both the legal issues regarding Zimbabwe and the roles and responsibilities and Terms of Reference of the SADC Tribunal;

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- (ii) with regard to the legal issues on Zimbabwe, the Ministers of Justice/Attorneys-General observed that the:
 - (a) legal opinions alone do not provide a comprehensive solution to the matter;
 - (b) matter is of a complex nature because it raises both legal and political issues. Some of the pertinent issues include:
 - (i) entry into force of the Protocol on the Tribunal; and
 - (ii) Rulings of the Tribunal on the land issue in Zimbabwe and issues emanating therefrom;
 - (c) matter would thus benefit from a comprehensive review that would take into account both its legal and political dimensions; and
 - (d) comprehensive review should be part of a study that should also address the role, responsibilities and Terms of Reference of the SADC Tribunal;
- (iii) as a result of the preceding observations, the Ministers of Justice/Attorneys-General recommended that Summit defers consideration of the matter on Zimbabwe's failure to comply with the SADC Tribunal's Rulings, pending the commissioning and completion of a study on the role, responsibilities and Terms of Reference of the SADC Tribunal. The findings of the study would inform the Committee of Ministers of Justice/Attorneys-General's subsequent advice to Summit in August 2011.

Decision 20



**11. NOMINATION OF THE RECIPIENTS OF SIR SERETSE KHAMA
SADC MEDAL**

11.1 Summit recalled that:

- (i) at its meeting held in Arusha, United Republic of Tanzania in 1985, it established the Sir Seretse Khama SADC Medal. The Medal was intended to honour those who were considered to have made outstanding contributions towards the achievements of SADC goals as well as in other endeavours deemed to have promoted the welfare and unity of the people of Southern Africa;
- (ii) to date, the Medal has since been conferred on the following former Heads of State and Government:
 - (a) His Excellency Julius Nyerere in 1986;
 - (b) His Excellency Samora Machel in 1987 (*Posthumous*);
 - (c) His Excellency Sir Ketumile Masire in 1993;
 - (d) His Excellency Agostinho Neto in 1995 (*Posthumous*);
and
 - (e) His Excellency Nelson Mandela in 2000.

11.2 Summit noted that Council, at its meeting held in Kinshasa, Democratic Republic of Congo (DRC), in February 2010 recommended:

- (i) that the criteria for nominees for the Medal be agreed upon between the Chairperson of the Organ on Politics, Defence and Security Cooperation and the Chairperson of SADC, and be forwarded to Member States to guide them in making their nominations;
- (ii) that nominations be submitted by Member States to the Secretariat by end of May 2010;

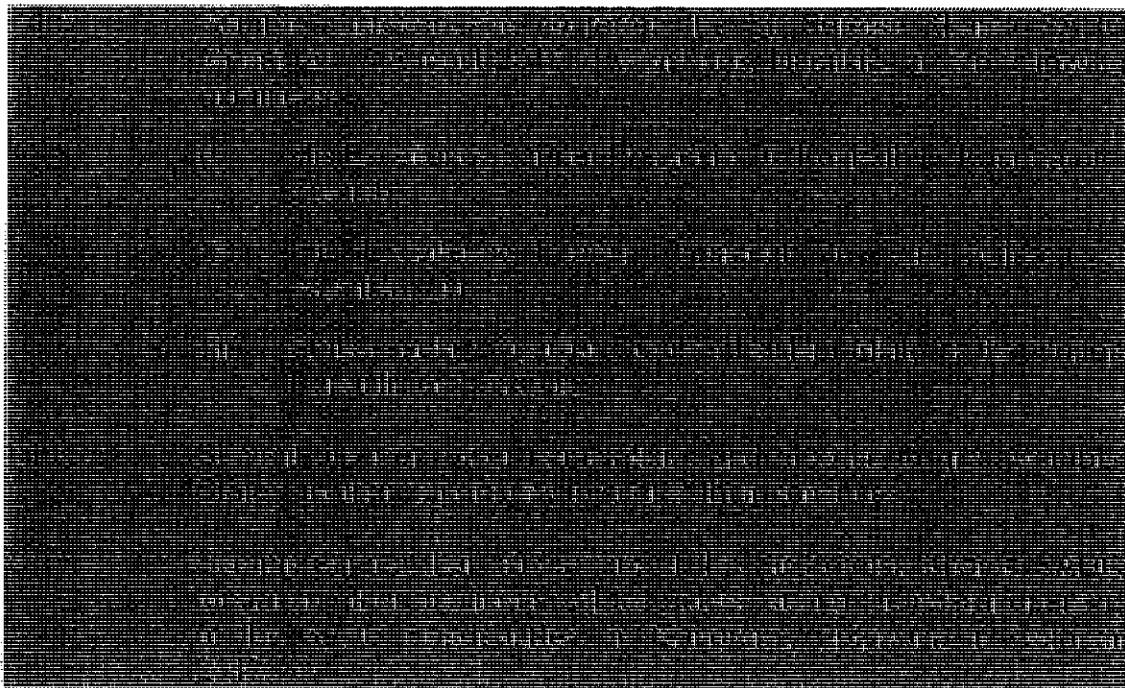
- (iii) that the Sir Seretse Khama SADC Medal would be conferred during the Summit of Heads of State and Government in Windhoek, Namibia, in August 2010; and
- (iv) the need to extend the Medal to other notable Statesmen in the Region namely; Dr. Kenneth David Kaunda, former President of Zambia and Dr. Sam Nujoma, former President of Namibia, as well as other individuals who have made outstanding contributions in various fields.

11.3 Summit noted:

- (i) that only the DRC, the Kingdom of Lesotho, the Kingdom of Swaziland and the United Republic of Tanzania submitted their nominees within the stipulated timeframe; and
- (ii) the need to give Member States another opportunity to submit their nominees for the Sir Seretse Khama SADC Medal.

11.4 Summit considered nominations of His Excellency Dr. Kenneth Kaunda, former President and Founding Father of Zambia and His Excellency Dr. Sam Nujoma, former President and Founding Father of the Namibian Nation and Ambassador Brigadier General Hashim Mbita of the United Republic of Tanzania for the Sir Seretse Khama SADC Medal.

Decision 21



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12. REPORT ON THE SADC HEADQUARTERS

12.1 Summit recalled that, at its meeting held in Kinshasa, Democratic Republic of Congo in September 2009, it noted that the official opening of the New SADC Headquarters would take place within a year from the date of occupation.

12.2 Summit noted that the official opening of the New SADC Headquarters will be undertaken in October 2010. Consultations are underway to determine a suitable date.

13. APPOINTMENT OF DEPUTY EXECUTIVE SECRETARY, FINANCE AND ADMINISTRATION

13.1 Summit recalled that, at its meeting held in Kinshasa, Democratic Republic of Congo in September 2009, it directed the Secretariat to re-advertise the position of Deputy Executive Secretary - Finance and Administration.

13.2 Summit noted that Council:

- (i) at its meeting held in Windhoek, Namibia, in August 2010, considered and endorsed the Report of the Interviews for the Recruitment of the Deputy Executive Secretary - Finance and Administration and its recommendations; and
- (ii) recommended the appointment of Ms Emilie Ayaza Mushobekwa of DR Congo as Deputy Executive Secretary - Finance and Administration.

Decision 22

13.3 Summit appointed Ms Emilie Ayaza Mushobekwa as Deputy Executive Secretary - Finance and Administration.

14. ANY OTHER BUSINESS

14.1 Consideration of Issues at the African Union

14.1.1 Summit noted with concern the nature of discussions and the decision making processes during meetings of the African Union (AU) when:

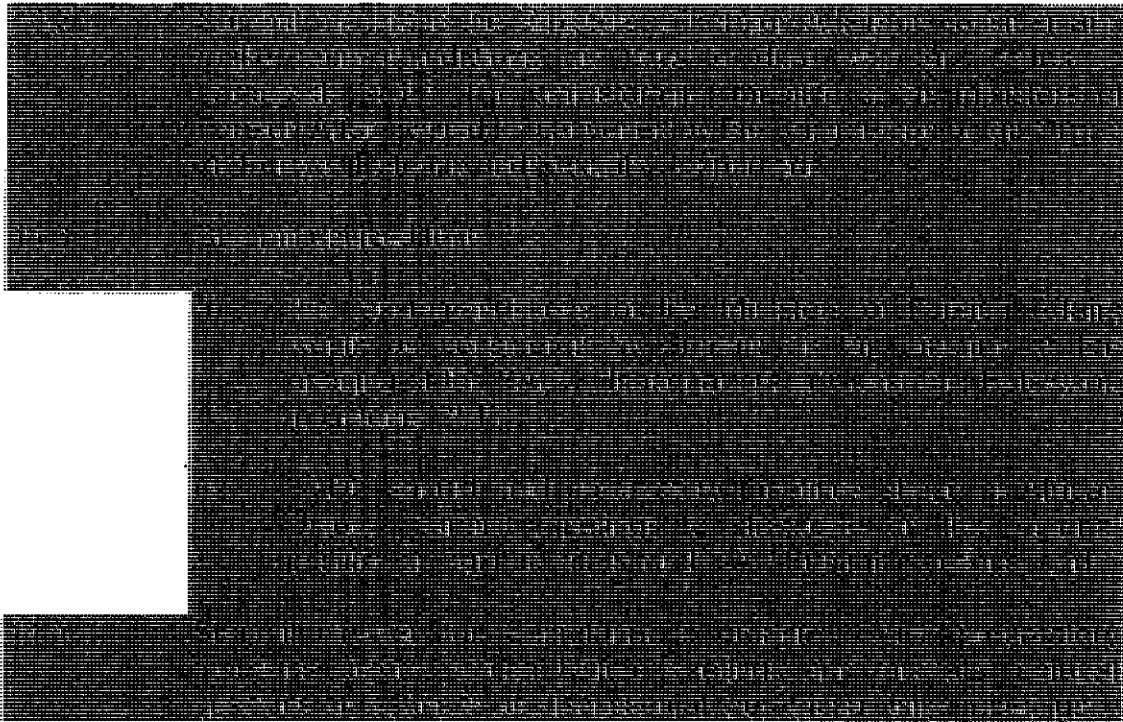
- (i) decisions are taken without consensus; and
- (ii) some regional groupings influence decisions without the involvement of all Member States.

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14.1.2 Summit noted the need to:

- (i) ensure that Africa remains committed to and focused on continental; and
- (ii) adequately prepare SADC positions ahead of AU Meetings.

Decision 23



15. VENUE AND DATE OF NEXT MEETING

Summit noted that the 31st Ordinary Summit of SADC Heads of State and Government will be held in Angola in 2011.

16. COMMUNIQUÉ

Summit considered and adopted the Communiqué of the 30th Ordinary Summit of SADC Heads of State and Government.

.....
**Excellency Hifikepunye Pohamba ,
Chairperson of SADC and President of the
Republic of Namibia.**

.....
Date

RESTRICTED

20 May 2011
1930hrs



EXTRAORDINARY SUMMIT OF SADC HEADS OF STATE AND GOVERNMENT WINDHOEK, NAMIBIA

20 MAY 2011

RECORD

1. ADOPTION OF THE AGENDA

Summit considered and adopted the Draft Agenda (SADC/EOS/1/2011/1), presented by the Secretariat.

2. REPORT OF THE CHAIRPERSON OF THE ORGAN ON POLITICS, DEFENCE AND SECURITY COOPERATION

2.1 Review of the Political Situation in the Region

Summit noted that the Region remains relatively stable except for the political and security challenges in the Republic of Madagascar, the Democratic Republic of Congo (DRC) and the Republic of Zimbabwe.

2.1.1 Madagascar


2.1.1.1 Summit recalled that, at its meeting held in Windhoek, Namibia in August 2010:

- (i) H. E. Joaquim Chissano, former President of the Republic of Mozambique, and SADC Mediator on Madagascar, updated Summit on the progress made in the mediation process in the Madagascar crisis; and
- (ii) it endorsed the Malgacho-Malgache Dialogue aimed towards finding a lasting solution to the Madagascar crisis.

21.1.2

Summit noted that:

- (i) the Organ Troika Summit held in Livingstone, Zambia, in March 2011, received a report on the political and security situation in Madagascar (SADC/EOS/1/2011/2), which, among other things, highlighted the following:
 - (a) the High Transitional Authority (HTA) committed to work with SADC Mediation in finding a durable solution out of Madagascar crisis by forming inclusive and consensual institutions of transition;
 - (b) the HTA requested SADC Mediation to help organise a consensual and inclusive transitional framework as well as credible, free, fair and transparent elections;
 - (c) on the 31 January 2011, the Mediation presented the Malagasy Political Actors a Roadmap that will provide the political and legal framework for the transition;
 - (d) on 8 March 2011, the Mediation Team released a final version of the Roadmap to be initialled on 9 March 2011. Out of eleven movements, eight signed the Roadmap and others including Mr. Ravalomanana's Party did not sign the Roadmap;
- (ii) the recommendations made by SADC Mediation in Madagascar were as follows:
 - (a) pledging full support to help the Malagasy people find a way out of the crisis;
 - (b) endorsing the Roadmap as a way out of the crisis in Madagascar;
 - (c) urging the relevant Malagasy Political Actors to sign this Roadmap and commit themselves to its full implementation as well as participating in good faith in the transition process and to refrain from obstructing or vetoing the process;
 - (d) commending the wide consultation process that culminated with the appointment of the Prime Minister of Consensus and other members of the Government and urge the political actors to keep the same spirit in the restructuring of other institutions of transition;

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- (e) urging Malagasy Political leaders to show unequivocal commitment to the Roadmap and transition process and refrain from engaging in practices aimed at obstructing the process, including the use of double-track approaches that confuse and undermine the transition;
- (f) urging the President of the HTA, the Government and the whole institutions of Transition to remain neutral throughout the transition period, in particular during the electoral period;
- (g) urging the President of the HTA, the Government and all the institutions of Transition to adopt confidence building measures to create a climate of appeasement during the period of transition, including putting an end to politically-motivated judicial processes against opposition members;
- (h) urging the President of the HTA and Government of Transition to ensure the observance of the rule of law, the principle of equal treatment, as well as the protection and promotion of human rights and other fundamental rights, including freedom of the press, expression, opinion and association;
- (i) urging all Malagasy Political Actors to reject violence or threat to use violence during the transition, as well as inciting hatred;
- (j) encouraging all Malagasy Political Actors to maintain a constructive and patriotic approach to advance the transition with a commitment and vision to restore constitutional normalcy in their country;
- (k) requesting the AU, UN and the wider international community to endorse the Roadmap and provide support for its implementation in Madagascar, in particular for the electoral process; and
- (l) requesting the United Nations to provide technical, financial and logistical support for the electoral process in Madagascar and invite the wider international community to coordinate with and support the United Nations in this task.

2.2. Consultations of Madagascar delegations with the Chairperson of SADC

2.2.1. SADC Chairperson's Meeting with Mr. Andry Rajoelina


2.2.1.1 Summit noted that:

- (i) on 18 April 2011, Mr. Andry Rajoelina met with H.E. Hifikepunye Pohamba, President of the Republic of Namibia, in his capacity as Chairperson of SADC in Windhoek, Namibia;
- (ii) during the meeting, Mr. Andry Rajoelina briefed the SADC Chairperson that:
 - (a) the High Transition Authority (HTA) recognizes the SADC Mediator's report and pledged its full commitment to the Roadmap;
 - (b) HTA is proposing for the holding of the elections between May and November 2011;
 - (c) HTA has started with full implementation of the provisions of the Roadmap, that is, the:
 - (i) appointment of the Prime Minister of Consensus;
 - (ii) establishment of an Independent National Election Commission; and
 - (iii) establishment of the Congress of Transition; and
 - (d) HTA is not prepared to allow the return of Mr. Marc Ravalomanana to Madagascar, alleging that his return will cause civil war in the country.

2.2.2. SADC Chairperson's meeting with Mr. Henri Roger Ranaivoson, Special Envoy of Mr. Marc Ravalomanana

2.2.2.1 Summit noted that:

- (i) on 18 April 2011, Mr. Henri Roger Ranaivoson, Special Envoy of Mr. Marc Ravalomanana met with H.E. Hifikepunye Pohamba, President of the Republic of Namibia, in his capacity as Chairperson of SADC in Windhoek, Namibia;

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- (ii) during the meeting Mr. Henri Roger Ranaivoson briefed the SADC Chairperson that:
 - (a) Mr. Ravalomanana's Party disapproves the Roadmap because it gives too much power to Mr. Andre Rajoelina;
 - (b) Mr. Ravalomanana's Party is opposed to Mr. Rajoelina as a Head of the Transition Government;
 - (c) the Party is opposed to holding of the elections before all the expressed flaws in the Roadmap are resolved;
 - (d) the Party wants President of the Transition and the Prime Minister of Consensus to resign from their positions 90 days before the elections should they decide to run for parliamentary and presidential elections;
 - (e) the Special Envoy also indicated that:
 - (i) the Prime Minister of Consensus should be appointed from the list provided by the three main Movements, that of Mr. Marc Ravalomanana, Mr. Didier Ratsiraka and Prof. Albert Zafy;
 - (ii) the revision of the Electoral Code should be inclusive; and
 - (iii) Amnesty Law be established;
 - (f) the Parties were not accorded sufficient time to give their input to the Roadmap, which resulted in the three main political parties not initialing the Roadmap; and
 - (h) the contributions of Mr. Ravalomanana's Party to the Roadmap were not reflected in the Mediator's Report.

2.2.3 Mediator's Report to Summit

2.2.3.1 Summit noted the Report from the SADC Mediator for Madagascar which, among other things, highlights the following:


- (i) request for Summit to endorse the Roadmap for ending the Crisis in Madagascar (SADC/OES/1/2011/2A).

- (ii) the UN will send a team of experts to Madagascar to establish, among other things:
 - (a) the development of the Electoral Code of Conduct;
 - (b) the use of single ballot paper; and
 - (c) review of the Electoral Calendar;
- (iii) the immediate return of Mr. Marc Ravalomanana was rejected;
- (iv) the elections should be held after addressing all pertinent issues raised by the mouvances;
- (v) the three mouvances resorted to a blockage and frustrated the dialogue;
- (vi) Mr. Ravalomanana demanded the return to his country as a matter of urgency but the HTA pronounced that it could not guarantee his safety, and that he was condemned by the court in absentia, and would be arrested on sight. Furthermore, his presence is expected to cause the civil war;
- (vii) Mr. Ravalomanana argued that the international community including SADC will send the armed to return him to Madagascar;
- (viii) the major challenge in Madagascar is to hold credible, free and fair elections in compliance with the SADC Guidelines and Principles Governing the Democratic Elections in the region and other international rules;
- (ix) the UN Assessment Team indicated that the elections could be held after eleven months after the adoption of the Roadmap by SADC and
- (x) the Malagasy stakeholders expressed the need to resolve the political crisis in the country through the holding of free and fair elections as a matter of urgency.

2.2.3.2

Summit noted the need to:

- (i) adopt a Roadmap on Madagascar and that there is a need to hold credible, free and fair elections in the country.

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- (ii) continue to support H. E. Joaquim Chissano, former President of the Republic of Mozambique, and SADC Mediator on Madagascar and that he should report any obstacle to his work in Madagascar.
- (iii) for the process of retuning the country to constitutional normalcy be inclusive of all political stakeholders.
- (iv) bring the Amnesty Law into force and propose that Mr Adre Rajoelina resigns six months before the elections, if he intends to stand for elections;
- (v) determine the timeframe within which the Roadmap should be implemented;

2.2.3.3

Summit noted the need:

- (i) for further efforts to be made to bring all the stakeholders on board in order to build confidence and conducive atmosphere for free and fair elections;
- (ii) for Messrs Marc Ravalomanana and Didier Ratsiraka to be allowed to return to Madagascar in order to participate in the political process; and
- (iii) to convene a meeting of the eleven movements who participated in the development of the Road Map to discuss the implementation of the Road Map, among other things..

Decision 1

Topic	Summary
	<p>(i) urged that the implementation of the Roadmap in Madagascar be inclusive of all stakeholders.</p> <p>(ii) requested the movements Ravalomanana, Ratsiraka and July to continue working on the Roadmap and the institutions of transition that are yet to be re-established.</p>

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- (iv) supported the need for a credible, transparent, free and fair election in Madagascar under the supervision of the UN, and the international community, in close collaboration with SADC, as the means of returning the country to constitutional normalcy;
- (v) appealed to the international community to provide financial support to the Madagascar Political Process aimed at returning the country to constitutional normalcy;
- (vi) urged all SADC members to create conducive conditions for the return of Messiaona Ravalomanana and other SADC leaders;
- (vii) reiterated the need for a negotiated political process towards finding a lasting solution to the crisis in Madagascar.

2.2.32

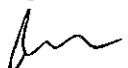
Summit

- (i) mandated the Chairpersons of SADC and the Organ, assisted by the Secretariat to urgently convene a meeting of all relevant ministers who participated in the development of the Road Map to discuss and to agree on the way forward towards the goal of restoring constitutional normalcy;
- (ii) decided that the meeting referred to in paragraph 2.2.30 should be held at the SADC Secretariat Headquarters and;
- (iii) decided that the meeting be attended by Chairperson of SADC, the Chairperson of the Organ on Politics, Defence and Security Cooperation, the SADC Minister for the Madagascar Crisis, the SADC Minister for the African Development and the relevant ministers and Chairpersons of the development of the Road Map.

Summit commended H.E. Jacob Zuma, former President of South Africa, for his efforts on behalf of SADC in finding a lasting solution to the Malagasy crisis.

2.3 Republic of Zimbabwe

2.3.1 Summit recalled that, at its meeting held in Windhoek, Namibia, in August 2010, H.E. Jacob Zuma, President of the Republic of South Africa, and Facilitator of the Zimbabwe Political Dialogue, updated Summit on the progress made on the implementation of Global Political Agreement (GPA) in Zimbabwe.

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2.3.2

Summit noted that H.E. President Jacob Zuma:

- (i) held consultations with the Stakeholders in Zimbabwe on the implementation of the outstanding issues on the GPA;
- (ii) presented a report (**SADC/EOS/1/2011/3**) to the Organ Troika Summit held on the 31 March 2011 in Livingstone, Zambia, on the progress made towards the implementation of the GPA. The Report, among other things, highlighted the following:
 - (a) there is a growing impatience within the Region as well as the world about the long period of time it is taking facilitation process to find a permanent and lasting solution to the challenges that face Zimbabwe;
 - (b) it is time that SADC speak with one voice in impressing to all the parties concerned that this situation can no longer be tolerated. The focus that Zimbabwean parties have placed on elections without creating the necessary conducive climate for those elections is an unfortunate side-track;
 - (c) Summit should dissuade all parties from thinking that they can hold elections in the prevailing atmosphere that is characterised by violence, intimidation and fear. The holding of elections in this current climate will lead Zimbabwe back to the situation it was in about three years ago (2008) when it held its last elections, or even find itself in a far worse situation than before;
 - (d) on 26 November 2010, the Facilitator met the Political Principals, President Robert G. Mugabe, Prime Minister Morgan R. Tsvangirai and Deputy Prime Minister Arthur G. O. Mutambara and, among other things, considered "a plan to help Zimbabwe to draw up guidelines for a free and fair election";
 - (e) the political stakeholders among others, agreed that a roadmap is needed to be developed as a guideline for democratic, free and fair election without violence and intimidation, and where the playing field would be level for all; and
 - (f) on the removal of sanctions, Party Leaders, Executive Party Organs and other lower level structures of the GPA partners were instructed to

implement that strategy and publicly call for the removal of the sanctions. That is not happening as regularly and consistently as was envisaged.

2.3.3 Summit also noted that:

- (i) the H.E. Hifikepunye Pohamba, President of the Republic of Namibia and the Chairperson of SADC, briefed the Organ Troika Summit on the attempts to plead with the international community to lift sanctions against Zimbabwe and, among other things, the following were highlighted:
 - (a) those who imposed the sanctions argued that there is no progress in Zimbabwe;
 - (b) the reports coming from Zimbabwe through media points to the fact that there are reports of intimidation, violence, arrests, torture for political reasons in some instances by the security agencies;
 - (c) on 28 March 2011, the Prime Minister of Zimbabwe visited Namibia and appealed for the Chairpersons intervention in the situation in Zimbabwe as the conditions were deteriorating to those that obtained during the 2008 elections;
 - (d) some MPs belonging to MDC-T were harassed and arrested for no apparent reasons and that amounted to violation of GPA;
 - (e) that ZANU-PF was calling for the elections before the completion of the constitutional reform and referendum as required by GPA;
 - (f) that the slow progress on the implementation of GPA is affecting the socio-economic developments of most of the regional Member States.
- (ii) the Organ Troika Summit resolved that:
 - (a) there must be an immediate end of violence, intimidation, hate speech, harassment, and any other form of action that contradicts the letter and spirit of GPA;

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- (b) all stakeholders to the GPA should implement all the provisions of the GPA and create a conducive environment for peace, security, and free political activity;
- (c) the Inclusive Government in Zimbabwe should complete all the steps necessary for the holding of the election including the finalisation of the constitutional amendment and the referendum;
- (d) SADC should assist Zimbabwe to formulate guidelines that will assist in holding an election that will be peaceful, free and fair, in accordance with the SADC Principles and Guidelines Governing Democratic Elections; and
- (e) the Troika of the Organ shall appoint a team of officials to join the Facilitation Team and work with the Joint Monitoring and Implementation Committee (JOMIC) to ensure monitoring, evaluation and implementation of the GPA. The Troika shall develop the Terms of Reference, time frames and provide regular progress report, the first, to be presented during the next SADC Extraordinary Summit. Summit will review progress on the implementation of GPA and take appropriate action.

2.3.4 Summit further noted that the SADC Facilitation Team met with the representatives of the Political Parties in Zimbabwe to finalise the Terms of Reference as instructed by the Organ Troika Summit held in Livingstone, Zambia, in March 2011.

2.3.5 Summit noted that a delegation comprising representatives from the offices of the Chair of SADC, Chair of Organ, and SADC Facilitator for the Zimbabwe Political Dialogue assisted by the Secretariat, in pursuing the Summit decision of August 2010, undertook a mission to United Kingdom, United States of America and the European Union Commission with a view to persuading them to lift the sanctions against Zimbabwe; and

2.3.6 Summit also noted the need to defer deliberation on the item on Zimbabwe due to the absence of some of the Parties to the GPA as well as the Facilitator to the Zimbabwe Political Dialogue.

