

SADC AND HUMAN SECURITY

Fitting human rights into the trade matrix

THOKO KAIME

Introduction

Most sub-Saharan countries possess limited development and economic potential¹ because they are very poorly endowed with human and physical capital.² Their plight is exacerbated because they are either denied much-needed investment owing to their small market size³ or because they are taken advantage of by foreign investors owing to their unequal bargaining power.⁴ Such countries are therefore caught in a vicious circle whereby poverty leads to an inability to access foreign investment, which only leads to further poverty.

To overcome these difficulties and break the circle, regional integration has been pursued as the means for creating larger markets and consolidating the resources and potential of these poor economies.⁵ Such larger markets are expected to create greater economies of scale which will then attract investment and improve the development and economic potential of the countries concerned.⁶

In recognition of the limited capability of their individual economies,⁷ governments of the nine independent states of Southern Africa⁸ decided in 1980 to utilise their unity and proximity for two basic objectives: first, the joint co-operation for the sustainable social and economic development of their peoples and the economies of the nine states as a whole; and second, the economic liberation of the member states from historical

domination in the region by the then apartheid South Africa.⁹

The institution that was born out of this initiative was called the Southern African Development Co-ordination Conference (SADCC) and was a somewhat loose arrangement with no formal treaty being signed to formalise the institutions of the co-ordinating conference.¹⁰

However, it soon became apparent that the loose institutional framework adopted by SADCC would significantly constrain the achievement of the aims and objectives of the organisation.¹¹ This weakness, coupled with significant competition from other more organised integration arrangements in Southern Africa¹² and the imminent democratisation of South Africa, necessitated a reconstitution of the co-operation initiative.

The reorganisation of SADCC into the Southern African Development Community (SADC) was achieved by way of a declaration and treaty (the SADC Treaty) which was signed in Namibia in 1992.¹³ With the signing of the SADC Treaty, the regional integration initiative metamorphosed from a co-ordinating conference into a development community.

From the original 10 countries that signed the SADC Treaty, the organisation's membership has expanded to 14 nations which now include Angola, Botswana, the Democratic Republic of Congo, Lesotho, Malawi,

Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.¹⁴

This contribution introduces the SADC regional integration mechanism, outlines its aims and objectives and demonstrates the pre-eminence of trade within the scheme. The paper proceeds to highlight the secondary status ascribed to human rights protection by the SADC Treaty, institutions and programmes despite the human-centred conception of development within the Treaty. It is contended in this paper that the promotion and protection of human rights is one of the central objectives of the integration initiative.

Aims and objectives of SADC

SADC departed considerably from the narrow conception of co-operation pursued by its predecessor and adopted a comprehensive development-oriented strategy.¹⁵ The SADC Treaty envisages a wider context of interaction and therefore articulates a set of interrelated objectives which straddle the economic, social and political spectrum.¹⁶

The economic objectives include the achievement of regional economic integration through the achievement of self-sustaining development,¹⁷ economic growth, the alleviation of poverty,¹⁸ the promotion and maximisation of productive employment of resources,¹⁹ and the achievement of the sustainable utilisation of natural resources.²⁰

Among the social objectives are the building of support mechanisms for the socially disadvantaged,²¹ consolidation of the long-standing historical, social and cultural affinities and links among the peoples of the SADC region,²² the effective protection of the environment,²³ the combating of HIV/AIDS and other deadly communicable diseases²⁴ and the mainstreaming of gender in the process of community building.²⁵

The political objectives range from the evolution of common political values, systems and the strengthening of legitimate and effective democratic institutions,²⁶ to the consolidation and maintenance of democracy, peace, security and stability.²⁷

Similarly, the means of achieving these

objectives are a combination of economic, social and political mechanisms and institutions. They include the harmonisation of political and socio-economic policies and plans of member states,²⁸ the encouragement of popular participation in SADC programmes and projects,²⁹ the creation of appropriate institutions and mechanisms,³⁰ the encouragement of free trade,³¹ the development of human resources,³² and the improvement of economic management and performance.³³

It is thus clear that the regional integration framework espoused by the SADC Treaty transcends mere economic integration and is aimed at political institution-building: to promote economic integration with the explicit purpose that social and political integration will accompany it and transform the region into a broader institutionalised community based on human rights, democracy and the rule of law.³⁴ Apart from the creation of new structures to co-ordinate economic development, the Treaty also envisages the existence of institutions which promote democratic values, encourage social and political integration and qualitatively improve the lives of SADC citizens. It is argued, however, that despite recognising the importance of human rights in the integration mechanism, trade is the only element which features highly, while human rights are given almost cursory treatment.