Decision 2

2.3.7 Summit deferred the consideration of the agenda item on Zimbabwe to the next Extraordinary Summit scheduled for 11 June 2011 in Sandton South Africa to allow the participation of the Facilitator and all the Parties.

3. IMPLEMENTATION OF SUMMIT DECISIONS

3.1 Review of the Economic Situation in the Region

3.1.1 Impact of the Global Economic Crisis on the SADC Region

3.1.1.1 Summit recalled that, at its meeting held in Windhoek, Namibia in August 2010, it agreed to convene an extraordinary session to deliberate and strategise on the impact of the Global Economic Crisis in the Region within the context of the review of the Regional Indicative Strategic Development Plan (RISDP).

3.1.1.2 Summit noted that while work is already on course on the review of the RISDP, namely the assessment of the status of implementation of RISDP in Member States, the process has not yet reached a stage where it can constitute a substantial basis for Summit to make strategic decisions on the role of economic integration in counteracting and minimizing the adverse impact of the Global Economic Crisis in the Region.

3.1.1.3 Summit noted that the issue on the impact of the Global Economic and Financial Crisis on the SADC Region will be included in its agenda as soon as the RISDP Mid-Term Review is concluded.

3.1.1.4 Summit expressed concern over the slow progress on the review of the RISDP.

3.1.1.5 Summit noted that the Secretariat is currently undertaking a desk Assessment following the Council Decision of February 2011, and will report progress at the next Summit in August 2011.

Decision 3

3.1.1.6 Summit directed the Secretariat to urgently undertake the review of the RISDP and report progress at its next meeting in August 2011.

3.1.2 Report of the Ministerial Task Force on COMESA-EAC-SADC Tripartite Free Trade Area

3.1.2.1 Summit noted that:

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- (i) the 2nd Meeting of the COMESA-EAC-SADC Tripartite Ministerial Committee was held in Lusaka, Zambia on 13 May 2011 in preparation for the 2nd Tripartite Council and Summit, and their Report is attached (SADC/EOS/1/2011/4).
- (ii) discussions of the Meeting focused on the following substantive items:
 - (a) Draft Progress Report of the Tripartite Task Force on the Status of Implementation of the Decisions of the First Tripartite Summit;
 - (b) Tripartite FTA Negotiating Principles, Processes and Institutional Framework;
 - (c) Tripartite FTA Roadmap; and
 - (d) Draft Declaration Launching the Negotiations for the Tripartite Free Trade Area.

3.1.2.2 Summit noted the dates for the Tripartite Summit and preceding meetings as follows:

- (i) 8 – 9 June 2011: Tripartite Senior Officials Meeting
- (ii) 10 June 2011: Tripartite Council Meeting
- (iii) 11 June 2011: SADC Summit
- (iv) 12 June 2011: Tripartite Summit

DECISION 4

3.1.2.3 Summit approved the report of the 2nd Meeting of the COMESA-EAC-SADC Tripartite Ministerial Committee.

3.2 Report of the Ministers of Justice/ Attorneys General on the SADC Tribunal

3.2.1 Role, Responsibilities and Terms of Reference of the SADC Tribunal

3.2.1.1 Summit recalled that, at its meeting held in Windhoek, Namibia in August 2010, it:

- (i) deferred consideration of the non-compliance with the Tribunal Ruling on Fick: L.K. and Others vs the Republic of Zimbabwe (case number SADC (T) 01/2010) by Zimbabwe, pending the completion of a study on the

Role, Responsibilities and Terms of Reference of the SADC Tribunal.

- (ii) decided that:
 - (a) a study be undertaken and completed within six (6) months of Summit meeting of August 2010, to review the role and responsibilities of the Tribunal;
 - (b) the Committee of Ministers of Justice/Attorneys General involve Members of the SADC Tribunal in the study; and
 - (c) the outcome of the study be presented by the Committee of Ministers of Justice/Attorneys General at an Extraordinary Summit.

3.2.1.2 Summit noted that:

- (i) an independent study on the Role, Responsibilities and Terms of Reference of the SADC Tribunal was undertaken by the Consultant and the Tribunal was involved. The Consultant's Final Report is attached as (SADC/EOS/1/2011/4); and
- (ii) the Ministers of Justice/Attorneys General met in Swakopmund, Namibia, in April 2011 and considered the Consultant's Report and produced the attached Record (SADC/EOS/1/2011/5) to be presented by the Chairperson of the Ministers of Justice/Attorneys General.

3.2.1.3 Summit also noted that, after deliberations on the findings of the study, the Ministers of Justice/Attorneys General:

- (i) with the exception of Zimbabwe, were of the view that:
 - (a) the Protocol on the Tribunal and the Rules of Procedure Thereof took effect through its incorporation into the Treaty by the adoption of the Agreement Amending the Treaty in August 2001;
 - (b) the effectiveness of both the Protocol and the Agreement Amending the Treaty in August 2001 did not require ratification; and
 - (c) the SADC Tribunal was legally constituted, and its decisions are binding on all SADC Member States;

- (ii) expressed serious concerns on the following issues:
 - (a) the scope of jurisdiction of the SADC Tribunal; and
 - (b) the law to be applied by the SADC Tribunal.

3.2.1.4 Summit noted the following recommendations from the Ministers of Justice/Attorneys General:

- (i) consideration of the concerns raised and recommendations made in paragraph 3.2.1.3 (ii) above as the basis for the required amendments to the SADC legal instruments such as the Treaty and relevant Protocols;
- (ii) Summit to mandate the Ministers of Justice/Attorneys General to initiate the process aimed at amending the relevant SADC legal instruments; and
- (iii) Summit to defer the taking of action on Zimbabwe's non-compliance with the Tribunal's rulings in the cases SADC (T) 2/07 and SADC (T) 01/2010 until the concerns expressed by them on a number of issues on the legal framework within which the SADC Tribunal operates are translated into revisions and amendments to the relevant SADC legal instruments such as the Treaty and the Protocol on the Tribunal and the Rules of Procedure Thereof.

3.2.1.5 Summit noted the following observations made by Council on the Report of the Ministers of Justice/Attorneys General:

- (i) that there is a need to determine the scope of the jurisdiction of the Tribunal and define the relationship between:
 - (a) the Tribunal and national courts; and
 - (b) SADC law and the national law in individual SADC Member States;
- (ii) that the Committee of Ministers of Justice/Attorneys General would require at least 12 months to conclude the review of the issues in paragraph (i) above, including the amendments to the SADC Treaty and relevant Protocols and advise Summit accordingly; and
- (iii) that there might be a need to suspend the operations of the Tribunal pending the completion of the review process referred to in paragraph (ii) above).

Decision 5

3.2.1.6 Summit endorsed the observations made by Council in paragraph 3.2.1.5 above.

3.2.1.7 Summit considered the following recommendations of the Ministers of Justice/Attorneys-General:

(i) to mandate the Ministers of Justice/Attorneys-General to initiate the process aimed at reviewing and amending the relevant SADC legal instruments (notably articles 15 and 16(2)) and submit a proposal in 2012 and

(ii) to mandate the Ministers of Justice/Attorneys-General to undertake a re-examination of the Tribunal's jurisdiction in cases such as in 2007 and 2008, to take into account the concerns expressed by the member States of SADC on the legal framework within which the SADC Tribunal operates and translate into guidelines and amendments to the relevant SADC legal instruments such as the Treaty and the Protocol on the Tribunal and the Rules of Procedure Thereof.

3.2.2 Re-appointment and replacement of Members of the SADC Tribunal

3.2.2.1 Summit recalled that, at its meeting held in Windhoek, Namibia in August, 2010, it:

- (i) endorsed the Council's recommendation not to reappoint Members of the Tribunal whose term of office would expire in August 2010, for another five (5) year term, pending the Report on the Tribunal from the Committee of Ministers of Justice/Attorneys-General; and
- (ii) decided that the Members of the Tribunal should not entertain any new cases until the Extraordinary Summit has decided on the legal status and roles and responsibilities of the Tribunal.

3.2.2.2 Summit noted that, the Committee of Ministers of Justice/Attorneys General, at its meeting held in Swakopmund, Namibia, in April 2011, noted that the Study on the Role, Responsibilities and Terms of Reference of the SADC Tribunal had been finalized. The Study confirms the validity of the Protocol on the Tribunal and the Rules of Procedure Thereof, and that the Tribunal is properly constituted.

3.2.2.3 Summit noted that, in terms of Article 6 (1) and (2) of the Protocol on the Tribunal and the Rules of Procedure Thereof.

Members shall be appointed for a term of five (5) years and may only be re-appointed for a further term of five (5) years.

3.2.2.4 Summit also noted that:

- (i) out of the Members initially appointed, four (4) were selected through a lot that took place on 31 October 2008 and their term of office shall expire at the end of three (3) years after the selection;
- (ii) currently some of the Members' tenure of office has either expired on 31 August 2010, or it will expire on 31 October 2011; and
- (iii) there is need not only to reappoint the Members whose term of office expired in August 2010, but also to replace those Members whose term of office will expire on 31 October 2011.

3.2.2.5 Summit considered the recommendation of Council not to approve the reappointment and replacement of the Members of the SADC Tribunal pending the conclusion of the review process referred to in paragraph 2.2.1.5 above.

Decision 6

3.2.2.6 Summit approved the recommendation of Council not to reappoint the Members whose term of office expired on 31 August 2010, and to replace the Members whose term of office will expire on 31 October, 2011.

4. ANY OTHER BUSINESS

.....
Excellency Hifikepunye Pohamba ,
Chairperson of SADC and President of the
Republic of Namibia.

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ANNEXURE "J52"



MEETING OF THE SADC SUMMIT FOR HEADS OF STATE AND GOVERNMENT

MAPUTO, MOZAMBIQUE

17-18 AUGUST 2012

RECORD

1. ADOPTION OF THE AGENDA

Summit considered and adopted the Agenda (SADC/SM/1/2012/1), presented by the Secretariat.

2. ELECTIONS

2.1 Chairperson and Deputy Chairperson of SADC

Summit elected His Excellency Armando Emilio Guebuza, President of the Republic of Mozambique and Her Excellency, Joyce Banda President of the Republic of Malawi as Chairperson and Deputy Chairperson of SADC, respectively.

2.2 Chairperson and Deputy Chairperson of the Organ on Politics, Defence and Security Cooperation

Summit elected His Excellency Jakaya Mrisho Kikwete, President of the United Republic of Tanzania and His Excellency Hifikepunye Pohamba, President of Namibia as Chairperson and Deputy Chairperson of the Organ on Politics, Defence and Security Cooperation, respectively.

3. STATUS OF MEMBER STATES CONTRIBUTIONS

3.1 Summit recalled that the Treaty, as amended, in Article 33 provides for sanctions against a Member State in arrears for payment of contributions to SADC, for reasons other than those caused by natural calamity or exceptional circumstances that gravely affect its economy, and has not secured the dispensation of the Summit.

3.2 Summit also recalled that the Treaty as amended mandates the Secretariat to apply sanctions without reference to the Summit or

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Council, except that the application of the sanctions shall be subject to the Secretariat notifying Member States in default, prior to any meeting of SADC. All other Member States shall be informed at the beginning of any meeting of SADC.

3.3 Summit noted that out of the approved contributions from Member States of US\$33.152 million in 2012/13, US\$28,407 million had been remitted to the Secretariat as of 13 August 2012, from Angola, Botswana, DRC, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Zambia and Zimbabwe.

3.4 Summit also noted the outstanding balances in respect of Member States' contribution as shown in Table 1 below.

Table 1 (a): Outstanding/ (overpayment) amount on Member States contributions (US Dollars)


Member States	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2012/13	Total
Col 1	Col 2	Col 3	Col 4	Col 5	Col 5	Col 6
	Unpaid	Unpaid	Unpaid/ Overpaid	Budget	Remittance	Unpaid
Angola	-	-	-	3,532,000	3,532,000	-
Botswana	-	-	-	1,998,000	1,998,000	-
DRC	-	-	(9,796)	2,148,000	2,138,204	-
Lesotho	-	-	(4,544)	1,698,000	1,698,000	(4,544)
Madagascar	1,338,116	1,365,000	1,789,000	1,865,000	-	6,357,116
Malawi	-	-	-	1,771,000	1,771,000	-
Mauritius	-	-	-	1,885,000	1,885,000	-
Mozambique	-	-	-	1,896,000	1,896,000	-
Namibia	-	-	-	1,904,000	1,904,000	-
Seychelles	-	-	-	121,000	121,000	-
South Africa	-	-	-	6,606,000	6,306,000	300,000
Swaziland	-	-	271,863	1,735,000	1,341,036	665,827
Tanzania	-	-	363,000	2,176,000	-	2,539,000
Zambia	-	-	-	2,010,000	2,010,000	-
Zimbabwe	-	-	-	1,807,000	1,807,000	-
Total	1,338,116	1,365,000	2,409,523	33,152,000	28,407,240	9,857,399

Notes to the Table

South Africa Balance of US\$300,000 relates to HIV and AIDS Projects

Swaziland Balance of US\$665,827 relates to HIV and AIDS Projects and annual Member States contributions

Tanzania 2011-12 balance relates to HIV and AIDS Projects and Unitary Charge of US\$132,000 and US\$231,000, respectively.

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3.5 Summit further noted that Angola remitted an additional contribution, of US\$2.0 million prior to the commencement of the financial year, which will be applied as follows:

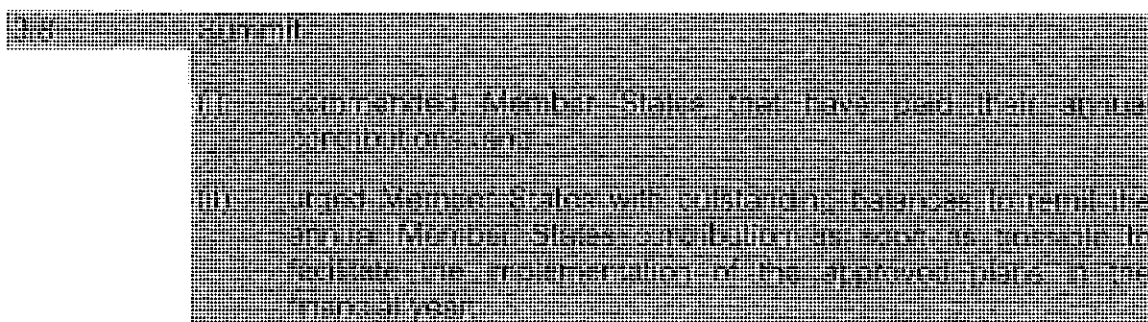
- (i) US\$1.0 million towards Political Mediation of which US\$862,227 has been included in the budget and US\$137,773 is a contingency amount; and
- (ii) US\$1.0 million towards RISDP Review of which US\$733,750 has been included in the budget and US\$266,250 is a contingency amount.

3.6 Summit noted that:

- (i) the Secretariat has proposed a remittance plan to Madagascar to facilitate the settlement of the outstanding contributions. An agreement is yet to be reached;
- (ii) Madagascar has made an indication to settle the arrears within two years; and
- (iii) in the event that Madagascar does not remit the budgeted contribution of US\$1.865 million for 2012/13, the Executive Secretary will have to defer the implementation of some activities as the Secretariat will have a budget funding shortfall of that amount.

3.7 Summit also noted that the remittance made by the United Republic of Tanzania is yet to be recorded in the bank account of SADC Secretariat.

Decision 1



4. REPORT OF THE OUTGOING CHAIRPERSON OF SUMMIT

4.1 Summit considered the Report (**SADC/SM/1/2012/4**) presented by the Outgoing Chairperson of SADC, in particular, the following:

- (i) Political and Economic Situation in the Region;

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- (ii) Investment Promotion, Resource Mobilization and Strengthening South-South Cooperation;
- (iii) Emerging Strategic Issues;
- (iv) Special Issues; and
- (v) Sectoral Developments.

Decision 2

Summit
 (i) considered the Strategic Cooperation of SADC for its special emphasis in promoting investment, trade and resources for the Region and elevating the visibility and profile of SADC, and
 (ii) directed the Secretariat to develop an action plan in follow up of the recommendations in the Chairperson's Report.

5. REPORT OF THE OUTGOING CHAIRPERSON OF THE SADC ORGAN ON POLITICS, DEFENCE AND SECURITY COOPERATION

Summit considered the Report (SADC/SM/1/2012/5) presented by the Outgoing Chairperson of the SADC Organ on Politics, Defence and Security Cooperation and in particular the following:

5.1 The Political and Security Situation in the Region

5.1.1 Summit noted the political and security situation in the SADC Region is relatively peaceful and stable. This is evidenced by the recent successful holding of democratic elections in a number of SADC Member States and smooth transition of power from incumbent governments to new ones.

5.1.2 Summit also noted that Member States continue to make notable efforts to adhere to the SADC Principles and Guidelines Governing Democratic Elections, as illustrated by successful general elections held in the Kingdom of Lesotho, Seychelles, Zambia and Democratic Republic of Congo (DRC).

5.1.3 Elections in the Region

5.1.3.1 Kingdom of Lesotho

5.1.3.1.1 Summit recalled that Lesotho held the National Assembly elections on 26 May 2012.

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- 5.1.3.1.2 Summit also recalled that there was no political party which won with a clear majority. Pursuant to that, a coalition was formed and Hon. Thomas Thabane became the Prime Minister.

Decision 3

5.1.3.3 Summit

(i) Congratulated the Right Honourable Thomas Thabane for his election as the Prime Minister of Lesotho; and

(ii) commended the people of Lesotho for holding peaceful elections of the National Assembly.

5.1.4 Republic of Angola

- 5.1.4.1 Summit noted that the Republic of Angola will hold the General Elections on the 31 August 2012.
- 5.1.4.2 Summit also noted that SADC Election Observer Mission will be deployed in the lengths and the breath of the country to observe the elections.

Decision 4

5.1.4.3 Summit

(i) wished the people and the Government of Angola peaceful and free general elections; and

(ii) urged all the political stakeholders in the country to observe SADC Guidelines and Principles Governing Democratic Elections in the Region.

5.2 Mediation and Facilitation in the Region

5.2.1 Mediation in the Republic of Madagascar

- 5.2.1.1 Summit recalled that efforts by the SADC Mediation team, led by former President of the Republic of Mozambique, H.E. Joaquim Chissano and SADC Organ Troika in Madagascar have resulted in the signature by ten out of eleven Malagasy stakeholders of the Roadmap that seeks to bring the country back to constitutional normalcy.
- 5.2.1.2 Summit also recalled that at its meeting held in Luanda, Angola in June 2012, it mandated the SADC Mediator and the Organ Troika to facilitate dialogue and convene a meeting between Messrs Andry Rajoelina and Marc Ravalomanana. This was to ensure full

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implementation of the Roadmap and create an enabling environment for holding credible, free and fair elections.

5.2.1.3 Summit noted that there was a stalemate during the meeting in Seychelles. The parties were advised to consult their respective constituencies with a view to reconvene and come up with a final unconditional return of Mr. Ravalomanana within a period of 10 days.

5.2.1.4 Summit further noted that a follow up meeting between Messrs Marc Ravalomanana and Andry Rajoelina took place in Seychelles from 6 – 9 August 2012, to discuss among others issues of convergence and divergence with specific reference to:

- (i) Article 20 and 45 of the Roadmap;
- (ii) the dates and sequencing of the elections; and
- (iii) their participation or non-participation in such elections.

5.2.1.5 Summit noted the recommendations made during the dialogue between Messrs Marc Ravalomanana and Andry Rajoelina in Seychelles, which among others, invited Summit to:

- (i) reiterate its endorsement of Article 20 of the Roadmap, in terms of which the unconditional return of all Malagasy citizens in exile for political reasons, including Marc Ravalomanana, must be implemented.
- (ii) call upon the High Transitional Authority (HAT) to immediately create the mechanisms for the implementation of the Amnesty Law; and
- (iii) endorse the calendar and sequencing of the 2013 elections, as announced by CENI-T and the UN on 1 August 2012, under the framework of Article 10 (g) of the Roadmap.

Decision 5

5.2.1.6	Summit
(i)	endorsed the UN Election Observer Team and CENI-T regarding the 2013 elections under the framework of Article 10 (g) of the Roadmap;
(ii)	considered the views expressed by the vast majority of the Malagasy Stakeholders that should be Andry Rajoelina and His High Government to ensure the forthcoming elections it may lead to further political stability and may impact on regional security, peace and stability.

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... considered the views of the majority of Malagasy stakeholders, former and current stakeholders, and agencies, security establishments and civil society. It is a test for both HE Mandy Ravalomanana and HE M. Rajoelina, who are both candidates for the 2010 elections. President of the Malagasy Republic, HE M. Rajoelina, should be held accountable for his actions and policies, as well as compensation for victims' losses (material).

... considered the need to ensure that the return of HE M. Rajoelomanana should be implemented under a security agreement between the SACZ, UNICEF and the Malagasy security establishment, in order to protect UNICEF staff and its staff's personal and family lives. The return of HE M. Rajoelomanana should be implemented immediately, subject to UNICEF's assessment of the potential dangers to the return of HE M. Rajoelomanana. UNICEF will assist the Malagasy government to address such dangers. The assessment and implementation of these recommendations should be completed within the next 30 days.

... called upon the SACZ, UNICEF and the Malagasy government to ensure the maintenance of the implementation of the amnesty law, also to the benefit of HE M. Rajoelomanana, and to ensure the security of HE M. Rajoelomanana. The implementation of Article 23 of the 2009 Constitution and the return of HE M. Rajoelomanana to Madagascar should be a priority for the Malagasy government.

... recognized that the current cohabitation of two traditional governments of national unity, former and current, has been a challenge. The Malagasy government should be put in place to ensure the resolution of this challenge, but to limit its powers to ensure transparency and accountability with government officials.

... recognized that the SACZ, UNICEF and the Malagasy government should be held accountable for the return of HE M. Rajoelomanana to Madagascar. The Malagasy government should be held accountable for the return of HE M. Rajoelomanana to Madagascar. The Malagasy government should be held accountable for the return of HE M. Rajoelomanana to Madagascar.

... resolved that UNICEF should continue to monitor the return of HE M. Rajoelomanana to Madagascar. UNICEF should continue to monitor the return of HE M. Rajoelomanana to Madagascar. UNICEF should continue to monitor the return of HE M. Rajoelomanana to Madagascar.

... called upon the international community to engage with the Malagasy government and stakeholders to begin discussions that will

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lead to the progressive lifting of sanctions in accordance with Articles 41 and 42 of the SADC Treaty;

(b) make the historical call for each party to settle their respective differences through the process of dialogue and waive their own individual interests and grievances; and

(c) reference the Economic Protocol signed during the Lusaka Summit in August 2011 and mandate the SADC Mediator in coordination with the Organ of Key Interparty Dialogue with the main Mozambique political stakeholders to implement the Road Map in full in order to create a sustainable environment for free and fair elections.

5.3 Facilitation in Zimbabwe

- 5.3.1 Summit noted that in Zimbabwe, the political situation has remained generally stable and the inclusive Government has recorded significant progress both on the socio-economic and political fronts. This facilitated the establishment of institutions such as the Zimbabwe Media Commission, the Zimbabwe Human Rights Commission and the Anti-Corruption Commission towards the full implementation of Global Political Agreement (GPA).
- 5.3.2 Summit also noted that the Constitution making process is progressing well and the first draft has now been completed and is being reviewed by the Constitution Select Committee.
- 5.3.3 Summit received a brief from H.E. Jacob Zuma, President of the Republic of South Africa and Facilitator on the Zimbabwe Political Dialogue.

Decision 6

7.3.4	Summit
	(i) reaffirmed its previous decisions of the 10th and the SADC Summit on the issue of Zimbabwe;
	(ii) commended the parties for the efforts they have put in to develop the Constitution and urged them to speed up the process and ensure that they do have the public of Zimbabwe at the forefront of a consultation whose main focus is the interest of the nation as a whole;
	(iii) urged the parties to the SADC to develop a roadmap together with a timeline that is guided by the requirements of the process necessary for the adoption of the Constitution and the creation of conditions for free and fair elections.


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- (iv) urged the parties of the summit to
 - (a) establish a mechanism in Central and West Africa concerning accountability and the implementation by the Ministries/Departments of those parts of the agreements that lay on their respective functions to ensure smooth implementation, and SADC should be Facilitator, must be kept informed of the state of the implementation mechanism;
 - (b) establish the implementation mechanism that was proposed by the Uganda Summit;
- (v) urged the parties to immediately strengthen ICJMIC in terms of their ongoing decision so that the SADC Summit can assist on a regular basis. If the government and opposition to the area of the summit and help create an atmosphere conducive to the establishment of a civil political dialogue leading to freedom for all;
- (vi) to monitor itself to assist the parties in every way possible and as the duration of the CPA. In reach a partial view of change really changes Zimbabwe to set out on the road to stability and progress and
- (vii) resolved that if there are any difficulties with regard to the Constitution and implementation of agreements the Facilitator is called upon to share with the parties and assist them from such issues. He/she should ensure the implementation and the necessity to hold free and fair elections.
- (viii) conveyed that the SADC Facilitator should, for purposes of the implementation of the CPA, any State Political action regulatory arrangement.

5.4 Democratic Republic of Congo (DRC)

5.4.1 Summit noted that the situation in the Eastern DR Congo has deteriorated.

5.4.2 Summit also noted that a delegation of the Government of DRC briefed the Ministerial Committee of the Organ (MCO) at their meeting held on the 30 July 2012, in Pretoria, South Africa on the prevailing situation in the country and noted with great concern the deteriorating security situation in the Eastern DRC.

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- 5.4.3 Summit further noted that a report of the UN Security Council Report of 27 June, 2012 confirmed the report submitted by the Government of the DRC on the involvement of Rwanda in the destabilisation of the country in the Eastern DRC.
- 5.4.4 Summit noted that after consideration of the situation in the eastern DRC, the MCO established and dispatched the Defence and Security Assessment Mission to the eastern DRC from 3-8 August 2012.
- 5.4.5 Summit also noted the following recommendations from the Defence and Security team:
- (i) interventions aimed at assisting DRC to deter the recurrence of insurgence activities within and along its borders;
 - (ii) the request by DRC for a neutral force along its border with Rwanda. This request should however be considered with a modification to include a regional mechanism which includes DRC, Rwanda and the International Conference on the Great Lakes Region (ICGLR);
 - (iii) setting up of an integration advisory training team to advise the FARDC on training, administration, logistic and integration;
 - (iv) that the DRC Government has been urged to enhance its structures strengthening presence of its authority in the areas of Eastern DRC;
 - (v) the request of the MCO to urge the International Community to provide humanitarian relief to the more than 500,000 displaced persons in Eastern DRC;
 - (vi) the need to assist the DRC with capacity to build its forces in order to enable it to defend its territorial borders;
 - (vii) mandate the SADC Secretariat to collaborate with the ICGLR Secretariat in this regard;
 - (viii) that the Government of DRC has been urged to reconsider and expedite the availing office space of the SADC Liaison Office in DRC; and
 - (ix) that the SADC Secretariat has been mandated to source out funding from the International Community including the UN for the force to be deployed along the DRC/Rwanda common border in accordance with:

- (a) the nature of the mission;
- (b) the size and composition of the force;
- (c) duration of deployment; and
- (d) other relevant logistical considerations.

Decision 7

346 Summit

(i) approved

(a) the Short and Medium Term Interventions aimed at assisting DRC to meet the requirements of its police activities within and amongst its borders

(b) that SAPO should set up an integration advisory group to advise the FARDC on its military, administrative, logistic and integration

(c) mandated the Chairperson of SAPO, H.E. Amosah, Emilio Mweya, President of the President's Assembly, elected by the SAPO, Secretary to consult with the Government of Rwanda, among others, to express SAPO concerns to Rwanda's military and to establish what the DRC and the Government of Rwanda will undertake

(d) considered if created by DRC for a joint force with the DRC will Rwanda's request should be met, to be resolved with a modification to include a regional mechanism with police DRC, Rwanda and with DRC

(e) that

(a) the Government of DRC is to ensure a structure symmetrical to that of a military unit to assist in Eastern DRC

(b) the international community to provide humanitarian relief to more than 500,000 displaced people in Eastern DRC

(c) SAPO Member States to assist the DRC with military units to assist in the stabilization of the region for the DRC

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(d) The Government of DRC is necessary and available the
 (e) decided the SACG Secretariat to collaborate with the IUCN
 Secretariat in securing out funding from the International
 Community including the UN for the hybrid court to be
 set up and the DRC to have common border in
 accordance with
 (a) the nature of the mission;
 (b) the security condition of the area;
 (c) the status of recruitment and
 (d) the security situation in the area.
 (e) The Government of DRC is necessary and available the
 (f) decided the SACG Secretariat to collaborate with the IUCN
 Secretariat in securing out funding from the International
 Community including the UN for the hybrid court to be
 set up and the DRC to have common border in
 accordance with

5.5 Elections of the Chairperson of the AU Commission

- 5.5.1 Summit recalled that in terms of the African Union Rules of Procedure the African Union Commission opened the positions of the members of the Commission for elections in January 2012.
- 5.5.2 Summit also recalled that for the Chairperson of the AU Commission, the name of Hon. Dr. Nkosazana C. Dlamini Zuma, Minister of Home Affairs of the Republic of South Africa was submitted to the AU on 15 September 2011 through the Dean of the Southern Africa, H.E Andrew Mthetwa, the Ambassador of the Republic of Zimbabwe.
- 5.5.3 Summit further recalled that the elections were slated for January 2012 during the Summit of the AU Assembly of Heads of State and Government.
- 5.5.4 The Summit recalled that the elections were held on 15 of July 2012 at the African Union Headquarters in Addis Ababa, Ethiopia and that Hon. Nkosazana C. Dlamini Zuma was duly elected the Chairperson of the African Union Commission on 15 July 2012.

Decision 8

5.5.5 Summit
 (i) Congratulated
 (ii) Hon. Dr. Nkosazana Dlamini Zuma for her election to the
 position of the Chairperson of the African Union;

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(ii) the Republic of South Africa to fund the region with a special section of the Charter of the AU Commission;

(iii) all SADC Member States and the delegation of the Republic of Zambia and the members of the Bureau take plus 20 below for having spent a lot of money throughout this period and

(iv) all Member States to ensure the candidates for the vacant positions of the Commissioners for Human Resources, Science and Technology, and Economic Affairs. The submission should be made to the Secretariat before 31 August 2011.

6. OVERVIEW OF THE SOCIO-ECONOMIC SITUATION IN THE REGION

6.1 The Global Economic Situation

Summit noted that the International Monetary Fund (IMF) World Economic Outlook (WEO) for Sub-Saharan Africa (SSA) of October 2011, indicate that economic performance in the SADC region in 2011 was largely influenced by developments in the global markets, especially the euro zone. Despite improved commodity prices, economic growth in the region slowed down in 2011 relative to 2010. The fiscal position of the region deteriorated due to pronounced worsening fiscal accounts of most Member States. The increase in global food and oil prices inflated import bills of food and oil in importing Member States, thus sparking rising inflation.

6.2 Performance of SADC Economy

6.2.1 Real GDP

Summit noted that:

- (i) the Region recorded an average real GDP growth of 4.7 %, 0.8 % down from 5.5 % in 2010. With the exception of Angola, Madagascar, Mozambique, South Africa and Zimbabwe, all Member States recorded slow down in real GDP growth in 2011;
- (ii) economic slow down was significant in Lesotho, Namibia, and Swaziland. In Lesotho, real GDP slowed down from 5.7 % in 2010 to 3.7 % in 2011 while in Namibia and Swaziland, real GDP growth slowed down by 3% and 4.1 % from 6.6 % and 2.0 % in 2010, respectively;

- (iii) although Angola, Madagascar, Mozambique, South Africa and Zimbabwe recorded increases in real GDP growth over and above their 2010 levels their increases were less than 1 %; and
- (iv) only Mozambique recorded real GDP growth above 7 %, a regional target set to achieve the overarching objective of eradicating poverty.

6.2.2 Inflation

Summit noted that:

- (i) in 2011, the downward trend in inflation registered in recent years was reversed. Despite the region recording food surplus in 2011, the increase in both food and fuel prices on the international market continued to exert an upward pressure on prices in the Region;
- (ii) the inflation rate for the region averaged 8.3 % in 2011, almost the same level of 8.4 % in 2010. This is the lowest recorded rate for the region in recent years. If the inflationary pressure continues unchecked, the likelihood of most Member States meeting the regional target of inflation of less than 5 % by 2012 will be compromised; and
- (iii) currently, four Member States namely Angola, DRC, Madagascar and Mozambique still have their inflation over 10 %. Only Namibia, Seychelles, South Africa and Zimbabwe had their inflation equal or less than 5 % in 2011.

6.3 Gender and Development

6.3.1 SADC Protocol on Gender and Development

6.3.1.1 Summit noted progress made on the signing and ratification of the SADC Protocol on Gender and Development as follows:

- (i) all SADC Member States have signed the SADC Protocol on Gender and Development with the exception of Botswana and Mauritius;
- (ii) seven (7) Member States have ratified the Protocol, namely: Angola, Lesotho, Mozambique, Namibia, Seychelles, United Republic of Tanzania and Zimbabwe;
- (iii) six (6) Member States have not yet ratified the Protocol, namely: DRC, South Africa, Swaziland, Madagascar, Malawi and Zambia;

- (iv) South Africa reported that they are at an advanced stage of submitting their instrument of ratification to the Secretariat;
- (v) Swaziland, Malawi and Zambia reported that they are currently at advanced stages of ratification; and
- (vi) the Protocol will enter into force once the required two thirds of the Member States have deposited their instruments of ratification with the SADC Secretariat.

Decision 9

The Summit noted that Member States have not yet deposited or ratified the SADC Protocol on Gender and Development. It directed its secretariat to mobilize all Member States to SADC Secretariat immediately.

6.3.2 Women in Politics and Decision Making Positions

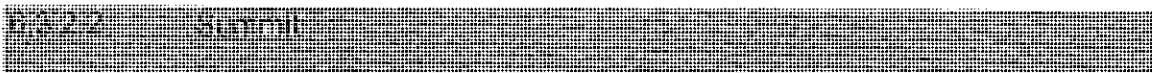
6.3.2.1 Summit noted progress on the status of women representation in political and decision making positions in Member States, as follows:

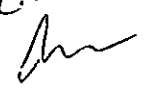
- (i) Malawi is the only SADC Member State with a woman President;
- (ii) Mauritius and Zimbabwe are the only two Member States with women Vice Presidents, while Zimbabwe is the only Member State with a woman Deputy Prime Minister;
- (iii) Botswana, Mozambique and Tanzania have women Speakers of Parliament/National Assembly. Zimbabwe and Swaziland have women Presidents of the Senate. Angola, Malawi, Namibia, South Africa, Swaziland and Zimbabwe have women Deputy Speakers of Parliament/National Assembly. Namibia has a Deputy Chairperson of the National Council;
- (iv) at Cabinet level, there has been a steady and consistent upward trend in the number of women representation in Angola, Lesotho, Malawi, Mozambique, South Africa, Swaziland, Tanzania and Zimbabwe. However, the number of women representation in Botswana, DRC, Namibia, Seychelles and Zambia has decreased or remained low;
- (v) at Parliament level, there has been a steady and upward trend on women's representation in Angola, Mauritius, Mozambique, Seychelles, South Africa and the United Republic of Tanzania while in the other Member States, there has been a reduction in the number of women in parliament;

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- (vi) there is a correlation between the percentage of women in Parliament and the type of Electoral System that is used. Member States that use Proportional Representation, and those that use a combination of different electoral systems, have realised an incremental trend in the number of women in Parliament. On the other hand, Member States using the Constituency (First-Past-the-Post) System have not been able to either maintain or increase the number of women in Parliament;
- (vii) at Central Government level, the Region still has a long way to achieving the gender parity goal. Only Botswana, Mauritius and Mozambique are above 30 % on Permanent Secretaries or Director Generals for Ministries. Botswana and Lesotho lead in women representation at Director level;
- (viii) at Local Government level, there is very low representation of women across Member States. Progress is only noted in Lesotho, South Africa, Namibia and Tanzania;
- (ix) on Electoral Commissions, women are fairly represented in SADC Member States. Zambia has the highest number of 60%; Zimbabwe 44.4%; Malawi 42.9%; while Namibia; South Africa and Swaziland are all at 40%. In DRC and Lesotho women constitute 37.5% and 33% of the electoral commissions respectively. The remaining Member States namely Angola; Botswana; Mauritius; Mozambique; Seychelles; and Tanzania have less than 30% representation of women in their electoral commissions.
- (x) as regards the judiciary Botswana, Lesotho and Mauritius have reached the gender parity goal at the magistrate level while Namibia is very close to the target with 45 % women representation. Zambia is the only Member State that has reached the 50 % target at the level of judges followed by Mauritius at 45.5 %. Other Member States remain within the range of 36 % to 5.6 %.

Decision 10


 (The name of the Minister)
 Minister for the Presidency of the first woman President
 in the Region

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(b) all Member States that have achieved high representation of women in political and decision-making positions;

(c) under Member States that have not yet achieved the set target for equal representation of women in political and decision-making positions to take appropriate measures to do so; and

(d) Urged Member States to continue the adoption of appropriate measures in their legislation, policy and reform of the electoral systems to facilitate the achievement of the gender parity goal in political and decision-making positions.

6.4 Regional Food Security

Summit noted that the Secretariat continued to facilitate and monitor the implementation of the Dar-es-Salaam Declaration and Plan of Action on Agriculture and Food Security, which was signed by Heads of State and Government in May 2004. Progress on the regional food security situation is as follows:

6.4.1 Cereal Production

- (i) the Regional analysis indicates an overall cereal deficit of 5.5 million tonnes, mostly due to poor rains in most parts of the region. Country analysis in the 2012/13 marketing year indicates that only Malawi, Tanzania and Zambia have overall cereal surpluses of 0.56 million tonnes, 0.19 million tonnes and 1.11 million tonnes respectively as presented in Table 1;
- (ii) in terms of maize, current analysis indicate a minor regional deficit of 0.637 million tonnes. However, at country level , surpluses are available in Malawi (0.57 million tonnes), South Africa (0.52 million tonnes) Tanzania (0.45 million tonnes) and Zambia (1.04 million tonnes).The rest of the Member States indicate deficits, ranging from 0.04 million tonnes in Swaziland up to 0.95 million tonnes in Mozambique; and
- (iii) with regards to wheat, rice and sorghum, the current analysis indicates an overall deficit of 2.98 million tonnes, 0.837 million tonnes, and 1.09 million tonnes, respectively.


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Table 1: SADC Cereal Production by Member State ('000 tonnes)

	2007	2008	2009	2010	2011	5-year Average harvest (2007- 2011)	2012	2012 prod't Vs 5-year Average (%)	2012 vs 2011 harvest
Angola	734	756	1,053	1,178	1,410	1,026	876	-15%	-38%
Botswana	29	37	42	55	42	41	31	-24%	-26%
Lesotho	78	88	86	137	73	92	29	-69%	-60%
Malawi	3,616	2,976	3,834	3,572	4,080	3,616	3,799	5%	-7%
Mau	2	2	2	2	2	2	2	0%	0%
Moz	2,168	2,284	2,526	2,641	2,935	2,511	1,439	-43%	-51%
Nam	114	121	111	155	117	124	166	34%	42%
RSA	9,292	15,550	14,855	15,122	13,277	13,619	13,194	-3%	-1%
Swa	47	64	71	75	89	69	76	10%	-15%
Tan	5,448	5,622	5,265	7,095	6,787	6,043	7,558	25%	11%
Zam	1,537	1,452	2,182	3,078	3,346	2,319	3,185	37%	-5%
Zim	1,200	660	1,561	1,534	1,652	1,321	1,120	-15%	-32%
	24,266	29,611	31,588	34,643	33,807	30,783	31,474	2%	-7%

Source: SADC Secretariat and Member States, August 2012.

6.4.2 Production of Non-Cereal Food Crops

Summit noted that preliminary forecasts for Angola, Malawi, Mozambique, Tanzania and Zambia on cassava production indicate a production of 19.16 million tonnes. Although this is lower than 2011/2012 production of 21.56 million tonnes, it is still high compared to other years in the past.

6.4.3 Production of Livestock

Summit noted that although the region remains a net importer of all livestock and livestock products, production of meat has increased by about 3.4% from 5.34 million tonnes in 2010 to 5.52 million tonnes in 2011. Milk and eggs production has also increased by 2.2 per cent and 3.2% from 4.86 million tonnes and 0.63 million tonnes to 4.97 million and 0.65 million tonnes respectively over the same period.

6.4.4 Production of Fisheries

Summit noted that the Region remains a net importer of fish and fish products. Capture fisheries has been declining and there is need to increase both fish production; improve sustainable management of existing fish stocks; and value addition.

6.4.5 Humanitarian Requirements

6.4.5.1 Summit noted that the 2012 vulnerability assessment and analysis results indicate an increase in the number of people requiring humanitarian assistance. Current estimates indicate that about 5.5 million people require humanitarian assistance.

6.4.5.2 Summit also noted that despite general increases in food supply and availability over the past few years, there is persistently high number of food insecure people and high rates of malnutrition in particular stunting, which is a manifestation of chronic vulnerability and high levels of poverty in the Region. The Region's overall dependence on rain-fed agriculture has also increased vulnerability.

Decision 11

6.4.5	Summit urged Member States to undertake appropriate measures to ensure sustainable food security as follows:
(i)	provide humanitarian assistance to the food insecure population;
(ii)	increase social protection and safety net programmes to address chronic vulnerability;
(iii)	continue implementing targeted agricultural subsidy programmes;
(iv)	promote small-scale irrigation and water harvesting technologies; and
(v)	enhance infrastructure development for improved market access and prices.

6.5 HIV and AIDS

6.5.1 Summit noted progress on the implementation of the Maseru Declaration on the control of HIV and AIDS and other international commitments, and in particular, the following:

- (i) available data shows that considerable progress has been made in responding to HIV and AIDS especially in the areas of prevention, treatment, care and support;
- (ii) despite the continuing severity of the epidemic in the Region, some positive achievements have been recorded and these include:
 - (a) reduction in the number of new infections in the Region in 2010 which was 17.5 % lower than in 2004;

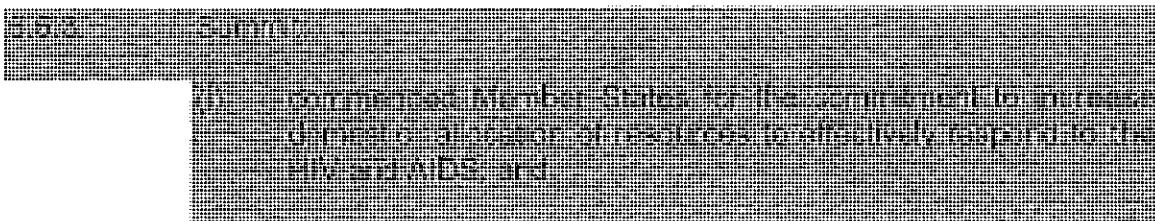
- (b) decline in the number of AIDS-related deaths by 27 % between 2004 and 2010;
- (c) increasing knowledge about HIV transmission. Data from ten Member States in 2009 shows that comprehensive knowledge about HIV transmission among young women and men ranged between 17% and 72 %;
- (d) increase in the coverage of Prevention of Mother To Child Transmission (PMTCT) programmes. Four Member States recorded PMTCT coverage rates above 70 % in 2010; and
- (e) using CD4 count of 200, five SADC countries had achieved their national targets for treatment by 2010. Using the new WHO criterion, "350 CD4 Count", only two Member States achieved their national targets for Anti Retroviral Therapy (ART) coverage set in 2006. However, using the new criterion, two Member States namely, Botswana and Namibia have made tremendous progress recording ART coverage rates of greater than 76 %.

6.5.2

Summit noted the following concerted efforts made towards the fight against the HIV and AIDS epidemic:

- (i) Member States have agreed to increase domestic allocation of resources to effectively respond to the HIV and AIDS epidemic in the context of global economic meltdown;
- (ii) at the regional level, Member States continued to contribute to the SADC HIV and AIDS Fund, a resource that is supporting research and other HIV and AIDS interventions in the Region; and
- (iii) through the funding from the Global Fund against Tuberculosis, AIDS and Malaria, the Region is currently implementing the pilot phase of the SADC HIV Cross Border Initiative.

Decision 12



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(ii) urged Member States to fully support the implementation of the Maseru Declaration on the control of HIV and AIDS.

7. REPORT OF THE MINISTERIAL TASK FORCE ON REGIONAL ECONOMIC INTEGRATION

Summit considered the Report of the Ministerial Task Force on Regional Economic Integration (**SADC/SM/1/2012/7**) as presented by the Chairperson of the Task Force.

7.1 Framework for the SADC Customs Union

7.1.1 Summit recalled that during its meeting held on 17 August 2010, it endorsed the following decisions from the Meeting of the Ministerial Task Force on Regional Economic Integration held on 13 August 2010 in Windhoek, Namibia:

- (i) reaffirmed commitment towards the establishment of a SADC Customs Union;
- (ii) recognised the need to establish synergies between the consolidation of the SADC FTA, the establishment of the Customs Union and the Tripartite FTA;
- (iii) adopted the principle of variable geometry that would allow Member States to join the customs union when they have reached the required state of readiness, while recognising the need to maintain unity and cohesion of SADC;
- (iv) approved that before December 2011, agreement and a common understanding be reached on the following elements:
 - (a) parameters of the future customs union;
 - (b) the benchmarks and milestones required for the establishment of the Customs Union;
 - (c) a model SADC Customs Union; and
 - (d) the modalities of implementation of a Customs Union that should be followed.
- (v) approved the establishment of a high level expert group on the SADC Customs Union, comprising of two representatives from relevant Departments responsible for trade and finance issues to work with the Secretariat. The expert group will consolidate and refine all previous studies on the Customs Union and work done by the Technical Working Groups towards achievement of

the tasks outlined above. This expert group will report to Senior Officials; and

- (vi) directed the Secretariat to mobilize adequate resources for advancing the Customs Union process.

7.1.2 Summit noted that the Ministerial Task Force adopted the Report on the Framework for the SADC Customs Union (**SADC/SM/1/2012/7A**) during its meeting held on 25 November 2011.

7.1.3 Summit also noted the key elements in the Report in particular the following:

- (i) the parameters of the future customs union;
- (ii) the benchmarks and milestones required for the establishment of the Customs Union;
- (iii) a model SADC Customs Union; and
- (iv) the modalities of implementation of a Customs Union that should be followed.

7.1.4 Summit further noted that the Task Force agreed to the following sequencing of activities towards the establishment of the proposed Customs Union:

- (i) consolidation of the SADC FTA in terms of the agreed 15 point action plan matrix, with priority focus on the review of rules of origin, completion of the tariff phase downs, removal of NTBs, and developing a mechanism to assist Member States that are not yet in the FTA to participate therein;
- (ii) address the issue of overlapping memberships; and
- (iii) evaluate progress made towards the customs union.

7.1.5 Summit noted that the Task Force agreed that it was important to enhance conditions necessary for a smooth transition towards the customs union, in particular, effective implementation of the SADC FTA, initiatives to expand the region's industrial base, and mechanisms to limit asymmetric impact of deeper integration.

Decision 13

Summit approved the Ministerial Task Force's report on the Framework for the SADC Customs Union (**SADC/SM/2012/7A**) specifically:

The key elements of the establishment of the SADC Customs Union namely the parameters, benchmarks, milestones and the elements of the non-tariff barriers, and
the proposed sequencing of activities towards the SADC Customs Union as outlined in paragraph 7.1.

7.2 Establishment of the Tripartite Free Trade Area

7.2.1 Summit recalled that the second COMESA-EAC-SADC Tripartite Summit of Heads of State and Government that took place in Johannesburg, South Africa on 12 June 2011 launched the Tripartite Free Trade Area negotiations. Following this, a preparatory phase was launched, to enable Member/Partner States to undertake consultations and prepare positions for the negotiations.

7.2.2 Summit noted that the preparatory process has progressed well with meetings of the Tripartite Trade Negotiating Forum (TTNF) having been convened three times since the launch of the negotiations. Senior Officials also met in June 2012 to review progress made by the TTNF.

7.2.3 Summit also noted that so far the TTNF has agreed on its Rules of Procedure, workplan and schedule of meetings for the negotiations; exchange of information on trade data and trade instruments; reached a common understanding on the adopted negotiation principles; and established Technical Working Groups to deal with technical issues in some key areas of the negotiations namely; rules of origin, customs cooperation and trade facilitation matters and non-tariff barriers, technical barriers to trade and SPS.

7.2.4 Summit further noted that in order to facilitate the commencement of negotiations on tariff liberalization, the Tripartite Task Force is preparing a paper on the modalities for tariff liberalisation. The next meeting of the TTNF is scheduled to take place on 5-7 September 2012, where Member/Partner States will discuss these modalities.

7.2.5 Summit took note of progress made in the preparations for the establishment of the Tripartite Free Trade Area.

7.3 SADC Regional Development Fund

7.3.1 Summit recalled that at its Extra Ordinary Summit held in June 2012 in Luanda, Angola, it directed Council of Ministers and in particular SADC Ministers responsible for Finance and Investment to expedite the process of the operationalisation of the Fund.

7.3.2 Summit noted that Ministers responsible for Finance and Investment met on 14 August 2012 in Maputo, Mozambique and discussed

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among others the operationalisation of the SADC Regional Development Fund. Ministers took the following decisions which were endorsed by Council.

- (i) the objective of the SADC Regional Development Fund is to create a financial mechanism to mobilise resources from Member States, Development Partners and Private Sector to support regional development and deeper integration as foreseen in Article 26A of the SADC Treaty;
- (ii) the Fund would have at least four windows, namely:
 - (a) Infrastructure window: to provide financial support for implementation of regional infrastructure projects mainly emanating from the SADC Regional Infrastructure Development Master Plan (RIDMP);
 - (b) Integration and Adjustment window: to support and facilitate Member States in their efforts to implement the SADC economic integration agenda (Free Trade Area, Customs Union, Common Market, Economic and Monetary Unions); and
 - (c) Industrial Development window: to support the industrialisation process of the Region; and
 - (d) Social Development window: to support the human and social aspects of the regional agenda and incorporating all other related funds such as the HIV and AIDS Fund.
- (iii) the operationalisation of the SADC Regional Development Fund starting with the Infrastructure and Industrial Development windows as key priorities. Other windows should be phased in according to availability of resources;
- (iv) the Fund would be operationalised through an Agreement which would be signed and ratified by all Member States and enter into force following ratification by two-thirds majority of Member States;
- (v) the Fund would be hosted in an existing host Development Finance Institution on a temporary basis while preparing for the setting up of a fully fledged institution to manage it. A criteria for selecting a temporary host institution will be developed and presented to Council for consideration, at its next meeting; and
- (vi) a subscribed capital of US\$1.2 billion has been agreed as the seed capital for the Fund while the share holding structure and optimum authorised capital for the Fund are still being determined.

- 7.3.3 Summit noted that other outstanding issues still being determined include the institutional structure; credit policy; voting rights; operational modalities; and the selection criteria for projects.

Decision 14

The Summit directed SADC Ministers responsible for Finance and Investment to address all the outstanding issues expected to arise in order for the Fund to become operational as soon as possible.

8. INFRASTRUCTURE AND SERVICES

8.1 Progress Report on the Regional Infrastructure Development Program: the SADC Infrastructure Master Plan and Resource Mobilization Strategy

8.1.1 Regional Infrastructure Development Master Plan

8.1.1.1 Summit recalled that, at its Brainstorming Session on regional infrastructure development held in Lusaka, Zambia, in August 2007, it directed Council to oversee the development of a comprehensive SADC Regional Infrastructure Development Master Plan (RIDMP) for the Region. Such a programme would be the basis for SADC's future cooperation on, among others, regional infrastructure development, regional industrial development, market integration, joint planning, resource mobilization, cooperation with International Cooperation and Development Partners, the Private Sector investors and other development agencies.

8.1.1.2 Summit noted that:

- (i) the Secretariat, in consultation with Member States, has finalised the development of the SADC Regional Infrastructure Master Plan, based on Vision 2027, whose implementation shall span over a period of 15 years, subdivided into short, medium and long term timeframes (2012-2017; 2017 – 2022; and 2022 – 2027). The Master Plan is a Strategic Framework document which will guide the implementation of efficient, seamless and cost-effective trans-boundary infrastructure networks in an integrated and coordinated manner in all the six sectors: Energy; Transport; Tourism; ICT and Postal; Meteorology and Water;
- (ii) the SADC Infrastructure Development Master Plan constitutes a key input to the proposed Tripartite COMESA-EAC-SADC Tripartite Inter-regional Infrastructure Master Plan and the Continental Infrastructure Strategic Framework, the African Union driven Programme for Infrastructure Development of

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Africa (PIDA), which the AU Assembly adopted in January 2012, in Addis Ababa, Ethiopia.

- (iii) the key benefits of the Strategic Framework (Master Plan), Actions Plans and Projects Database are as follows:
 - (a) Implementation of Regional Infrastructure reflects projects based on regional consensus;
 - (b) projects selection and prioritization will be carried out in a structured manner, focused towards the achievement of regional integration; and
 - (c) the attendant database will contain critical information highlighting key aspects of the level of readiness of the project.
- (iv) that a compendium of all the priority projects to be implemented as part of the Master Plan has been compiled.
- (v) a compendium of Priority Projects for to be implemented for Islands States (**SADC/SM/2/2012/9.1A**) has also been prepared in consultation with Mauritius and Seychelles, in order to cater for the specific requirements of these States;
- (vi) that following the approval of the SADC Infrastructure Development Master Plan by Ministers responsible for Infrastructure in June 2012, Council at its meeting held in Maputo, Mozambique 2012 endorsed the Infrastructure Development Master Plan and the Programme of Infrastructure Development of Island States. It is envisaged that projects from the SADC STAP shall constitute the bulk of projects to be packaged for funding from the SADC Project Preparation Development Facility (PPDF), which is administered by the Ministers responsible for Finance and Investment;
- (vii) the projects identified through the Infrastructure Master Plan have been uploaded into a GIS database, which enables Member States and other interested stakeholders to access information relating to such projects, which includes location and the latest project profiles, and this is regularly updated as and when information is received from the Member States;

Decision 15

8.1.1.3 Summit

- (i) approved the Regional Infrastructure Development Master Plan as the key strategic framework for infrastructure development in the Region;
- (ii) directed Council to oversee the expeditious implementation of priority projects identified within the framework of the Short-Term Action Plan;
- (iii) commended Member States and related agencies for having fully participated and committed themselves to the process of developing the Regional Infrastructure Development Master Plan.

8.2 Proposed Summit Declaration on Infrastructure

8.2.1 Summit noted that Council, at its meeting held in Maputo, Angola in August 2012, directed the Secretariat to prepare a Summit Declaration on Scaling up Implementation of Infrastructure based on the SADC Infrastructure Master Plan for adoption at the next Summit in August 2013.

8.2.2 Convening of the SADC Regional Infrastructure Investment Conference

8.2.2.1 Summit noted that following the finalization of the SADC Infrastructure Development Master Plan, it is important that the Plan be marketed with the strongest possible signal.

8.2.2.2 Summit also noted that Council, at its meeting in Maputo Mozambique in August 2012, recommended that the process of marketing the infrastructure projects be launched through a SADC Infrastructure Investment Conference, to be convened at the level of Summit, at which the SADC Infrastructure Development Strategy and bankable priority projects derived from the Short-Term Action of the Master Plan shall be showcased.

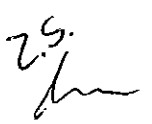
Decision 16

8.2.2.3 Summit approved the convening of a SADC High Level Infrastructure Investment Conference in 2013.

8.3 Resource Mobilisation and Financing of the SADC Regional Infrastructure Development Master Plan

8.3.1 Summit noted that:

- (i) with the Infrastructure Master Plan in place, there is need to activate and scale up its implementation.

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- (ii) the next steps towards implementation of the Master Plan include amongst others the following:
 - (a) project preparation and packaging to bankability through amongst others, the SADC PPDF;
 - (b) marketing of the projects through the convening of infrastructure investment conferences;
 - (c) allocation of resources for investment in bankable projects by Member States; and
 - (d) scaling up the coordination of implementation of infrastructure projects by the Secretariat through the SADC Infrastructure Development Support Programme, for which further resources will be required at both the level of Member States and the Secretariat.

8.4 Energy

8.4.1 Implementation of Power Projects

8.4.1.1 Summit noted that:

- (i) in 2011 the Region installed additional generation capacity amounting to 1,230 MW from power plants commissioned in Angola (12.5 MW), Botswana (90 MW) DRC (60 MW), Namibia (22.5 MW), South Africa (961 MW) and Zimbabwe (84 MW). The Region plans to install generation capacity of 17,067 MW between 2012 and 2016 with 1,921 MW expected in 2012 alone. During the 5 year period, renewable energy will for the first time contribute up to 3 % of the total generation capacity in the Region;
- (ii) the Secretariat continues to facilitate the implementation of cross border transmission projects to;
 - (a) enable non-connected Members of the Southern African Power Pool (namely, Angola, Malawi and the United Republic of Tanzania) to be integrated to the Pool;
 - (b) relieve transmission congestion that hampers trade within the Region; and
 - (c) facilitate evacuation of power from generation to demand centres and promote regional power trade.
- (iii) these projects, which will facilitate intra-SADC power evacuation, include among others the Namibia-Angola Interconnector, the

Zambia-Tanzania Interconnector, the Mozambique-Malawi Interconnector, the Central Transmission Corridor in Zimbabwe, the Zimbabwe-Zambia-Botswana-Namibia Inter-connector project, the Mozambique Backbone and the DRC-Zambia Interconnector.

Decision 17


9.3.2. Substantive Member States, particularly those not connected to the Regional Grid, to expedite implementation of priority regional infrastructure projects.

9. SADC STRATEGIC CHALLENGES, THREATS AND OPPORTUNITIES IN THE LONG – TERM: SADC VISION 2050

9.1 Summit recalled that at its Extra Ordinary meeting held on 31 May-1 June 2012 in Luanda, Angola it discussed a proposal to engage on a debate over a SADC Vision 2050, based on the Concept Note on SADC Vision 2050 (SADC/CM/2/2012/10). The initiative of the SADC Vision 2050 is to among others:

- (i) promote a process of consultations and debate aimed at the revitalization of the Vision, Mission and other fundamental values of the Organization so as to accelerate and enhance the regional economic integration and development process;
- (ii) provide the Summit with a sovereign opportunity to give first hand input on the main tenets and direction that the debate over the Vision and long-term strategic objectives should pursue and take;
- (iii) focus on issues pertaining to the strategic direction of the Organization in order to promote an increased dimension and enhance its development dynamics based on the most appropriate models and more realistic timeframe so as to attain higher levels of regional integration;
- (iv) strengthen regional mechanisms and instruments for the promotion and consolidation of common democratic systems and values in order to guarantee peace, stability and security in our Region; and
- (v) contribute towards reinforcing the measures and mechanisms geared towards minimizing the effects of the international economic and financial crisis.

9.2 Summit noted a proposed Roadmap for this initiative as follows:

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- (i) the establishment by the Extraordinary Summit in Luanda of a Panel of Eminent Persons from the Region mandated to assist the Summit in conducting the debate and developing a longer-term Vision for SADC;
- (ii) conducting individual interviews with all SADC Heads of State and Government in order to collect relevant information for the development of a longer-term Vision for SADC;
- (iii) the establishment of a Technical Monitoring Task Force comprising Senior Experts from the region and the SADC Secretariat mandated to coordinate the technical, logistical and organizational aspects concerning the development of the study;
- (iv) conducting a process of widespread consultations in Member States involving all key stakeholders in the regional integration process, namely; Member States Governments, Non-Governmental Organizations, Academic and Research Institutions, Civil Society and other bodies, in order to collect relevant information for the development of the longer-term Vision for the Organization;
- (v) holding of regional consultation meetings on the Vision; and
- (vi) drafting of Terms of Reference for the Study that will culminate with the development of the longer-term Vision.

9.3 Summit also noted that in developing the SADC Vision 2050, consideration should be given to:

- (i) the development needs of all Member States;
- (ii) on-going initiatives notably: the current review of the Regional Indicative Strategic Development Plan and work of the Ministerial Task Force on Regional Integration;
- (iii) developments in the tripartite arrangement; and continental and international related interventions; and
- (iv) avoiding duplication of efforts to ensure complementarities; and enhance synergies.

9.4 Summit further noted that, while the organisation needs to revitalise the vision, there are areas of concern which need to be considered, in particular the following:

- (i) potential duplication with on-going efforts in particular the review of the Regional Indicative Strategic Development Plan;

- (ii) the financial implications of the development process of the Vision 2050; and
- (iii) the term of the Vision is far in the future.

Decision 18

2.5 Summit approved the following:

- (i) the development of a non-annex SA-2020 work plan to account for the SADC Vision Statement as stipulated in the Treaty and in the RIS-IP. The process leading to the development of the long-term vision should be informed by the terms of the REEP;
- (ii) the appointment of a Panel of Experts drawn from the Region to advise the Summit in the development and consideration of the long-term vision for SADC;
- (iii) the establishment of a technical working group consisting of experts from the Region and the SADC Secretariat, with mandate to coordinate the technical, political and financial aspects of the development of the SADC long-term vision.

2.6 Summit urges Member States to support the involvement of all stakeholders in the development of the SADC vision 2050.

10. REPORT ON THE 17TH CONFERENCE OF PARTIES (COP 17) OF THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

10.1 Summit noted that Council, at its meeting held in Luanda, Angola, in August 2011 urged Member States to support the Government of South Africa in preparations and hosting the 17th Conference of the Parties (COP17) of the United Nations Framework Convention on Climate Change (UNFCCC) which was scheduled for 28 November to 9 December 2011.

10.2 Summit also noted that:

- (i) South Africa successfully hosted the UNFCCC COP17 in Durban. In addition, SADC hosted a number of important events to showcase what the Region is doing on climate change;
- (ii) COP 17 reached a last-minute deal entitled Durban Platform and particularly decision 1CP17 (SADC/SM/2/2012/10.1), that

establishes the Ad Hoc Working Group on the Durban Platform for Enhanced Action which will guide the implementation of decisions made at COP 17 and previous COPs. Other decisions made at the COP cover the following key elements:

- (a) The Kyoto Protocol;
- (b) Finance;
- (c) Capacity building;
- (d) Technology transfer; and
- (e) Reducing Emissions from Deforestation and Forest Degradation (REDD+);

10.3 Summit noted the following outstanding issues which are still to be negotiated in Qatar during COP18, December 2012:

- (i) **Level of ambition on green house gases reduction:** While the Durban Platform urges that the process of operationalization of the decisions should raise the level of ambition and be informed by the 5th Assessment Report of the Intergovernmental Panel on Climate Change (IPCC); the outcomes of the 2013-2015 review; and the work of the subsidiary bodies, there was no agreement on the levels of ambition and how these will be implemented. There is still a large "gap" between the emissions reduction pledges and the reductions recommended by the IPCC; and
- (ii) **Funding:** Developed countries have yet to honour their US\$30 billion pledges under the Copenhagen Accord for the period 2010 and 2012, and there after increased amounts reaching US\$100 billion annually by 2020. By December 2011, only about US\$5.6 billion had been mobilised.

10.4 Summit noted that Ministers responsible for Environment and Natural Resources will meet on the margins of the 14th Regular Session of the African Ministerial Conference on the Environment (AMCEN) on the 10–14 September 2012 in Arusha, United Republic of Tanzania to strategise on the outstanding issues.

Decision 19

2012 Summit urged Member States to support the SAHRC's current position on United Nations Framework Convention on Climate Change (UNFCCC) COP 18 scheduled for Doha, Qatar from 26 November to 8 December 2012.

11. LEGAL INSTRUMENTS FOR CONSIDERATION AND ADOPTION FOR SIGNING BY SUMMIT

11.1 Status of signing, ratification of and accession to SADC Protocols

11.1.1 Summit noted the status of signature, ratification and accession to the Protocols as reflected in the attached documents: (SADC/SM/2/2012/11A), for the Protocols that have come into force; and (SADC/SM/2/2012/11B), for the Protocols that have not yet come into force.

Decision 20

11.1.2 Summit
(i) urged Member States to ratify SADC Protocols that have been adopted, signed and
(ii) urged Member States that are still not Parties to Protocols that have entered into force to accede to those Protocols.

11.2 Draft Agreement on Assistance in Tax Matters

11.2.1 Summit noted that:

- (i) at a meeting held in Luanda, Angola, on 14 – 15 June 2012, the Committee of Ministers of Justice/Attorneys-General considered and recommended to Council for further consideration and subsequent referral to Summit for signing the Draft Agreement on Assistance in Tax Matters. A copy of the Draft Agreement on Assistance in Tax Matters is attached as document (SADC/SM/2/2012/11C);
- (ii) the objective of the Draft Agreement on Assistance in Tax Matters is to enable Member States to assist each other in tax matters. The Draft Agreement incorporates elements of exchange of information and mutual assistance; and
- (iii) at a meeting held on 15 – 16 August 2012 in Maputo, Mozambique, the Council considered and approved the Draft Agreement on Assistance in Tax Matters, and recommended that the document be submitted to Summit for adoption and for signature.

Decision 21

11.2.2 Summit considered, adopted and signed the Draft Agreement on Assistance in Tax Matters.

11.3 Draft Protocol on Trade in Services

11.3.1 Summit noted that:

- (i) at a meeting held in Luanda, Angola on 14 – 15 June 2012, the Committee of Ministers of Justice/Attorneys-General considered the Draft Protocol on Trade in Services and recommended it to Council for further consideration and subsequent referral to Summit for signing. A copy of the Draft Protocol on Trade in Services is attached as document **(SADC/CM/2/2012/11D)**;
- (ii) the signing of the Protocol on Trade in Services is critical in advancing the SADC trade in services agenda; and
- (iii) at a meeting held on 15 – 16 August 2012 in Maputo, Mozambique, the Council considered and approved the Draft Protocol on Trade in Services, and recommended that the document be submitted to Summit for adoption and for signature.

Decision 22

11.3.2 Summit considered, adopted and signed the Draft Protocol on Trade in Services.

11.4 Draft Declaration on Tuberculosis in the Mining Sector

11.4.1 Summit noted that SADC Ministers responsible for Health and HIV and AIDS have jointly developed a regional declaration on Tuberculosis (TB) in mining and related cross border management issues.

11.4.2 Summit also noted that:

- (i) a Joint Ministerial Meeting of Ministers responsible for Health, HIV and AIDS, and Labour, held in Luanda, Angola in April 2012, considered and approved the Draft Declaration on Tuberculosis in the Mining Sector **(SADC/SM/2/2012/11E)**;
- (ii) at a meeting held Luanda, Angola, on 14 – 15 June 2012, the Committee of Ministers of Justice/Attorneys-General considered and recommended the Draft Declaration to Council for further consideration and subsequent referral to Summit for signing; and
- (iii) at a meeting held on 15 – 16 August 2012 in Maputo, Mozambique, the Council considered and approved the Draft

Declaration, and recommended that the document be submitted to Summit for endorsement for signature.

Decision 23

11.4.3 Summit considered, adopted and signed the Draft Declaration on Tuberculosis in the Mining Sector.

11.5 Review of the role, responsibilities and terms of reference of the SADC Tribunal

11.5.1 Summit recalled at its Extraordinary meeting held in May 2011, in Windhoek, Namibia it mandated the Committee of Ministers of Justice/Attorneys-General to initiate the process aimed at reviewing and amending SADC legal instruments of immediate relevance to the SADC Tribunal;

11.5.2 Summit also recalled that at its meeting held in Luanda, Angola in August 2011 it mandated the Ministers of Justice and Attorneys-General to prepare for its consideration a legal opinion on the letter from the former judges of the SADC Tribunal.

11.5.3 Summit noted that the Ministers of Justice and Attorneys-General prepared the following documents for adoption and approval by Summit:

- (i) the Draft Report of the Committee of Ministers of Justice/Attorneys-General to Summit on the review of the role, responsibilities and terms of reference of the SADC Tribunal (SADC/CM/2/2012/11F);
- (ii) the Draft Revised Protocol on Tribunal in the Southern African Development Community (SADC/CM/2/2012/11G);
- (iii) the Draft Guidelines on the nomination and appointment of candidates to the positions of Members of the SADC Tribunal (SADC/CM/2/2012/11H); and
- (iv) a Draft Legal Opinion on the Letter from the former Judges of the SADC Tribunal to the Chairperson of Council (SADC/CM/2/2012/11 I).

11.5.4 Summit also noted the two Declarations from the Republic of Zimbabwe on draft Articles 55, 56 and 57 of the Draft Revised Protocol on Tribunal in the Southern African Development Community, copies of which are attached as documents (SADC/SM/2/2012/11J); and (SADC/SM/2/2012/11K).

11.5.5 Summit further noted the following observations made on the Reports:

- (i) the mandate of the Tribunal has not fundamentally changed and is still too broad;
- (ii) the Tribunal's judgements in their current form would undermine the sovereignty of Member States;
- (iii) it appears that the process through which the Protocol on the Tribunal (2000) came into force did not follow due process;
- (iv) the Protocol on the Tribunal was not ratified by the required two third of the Member States;
- (v) there are legal implications for amending the Protocol on the Tribunal without reviewing the SADC Treaty as it is currently an integral part of the Treaty; and
- (vi) the definition and content of the SADC Law are ambiguous.

11.5.6 Summit noted that, in response to the concerns raised by Council, the Chairperson of the Ministers of Justice/Attorneys-General re-iterated the views of the Committee of Ministers of Justice/Attorneys-General, in particular, that:

- (i) the Protocol on the Tribunal took effect through its incorporation into the Treaty by the adoption of the Agreement Amending the Treaty in August 2001;
- (ii) the effectiveness of both the Protocol and the Agreement Amending the Treaty in August 2001 did not require ratification;
- (iii) the Protocol on the Tribunal is a valid SADC legal instrument and binding on the SADC Member States by virtue of its being an integral part of the Treaty; and
- (iv) the contrary view of the Republic of Zimbabwe expressed in two Declarations were noted by the Committee of Ministers of Justice/Attorneys-General.

Decision 24

Summit approved the decision of the Ministers of Justice of Zimbabwe/Attorneys-General to invite the Chairperson of the Tribunal, in order to address the concerns raised by Council of Ministers in paragraph 11.5.5.

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12. ANY OTHER BUSINESS

12.1 2012 SADC SUMMIT Brochure

Summit noted that the 2012 SADC Summit Brochure would be revised to correct errors identified in the version circulated to the public.

13. VENUE AND DATE OF NEXT MEETING

Summit noted that the 33rd Ordinary Summit of Heads of State and Government will be held in Malawi in August 2013.

14. COMMUNIQUÉ

Summit considered and adopted the Communiqué of the 32nd Ordinary Summit of SADC Heads of State and Government.

.....
His Excellency Armando Emilio Guebuza,
Chairperson of SADC and President
of the Republic of Mozambique

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Date

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ANNEXURE 'YS 2(a)'



COMMUNIQUÉ OF THE 30TH JUBILEE SUMMIT OF SADC HEADS OF STATE AND GOVERNMENT

1. The Summit of Heads of State and Government of the Southern African Development Community (SADC) was held in Windhoek, Republic of Namibia from August 16 - 17, 2010.
2. Summit was officially opened by SADC Chairperson, His Excellency Joseph Kabila Kabange, President of the Democratic Republic of Congo.
3. Summit elected His Excellency President Hifikepunye Pohamba of the Republic of Namibia and His Excellency President Jose Eduardo dos Santos of the Republic of Angola as Chairperson and Deputy Chairperson of SADC respectively.
4. Summit also elected His Excellency President Rupiah Bwezani Banda of the Republic of Zambia and His Excellency Jacob Gedleyihlekisa Zuma, President of the Republic of South Africa as Chairperson and Deputy Chairperson of the SADC Organ on Politics, Defence and Security Cooperation respectively.
5. Summit was attended by the following Heads of State and Government:

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August 17, 2010 at 22:00

- Botswana - H.E. Lt. Gen. Seretse Khama Ian Khama, President of the Republic of Botswana;
- DRC - H.E. Joseph Kabila Kabange, President of the Democratic Republic of Congo;
- Lesotho - Rt. Hon. Pakalitha B. Mosisili, MP, Prime Minister of the Kingdom of Lesotho;
- Malawi - H.E. Ngwazi Professor Bingu wa Mutharika, President of the Republic of Malawi;
- Mauritius - Dr. the Hon. Navinchandra Ramgoolam, GCSK, FRCP, Prime Minister of the Republic of Mauritius;
- Mozambique - H.E. Armando Emilio Guebuza, President of the Republic of Mozambique;
- Namibia - H.E. Hifikepunye Pohamba, the President of the Republic of Namibia;
- South Africa - H.E. Jacob Gedleyihlekisa Zuma, President of the Republic of South Africa;
- Swaziland - H.M. King Mswati III of the Kingdom of Swaziland;
- Zambia - H.E. Rupiah Bwezani Banda, President of the Republic of Zambia;
- Zimbabwe - H.E. Robert Gabriel Mugabe, President of the Republic of Zimbabwe;
- Angola - H.E. Fernando da Piedade Dias dos Santos, Vice President of the Republic of Angola;
- Seychelles - H.E. Danny Foure, Vice President of the Republic of Seychelles; and
- Tanzania - H.E. Amani Abeid Karume, President of Zanzibar of the United Republic of Tanzania.

6. Summit was also attended by the following former Heads of State and Government of the SADC Member States:

- H.E. Sir Ketumile Masire, Former President of the Republic of Botswana;
 - H.E. Joaquim Alberto Chissano, Former President of the Republic of Mozambique;
 - H.E. Dr. Sam Shafishuna Nujoma, Founding President and Father of the Namibian Nation; and
 - H.E. Kenneth David Kaunda, Founding President of the Republic of Zambia.
7. The following organisations were represented at the Summit: the African Development Bank (AfDB), the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), United Nations Economic Commission for Africa (UNECA), Southern African Customs Union (SACU) and the SADC Parliamentary Forum.
8. His Excellency President Hifikepunye Pohamba of the Republic of Namibia and host of the 30th SADC Jubilee Summit welcomed the SADC Heads of State and Government and all the delegates to the Republic of Namibia. His Excellency thanked the Former Heads of State and Government of SADC Member States for their vision and dedication as well as for laying a solid foundation for the development of SADC.
9. Summit was also addressed by the Chairperson of the African Union, His Excellency Ngwazi Prof. Bingu wa Mutharika, the President of the Republic of Malawi. His Excellency underscored the need for the region to achieve food security as a basis for sustainable economic growth. His Excellency further called on the Southern African leaders to enhance the region's application of science and technology to address issues of climate change, energy and infrastructure development. His Excellency also urged Member States to give attention to safe motherhood

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programmes, at both country and regional levels, in order to significantly reduce maternal, infant and child mortality by 2015.

10. The Outgoing Chairperson of SADC, His Excellency President Joseph Kabila Kabange in his hand over statement, paid tribute to, amongst others, the Founding Fathers of SADC, the Frontline States, and the visionary pan-African leaders. He highlighted the achievements recorded by SADC in the last 30 years which include infrastructure development, the launch of the SADC Free Trade Area (FTA).
11. In his acceptance statement, His Excellency President Hifikepunye Pohamba thanked the outgoing Chairperson for the able manner in which he steered SADC during his tenure of office. His Excellency pledged commitment to further strengthen cooperation among SADC Member States in order to enhance the capacity of the region to address common challenges.
12. The Executive Secretary of SADC, Dr. Tomaz Augusto Salomão highlighted progress made during the past year in the implementation of the regional development and integration agenda. He noted that the region is still recovering from the global economic crisis and outlined policy measures to enable the region to cushion itself from any future economic crisis.
13. Summit congratulated the Republic of Angola and the Republic of South Africa for successfully hosting the 2010 Africa Cup of Nations and the FIFA World Cup respectively.
14. Summit received a report from the outgoing Chairperson of the Organ on Politics, Defence and Security Cooperation, His Excellency Armando Emilio Guebuza. Summit noted that the region continues to consolidate

democracy, peace and security. In this regard, Summit noted the peaceful and orderly manner in which the people of Botswana, Mauritius, Mozambique and Namibia exercised their democratic rights as they voted in the presidential and parliamentary elections held in their respective countries. Summit noted that these electoral processes were regarded as free, fair, transparent and credible.


15. Summit noted the efforts being made in the search for sustainable political solutions in the Kingdom of Lesotho, Republic of Madagascar and the Republic of Zimbabwe.
16. On the Kingdom of Lesotho, Summit commended the stakeholders for their commitment to the post-electoral dialogue, the role of the Christian Council of Lesotho and the SADC Facilitation Team in mediating the Lesotho post election dialogue. Summit also urged the Lesotho stakeholders to work together towards the finalisation of the Bill Amending the Electoral Law as a matter of urgency.
17. On Madagascar, Summit commended His Excellency President Joaquim Chissano, SADC Mediator in the Madagascar dialogue, for his efforts of restoring constitutional normalcy in the country. Summit approved the following:
 - SADC, the African Union and the wider international community should lend their political, technical, material and financial support to the process of Malgacho-Malgache dialogue;
 - the SADC Mediator should continue to follow the situation closely, avail his support and facilitation to the Malagasy as appropriate, and report regularly to SADC and AU on developments in Madagascar;



- the need for the dialogue process to observe the key principles of neutrality, consensus, credibility and inclusiveness;
- establishment of a SADC liaison office in Madagascar in order to support the dialogue process in the country; and
- continuation of the sanctions on the Republic of Madagascar until the country returns to constitutional normalcy.

18. On Zimbabwe, Summit:

- commended His Excellency Jacob Zuma, President of the Republic of South Africa and Facilitator of the Zimbabwe Political Dialogue for facilitating the implementation of the Global Political Agreement (GPA).
- commended the Zimbabwe stakeholders for their efforts towards implementation of the GPA;
- urged the Zimbabwe stakeholders to remain committed to the implementation of the GPA;
- reiterated its call on the international community to lift all forms of sanctions imposed on Zimbabwe in view of the negative effects they have on Zimbabwe and the SADC region in general; and
- mandated the Chairperson of SADC assisted by the Chairperson of the Organ and the Facilitator of the Zimbabwe Political Dialogue to engage the international community on the issue of sanctions on Zimbabwe.

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19. Summit noted the economic and security threat posed by piracy in the coastal waters of SADC Member States, especially Seychelles, Mauritius and United Republic of Tanzania. Summit mandated the Secretariat to send a team of technical experts to establish the extent of the problem and recommend appropriate measures.
20. Summit received a report from the Ministerial Task Force on Regional Economic Integration. Summit noted that the Task Force has adopted a comprehensive work programme with concrete actions and timelines aimed at consolidating the SADC FTA.
21. Summit reaffirmed commitment to establish a SADC Customs Union and endorsed the decision of the Task Force to appoint a high level expert group. The main mandate of this group will be to consolidate and refine technical work so far done in order to reach agreement and common understanding on the parameters, benchmarks, timelines, a model customs union and its implementation modalities. A report will be submitted to the Task Force before December 2011.
22. Summit noted the preparations towards establishing the COMESA-EAC-SADC Tripartite FTA. Summit also noted that SADC will host the next Tripartite Council and Summit. To this end, Summit mandated the Chairperson of Council and the Executive Secretary to consult with Member States regarding the dates and venue of the Tripartite Council and Summit meetings.
23. Summit reviewed progress on the socio-economic situation in the region with particular focus on the impact of the global economic crisis on the region, food security, climate change, HIV and AIDS and Gender and Development.

24. Summit noted the adverse socio-economic effects of the global economic crisis on the region and underscored the need to take into account various factors and players such as the emerging economies and business community in coming up with remedial measures. In this regard, Summit mandated the SADC Secretariat in collaboration with the Chairperson of SADC to convene an Extra Ordinary Summit on Economic Development.
25. With regard to the food security situation in the Region, Summit noted that there is overall improvement. In this regard, Summit noted that the region recorded overall increased food production in the current marketing year with cereal surpluses in Malawi, Mozambique, South Africa and Zambia. Summit noted that while food production and availability has improved in the Region, access to food and malnutrition at household level remains a challenge.
26. Summit urged Member States to scale up the implementation of the Dar-es-salaam Declaration on Agriculture and Food Security and to support the African Food Basket Initiative, which is aimed at the transformation of the African Continent to food self sufficiency within the next five years. In this regard, Summit mandated the Secretariat to explore how SADC can access resources from the US\$22 billion L'aquila Food Security Initiative pledged by the G8.
27. Summit reiterated SADC's support to the African common negotiating position on the global climate change regime after the expiry of the Kyoto Protocol in 2012. Summit noted that this issue will be discussed at the 16th Conference of Parties of the United Nations Framework Convention on Climate Change to be held in Cancun, Mexico in November-December 2010.

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28. Summit noted progress made in the implementation of the Maseru Declaration on Combating HIV and AIDS, particularly on Prevention of Mother to Child Transmission and the uptake of Anti retroviral therapy. In order to achieve universal access targets and to mitigate the impact of HIV and AIDS on socio-economic development and regional integration, Summit urged Member States to intensify their efforts in implementing the Maseru Declaration on Combating HIV and AIDS. Summit also urged Member States and the international community to support the replenishment of resources to the Global Fund to fight against HIV and AIDS, Tuberculosis and Malaria.
29. Summit noted progress made towards the achievement of the 50% representation of women in political and decision making positions at all levels in line with its 2005 decision. Summit noted that the overall situation is generally varied with some SADC Member States recording improvement while others are regressing. Summit urged Member States to ratify and implement the Protocol on Gender and Development.
30. Summit urged Member States to support safe motherhood programmes in order to reduce maternal, infant and child mortality in line with the Millennium Development Goal commitments.
31. Summit endorsed the Council decision on the establishment of the Regional Poverty Observatory which will facilitate the implementation of the SADC Declaration on Poverty Eradication and Sustainable Development.
32. Summit decided that a review of the role, functions and terms of reference of the SADC Tribunal should be undertaken and concluded within 6 months.

33. Summit celebrated the 30th SADC Anniversary, during which felicitations on this special occasion were delivered on behalf of all the SADC Heads of State and Government by His Excellency the Vice-President Fernando Dias Dos Santos, His Excellency Dr. Kenneth Kaunda and His Excellency President Robert Gabriel Mugabe.
34. Summit conferred the Sir Seretse Khama SADC Medal to the following notable Statesmen of the SADC Region:
 - (a) His Excellency Dr. Kenneth David Kaunda, Former President of the Republic of Zambia;
 - (b) His Excellency Dr. Sam Nujoma, Former President of the Republic of Namibia; and
 - (c) Ambassador Brigadier General Hashim Mbita of the United Republic of Tanzania.
35. Summit appointed Ms. Emilie Ayaza Mushobekwa from the Democratic Republic of Congo as SADC Deputy Executive Secretary for Finance and Administration and she was sworn in by His Excellency, Ariranga G. Pillay, President of the SADC Tribunal.
36. Summit also received the Windhoek Declaration for the 2010 SADC First Spouses Summit of the SADC Region that underscored the importance of women's economic empowerment as a strategy for poverty reduction.
37. Summit expressed its appreciation to the Government and People of the Republic of Namibia for the warm hospitality extended to all delegates and facilities placed at their disposal that made this Summit a success.
38. His Excellency Fernando da Piedade Dias dos Santos, Vice President of the Republic of Angola, gave a vote of thanks and on behalf of President



August 17, 2010 at 22:00

Jose Eduardo dos Santos invited all Heads of State and or Government to the Republic of Angola for the next Summit.

WINDHOEK, REPUBLIC OF NAMIBIA
AUGUST 17, 2010

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ANNEXURE "JS3"



**COMMUNIQUÉ
EXTRAORDINARY SUMMIT HEADS OF STATE AND GOVERNMENT
OF THE SOUTHERN AFRICA DEVELOPMENT COMMUNITY
WINDHOEK, REPUBLIC OF NAMIBIA
20 MAY 2011**

1. The Summit of Heads of State and Government of the Southern African Development Community (SADC) was held in Windhoek, Republic of Namibia on May 20, 2011.
2. The Summit was officially opened by His Excellency Hifikepunye Pohamba, President of the Republic of Namibia and SADC Chairperson.
3. The Summit was attended by the following Heads of State and Government or their representatives:

Botswana	:	H.E. Lt. Gen. Seretse Khama Ian Khama,
DRC	:	H.E. Joseph Kabila Kabange
Mauritius	:	Dr. the Hon. Navinchandra Ramgoolam, GCSK
Mozambique	:	H.E. Armando Emilio Guebuza
Namibia	:	H.E. Hifikepunye Pohamba
Tanzania	:	H.E. Jakaya Mrisho Kikwete
Zambia	:	H.E. Rupiah Bwezani Banda
Zimbabwe	:	H.E. Robert Gabriel Mugabe
Lesotho	:	The Hon. Mr. Lesao A Lehohla, Deputy Prime Minister
Angola	:	Hon. George Chicotty, Minister of External Relations
Malawi	:	Hon. Eta E Banda, MP, Minister of Foreign Affairs

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South Africa : H.E. YLM Myakayaka-Manzini, South African High
Commissioner to Namibia

Swaziland : Hon. Rev. David Mathse, Minister for Justice and
Constitutional Affairs

4. The Summit was also attended by SADC Executive Secretary Dr. Tomaz A. Salomão.
5. In attendance at the Summit was also H.E. Joaquim A. Chissano, former President of the Republic of Mozambique, and SADC Mediator on Madagascar.
6. Summit received and considered the Report of the Committee of Ministers of Justice and Attorneys General on the review of the Role, Responsibilities and Terms of Reference of the SADC Tribunal in accordance with Summit Decision 20 of August 2010 taken in Windhoek, Namibia.
7. Summit decided as follows:
 - mandated the Ministers of Justice/Attorneys General to initiate the process aimed at amending the relevant SADC legal instruments and submit a progress report at the Summit in August 2011 and the final report to Summit in August 2012;
 - not to reappoint members of the Tribunal whose term of office expired on August 31, 2010; and
 - not to replace members of the Tribunal whose term of office will expire on October 31, 2011.

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8. Summit further reiterated the moratorium on receiving any new cases or hearings of any cases by the Tribunal until the SADC Protocol on the Tribunal has been reviewed and approved.
9. Summit also received a report on preparations for the 2nd Tripartite Council and Summit to be held on June 12, 2011 at Sandton, South Africa, noting, amongst other, progress made towards the launching of negotiations for the COMESA-EAC-SADC Tripartite Free Trade Area.
10. Summit endorsed the pillars of the Tripartite integration process as market integration, infrastructure development and industrial development.
11. Summit considered the report of the SADC Mediator on Madagascar, His Excellency Joaquim A. Chissano, former President of the Republic of Mozambique, noting the development of the roadmap for returning that country to constitutional normalcy.
12. The Summit commended His Excellency Joaquim A. Chissano, former President of the Republic of Mozambique, and SADC Mediator on Madagascar for his efforts in bringing together the Malagasy stakeholders in the process of reconciliation and finding a lasting solution for that country.
13. Summit reiterated the need for an all inclusive political process towards finding a lasting solution of the challenges facing the country. In this regard, Summit mandated the SADC Chairperson, Chairperson of the SADC Organ on Politics, Defence and Security Cooperation and SADC Mediator on Madagascar to, as soon as possible, convene a meeting with all Malagasy stakeholders to be held at SADC Headquarters in Gaborone Botswana.
14. Summit expressed sympathy and solidarity with the members of the Angolan and Namibian populations who have been adversely affected by the recent floods.

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15. The Summit expressed its appreciation to the Government and People of the Republic of Namibia for the warm hospitality extended to all delegates and facilities placed at their disposal that made this Summit a success

WINDHOEK, REPUBLIC OF NAMIBIA

MAY 20, 2011

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**FINAL COMMUNIQUÉ OF THE
32ND SUMMIT OF SADC HEADS OF STATE AND GOVERNMENT
MAPUTO, MOZAMBIQUE AUGUST 18, 2012**

1. The 32nd Session of the Summit of the Heads of State and Government of the Southern African Development Community (SADC) was held in Maputo, Republic of Mozambique on 17th and 18th August 2012.
2. Summit elected H.E. Armando Emilio Guebuza, the President of the Republic of Mozambique and H.E. President Joyce Banda of the Republic of Malawi as Chairperson and Deputy Chairperson of SADC, respectively.
3. Summit also elected H.E. Jakaya Mrisho Kikwete, President of the United Republic of Tanzania and H.E. President Hifikepunye Pohamba of the Republic Namibia as Chairperson and Deputy Chairperson of the SADC Organ on Politics, Defence and Security Cooperation, respectively.
4. Summit was attended by the following Heads of State and Government and or their representatives:

Botswana	H.E. President Lt. Gen. Seretse Khama Ian Khama
DRC	H.E. President Joseph Kabila Kabange
Lesotho	Rt. Hon. Prime Minister Thomas Motsoahae Thabane
Malawi	H.E. President Joyce Banda
Mozambique	H.E. President Armando Emilio Guebuza
Namibia	H.E. President Hifikepunye Pohamba
Seychelles	H.E. President James Alix Michel
South Africa	H.E. President Jacob Gedleyihlekisa Zuma
Swaziland	His Majesty King Mswati III
United Republic of Tanzania	H.E. President Jakaya Mrisho Kikwete
Zambia	H.E. President Michael Chilufya Sata
Zimbabwe	H.E. President Robert Gabriel Mugabe
Angola	H.E. Fernando da Piedade Dias Dos Santos, Vice President
Mauritius	Hon. Arvin Boolell, Minister of Foreign Affairs, Regional Integration and International Trade

5. Summit was also attended by H.E. Joaquim Alberto Chissano, former President of Mozambique, and SADC Mediator on the conflict in Madagascar.
6. In attendance were also the following: Dr Nkosazana Dlamini-Zuma South African Minister of Home Affairs and Incoming Chairperson of the African Union Commission, (AUC), H.E. Dr. Donald Kaberuka, President of the African Development Bank (AfDB), Mr Sindiso Ndema Ngwenya, Secretary General of the Common Market for East and Southern Africa (COMESA) Amb. Dr. Richard Sezibera, Secretary General and of the East African Community (EAC) and Dr. Esau M. Chiviya, Secretary General of the SADC Parliamentary Forum.
7. H.E. President Guebuza, SADC Chairperson and host of the 32nd Summit welcomed the SADC Heads of State and Government and other delegates to the Republic of Mozambique. In his speech, President Guebuza paid tribute to the outgoing Chairperson for having provided good leadership to the Region. He indicated that his chairpersonship shall, amongst others, focus on the Development Corridors as Vehicles for SADC Regional Integration that need to be harnessed due to the role they play in consolidating social dimensions of development and the regional integration process.
8. Addressing the official opening ceremony of Summit through his Vice President, H.E. Fernando de Piedade Dias Dos Santos, Outgoing SADC Chairperson, H.E. President Jose Eduardo dos Santos of the Republic of Angola, thanked the Heads of State and Government, the entire Region, and International Cooperating Partners (ICPs) for supporting him during his chairpersonship. In handing over the chairpersonship to Mozambique, President dos Santos pledged his support and urged all the Member States to render Mozambique their undivided support as they did to Angola during his tenure of office.
9. In his acceptance statement, the new SADC Chairperson and host of the 32nd Ordinary SADC Summit, H.E. President Guebuza said that Mozambique accepts the chairpersonship of SADC with immense humility and shall continue to count on all SADC Member States to assist in his endeavour to move the Region forward
10. The Summit also received maiden Statements from three new leaders of three SADC Member States as follows:
 - 10.1 Rt. Hon. Thomas Motsoahae Thabane, Prime Minister of the Kingdom of Lesotho paid tribute to the regional body for promoting democracy and underscored the importance of deepening regional integration and alleviation of poverty within the framework of the Regional Strategic Indicative Development Plan.
 - 10.2 H.E Joyce Banda, President of the Republic of Malawi shared with the Summit the progress Malawi has made in stabilising the economic situation and that she

looked forward to the expeditious implementation of the SADC Infrastructure Master Plan.

- 10.3 H.E. Michael Chilufya Sata, President of the Republic of Zambia re-affirmed the need to strengthen peace, stability and democracy in the region as well as Zambia's commitment to the SADC Agenda.
- 10.4 Summit was also addressed by H.E. Dr. Dlamini-Zuma, who attended the Summit for the first time in her capacity as the Incoming Chairperson of the African Union Commission (AUC). Dr. Dlamini-Zuma thanked the SADC leaders for supporting her candidature to the AUC chairpersonship and undertook to serve the African Continent with all due diligence and expressed her commitment to work with the whole continent and all the Regional Economic Communities of African to address the daunting challenges that face the continent in the improvement of the quality of lives of its people.
- 10.5 Summit was further addressed by H.E. Donald Kaberuka, President of the African Development Bank (AfDB). He informed the Summit that there were liquidity challenges at the global level arising from the Eurozone crisis and challenged Member States to mobilise resources for investment in projects for Africa and particularly for the SADC Region.
11. Summit received the Report of the Outgoing Chairperson of SADC, H.E. President Jose Eduardo dos Santos of Angola, outlining activities carried out during his tenure on the political and economic situation in the Region, which included investment promotion, resource mobilisation and AU Commission elections.
12. Summit thanked H.E. José Eduardo dos Santos for his special efforts in promoting investment, mobilising resources for the Region and elevating visibility and profile of SADC and directed the Secretariat to develop an Action Plan to follow-up on the recommendations in the Outgoing Chairperson's Report.
13. Summit also received the Report of the Outgoing Chairperson of the SADC Organ on Politics, Defence and Security Cooperation, H.E. Jacob G. Zuma, President of the Republic of South Africa. Summit noted that the Region remained peaceful and stable with the exception of political and security challenges in two Member States, namely, the Democratic Republic of Congo and Madagascar.
- 13.1 On DRC, Summit noted with great concern that the security situation in the Eastern part of DRC has deteriorated in the last three (3) months, causing displacement of people and loss of lives and property. Summit also noted that this is being perpetrated by rebel groups with assistance of Rwanda, and urged the latter to cease immediately its interference that constitutes a threat to peace and stability, not only of the DRC, but also of the SADC Region.

- This situation has called for renewed and urgent attention by the Summit which fielded an Assessment Mission to the DRC. Summit endorsed a Report of the Mission which recommended appropriate action to address the security situation in the Eastern part of DRC. Summit further mandated the Chairperson of SADC to undertake a mission to Rwanda to engage the Government of Rwanda with the aim of urging Rwanda to stop military support to armed rebels in the DRC, the so-called M23. Summit also urged Member States and the international Community to provide humanitarian relief to the displaced people in the Eastern part of DRC.
- 13.2 Summit directed the SADC Secretariat to collaborate with the International Conference of the Great Lakes Region Secretariat in pursuit of peace and security in the Eastern DRC.
 - 13.3 On Madagascar, Summit reiterated its previous decision taken during the Luanda Summit in August 2011 and mandated the SADC Mediator in coordination with the Organ Troika to intensify the dialogue with the main Malagasy political stakeholders to implement the Road Map in full and urgently take the necessary measures to ensure a full and urgent implementation of the Road Map as well as to creating a favourable environment for free, fair and credible elections. Summit also noted the presidential elections scheduled by the Malagasy Senate and UN to take place in May 2013 and the Legislative elections to take place in July 2013.
 - 13.4 On Zimbabwe, Summit adopted the Report of the SADC Facilitator in Zimbabwe, H.E. Jacob Zuma, the President of the Republic of South Africa. Summit noted the progress in the implementation of the Global Political Agreement (GPA) and urged the stakeholders to work together in particular, on the Constitution Making Process in Zimbabwe which is about to be concluded.
 - 13.5 Summit urged signatories to the GPA to develop a Roadmap with timelines that are guided by the requirements of the process necessary for adoption of the constitution and the creation of conditions for free and fair elections to be held.
 - 13.6 Summit resolved that if there are any difficulties with regard to the Constitution and implementation of agreements, the Facilitator should be called upon to engage with the parties and assist them resolve such issues, bearing in mind the timeframes and the necessity to hold free and fair elections.
 - 13.7 Summit urged the parties to the GPA to continue the implementation of the GPA.
 - 13.8 Summit noted the partial lifting of sanctions against Zimbabwe and urged the European Union and the rest of the international community to lift all the sanctions unconditionally.
 - 13.9 Summit commended H.E. President Zuma and his team for the progress made

towards normalising the Zimbabwe situation.

- 13.10 On consolidation of democracy and good governance in the Region, Summit noted that SADC Member States continue to adhere to the Principles Governing Democratic Elections by holding regular elections such as elections in the Republics of Zambia and Seychelles, the DRC and the Kingdom of Lesotho.
- 13.11 Summit commended the Governments and peoples of these Member States for the peaceful manner in which they conducted their elections.
- 13.12 Summit also commended the President of South Africa, H.E. Jacob G Zuma and Outgoing Chairperson of the SADC Organ on Politics, Defence and Security Cooperation, the Chairperson of SADC, H.E. Emilio Armando Guebuza, President of the Republic Mozambique, H.E. Michael Chilufya Sata, President of the Republic of Zambia, H.E. Jakaya Mrisho Kikwete, President of the United Republic of Tanzania, SADC Executive Secretary, Dr. Tomaz Augusto Salomão, for the support rendered to Malawi for the smooth and peaceful transition of power in Malawi, following the death of President Bingu wa Mutharika.
14. Summit noted that the economic performance of the Region was characterized by a slow economic growth as shown by a decline in real GDP from 5.5% in 2010 to 4.7%, in 2011 and a stagnant level of average inflation at 8.3%. This trend was largely influenced by developments in the global markets especially in the Eurozone.
15. Summit reviewed progress in the implementation of the regional economic integration agenda. In this regard, Summit received a report on the framework of the SADC Customs Union from the Ministerial Task Force on Regional Economic Integration outlining key elements for the Customs Union, in particular the parameters, benchmarks and a model Customs Union for SADC including the sequencing of activities. Summit also noted progress made towards the establishment of the Tripartite Free Trade Area, especially preparatory work to facilitate negotiations under the chairpersonship of the SADC Region.
16. Summit also noted progress made towards the operationalization of the SADC Regional Development Fund, a financial mechanism intended to mobilise resources from Member States, Private Sector and Development Partners to finance programmes and projects for regional development and deeper integration. Summit noted areas of agreement reached in the various aspects of the Fund including the windows of the Fund with the infrastructure and industrial development windows as top priorities and a subscribed capital of US1,2 billion to be raised as seed capital. Summit directed Ministers responsible for Finance and Investment to expeditiously address all outstanding issues in order for the Fund to become operational as soon as possible.
17. Summit reviewed the status of implementation of infrastructure programmes in

the Region and also adopted the Regional Infrastructure Development Master Plan Vision 2027 for implementation over a 15 year period (2013 – 2027).

The Plan will serve as a key Strategic Framework to guide the implementation of efficient, seamless and cost-effective trans-boundary infrastructure networks in an integrated and coordinated manner in all the six sectors namely, Energy, Transport, Tourism, ICT and Postal, Meteorology and Water.

18. Summit reviewed the regional food security situation, in particular cereal, non-cereal and livestock production, and noted that the Region will experience an overall cereal deficit of 5.5 million tonnes largely due to poor rains. This will therefore result in an increase in the number of people requiring humanitarian assistance in terms of food and non-food assistance. Summit thus urged Member States to undertake appropriate measures to ensure sustainable food security in line with the Dar es Salaam Declaration on Agriculture and Food Security. In the short term, Member States are encouraged to provide the necessary humanitarian assistance.
19. Summit noted the successful outcome of the United Nations Framework Convention on Climate Change Conference of Parties 17 (UNFCCC COP 17) and Kyoto Protocol (COP/MOP7) held in Durban, South Africa in November/December 2011. SADC Member States supported and successfully championed the African common position towards COP17 which proved to be a significant step in producing a favourable outcome for Africa. Summit noted that the Green Climate Fund was established in Durban and SADC Member States pledged their full support to Namibia in her bid to host the Secretariat of the Green Fund.
20. Summit noted progress in the implementation of the Maseru Declaration of 2003 on combating HIV and AIDS, in particular, the reduction of new infections including the Prevention of Mother to child Transmission; decline in AIDS related deaths and positive behavioural change for HIV prevention among the youth.
21. Summit urged Member States to fully support the implementation of on-going regional programmes including the SADC HIV and AIDS cross-border initiative for providing preventive, care and treatment services at major cross border points.
22. Summit commended Malawi for the ascendance to the presidency, of the first woman in the SADC Region and commended the Member States that have achieved high women representation in political and decision making positions and urged Member States that have not yet achieved the set target for equal representation to take appropriate measures to do so. Summit also urged Member States to consider adoption of appropriate measures including legislation, policy, and reform of the electoral systems to facilitate the

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achievement of gender parity goal

23. Summit agreed to embark on a process of developing a long term vision for SADC taking into account the Vision Statement articulated in the Treaty and in the Regional Indicative Strategic Development Plan.
24. Summit considered the Report of the Committee of Ministers of Justice/Attorneys General and the observations by the Council of Ministers and resolved that a new Protocol on the Tribunal should be negotiated and that its mandate should be confined to interpretation of the SADC Treaty and Protocols relating to disputes between Member States.
25. Summit approved and signed the following three legal instruments:
 - Agreement on Assistance in Tax Matters
 - Protocol on Trade in Services
 - Declaration on TB in the Mining Sector
26. Summit received a Declaration from the First Spouses, presented by Mozambican First Lady, H.E. Maria da Luz Guebuza in which they committed themselves to supporting SADC governments in all commitments on Prevention of Mother to Child Prevention with the view to ZERO new HIV Infection, ZERO Discriminations and ZERO HIV related deaths, because they believed that a SADC HIV Free generation is possible and is a prerequisite to development and regional integration.
27. Summit expressed its appreciation to the Government and people of Mozambique for hosting the Summit and for the warm hospitality extended to all the delegates. Summit also thanked all continental bodies that attended the summit.
28. The Chairperson of the Organ on Politics, Defence and Security Cooperation, H.E. Jayaka Mrisho Kikwete, President of the United Republic of Tanzania made his acceptance statement and committed himself to ensure the implementation of decisions of SADC policy structures to maintain peace and security in region.
29. Summit was officially closed by SADC Chairperson, H.E. President Armando Emilio Guebuza of the Republic of Mozambique.
30. The Deputy Chairperson of Summit, H.E. Joyce Banda invited the Heads of State and Government and all delegates to the next summit to be held in Malawi in 2013.

August 18, 2012
Maputo, Mozambique

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PROTOCOL ON THE TRIBUNAL

IN

**THE SOUTHERN AFRICAN DEVELOPMENT
COMMUNITY**

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**PROTOCOL ON THE TRIBUNAL
IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY**

PREAMBLE

WE, the Heads of State or Government of:

The Republic of Angola
The Republic of Botswana
The Democratic Republic of Congo
The Kingdom of Lesotho
The Republic of Madagascar
The Republic of Malawi
The Republic of Mauritius
The Republic of Mozambique
The Republic of Namibia
The Republic of Seychelles
The Republic of South Africa
The Kingdom of Swaziland
The United Republic of Tanzania
The Republic of Zambia
The Republic of Zimbabwe

NOTING that a review of the role, responsibilities and terms of reference of the Southern African Development Community (SADC) Tribunal led to recommendations that require a new Protocol on Tribunal in the SADC;

DESIRING to establish a new Protocol on the Tribunal in the Southern African Development Community;

HEREBY AGREE as follows:

PART I PRELIMINARY

ARTICLE 1 DEFINITIONS

1. In this Protocol, terms and expressions defined in Article 1 of the Treaty shall bear the same meaning unless the context otherwise requires.
2. In this Protocol, unless the context otherwise requires:

"Judge"	means a Member of the Tribunal appointed in terms of Article 4 of this Protocol;
"President"	means the President of the Tribunal as provided for under Article 15(1) of this Protocol;
"Protocol"	means this Protocol on the Tribunal in the Southern African Development Community;
"Rules"	means Rules of Procedure of the Tribunal referred to in Article 28 of this Protocol; and
"State Party"	means a Member State that is a Party to this Protocol.

PART II ORGANISATION SECTION A – THE SADC TRIBUNAL

ARTICLE 2 CONSTITUTION OF THE TRIBUNAL

The SADC Tribunal (hereinafter referred to as the "Tribunal"), is hereby constituted in terms of Article 16 of the Treaty and shall function in accordance with the provisions of the Treaty, this Protocol and the Rules.

SECTION B – JUDGES OF THE TRIBUNAL

ARTICLE 3 COMPOSITION

1. The Tribunal shall consist of not less than ten (10) Judges, appointed in terms of Article 4 of this Protocol from nationals of Member States who possess the qualifications required for appointment to the highest judicial offices in their respective Member States or who are jurists of recognised competence or expertise in international law.
2. The Council shall designate five (5) of the Judges as regular Judges who shall sit regularly on the Tribunal. The additional five (5) Judges shall constitute a pool from which the President may invite a Judge to sit on the Tribunal whenever a regular Judge is temporarily absent or is otherwise unable to carry out his or her functions.
3. The Tribunal shall be constituted by three (3) Judges; provided that the Tribunal may decide to constitute a full bench composed of five (5) Judges.
4. The President shall be responsible for selecting the Judges who shall constitute the Tribunal for the purpose of hearing any case brought before it.
5. On a proposal from the Tribunal, the Council may increase the number of Judges.
6. No two or more Judges may, at any time, be nationals of the same Member State.

ARTICLE 4 SELECTION AND APPOINTMENT OF JUDGES

1. Each Member State may nominate, as candidates, not more than two of its nationals having the qualifications prescribed in Article 3 (1) of this Protocol.
2. When nominating and appointing Judges, due consideration shall be given to fair gender representation and fair representation of the different SADC Member State legal systems.
3. The Judges shall be selected by the Council from the list of candidates so nominated by Member States. Nominations for the first appointment shall be called within three (3) months, and the selection shall be held within six (6) months, of the date of entry into force of this Protocol.



4. The Judges shall be appointed by the Summit upon recommendation of the Council in accordance with guidelines adopted by the Summit from time to time.
5. Notwithstanding the provisions of Article 6(1), where a Judge is appointed to replace a Judge whose term of office has not expired, the Judge so appointed shall serve for the remainder of his or her predecessor's term.
6. Any appointment to fill a vacancy referred to in paragraph 5 shall be conducted within six (6) months of the vacancy occurring. The procedure referred to in the preceding paragraphs shall apply *mutatis mutandis*.

**ARTICLE 5
APPOINTMENT OF PRESIDENT**

1. One of the Judges referred to in Article 4(4) shall be appointed President by the Summit for a term of three (3) years.
2. The Judges shall elect an Acting President in the event that:
 - (a) Summit has not appointed a President under paragraph 1;
 - (b) if the President is temporarily absent or otherwise unable to carry out his or her functions.

**ARTICLE 6
SOLEMN DECLARATION**

1. Every Judge shall, before taking up his or her office as a Judge, make a solemn declaration before the Chairperson of SADC that he or she will carry out his or her duties independently, impartially, conscientiously and preserve the confidentiality of the Tribunal's deliberations.
2. The solemn declaration shall be in accordance with the form prescribed in Annex 1 of this Protocol.

**ARTICLE 7
TENURE OF OFFICE OF JUDGES**

1. Subject to Article 8, the Judges shall be appointed for a term of five (5) years and may only be re-appointed for one (1) further term of five (5) years.
2. The term of office of each Judge of the Tribunal shall commence from the date upon which he or she is appointed.

**ARTICLE 8
INITIAL JUDGES**

1. Out of the Judges initially appointed, the terms of two (2) of the regular Judges and two (2) of the additional Judges shall expire at the end of three (3) years. The Judges whose term is to expire at the end of three (3) years shall be chosen by a lot to be drawn by the Executive Secretary immediately after the first appointment. Judges will be eligible for reappointment for a further five (5) year term.
2. In the event that the draw of a lot is not done pursuant to paragraph 1, for Judges of the Tribunal whose term of office is to expire at the end of three (3) years, their term of office shall be deemed to be extended for a period that would have elapsed between the date of first appointment and the date of making the draw; provided that such period shall not exceed five (5) years.
3. In the event that there is a delay in drawing a lot under paragraph 1, the term of office of the Judge whose term is to expire at the end of five (5) years shall not be affected by the drawing of the lot.

**ARTICLE 9
PART TIME AND FULL TIME JUDGES**

1. Subject to paragraph 2, the Tribunal shall sit when required to consider a matter submitted to it. The Judges shall, therefore, not be appointed on a full-time basis.
2. On the recommendation of the President, the Council may at any time decide that the workload of the Tribunal requires that the Judges should serve on a full-time basis.
3. Judges appointed to serve on a full-time basis shall not hold any other office or employment.

**ARTICLE 10
RESIGNATION AND EXPIRATION OF TERM**

1. A Judge may at any time resign from his or her office by a letter delivered to the President for transmission to the Council through the Executive Secretary and upon delivery of the letter, a vacancy arises.
2. Notwithstanding the expiration of his or her term of office, a Judge shall continue to hear and to complete those cases partly heard by him or her.

**ARTICLE 11
REMOVAL OF JUDGE FROM OFFICE**

1. A Judge may be removed from office only if he or she has either become permanently incapacitated from exercising his or her functions, or has committed a serious breach of his or her duties or a serious act of misconduct.
2. A Judge shall only be removed from office under paragraph 1 if the question of his or her removal from office has been referred to an ad hoc independent tribunal appointed for this purpose by the Summit and the ad hoc tribunal has recommended that the Judge be removed from office following due process.

**ARTICLE 12
RECUSAL**

1. No Judge may exercise a political or administrative function, or hold a political office or an office in the service of a Member State, SADC or engage in a trade, vocation or profession or other occupation which might interfere with the proper exercise of his or her judicial functions, impartiality or independence.
2. No Judge may hear any matter in which he or she has previously taken part as an agent, a representative or an adviser, or as a Judge of a national or international court or tribunal or in any other capacity or in any matter in which a Member State of which he or she is a national is a party to a dispute before the Tribunal.
3. A Judge shall recuse himself or herself in any matter in which he or she might reasonably have a conflict of interest.
4. Conflict of interest includes without limitation, the possession by a Judge, or a close family member of a Judge or associate of a Judge, of any financial and property interests relevant to the dispute, and the affiliations or employment of a close family member of a Judge or associate of a Judge on interests relevant to the dispute.
5. Any dispute regarding the provisions of paragraphs 1, 2 and 3 of this Article shall be resolved by a decision of the Tribunal, sitting without the Judge concerned.

**ARTICLE 13
IMMUNITY FROM LEGAL PROCEEDINGS**

A Judge shall be immune from legal proceedings in respect of anything said or done by him or her in his or her judicial capacity. He or she shall continue to enjoy such immunity after he or she has ceased to hold office.

**ARTICLE 14
TERMS AND CONDITIONS OF SERVICE**

The terms and conditions of service, salaries and benefits of a Judge shall be determined by the Council and shall not be altered to the disadvantage of the Judge during his or her tenure of office.

**ARTICLE 15
DUTIES OF THE PRESIDENT**

1. The President shall be the Head of the Tribunal.
2. The President shall:
 - (a) be responsible for the administration and supervision of the Tribunal;
 - (b) direct the work of the Tribunal;
 - (c) represent the Tribunal;
 - (d) regulate the disposition of the matters brought before the Tribunal;
 - (e) appoint the Registrar of the Tribunal; and
 - (f) perform such acts and duties as may be incidental to the matters set out in paragraphs (a) to (e).

**SECTION C
THE REGISTRY**

**ARTICLE 16
REGISTRY**

There shall be a Registry consisting of the Registrar and such other staff as may be appointed pursuant to Article 26 of this Protocol.

**ARTICLE 17
THE REGISTRAR**

1. There shall be a Registrar who shall, subject to overall supervision of the President, be responsible for the day to day administration of the Tribunal.
2. Instructions for the running of the Registry shall be drawn up by the Registrar with the approval of the President.

**ARTICLE 18
DUTIES OF THE REGISTRAR**

The Registrar shall:

- (a) be a regular channel of communication to and from the Tribunal, and in particular effect all communications, notifications and transmission of documents required by this Protocol and ensure that the date of dispatch and receipt thereof is readily available;
- (b) keep in such form as may be laid down by the Tribunal, a general list of all cases, entered and numbered in the order in which the documents instituting proceedings are received in the Registry;
- (c) transmit to the parties copies of all pleadings and documents upon receipt thereof in the Registry;
- (d) communicate to the Government of a Member State in which the Tribunal is sitting and any other Governments which may be concerned, the necessary information as to the persons from time to time entitled to privileges, immunities or facilities;
- (e) be present in person or be represented by an assistant at meetings and sittings of the Tribunal and be responsible for the preparation of such minutes and records as necessary;
- (f) be responsible for the printing, publication and authentication of the Tribunal's, orders, decisions and of such other documents as the Tribunal may direct to be published;
- (g) be responsible for all administrative work and in particular for the accounts and financial administration in accordance with financial procedures prescribed by the Council;
- (h) deal with enquiries concerning the Tribunal and its work;
- (i) have custody of the seals, stamps and archives of the Tribunal;

- (j) carry out taxation of costs; and
- (k) perform such acts and duties as may be incidental to the matters set out in paragraphs (a) to (j).

**ARTICLE 19
ELECTION AND APPOINTMENT OF THE REGISTRAR**

1. The President shall give notice of a vacancy or impending vacancy to Member States and shall fix a date for the closure of the list of candidates so as to enable nominations and information concerning the candidates to be received by the Tribunal in sufficient time.
2. Nominations shall indicate the relevant information concerning the candidates and in particular information as to age, sex, nationality, present occupation, academic qualifications, knowledge of languages, any previous experience in law, or work in international organisations.
3. The Registrar shall be elected by the Tribunal by secret ballot from candidates nominated by Member States from nationals who are qualified to hold similar office in their respective States.
4. The person elected shall be appointed as Registrar by the President.

**ARTICLE 20
TENURE OF OFFICE OF THE REGISTRAR**

The Registrar shall serve for a term of five (5) years and will be eligible for reappointment for one further term.

**ARTICLE 21
OATH OR AFFIRMATION OF OFFICE**

1. Before taking up his or her duties, the Registrar shall take an oath or affirmation of office before the President immediately upon his or her appointment.
2. The oath or affirmation of office shall be taken in accordance with the form prescribed in Annex 2 of this Protocol.

**ARTICLE 22
REMOVAL OF THE REGISTRAR**

1. The Registrar may be removed from office only if he or she:

- (a) has become permanently incapacitated, whether arising from infirmity of body or mind, and can no longer perform the functions of the office of Registrar; or
 - (b) has committed a serious breach of the duties of Registrar, or a serious act of misconduct.
2. Where an allegation is made against the Registrar, he or she shall be presented with the full particulars of the allegation that has been made against him or her and any evidence thereof, and shall be accorded the right to be heard under the process provided for in paragraph 3.
3. If the President considers that the allegations against the Registrar ought to be investigated, the President shall select three (3) Judges from amongst the members of the Tribunal, who shall:
 - (a) inquire into, and determine, the matter and report on the facts thereof to the President; and
 - (b) advise the President whether or not the person holding the office of Registrar should be removed from office on any of the grounds set out in paragraph 1 and the President shall act on the advice of the Judges.

**ARTICLE 23
APPOINTMENT OF ASSISTANT REGISTRAR**

1. The President shall appoint an Assistant Registrar and the provisions of Article 19 shall apply *mutatis mutandis* to such appointment.
2. Before taking up his or her duties, the Assistant Registrar shall take an oath or affirmation of office before the President immediately upon his or her appointment.
3. The oath or affirmation of office shall be taken in accordance with the form prescribed in Annex 2 of this Protocol.

**ARTICLE 24
DUTIES OF THE ASSISTANT REGISTRAR**

1. The Assistant Registrar shall assist the Registrar, act as Registrar in the latter's absence, and in the event of the office becoming vacant, exercise the functions of Registrar until the vacancy has been filled.

2. If the Registrar and Assistant Registrar are unable to carry out the duties of Registrar, the President shall appoint an official of the Registry to discharge those duties for a maximum period of six (6) months.

**ARTICLE 25
REMOVAL OF THE ASSISTANT REGISTRAR**

Article 22 shall apply *mutatis mutandis* to the removal of the Assistant Registrar.

**ARTICLE 26
APPOINTMENT OF OTHER STAFF**

On a proposal submitted by the Registrar and approved by the President, the Tribunal may employ such other staff as may be required to enable it to discharge its functions.

**ARTICLE 27
TERMS AND CONDITIONS OF SERVICE**

The terms and conditions of service, salaries and benefits of the Registrar, Assistant Registrar and other staff shall be determined by the Council on the recommendation of the Tribunal.

**SECTION D
THE SEAT OF THE TRIBUNAL**

**ARTICLE 28
SEAT**

The Tribunal shall have its seat at Windhoek, Republic of Namibia; provided that it may in any particular case sit and exercise its functions anywhere within SADC if it considers it desirable.

**SECTION E
THE FUNCTIONING OF THE TRIBUNAL**

**ARTICLE 29
RULES OF PROCEDURE OF THE TRIBUNAL**

1. The Tribunal shall determine its own Rules.
2. The Judges shall adopt the Rules by a two-thirds majority.

**ARTICLE 30
VACATIONS**

1. Vacations of the Tribunal shall be determined by the President.
2. The President shall publish the days of vacation in each calendar year, as informed by the schedule of hearings.
3. During such vacations the President shall exercise his or her functions at the seat of the Tribunal either by himself or through any other Judge designated by the President to exercise such functions.
4. The President may, if he or she determines that a matter is urgent, convene the Tribunal during the vacations.
5. The Tribunal shall, during its sittings, observe the official public holidays of the Member State where it has its seat and those of any Member State where it is holding its sittings.
6. The President may, in appropriate cases, grant leave of absence to any Judge after consultation with other Judges.

**ARTICLE 31
WORKING LANGUAGES**

The working languages of the Tribunal shall be English, French and Portuguese and such other languages as Council may determine.

**SECTION F
REPRESENTATION BEFORE THE TRIBUNAL**

**ARTICLE 32
REPRESENTATION**

1. Parties competent to appear before the Tribunal shall be represented by an adviser, agent or representative of their choice.
2. As regards such advisers, agents and representatives who appear before it, the Tribunal shall have the powers normally accorded to courts of law, under conditions laid down in the Rules.
3. All advisers, agents and representatives shall, when they appear before the Tribunal, enjoy the rights, privileges and immunities necessary for the independent exercise of their duties, subject to conditions laid down in the Rules.

PART III JURISDICTION

ARTICLE 33 MATERIAL JURISDICTION

The Tribunal shall have jurisdiction on the interpretation of the SADC Treaty and Protocols relating to disputes between Member States.

ARTICLE 34 ADVISORY OPINIONS

The Tribunal shall give advisory opinions on such matters as the Summit or Council may refer to it.

ARTICLE 35 APPLICABLE LAW

The Tribunal shall apply the SADC Treaty and the applicable SADC Protocols.

PART IV SITTINGS AND DELIBERATIONS

ARTICLE 36 SITTINGS

1. The sittings shall be held in public unless the Tribunal otherwise directs either on its own motion or the application of any of the parties that the sittings are held in closed sessions. Such a decision may concern either the whole or part of the hearing and may be made at any time.
2. The proceedings shall be commenced and presided over by the President or an acting President who shall be responsible for the proper conduct of the hearing.

ARTICLE 37 DELIBERATIONS

1. All deliberations subsequent to the sittings of the Tribunal shall be conducted in closed sessions and shall remain confidential.
2. Only those Judges who were present at oral proceedings of a case may take part in the deliberations.

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3. Every Judge taking part in the deliberations shall give his or her opinion in writing and the reasons for it.
4. The conclusions reached by the majority of the Judges after the final deliberations shall be the decision of the Tribunal.
5. Any differences of views on the substance or wording or order of questions shall be settled by the Tribunal.

PART V DECISIONS

ARTICLE 38 DECISIONS

1. Decisions of the Tribunal shall be in writing and delivered at a public sitting of the Tribunal.
2. Decisions of the Tribunal shall be made by a majority of the Judges.
3. Subject to Article 34, decisions and rulings of the Tribunal shall be final and binding.
4. One copy of the decision duly signed and sealed, shall be placed in the archives of the Tribunal and a copy shall be transmitted to each of the parties to the dispute.
5. The Registrar shall send copies of the decision to:
 - (a) the Council; and
 - (b) other Member States.

ARTICLE 39 DEFAULT DECISIONS

1. The Tribunal may give a decision in default when a respondent:
 - (a) on whom an application initiating proceedings has been duly served fails to file a defence to the application in the proper form within the time prescribed in the Rules; or
 - (b) fails to appear for a hearing of the application in accordance with the Rules.

2. A Party against whom a default decision has been made may apply to set it aside in accordance with the Rules.

**ARTICLE 40
APPLICATION FOR REVIEW OF A DECISION**

An application for review of a decision may be made to the Tribunal if it is based upon the discovery of some fact which by its nature might have had a decisive influence on the decision if it had been known to the Tribunal at the time the decision was given, but which fact at the time was unknown to both the Tribunal and the party making the application; provided always that such ignorance was not due to negligence.

**ARTICLE 41
INTERIM MEASURES**

The Tribunal may, on good cause, order the suspension of an act challenged before the Tribunal and may take such interim measures as may be necessary.

**ARTICLE 42
APPLICATION FOR INTERVENTION**

A Member State may, with leave of the Tribunal, intervene in a dispute before the Tribunal.

**ARTICLE 43
CONSOLIDATION**

The Tribunal may order the consolidation of proceedings involving substantially the same dispute and the same Member States.

**ARTICLE 44
ENFORCEMENT AND EXECUTION**

1. Member States and institutions of SADC shall take forthwith all measures necessary to ensure execution of decisions of the Tribunal.
2. A decision of the Tribunal shall be binding upon the parties to the dispute in respect of that particular case and must be complied with.
3. Any failure by a Member State to comply with a decision of the Tribunal may be referred to the Tribunal by any Member State affected by the decision.
4. If the Tribunal establishes the existence of such failure, it shall report its findings to the Summit for the latter to take appropriate action.

PART VI FINANCIAL MATTERS

ARTICLE 45 BUDGET

The budget of the Tribunal shall be funded through the regular annual budget of SADC and from such other sources as may be determined by the Council, based on a three (3) year work-plan prepared by the Registrar.

ARTICLE 46 COSTS

1. Unless the Tribunal decides otherwise, each State Party to a dispute shall pay its own legal costs.
2. Unless the Tribunal decides otherwise, proceedings before the Tribunal shall be free of charge.
3. Where a State Party to a dispute has caused the Tribunal to incur unnecessary considerable costs, the Tribunal may order that such State Party reimburse the expenses incurred by the Tribunal.
4. Where the copying or translation work is carried out at the request of a State Party to a dispute, the costs shall, in so far as the Registrar considers excessive, be paid for by that State Party.
5. Sums due to the Tribunal shall be paid in the currency of the State Party where the Tribunal has its seat.
6. Conversion of currency shall be made at the prevailing market exchange rate ruling on the day of payment in the State Party where the Tribunal has its seat.

ARTICLE 47 FEES

Fees payable by Member States within limits agreed by the budgetary authorities of SADC may be prescribed by the Rules.

PART VII FINAL PROVISIONS

ARTICLE 48 REPEAL OF THE 2000 PROTOCOL ON THE TRIBUNAL IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

The 2000 Protocol on the Tribunal in the Southern African Development Community is repealed with effect from the date of entry into force of this Protocol.

ARTICLE 49 SETTLEMENT OF DISPUTES


1. States Parties shall strive to resolve any dispute regarding application, interpretation or implementation of the provisions of this Protocol amicably.
2. Any dispute arising from the application, interpretation or implementation of this Protocol, which cannot be settled amicably, shall be referred to the SADC Tribunal.

ARTICLE 50 WITHDRAWAL

1. A State Party may withdraw from this Protocol upon the expiration of twelve (12) months from the date of giving written notice to that effect to the Executive Secretary.
2. Such State Party shall cease to enjoy all rights and benefits under this Protocol upon the withdrawal becoming effective.
3. Notwithstanding the provisions of paragraphs 1 and 2, such State Party shall continue to be bound by obligations that arise out of this Protocol and are outstanding on the date of the withdrawal until such obligations are discharged.

ARTICLE 51 SIGNATURE

This Protocol shall be signed by the Heads of State or Government of SADC Member States, or their duly authorised representatives.

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**ARTICLE 52
RATIFICATION**

This Protocol shall be ratified by Member States who have signed the Protocol in accordance with their constitutional procedures.

**ARTICLE 53
ENTRY INTO FORCE**

This Protocol shall enter into force thirty (30) days after the deposit of the Instruments of Ratification by two-thirds of the Member States.

**ARTICLE 54
ACCESSION**

This Protocol shall remain open for accession by any Member State.

**ARTICLE 55
DEPOSITARY**

1. The original texts of this Protocol and all Instruments of Ratification and Accession shall be deposited with the Executive Secretary of SADC who shall transmit certified copies to all Member States.
2. The Executive Secretary shall register this Protocol with the Secretariat of the United Nations and the Commission of the African Union.

IN WITNESS WHEREOF WE, the Heads of State or Government, or duly authorised representatives, of SADC Member States have signed this Protocol.

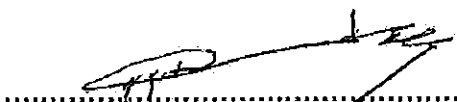
Done at Victoria Falls, Republic of Zimbabwe, this 18TH day of August 2014, in three (3) original texts in the English, French and Portuguese languages, all texts being equally authentic.

.....
REPUBLIC OF ANGOLA


.....
DEMOCRATIC REPUBLIC OF CONGO

.....
REPUBLIC OF MADAGASCAR

.....
REPUBLIC OF MAURITIUS


.....
REPUBLIC OF NAMIBIA



.....
REPUBLIC OF SOUTH AFRICA


.....
UNITED REPUBLIC OF TANZANIA


.....
REPUBLIC OF ZIMBABWE

.....
REPUBLIC OF BOTSWANA


.....
KINGDOM OF LESOTHO


.....
REPUBLIC OF MALAWI


.....
REPUBLIC OF MOZAMBIQUE

.....
REPUBLIC OF SEYCHELLES

.....
KINGDOM OF SWAZILAND


.....
REPUBLIC OF ZAMBIA

ANNEXES

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ANNEX 1

(IN TERMS OF ARTICLE 6)

"I _____(Name)_____solemnly declare that I shall perform my duties and exercise my powers as Judge of the Tribunal honourably, faithfully, impartially, independently and conscientiously".

SIGNATURE OF THE JUDGE

SIGNATURE OF THE CHAIRPERSON OF SADC

Done this.....day of.....at.....

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ANNEX 2


(IN TERMS OF ARTICLE 21 OR ARTICLE 23)

"I ___(Name)___solemnly declare that I shall perform the duties incumbent upon me as Registrar/Assistant Registrar of the Tribunal in all loyalty, discretion and good conscience and that I shall faithfully observe all the provisions of the Protocol and the Rules of the Tribunal".

SIGNATURE OF THE REGISTRAR/ASSISTANT REGISTRAR

SIGNATURE OF THE PRESIDENT

Done this.....day of.....at.....

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Ikim
Nuwu Telo

**CONSOLIDATED TEXT OF THE
TREATY
OF THE
SOUTHERN AFRICAN
DEVELOPMENT COMMUNITY,
AS AMMENDED**

25.
Am

CONSOLIDATED TEXT OF THE TREATY OF THE
SOUTHERN AFRICAN DEVELOPMENT COMMUNITY, AS AMENDED

March 12, 2010

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Am

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PREAMBLE

WE, the Heads of State or Government of

The Republic of Angola
 The Republic of Botswana
 The Democratic Republic of Congo
 The Kingdom of Lesotho
 The Republic of Madagascar
 The Republic of Malawi
 The Republic of Mauritius
 The Republic of Mozambique
 The Republic of Namibia
 The Republic of Seychelles
 The Republic of South Africa
 The Kingdom of Swaziland
 The United Republic of Tanzania
 The Republic of Zambia
 The Republic of Zimbabwe


HAVING REGARD to the objectives set forth in "Southern Africa: Toward Economic Liberation - A Declaration by the Governments of Independent States of Southern Africa, made at Lusaka, on the 1st April, 1980";

IN PURSUANCE of the principles of "Towards a Southern African Development Community - A Declaration made by the Heads of State or Government of Southern Africa at Windhoek, in August, 1992," which affirms our commitment to establish a Development Community in the Region;

DETERMINED to ensure, through common action, the progress and well-being of the people of Southern Africa;

CONSCIOUS of our duty to promote the interdependence and integration of our national economies for the harmonious, balanced and equitable development of the Region;

CONVINCED of the need to mobilise our own and international resources to promote the implementation of national, interstate and regional policies, programmes and projects within the framework for economic integration;

25. 

DEDICATED to secure, by concerted action, international understanding, support and co-operation;

MINDFUL of the need to involve the people of the Region centrally in the process of development and integration, particularly through the guarantee of democratic rights, observance of human rights and the rule of law;

RECOGNISING that, in an increasingly interdependent world, mutual understanding, good neighbourliness, and meaningful co-operation among the countries of the Region are indispensable to the realisation of these ideals;

DETERMINED to alleviate poverty, with the ultimate objective of its eradication, through deeper regional integration and sustainable economic growth and development;

FURTHER DETERMINED to meet the challenges of globalization;

TAKING INTO ACCOUNT the Lagos Plan of Action and the Final Act of Lagos of April 1980, the Treaty establishing the African Economic Community and the Constitutive Act of the African Union;

BEARING IN MIND the principles of international law governing relations between States;

Have decided to establish an international organisation to be known as the Southern African Development Community (SADC), and hereby agree as follows:

CHAPTER ONE

ARTICLE 1

DEFINITIONS

In this Treaty, unless the context otherwise requires:

"Community"	means the organisation for economic integration established by Article 2 of this Treaty;
"Council"	means the Council of Ministers of SADC established by Article 9 of this Treaty;
"Executive Secretary"	means the Chief Executive Officer of SADC appointed under Article 10 (7) of this Treaty;
"Funds"	means resources available at any given time for application to programmes, projects and activities of SADC as provided by Article 26 of this Treaty;
"High Contracting Parties"	means States, herein represented by Heads of State or Government or their duly authorised representatives for purposes of the establishment of the Community;
"Member State"	means a member of SADC;
"Organ"	means the Organ on Politics, Defence and Security Co-operation established by Article 9 of this Treaty;
"Protocol"	means an instrument of implementation of this Treaty and includes any amendment thereto;
"Region"	means the geographical area of the Member States of SADC;
"Regional Development Fund"	means the Regional Development Fund established by Article 26A of this Treaty;
"Regional Indicative Strategic Development Plan"	means a plan, based on the strategic priorities and SADC Common Agenda, designed to provide strategic direction with respect to SADC projects and activities;
"SADC"	means the Southern African Development Community;

"SADC Common Agenda"

means the set of fundamental principles and values referred to in Article 5A of this Treaty, that will guide the integration agenda of SADC;

"SADC National Committee"

means a SADC National Committee established by Article 9 of this Treaty;

"Secretariat"

means the Secretariat of SADC established by Article 9 of this Treaty;

"Sectoral and Cluster Ministerial Committees"

means the Sectoral and Cluster Ministerial Committees established by Article 9 of this Treaty;

"Sectoral Committee"

means a committee referred to in Article 38 of this Treaty;

"Sector Coordinating Unit"

means a unit referred to in Article 38 of this Treaty;

"Standing Committee"

means a Standing Committee of Officials established by Article 9 of this Treaty;

"Summit"

means the Summit of the Heads of State or Government of SADC established by Article 9 of this Treaty;

"Treaty"

means this Treaty establishing SADC and includes any amendment hereto;

"Tribunal"

means the Tribunal of the Community established by Article 9 of this Treaty;

"Troika"

means the system referred to in Article 9A of this Treaty.

CHAPTER TWO

ESTABLISHMENT AND LEGAL STATUS

ARTICLE 2

ESTABLISHMENT

1. By this Treaty, the High Contracting Parties establish the Southern African Development Community (hereinafter referred to as "SADC").
2. The Headquarters of SADC shall be at Gaborone, Republic of Botswana.

ARTICLE 3

LEGAL STATUS

1. SADC shall be an international organisation, and shall have legal personality with capacity and power to enter into contract, acquire, own or dispose of movable or immovable property and to sue and be sued.
2. In the territory of each Member State, SADC shall, pursuant to paragraph 1 of this Article, have such legal capacity as is necessary for the proper exercise of its functions.

CHAPTER THREE
PRINCIPLES, OBJECTIVES, SADC COMMON AGENDA AND GENERAL UNDERTAKINGS

ARTICLE 4
PRINCIPLES

SADC and its Member States shall act in accordance with the following principles:

- (a) sovereign equality of all Member States;
- (b) solidarity, peace and security;
- (c) human rights, democracy and the rule of law;
- (d) equity, balance and mutual benefit; and
- (e) peaceful settlement of disputes.

ARTICLE 5
OBJECTIVES

1. The objectives of SADC shall be to:
 - (a) promote sustainable and equitable economic growth and socio-economic development that will ensure poverty alleviation with the ultimate objective of its eradication, enhance the standard and quality of life of the people of Southern Africa and support the socially disadvantaged through regional integration;
 - (b) promote common political values, systems and other shared values which are transmitted through institutions which are democratic, legitimate and effective;
 - (c) consolidate, defend and maintain democracy, peace, security and stability;
 - (d) promote self-sustaining development on the basis of collective self-reliance, and the interdependence of Member States;
 - (e) achieve complementarity between national and regional strategies and programmes;
 - (f) promote and maximise productive employment and utilisation of resources

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of the Region;

- (g) achieve sustainable utilisation of natural resources and effective protection of the environment;
 - (h) strengthen and consolidate the long standing historical, social and cultural affinities and links among the people of the Region;
 - (i) combat HIV/AIDS or other deadly and communicable diseases;
 - (j) ensure that poverty eradication is addressed in all SADC activities and programmes; and
 - (k) mainstream gender in the process of community building.
2. In order to achieve the objectives set out in paragraph 1 of this Article, SADC shall:
- (a) harmonise political and socio-economic policies and plans of Member States;
 - (b) encourage the people of the Region and their institutions to take initiatives to develop economic, social and cultural ties across the Region, and to participate fully in the implementation of the programmes and projects of SADC;
 - (c) create appropriate institutions and mechanisms for the mobilisation of requisite resources for the implementation of programmes and operations of SADC and its institutions;
 - (d) develop policies aimed at the progressive elimination of obstacles to the free movement of capital and labour, goods and services, and of the people of the Region generally, among Member States;
 - (e) promote the development of human resources;
 - (f) promote the development, transfer and mastery of technology;
 - (g) improve economic management and performance through regional co-operation;
 - (h) promote the coordination and harmonisation of the international relations of Member States;
 - (i) secure international understanding, co-operation and support, and mobilise the inflow of public and private resources into the Region; and

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- (j) develop such other activities as Member States may decide in furtherance of the objectives of this Treaty.

ARTICLE 5A
SADC COMMON AGENDA

1. The SADC Common Agenda shall be as reflected in Article 5 of this Treaty.
2. Without prejudice to paragraph 1 of this Article, the Council shall develop and implement the SADC Common Agenda.

ARTICLE 6
GENERAL UNDERTAKINGS

1. Member States undertake to adopt adequate measures to promote the achievement of the objectives of SADC, and shall refrain from taking any measure likely to jeopardise the sustenance of its principles, the achievement of its objectives and the implementation of the provisions of this Treaty.
2. SADC and Member States shall not discriminate against any person on grounds of gender, religion, political views, race, ethnic origin, culture, ill health, disability, or such other ground as may be determined by the Summit.
3. SADC shall not discriminate against any Member State.
4. Member States shall take all steps necessary to ensure the uniform application of this Treaty.
5. Member States shall take all necessary steps to accord this Treaty the force of national law.
6. Member States shall co-operate with and assist institutions of SADC in the performance of their duties.

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CHAPTER FOUR
MEMBERSHIP

ARTICLE 7
MEMBERSHIP

States listed in the Preamble hereto shall, upon signature and ratification of this Treaty, be members of SADC.

ARTICLE 8
ADMISSION OF NEW MEMBERS

1. Any State not listed in the Preamble to this Treaty may become a member of SADC upon being admitted by the existing members and acceding to this Treaty.
2. The Summit shall determine the procedures for the admission of new members and for accession to this Treaty by such members.
3. The Council shall consider and recommend to the Summit any application for membership of SADC.
4. The admission of any State to membership of SADC shall be effected by a unanimous decision of the Summit.
5. Membership of SADC shall not be subject to any reservations.

CHAPTER FIVE

INSTITUTIONS

ARTICLE 9

ESTABLISHMENT OF INSTITUTIONS

1. The following institutions are hereby established:

- (a) the Summit of Heads of State or Government;
- (b) the Organ on Politics, Defence and Security Co-operation;
- (c) the Council of Ministers;
- (d) the Sectoral and Cluster Ministerial Committees;
- (e) the Standing Committee of Officials;
- (f) the Secretariat;
- (g) the Tribunal; and
- (h) SADC National Committees.

2. Other institutions may be established as necessary.

ARTICLE 9A

TROIKA

1. The Troika shall apply with respect to the following institutions:

- (a) the Summit;
- (b) the Organ;
- (c) the Council;
- (d) the Sectoral and Cluster Ministerial Committees; and
- (e) the Standing Committee of Officials.

2. The Troika of the Summit shall consist of:

- (a) the Chairperson of SADC;
- (b) the Incoming Chairperson of SADC who shall be the Deputy Chairperson of SADC; and

(c) the Outgoing Chairperson of SADC.

3. The respective offices of the Troika of the Summit shall be held for a period of one year.
4. The membership and term of office of the Troika of the Council, the Sectoral and Cluster Ministerial Committees and the Standing Committee of Officials shall correspond to the membership and term of office of the Troika of the Summit.
5. The Troika of the Organ shall consist of:
 - (a) the Chairperson of the Organ;
 - (b) the Incoming Chairperson of the Organ who shall be the Deputy Chairperson of the Organ; and
 - (c) the Outgoing Chairperson of the Organ.
6. The Troika of each institution shall function as a steering committee of the institution and shall, in between the meetings of the institution, be responsible for:
 - (a) decision - making;
 - (b) facilitating the implementation of decisions; and
 - (c) providing policy directions.
7. The Troika of each institution shall have power to create committees on an ad hoc basis.
8. The Troika of each institution shall determine its own rules of procedure.
9. The Troika of each institution may co-opt other members as and when required.

ARTICLE 10

THE SUMMIT

1. The Summit shall consist of the Heads of State or Government of all Member States, and shall be the supreme policy-making Institution of SADC.
2. The Summit shall be responsible for the overall policy direction and control of the functions of SADC.
3. Subject to Article 22 of this Treaty, the Summit shall adopt legal instruments for the implementation of the provisions of this Treaty; provided that the Summit may delegate this authority to the Council or any other institution of SADC as the Summit may deem appropriate.

4. The Summit shall elect a Chairperson and a Deputy Chairperson of SADC from among its members for one year on the basis of rotation.
5. The Summit shall meet at least twice a year.
6. The Summit may create committees, other institutions and organs as it may consider necessary.
7. The Summit shall appoint the Executive Secretary and one or more Deputy Executive Secretaries, on the recommendation of the Council.
8. Subject to Article 8 of this Treaty, the Summit shall decide on the admission of new members to SADC.
9. Unless otherwise provided in this Treaty, the decisions of the Summit shall be taken by consensus and shall be binding.

ARTICLE 10A

ORGAN ON POLITICS, DEFENCE AND SECURITY CO-OPERATION

1. The Summit shall select a Chairperson and a Deputy Chairperson of the Organ on the basis of rotation from among the members of the Summit except that the Chairperson of the Summit shall not simultaneously be the chairperson of the Organ.
2. The term of office of the Chairperson, Incoming Chairperson and the Ongoing Chairperson of the Organ shall be one year respectively.

3. The Chairperson of the Organ shall consult with the Troika of the Summit and report to the Summit.

4. There shall be a Ministerial Committee of the Organ, consisting of the Ministers responsible for:

- (a) foreign affairs;
- (b) defence;
- (c) public security;
- (d) state security; or
- (e) police

from each of the Member States, which shall be responsible for the coordination of the work of the Organ and its structures.

5. The structure, functions, powers and procedures of the Organ and other related

matters shall be prescribed in a Protocol.

6. The Secretariat shall provide Secretariat services to the Organ.
7. Decisions of the Organ shall be taken by consensus.

ARTICLE 11

THE COUNCIL

1. The Council shall consist of one Minister from each Member State, preferably a Minister responsible for Foreign or External Affairs.
2. It shall be the responsibility of the Council to:
 - (a) oversee the functioning and development of SADC;
 - (b) oversee the implementation of the policies of SADC and the proper execution of its programmes;
 - (c) advise the Summit on matters of overall policy and efficient and harmonious functioning and development of SADC;
 - (d) approve policies, strategies and work programmes of SADC;
 - (e) direct, coordinate and supervise the operations of the institutions of SADC subordinate to it;
 - (f) recommend, for approval to the Summit, the establishment of directorates, committees, other institutions and organs;
 - (g) create its own committees as necessary;
 - (h) recommend to the Summit persons for appointment to the posts of Executive Secretary and Deputy Executive Secretaries;
 - (i) determine the Terms and Conditions of Service of the staff of the institutions of SADC;
 - (j) develop and implement the SADC Common Agenda and strategic priorities;
 - (k) convene conferences and other meetings as appropriate, for purposes of promoting the objectives and programmes of SADC; and
- (1) perform such other duties as may be assigned to it by the Summit or this

Treaty.

3. The Chairperson and Deputy Chairperson of the Council shall be appointed by the Member States holding the Chairpersonship and Deputy Chairpersonship of SADC respectively.
4. The Council shall meet at least four times a year.
5. The Council shall report and be responsible to the Summit.
6. Decisions of the Council shall be taken by consensus.
7. The Council shall consider and recommend to the Summit any application for membership to SADC.

ARTICLE 12

SECTORAL AND CLUSTER MINISTERIAL COMMITTEES

1. The Sectoral and Cluster Ministerial Committees shall consist of ministers from each Member State.
2. It shall be the responsibility of the Sectoral and Cluster Ministerial Committees to:

(a) oversee the activities of the core areas of integration which include:

- (i) trade, industry, finance and investment;
- (ii) infrastructure and services;
- (iii) food, agriculture, natural resources and environment;
- (iv) social and human development and special programmes, which include: health and HIV and AIDS; education; labour; employment; and gender;
- (v) politics, defence and security; and
- (vi) legal affairs and judicial matters;

- (b) monitor and control the implementation of the Regional Indicative Strategic Development Plan in its area of competence;

- (c) provide policy advice to the Council; and
 - (d) create such permanent or ad hoc subcommittees as may be necessary.
3. The Sectoral and Cluster Ministerial Committees shall, with respect to their responsibilities under paragraph 2 of this Article, have decision making powers to ensure rapid implementation of programmes approved by Council.
 4. The Chairperson and Deputy Chairperson of the Sectoral or Cluster Ministerial Committees shall be appointed from the Member States holding the Chairpersonship and Deputy Chairpersonship, respectively, of the Council.
 5. The Sectoral and Cluster Ministerial Committees shall meet at least once a year.
 6. The Sectoral and Cluster Ministerial Committees shall report and be responsible to the Council.
 7. Notwithstanding paragraph 6, the Cluster for the Organ on Politics, Defence and Security Cooperation shall report in accordance with the Protocol on Politics, Defence and Security Co-operation.

8. Decisions of the Sectoral and Cluster Ministerial Committees shall be taken by consensus.

ARTICLE 13

THE STANDING COMMITTEE OF OFFICIALS

1. The Standing Committee shall consist of one permanent secretary or an official of equivalent rank from each Member State, from the Ministry that is the SADC National Contact Point
2. The Standing Committee shall be a technical advisory committee to the Council.
3. The Standing Committee shall process documentation from the Sectoral and Cluster Ministerial Committees to the Council.
4. The Standing Committee shall report and be responsible to the Council.
5. The Chairperson and Deputy Chairperson of the Standing Committee shall be appointed from the Member States holding the Chairpersonship and the Deputy Chairpersonship, respectively, of the Council.
6. The Standing Committee shall meet at least four times a year.

7. Decisions of the Standing Committee shall be taken by consensus.

ARTICLE 14

THE SECRETARIAT

1. The Secretariat shall be the principal executive institution of SADC, and shall be responsible for:

- (a) strategic planning and management of the programmes of SADC;
- (b) implementation of decisions of the Summit, Troika of the Summit, Organ on Politics, Defence and Security Co-operation, Troika of the Organ on Politics, Defence and Security Co-operation, Council, Troika of the Council, Sectoral and Cluster Ministerial Committees and Troika of the Sectoral and Cluster Ministerial Committees;
- (c) organisation and management of SADC meetings;
- (d) financial and general administration;
- (e) representation and promotion of SADC;
- (f) coordination and harmonisation of the policies and strategies of Member States;
- (g) gender mainstreaming in all SADC programmes and activities;
- (h) submission of harmonized policies and programmes to the Council for consideration and approval;
- (i) monitoring and evaluating the implementation of regional policies and programmes;
- (j) collation and dissemination of information on the Community and maintenance of a reliable database;
- (k) development of capacity, infrastructure and maintenance of intra-regional information communication technology;
- (l) mobilization of resources, co-ordination and harmonization of programmes and projects with cooperating partners;
- (m) devising appropriate strategies for self financing and income generating

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activities and investment;

- (n) management of special programmes and projects;
- (o) undertaking research on Community building and the integration process; and
- (p) preparation and submission to the Council, for approval, administrative regulations, standing orders and rules for management of the affairs of SADC.

2. The Secretariat shall be headed by the Executive Secretary who shall be assisted by one or more Deputy Executive Secretaries as the Summit may decide from time to time.

The Deputy Executive Secretary for Regional Integration shall lead and manage the implementation of SADC Regional Integration programmes, and shall report to have delegated powers and assist the Executive Secretary in the execution of his or her functions.

3. ~~The Deputy Executive Secretary for Finance and Administration shall lead and manage the provision of corporate support services of the SADC Secretariat, and shall report to the Executive Secretary.~~

4A ~~The Secretariat shall have such other staff as may be determined by the Council from time to time.~~

5. Except as otherwise provided in this Treaty, the structures of the Secretariat and specifications, descriptions and grading of jobs of the staff of the Secretariat shall be as determined from time to time by the Council.

ARTICLE 15

THE EXECUTIVE SECRETARY

1. The Executive Secretary shall be responsible to the Council for the following:
 - (a) consultation and coordination with the Governments and other institutions of Member States;
 - (b) pursuant to the direction of Council, Summit or on his or her own initiative,

1- Paragraph 3 of Article 14 was repealed by the Agreement Amending the Treaty adopted on 8 September, 2009.
2- Paragraph 3A of Article 14 was repealed by the Agreement Amending the Treaty adopted on 8 September, 2009.

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undertaking measures aimed at promoting the objectives of SADC and enhancing its performance;

- (c) promotion of co-operation with other organisations for the furtherance of the objectives of SADC;
 - (d) organising and servicing meetings of the Summit, the Council, the Standing Committee and any other meetings convened on the direction of the Summit or the Council;
 - (e) custodianship of the property of SADC;
 - (f) appointment of the staff of the Secretariat, in accordance with procedures, and under Terms and Conditions of Service determined by the Council;
 - (g) administration and finances of the Secretariat;
 - (h) preparation of Annual Reports on the activities of SADC and its institutions;
 - (i) preparation of the Budget and Audited Accounts of SADC for submission to the Council;
 - (j) diplomatic and other representations of SADC;
 - (k) public relations and promotion of SADC; and
 - (l) such other functions as may, from time to time, be determined by the Summit and Council.
2. The Executive Secretary shall liaise closely with other institutions, guide, support and monitor the performance of SADC in the various sectors to ensure conformity and harmony with agreed policies, strategies, programmes and projects.
 3. The Executive Secretary and the Deputy Executive Secretaries shall each be appointed for four years, and be eligible for appointment for another period not exceeding four years.

ARTICLE 16

THE TRIBUNAL

The Tribunal shall be constituted to ensure adherence to and the proper interpretation of the provisions of this Treaty and subsidiary instruments and to adjudicate upon such disputes as may be referred to it.

2. The composition, powers, functions, procedures and other related matters governing the Tribunal shall be prescribed in a Protocol, which shall, notwithstanding the provisions of Article 22 of this Treaty, form an integral part of this Treaty, adopted by the Summit.
3. Members of the Tribunal shall be appointed for a specified period.
4. The Tribunal shall give advisory opinions on such matters as the Summit or the Council may refer to it.
5. The decisions of the Tribunal shall be final and binding.

ARTICLE 16A

SADC NATIONAL COMMITTEES

1. Each Member State shall create a SADC National Committee.
2. Each SADC National Committee shall consist of key stakeholders.
3. Each SADC National Committee shall, in its composition, reflect the core areas of integration and coordination referred to in paragraph 2 of Article 12 of this Treaty.
4. It shall be the responsibility of each SADC National Committee to:
 - (a) provide input at the national level in the formulation of SADC policies, strategies and programmes of action;
 - (b) coordinate and oversee, at the national level, implementation of SADC programmes of action;
 - (c) initiate projects and issue papers as an input to the preparation of the Regional Indicative Strategic Development Plan, in accordance with the priority areas set out in the SADC Common Agenda; and
 - (d) create a national steering committee, sub-committees and technical committees.
5. Each national steering committee shall consist of the chairperson of the SADC National Committee and the chairpersons of sub-committees.
6. Sub-committees and technical committees of the SADC National Committee shall operate at ministerial and officials levels.

7. A national steering committee shall be responsible for ensuring rapid implementation of programmes that would otherwise wait for a formal meeting of the SADC National Committee.
8. Sub-committees and technical committees shall endeavour to involve key stakeholders in their operations.
9. Each Member State shall create a national secretariat to facilitate the operation of the SADC National Committee.
10. Each national secretariat of a SADC National Committee shall produce and submit reports to the Secretariat at specified intervals.
11. Each Member State shall provide funds for the operation of its national secretariat which shall be structured according to the core areas of integration referred to in paragraph 2 of Article 12 of this Treaty.
12. Each SADC National Committee shall meet at least four times a year.
13. For purposes of this Article, key stakeholders include:

- (a) government;
- (b) private sector;
- (c) civil society;
- (d) non-governmental organizations; and
- (e) workers and employers organizations.

ARTICLE 17
SPECIFIC UNDERTAKINGS

1. Member States shall respect the international character and responsibilities of SADC, the Executive Secretary and other staff of SADC, and shall not seek to influence them in the discharge of their functions.
2. In the performance of their duties, the members of the Tribunal, the Executive Secretary and the other staff of SADC shall be committed to the international character of SADC, and shall not seek or receive instructions from any Member State, or from any authority external to SADC. They shall refrain from any action incompatible with their positions as international staff responsible only to SADC.

CHAPTER SIX
MEETINGS

ARTICLE 18
QUORUM

The quorum for all meetings of the institutions of SADC shall be two-thirds of its Members.

ARTICLE 19
DECISIONS

Except as otherwise provided in this Treaty, decisions of the institutions of SADC shall be taken by consensus.

ARTICLE 20
PROCEDURE

Except as otherwise provided in this Treaty, the institutions of SADC shall determine their own rules of procedure.

CHAPTER SEVEN
CO-OPERATION

ARTICLE 21

AREAS OF CO-OPERATION

1. Member States shall cooperate in all areas necessary to foster regional development and integration on the basis of balance, equity and mutual benefit.
2. Member States shall, through appropriate institutions of SADC, coordinate, rationalise and harmonise their overall macro-economic policies and strategies, programmes and projects in the areas of co-operation.
3. In accordance with the provisions of this Treaty, Member States agree to co-operate in the areas of:
 - (a) food security, land and agriculture;
 - (b) infrastructure and services;
 - (c) trade, industry, finance, investment and mining;
 - (d) social and human development and special programmes;
 - (e) science and technology.
 - (f) natural resources and environment;
 - (g) social welfare, information and culture; and
 - (h) politics, diplomacy, international relations, peace and security.
4. Additional areas of co-operation may be decided upon by the Council.

ARTICLE 22
PROTOCOLS

1. Member States shall conclude such Protocols as may be necessary in each area of co-operation, which shall spell out the objectives and scope of, and institutional mechanisms for, co-operation and integration.
2. Each Protocol shall be approved by the Summit on the recommendation of the Council.

3. Each Protocol shall be open to signature and ratification.
4. Each Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by two thirds of the Member States.
5. Once a Protocol has entered into force, a Member State may only become a party thereto by accession.
6. Each Protocol shall remain open for accession by any State subject to Article 8 of this Treaty.
7. The original texts of each Protocol and all instruments of ratification and accession shall be deposited with the Executive Secretary who shall transmit certified copies thereof to all Member States.
8. The Executive Secretary shall register each Protocol with the Secretariat of the United Nations Organization and the Commission of the African Union.
9. Each Protocol shall be binding only on the Member States that are party to the Protocol in question.
10. Decisions concerning any Protocol that has entered into force shall be taken by the parties to the protocol in question.
11. An amendment to any Protocol that has entered into force shall be adopted by a decision of three-quarters of the Member States that are parties to the Protocol.
12. A proposal for the amendment of the Protocol shall be submitted to the Executive Secretary by any Member State that is party to the Protocol.
13. The Executive Secretary shall submit a proposal for amendment of the Protocol to Council after:
 - (a) all Member States that are parties to the Protocol have been notified of the proposal; and
 - (b) thirty days have elapsed since notification to the Member States that are parties to the Protocol.
14. No reservation shall be made to any Protocol.

ARTICLE 23
STAKEHOLDERS

1. In pursuance of the objectives of this Treaty, SADC shall seek to involve fully, the people of the Region and key stakeholders in the process of regional integration.
2. SADC shall co-operate with, and support the initiatives of the peoples of the Region and key stakeholders, contributing to the objectives of this Treaty in the areas of co-operation in order to foster closer relations among the communities, associations and people of the Region.
3. for the purposes of this article, key stakeholders include:
 - (a) private sector;
 - (b) civil society;
 - (c) non - governmental organisations; and
 - (d) workers and employers organisations.

CHAPTER EIGHT
RELATIONS WITH OTHER STATES, REGIONAL AND
INTERNATIONAL ORGANISATIONS

ARTICLE 24

1. Subject to the provisions of Article 6(1), Member States and SADC shall maintain good working relations and other forms of co-operation, and may enter into agreements with other states, regional and international organisations, whose objectives are compatible with the objectives of SADC and the provisions of this Treaty.
2. Conferences and other meetings may be held between Member States and other Governments and organisations associated with the development efforts of SADC to review policies and strategies, and evaluate the performance of SADC in the implementation of its programmes and projects, identify and agree on future plans of co-operation.

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[Signature]

CHAPTER NINE
RESOURCES, FUNDS AND ASSETS

ARTICLE 25
RESOURCES

1. SADC shall be responsible for the mobilisation of its own and other resources required for the implementation of its programmes and projects.
2. SADC shall create such institutions as may be necessary for the effective mobilisation and efficient application of resources for regional development.
3. Resources acquired by SADC by way of contributions, loans, grants or gifts, shall be the property of SADC.
4. The resources of SADC may be made available to Member States in pursuance of the objectives of this Treaty, on terms and conditions mutually agreed between SADC and the Member States involved.
5. Resources of SADC shall be utilised in the most efficient and equitable manner.

ARTICLE 26
FUNDS

The funds of SADC shall consist of contributions of Member States, income from SADC enterprises and receipts from regional and non-regional sources.

ARTICLE 26A
REGIONAL DEVELOPMENT FUND

1. There is hereby established a special fund of SADC to be known as the Regional Development Fund in which shall be accounted receipts and expenditure of SADC relating to the development of SADC.
2. The Regional Development Fund shall, subject to this Treaty, consist of contributions of Member States and receipts from regional and non-regional sources, including the private sector, civil society, non-governmental organisations and workers and employers organisations.
3. The Council shall determine the modalities for the institutionalization, operation and

management of the Regional Development Fund.

4. The Regional Development Fund shall be governed in terms of financial regulations made in accordance with Article 30 of this Treaty.

ARTICLE 27 ASSETS

1. Property, both movable and immovable, acquired by or on behalf of SADC shall constitute the assets of SADC, irrespective of their location.
2. Property acquired by Member States, under the auspices of SADC, shall belong to the Member States concerned, subject to provisions of paragraph 3 of this Article, and Articles 25 and 34 of this Treaty.
3. Assets acquired by Member States under the auspices of SADC shall be accessible to all Member States on an equitable basis.

CHAPTER TEN FINANCIAL PROVISIONS

ARTICLE 28 THE BUDGET

1. The budget of SADC shall be funded by financial contributions made by Member States, and such other sources as may be determined by the Council.
2. Member States shall contribute to the budget of SADC based upon a formula agreed upon by the Summit.
3. The Executive Secretary shall cause to be prepared, estimates of revenue and expenditure for the Secretariat, and submit them to the Council, not less than three months before the beginning of the financial year.
4. The Council shall approve the estimates of revenue and expenditure before the beginning of the financial year.
5. The financial year of SADC shall be determined by the Council.
- 6.

ARTICLE 29

EXTERNAL AUDIT

1. The Council shall appoint external auditors and shall fix their fees and remuneration at the beginning of each financial year.
2. The Executive Secretary shall cause to be prepared and audited annual statements of accounts for the Secretariat and submit them to the Council for approval.

ARTICLE 30

FINANCIAL REGULATIONS

The Executive Secretary shall prepare and submit to the Council for approval financial regulations, standing orders and rules for the management of the affairs of SADC.

CHAPTER ELEVEN IMMUNITIES AND PRIVILEGES

ARTICLE 31

1. SADC, its institutions and staff shall, in the territory of each Member State, have such immunities and privileges as are necessary for the proper performance of their functions under this Treaty, and which shall be similar to those accorded to comparable international organisations.
2. The immunities and privileges conferred by this Article shall be prescribed in a Protocol.

CHAPTER TWELVE SETTLEMENT OF DISPUTES

ARTICLE 32

Any dispute arising from the interpretation or application of this Treaty, the interpretation, application or validity of Protocols or other subsidiary instruments made under this Treaty, which cannot be settled amicably, shall be referred to the Tribunal.

CHAPTER THIRTEEN
SANCTIONS, WITHDRAWAL AND DISSOLUTION

ARTICLE 33
SANCTIONS

1. Sanctions may be imposed against any Member State that:
- (a) persistently fails, without good reason, to fulfil obligations assumed under this Treaty;
 - (b) implements policies which undermine the principles and objectives of SADC; or
 - (c) is in arrears in the payment of contributions to SADC, for reasons other than those caused by natural calamity or exceptional circumstances that gravely affect its economy, and has not secured the dispensation of the Summit.
2. The Summit shall determine on a case-by-case basis sanctions to be imposed under subparagraphs a) and b) of paragraph 1 of this Article.

3. Subject to subparagraph c) of paragraph 1 of this Article, sanctions against a Member State which is in arrears shall be imposed as follows:

- (a) when in arrears for one year, suspension of the Member State's right to speak and receive documentation at meetings of SADC;
- (b) when in arrears for two years, suspension:
 - (i) of the Member State's right to speak and receive documentation at meetings of SADC; and
 - (ii) by SADC of recruitment, and renewal of contracts of employment, of personnel from the Member State;
- (c) when in arrears for three years, suspension:
 - (i) of the Member State's right to speak and receive documentation at meetings of SADC;
 - (ii) by SADC of recruitment, and renewal of contracts of employment, of personnel from the Member State; and
 - (iii) of provision by SADC of funds for new projects in the Member State; and

- (d) when in arrears for four or more years, suspension:
 - (i) of the Member State's right to speak and receive documentation at meetings of SADC;
 - (ii) by SADC of recruitment, and renewal of contracts of employment, of personnel from the Member State; and
 - (iii) of provision by SADC of funds for new projects in the Member State; and
 - (iv) of cooperation, between SADC and the Member State, in the areas of cooperation spelt out in Article 21 of this Treaty.
4. The sanctions referred to in paragraph 3 of this Article shall be applied by the Secretariat without reference to the Summit or Council except that the application of the sanctions shall be subject to the Secretariat notifying:
- (a) prior to any meeting of SADC, Member States in default; and
 - (b) Member States at the beginning of any meeting of SADC.

ARTICLE 34
WITHDRAWAL

1. A Member State wishing to withdraw from SADC shall serve notice of its intention in writing, a year in advance, to the Chairperson of SADC, who shall inform other Member States accordingly.
2. At the expiration of the period of notice, the Member State shall, unless the notice is withdrawn, cease to be a member of SADC.
3. During the one year period of notice referred to in paragraph 1 of this Article, the Member State wishing to withdraw from SADC shall comply with the provisions of this Treaty, and shall continue to be bound by its obligations under this Treaty up to the date of its withdrawal.
4. A Member State which has withdrawn shall not be entitled to claim any property or rights until the dissolution of SADC.
5. Assets of SADC situated in the territory of a Member State which has withdrawn, shall continue to be the property of SADC and be available for its use.

ARTICLE 35

DISSOLUTION

1. The Summit may decide by a resolution supported by three-quarters of all members to dissolve SADC or any of its institutions, and determine the terms and conditions of dealing with its liabilities and disposal of its assets.
2. A proposal for the dissolution of SADC may be made to the Council by any Member State, for preliminary consideration, provided, however, that such a proposal shall not be submitted for the decision of the Summit until all Member States have been duly notified of it and a period of twelve months has elapsed after the submission to the Council.

**CHAPTER FOURTEEN
AMENDMENT OF THE TREATY**

ARTICLE 36

1. An amendment of this Treaty shall be adopted by a decision of three-quarters of all the Members of the Summit.
2. A proposal for the amendment of this Treaty may be made to the Executive Secretary by any Member State for preliminary consideration by the Council, provided, however, that the proposed amendment shall not be submitted to the Council for preliminary consideration until all Member States have been duly notified of it, and a period of three months has elapsed after such notification.

**CHAPTER FIFTEEN
LANGUAGE**

ARTICLE 37

The working languages of SADC shall be English, French and Portuguese and such other languages as the Council may determine.

**CHAPTER SIXTEEN
SAVING PROVISIONS AND TRANSITIONAL PROVISIONS**

ARTICLE 38

SAVING PROVISIONS

A Sectoral Committee, Sector Coordinating Unit or any other institution, obligation or arrangement of the Southern African Development Coordination Conference which exists immediately before the coming into force of this Treaty, shall to the extent that it is not inconsistent with the provisions of this Treaty, continue to subsist, operate or bind Member States or SADC as if it were established or undertaken under this Treaty, until the Council or Summit determines otherwise.

ARTICLE 39

TRANSITIONAL PROVISIONS

1. The Sectoral Committees, Sector Coordinating Units and Commissions shall be phased out within a period of two (2) years from 9th March 2001 according to the programme adopted by the Summit at its Extraordinary Summit meeting held at Windhoek, Namibia on 9th March 2001.
2. The directorates shall be phased in at the Secretariat within a period of two (2) years from 9th March, 2001.

**CHAPTER SEVENTEEN
SIGNATURE, RATIFICATION, ENTRY INTO FORCE, ACCESSION
AND DEPOSITARY**

ARTICLE 40

SIGNATURE

This Treaty shall be signed by the High Contracting Parties.

ARTICLE 41

RATIFICATION

This Treaty shall be ratified by the Signatory States in accordance with their constitutional procedures.

ARTICLE 42

ENTRY INTO FORCE

This Treaty shall enter into force thirty (30) days after the deposit of the instruments of ratification by two-thirds of the States listed in the Preamble.

ARTICLE 43
ACCESSION

This Treaty shall remain open for accession by any State subject to Article 8 of this Treaty.

ARTICLE 44
DEPOSITARY

1. The original texts of this Treaty and all instruments of ratification and accession shall be deposited with the Executive Secretary of SADC, who shall transmit certified copies to all Member States.
2. The Executive Secretary shall register this Treaty with the Secretariat of the United Nations Organisation and the Commission of the African Union.

CHAPTER EIGHTEEN
TERMINATION OF THE MEMORANDUM OF UNDERSTANDING

ARTICLE 45

This Treaty replaces the Memorandum of Understanding on the Institutions of the Southern African Development Coordination Conference dated 20th July, 1981.

IN WITNESS WHEREOF, WE, the Heads of State or Government have signed this Treaty.

DONE AT Windhoek, on the 17th day of August, 1992 in two (2) original texts in the English, and Portuguese languages, both texts being equally authentic [as amended at Blantyre, on day of August, 2001, in Lusaka on 17 August, 2007, in Johannesburg on 17 August, 2008, and in Kinshasa on 8 September, 2009, in three (3) original texts in English, French and Portuguese languages, all texts being equally authentic].

205-SADC Secretariat

M | J | S

ANNEXURE
INCORPORATED "J36"
Reg No 2003/008818/21

Mothle Jooma Sabdia

Ground Floor, Duncan Manor Cnr
Duncan and Brooks Streets, Brooklyn,
Pretoria. PO Box 11147, Hatfield, 0028
Docex 235, Pretoria

Tel: (012) 362-3137/4887/2817

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E-mail: thipem@mjs-inc.co.za

E-mail: louises@mjs-inc.co.za

www.mjs-inc.co.za

VAT Registration Number: 4330197726

To His Excellency Mr J G Zuma
The President of the Republic of South Africa

Address Union Buildings
Private Bag X 1000
PRETORIA
0001

Email delsey@po.gov.za; mavism@po.gov.za

Our Ref MR. T.A. MOTHLE/LOUISE / TAM4399

Date 8 August 2014

CONFIDENTIALITY CAUTION. If you have received this communication in error please note that it is intended for the addressee only, is privileged and confidential and dissemination or copying is prohibited. Please notify us immediately by telephone and return the original message to the above address at our cost.

Dear Honourable President,

RE: REQUEST TO INTERVENE TO ENSURE THAT THE POWERS, ROLE AND RESPONSIBILITIES OF THE SADC TRIBUNAL ARE NOT DILUTED

1. We on behalf of the Law Society of South Africa ("LSSA").
2. We address this letter pursuant to our client's letter to yourself dated 28 February 2014, annexed hereto for ease of reference.

Directors: Thipe Mothle, Ebrahim Jooma, Shiraz Sabdia **Senior Associates:** Roy Stocker, Victor Short, Wanda Donk
Associates: Adele Van Der Merwe, Nicolene Komar **Professional Assistants:** Anzel Vorster, Azraa Janse van Vuuren,
Ilana Moraka, Michelle O'Connell, Mohammad Mamod, Morongoe Khomo, Sian Butlerworth, Teboho Makwali, Telana van
Niekerk, Tshepo Kgomommu, Zenzele Mdluli **Office Manageress:** Hanlie Howe **Also at:** Second Floor, West Tower,
Nelson Mandela Square, Maude Street, Sandton, Johannesburg, 2196, PO Box 785553, Sandton, 2146, Tel: (011) 881
5684, Fax: (011) 881 5611

Trusted • Committed • Empowered

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An

3. The LSSA is an affiliate of the SADC Lawyers Association ("SADC LA"). The LSSA and all other affiliates of SADC LA act in the public interest with regards to legal matters affecting the citizens of the respective countries. Concomitantly SADC LA is a collective representation of these interests within the SADC community.
4. On 20 May 2011 the SADC Member States passed a resolution to suspend the operation of the SADC Tribunal.
5. In addition and through SADC LA, our client understands that a protocol with the purpose of amending the Tribunal's, jurisdiction will be tabled at the upcoming Summit. We advise that our client, SADC LA and its affiliates are in agreement that the aforementioned resolution and the proposed protocol is an infringement to the right of access to justice (guaranteed by the SADC Treaty) of all citizens within SADC.
6. We have been informed that the proposed protocol intends limiting the jurisdiction of the SADC Tribunal by inter alia depriving individual citizens of the existing right to access to the Tribunal for relief against any Member State.
7. We submit that the decision to suspend the Tribunal and any proposed resolution to support the protocol, affects all citizens of the Member States including the citizens of South Africa. Respectfully, any decision which curtails the rights of citizens should be actively and strongly challenged.
8. We are not in possession of the agenda of the Summit, or the proposed protocol and advise that the aforementioned submissions are made in this context.

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9. Notwithstanding and should the aforementioned assumptions be correct, we are instructed to request that you, in accordance with the spirit and purpose of our Constitution and our rule of law, undertake to object to the proposed protocol and to seek a postponement of the issue pending further investigation, consultation and representation by interested parties within each Member State.
10. We also are instructed to request that you urgently provide us with the following documents:
- 10.1 The Agenda for the Summit meeting to be held on 17 and 18 August 2014; and
- 10.2 All or any proposed protocol suspending the SADC Tribunal and its ability to entertain claims lodged by individuals against Member States.
11. Kindly forward your response to this letter at the following email address, thipem@mjs-inc.co.za, on/or before Wednesday 13 August 2014, failing which we are instructed to approach a Court with jurisdiction on an urgent basis for an order in the terms stipulated in paragraph 9 above.

Yours faithfully

MOTHLE JOOMA SABDIA INCORPORATED
PER: T A MOTHE

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**LAW SOCIETY
OF SOUTH AFRICA**

OFFICE OF THE CO-CHAIRPERSONS

His Excellency Mr J G Zuma
The President of the Republic of South Africa
Union Buildings
Private Bag X1000
Pretoria
0001

By e-mail: delsev@po.gov.za and mavism@po.gov.za

28 February 2014

Mr President

**REQUEST TO INTERVENE TO ENSURE THAT THE POWERS, ROLE AND
RESPONSIBILITIES OF THE SADC TRIBUNAL ARE NOT DILUTED**

We respectfully draw your attention to the memorandum from the SADC Lawyers Association (SADC LA) which is attached hereto. The Law Society of South Africa (LSSA) wishes to promote the views contained therein.

The LSSA regards this matter as very urgent and therefore, in the interest of our region, requests an opportunity to address you or if not possible, the Honourable Minister of Justice, Mr J Radebe.

Our delegation will include the Management Committee of the Council of the LSSA and the Law Society's representative on the SADC LA Executive.

We look forward to receiving your reply.

Yours faithfully

**KATHLEEN MATOLO-DLEPU
CO-CHAIRPERSON**

**DAVID BEKKER
CO-CHAIRPERSON**

cc. The Hon JT Radebe, E-mail: kmadilla@justice.gov.za

The Law Society of South Africa brings together the Black Lawyers Association, the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces and the National Association of Democratic Lawyers in representing the attorneys' profession in South Africa.

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304 Brooks Street Menlo Park Pretoria

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The SADC Council of Ministers Must Persuade SADC Leaders not to Dilute the Powers, Role and Responsibilities of the SADC Tribunal

Summary of the Problem and Requests

Following the suspension of the SADC Tribunal by the SADC Summit in 2010 to review the Court's mandate and the subsequent resolution made by the SADC Summit in 2012 to amend the SADC Protocol on the SADC Tribunal to divest the Court of its jurisdiction to adjudicate matters instituted by non-State actors (i.e. rendering it an interstate court), the SADC Lawyers' Association (SADCLA) respectfully requests the SADC Council of Ministers to:

1. Advise the SADC leaders not to adopt a SADC Protocol on the SADC Tribunal that limits the jurisdiction of the Tribunal to State parties only;
2. Urge the SADC leaders not to adopt, or, to defer making a decision on the nature and form that the Tribunal should take at the SADC Summit scheduled for August 2014 in Zimbabwe, in order to allow for further consultations on the issue. Meanwhile, the Tribunal should be reinstated to allow for the disposition of pending cases; and
3. Further advise the SADC leaders to engage in wide consultations with stakeholders such as civil society, the business community and labour unions as stipulated in Article 23 of the SADC Treaty.

Background

The SADC Tribunal was established in 1992 in terms of Article 9 of the SADC Treaty as one of the 8 institutions of SADC. The Tribunal's members (judges) were appointed at the SADC Summit in Gaborone on 18 August 2005 followed by their swearing in in November 2005. The Registrar of the Tribunal was sworn in in November 2006, paving the way for the Tribunal to commence its operations.

At its inception, the scope of the Tribunal's jurisdiction included among others:

- i. The powers to hear disputes between States, and between natural or legal persons and States;
- ii. Exclusive jurisdiction over all disputes between the States and the Community;
- iii. Exclusive jurisdiction over all disputes between natural or legal persons and the Community;
- iv. Exclusive jurisdiction over all disputes between the Community and its

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[Signature]

- staff relating to their conditions of employment; and
- v. Jurisdiction to give advisory opinions, which may be requested by the Summit or by the Council.¹

The first case was brought before the Tribunal in 2007 and by 2010 the Tribunal had adjudicated 20 cases. Amongst these cases were those of *Mike Campbell (Pvt) Ltd and 79 others vs. the Republic of Zimbabwe* focusing on the land reform question in Zimbabwe.

The outcomes of these cases, which had been decided in favour of the petitioner-farmers, triggered the ongoing efforts by the Government of the Republic of Zimbabwe to have the Tribunal disbanded starting at the 2009 SADC Summit in the Democratic Republic of the Congo, and culminating in the decision of the SADC Summit in Windhoek in 2010 to suspend the Tribunal pending a review of the Tribunal's "role, functions and terms of reference".

With a lapsed six-month review process, efforts are aimed at drafting a new SADC Protocol on the SADC Tribunal that will result in the SADC Tribunal's jurisdiction being "confined to the interpretation of the SADC Treaty and Protocols relating to disputes between Member States"². This will effectively limit the "in personam" jurisdiction of the Tribunal by barring non-state actors (natural and juristic) from accessing the Tribunal and restrict applicable law to that provided in the SADC Treaty and SADC Protocols.

Reinstatement of the SADC Tribunal and Restoring its Original Jurisdiction

The continued suspension of the SADC Tribunal impacts negatively on the rights of SADC citizens to access justice and to effective legal remedies to disputes. Similarly the proposed limitations on the powers of the Tribunal will impact on the regional integration agenda of SADC as well as dampen investor confidence in the region.

Therefore, limiting the "in personam" jurisdiction of the Tribunal will not only affect ordinary citizens having disputes with SADC States, but will also affect the business community engaged in business with SADC and its institutions as well as SADC employees where labour disputes arise in the course of their employment. Furthermore, it would create a legal quagmire with regard to the disposition of the cases that are still pending before the Tribunal.

The proposed dilution of the jurisdiction of the SADC Tribunal will go against the jurisdictional trend that is prevailing on the African continent with regard to regional and continental courts. Both the ECOWAS Community Court of Justice and the East Africa Court of Justice are directly accessible by individuals. The African Court of Justice and Human Rights allows individuals and NGOs to file cases against Member States that have deposited a declaration allowing

¹Articles 15-20 of the SADC Protocol on the SADC Tribunal

²Communiqué of the 32nd Ordinary Summit of SADC held in Maputo, Mozambique on 18 August 2012

individuals and NGOs with observer status before the African Commission on Human and People's Rights to access the Court. A blanket ban on access to the SADC Tribunal by individuals and other non-state actors therefore goes against this trend and is a negation of the implementation of the principles and objectives of the Constitutive Act of the African Union.

Recommendations to the SADC Ministers

- a) The Ministers must actively engage their respective Head of State about not adopting a Protocol that will dilute the powers, roles and responsibilities of the SADC Tribunal;
- b) The Ministers must engage other Ministers of Justice, during the meeting of the SADC Council of Ministers, to be held in Lilongwe, Malawi from 6 March 2014, on the new protocol on the SADC Tribunal with a view to reinstating the Tribunal according to its original mandate; and
- c) The Ministers must encourage the SADC Heads of State and Government to facilitate a wider participation of the citizens of the region in the formulation of a new protocol on the SADC Tribunal.

* * * *

For more information on this briefing paper, please contact the SADC Lawyers' Association:

Mrs. Makanatsa Makouese
Executive Secretary
makanatsa@sadcla.org
+27(0) 12 366 8800

or,

Ms. Emilia Siwngwa
Programmes Director
emilia@sadcla.org
+27(0) 12 366 8800

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[Handwritten signature]

"A"

Nthabiseng Mollo

From: Sello Mabelane
Sent: 12 May 2015 09:13 AM
To: Nthabiseng Mollo
Subject: FW: SADC TRIBUNAL
Attachments: Letter President J Zuma 11 8 2014.pdf; Letter to President 28022014.pdf

From: Sello Mabelane
Sent: 14 August 2014 11:38 AM
To: 'StemmetA@dirco.gov.za'
Subject: SADC TRIBUNAL

Dear Andre,

Please find attached herewith the documents as discussed.

Regards,

Sello

Email Disclaimer: <http://www.thepresidency.gov.za/pebble.asp?relid=97>

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"B"

Nthabiseng Mollo

From: Sello Mabelane
Sent: 12 May 2015 09:06 AM
To: Nthabiseng Mollo
Subject: FW: SADC TRIBUNAL
Attachments: Letter President J Zuma 11 8 2014.pdf; Letter to President 28022014.pdf

From: Stemmet, PA : Office : Chief State Law Adviser [mailto:StemmetA@dirco.gov.za]
Sent: 14 August 2014 02:02 PM
To: Makhubele John
Cc: Roodt, H Mr : Directorate : SADC, DIRCO; Sngqumba, N Ms : Directorate : SADC, DIRCO; De Wet, JGS : Office : Chief State Law Adviser; Sello Mabelane; dmarivate@justice.gov.za; rmoroke@justice.gov.za
Subject: FW: SADC TRIBUNAL

Dear John,

Kindly look at the attached documents which I received this morning from the Presidency. In short, the Law Society of South Africa wrote to the Presidency in February asking to meet with the Minister of Justice on the question of individual access to the SADC Tribunal. This letter was apparently replied to, and the Law Society has now instructed a firm of attorneys to write to the Presidency with a request to intervene at the upcoming SADC Summit with a view to object to the Protocol in its present form and postpone the matter for further investigation etc. They also request to receive the agenda of Summit and a copy of the draft Protocol.

In my experience such letters are usually the forerunners of the institution of legal action against Government, which should be avoided at all costs.

It seems that the letter was written under the impression that the new draft SADC Protocol will be tabled for adoption at Summit. (This misconception also appeared today in the media) This is not the case, the agenda states that there will only be a report-back on the Protocol.

DOJ&CD as the Department with which the Law Society seeks to engage, may wish to write back stating that the Tribunal Protocol is not to be adopted at the Summit, and then consider the request for a meeting with the DOJ political principals as requested by the Law Society in its February letter.

Kindly keep us informed about developments.

Regards

Adv Andre Stemmet
Senior State Law Adviser (International Law)
Department of International Relations and Cooperation
460 Soutpansberg Avenue
Rietondale
Pretoria
Tel: 012-351 0842
Email: stemmetpa@dirco.gov.za

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Am

From: Sello Mabelane [mailto:Sello@po.gov.za]
Sent: 14 August 2014 11:38 AM
To: Stemmet, PA : Office : Chief State Law Adviser
Subject: SADC TRIBUNAL

Dear Andre,

Please find attached herewith the documents as discussed.

Regards,

Sello

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dm

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO 20382/15

In the matter between:

THE LAW SOCIETY OF SOUTH AFRICA

Applicant

and

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

**THE MINISTER OF JUSTICE OF THE
REPUBLIC OF SOUTH AFRICA**

Second Respondent

**THE MINISTER OF INTERNATIONAL
RELATIONS AND CO-OPERATION OF THE
REPUBLIC OF SOUTH AFRICA**

Third Respondent

FIRST RESPONDENTS' CONFIRMATORY AFFIDAVIT

I, the undersigned,

JACOB GEDLEYIHLEKISA ZUMA

do hereby make oath and state that

JGZ
21/11

1. I am the President of the Republic of South Africa and the Head of State and head of the National Executive in terms of section 83 of the Constitution of South Africa, 1996 ("the Constitution").
2. I am cited as the First Respondent herein in my capacity as the Head of State and the National Executive. My powers and functions are in terms of section 84 of the Constitution, and I am vested with the executive authority of the Republic in terms of section 85 of the Constitution.
3. The facts in this affidavit are true and correct and unless I state the contrary or the context indicates otherwise, are within my personal knowledge and belief.
4. I have read the Notice of Motion, the Founding Affidavit deposed to by **Xolani Maxwell Boqwana** and annexures, and the confirmatory affidavit annexed thereto. I am aware of the nature of the relief that is sought against me.
5. I have also read the Respondents' answering affidavit to which **Terresa Nonkululeko Msomi Sindane**, the Director-General of the Department of Justice and Constitutional Development, has deposed.
6. I confirm the contents of the affidavit of **Terresa Nonkululeko Msomi Sindane** insofar as they refer to me, and to the policies of the Presidency.

J. G. Z.
JNM



DEPONENT

I certify that on this 17 day of JULY 2015, the deponent signed the affidavit in my presence and declared that he knows and understands its contents, has no objection to taking the prescribed oath and considers the oath to be binding on his conscience.

A/17165466-6
A/17165466-6

Commissioner of Oaths

Full Names: DITSHIPI NELSON MAHLANYA

Designation: SERSEANT

[Faint, illegible text]

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO 20382/15

In the matter between:

THE LAW SOCIETY OF SOUTH AFRICA

Applicant

and

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

**THE MINISTER OF JUSTICE OF THE
REPUBLIC OF SOUTH AFRICA**

Second Respondent

**THE MINISTER OF INTERNATIONAL
RELATIONS AND CO-OPERATION OF THE
REPUBLIC OF SOUTH AFRICA**

Third Respondent

THIRD RESPONDENTS' CONFIRMATORY AFFIDAVIT

I the undersigned

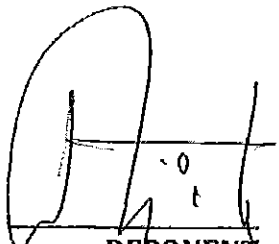
JERRY MATJILA

do hereby make oath and state that

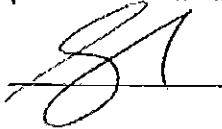
SM *BR*

1. I am the Director-General of the Department of International Relations and Cooperation ("the Department").
2. The Minister who is cited as the Third Respondent herein is the political head of the Department. She is also the Cabinet Minister responsible for the portfolio of International Relations and Cooperation of the Republic of South Africa, that incorporates the powers and functions under the various statutory enactments that form the legal basis of the Department.
3. The facts in this affidavit are true and correct and unless I state the contrary or the context indicates otherwise, are within my personal knowledge and belief.
4. I have read the Notice of Motion, the Founding Affidavit deposed to by **Xolani Maxwell Boqwana** and annexures, and the confirmatory affidavit annexed thereto. I am aware of the nature of the relief that is sought.
5. I have also read the Respondents' answering affidavit to which **Terresa Nonkululeko Msomi Sindane**, the Director-General of the Department responsible for the Department of Justice and Constitutional Development has deposed .
6. I confirm the contents of the affidavit of **Terresa Nonkululeko Msomi Sindane** insofar as they refer to me, the Department, and to the policies of the Department.

Handwritten signature and initials in the bottom right corner of the page.


DEPONENT

I certify that on this 17 day of JULY 2015, the deponent signed the affidavit in my presence and declared that he knows and understands its contents, has no objection to taking the prescribed oath and considers the oath to be binding on his conscience.



Commissioner of Oaths

Full Names: Elizabeth Hendriks Grobler

Designation: warrant officer

SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICE CENTRE
2015 -07- 17
VILLIERIA CSC
SUID-AFRIKAANSE POLISIEDIENS