The role of trade in SADC

Although not the only objective of the regional integration mechanism, trade features pre-eminently in the SADC Treaty, protocols³⁵ and programmes. The preamble notes the SADC states' "duty to promote interdependence and integration of [their] national economies for the harmonious, balanced and equitable development of the Region"³⁶ and of "the need to mobilise ... resources to promote ... economic integration."³⁷ In addition, the areas of co-operation³⁸ and the economic objectives of SADC are trade-oriented and are premised on the increase of regional and international trade for the achievement of economic growth.³⁹

Further, the majority of protocols adopted by SADC are intended to deepen regional

economic integration, and in this regard SADC has adopted protocols on information and communications,⁴⁰ productivity,⁴¹ standardisation,⁴² mining, trade, transport, meteorology,⁴³ and finance and investment.⁴⁴ All these protocols are intended to enhance productivity and efficiency and to encourage both intra- and extra-regional trade. This bias towards economic integration is also evidenced in the way SADC's sectoral programmes are structured.⁴⁵ The trade-oriented sectoral programmes include employment and labour, human resources development, energy, finance and investment, mining, trade and industry, and tourism.⁴⁶

The reasons for the pre-eminence of trade within SADC's legal, institutional and programmatic framework may be classified into three categories. These are historical precedents, regional economic dynamics and international economic imperatives.

It must be noted that economic co-operation was the principal reason for the existence of SADC's predecessor SADCC,⁴⁷ and thus to a large extent SADC inherited and continued this mandate albeit at a more profound level than mere co-operation. In this respect, the agenda of SADC was already influenced and shaped at inception by the activities of SADCC before it. Further, regional integration arrangements in Southern Africa may be correctly described as the formalisation of historical economic linkages between the peoples of the region.⁴⁸ Since pre-colonial times, the people of Southern Africa have involved themselves in trade and other economic activities. The institution of formal linkages is thus intended to consolidate trade activities towards the achievement of economic growth.

Second, SADC is mainly composed of generally poor economies that rely chiefly on primary exports to developed economies. This being the case, they are highly susceptible to external shocks due to the non-existence of alternative trade linkages with either developed markets or their neighbours.⁴⁹ Thus, the creation of alternative, durable and sustainable trade links among SADC members was imperative in ensuring the economic growth of the region. It is intended that the creation of a bigger market will attract foreign and

domestic investment and will lead to economic prosperity for all member countries.

Lastly, developments in the world economy have necessitated the creation of integrated economies amongst proximate nations in order to take advantage of the increased movements of capital, labour and goods, as well as the economies of scale that result from such arrangements.⁵⁰ Integration arrangement trends now emerging in most regions of the world are all part and parcel of the global movement towards common regional markets and the regional management of resources and institutions.⁵¹ The focus of this global movement is on the creation of efficient trade systems which are intended to spur on and nurture economic growth. From this perspective then, SADC may be said to have been formed with the purpose of benefiting from these trends in the international political economy.

The historical and economic pervasiveness of trade has therefore influenced the posture of SADC's legal, institutional and programmatic frameworks. It is hoped that the effective implementation of trade policies will lead to sustainable economic growth and the reduction of poverty within the region.

The role of human rights in SADC

Although the SADC Treaty identifies the promotion of human rights as one of the core principles of the integration mechanism⁵² and proclaims the observance of human rights as critical in ensuring people's participation in the initiative,⁵³ this unequivocal commitment to human rights is not translated with equal force into the normative framework established by the Treaty or into SADC's programmatic activities.⁵⁴ Thus the Treaty does not create any institution with the specific mandate to deal with human rights issues, neither are there any protocols or sectors especially entrusted with human rights protection.⁵⁵

However, given the people-centred nature of the integration mechanism, the inadequate attention accorded to human rights promotion and protection is neither conducive to the achievement of the aims and objectives of SADC,⁵⁶ nor is it in harmony with well-

established principles of international law regarding the purpose of trade and development arrangements.⁵⁷

Deep integration as envisaged by the SADC Treaty is inevitably accompanied by high levels of economic, political and social interaction.⁵⁸ This increased interaction calls for the establishment of a coherent framework of rules for governing the relations that arise therefrom.⁵⁹ It is recognised that guaranteeing respect for human rights satisfies this need.⁶⁰ This is because “in a society governed by law, [human rights] can be a means for people to protect themselves from bureaucratic abuse, commercial exploitation, and official lawlessness”.⁶¹

The adoption of strong human rights values and institutions serves not only to give confidence to investors and trading partners but also ensures the effective participation of individuals in the scheme and assures protection from the negative consequences of trade.⁶² Apart from positive aspects such as the generation of income, employment and foreign exchange, trade may also manifest negative consequences such as environmental damage, destruction and loss of livelihoods or unacceptable levels of exploitation.⁶³ Consequently, adherence to human rights values and norms serves to protect vulnerable groups such as women and children whose social protection is liable to be diminished by trade dynamics.⁶⁴

Further, international human rights law and practice has emphasised the centrality and primacy of human rights obligations in all areas of governance in development, including international and regional trade, investment and financial policies, agreements and practices,⁶⁵ and requires all governments and economic policy forums to take human rights principles and obligations into account when formulating national, regional or international economic policies.⁶⁶

This position is borne out of the recognition that trade arrangements such as the SADC integration mechanism are but processes that enable human persons to fully enjoy all economic, social, cultural, civil and political rights.⁶⁷ Increasingly, it is being accepted that it is unrealistic to measure development “purely on the basis of economic

indicia”⁶⁸ while ignoring the human dimension of development.⁶⁹ Economic growth must therefore translate into a qualitative improvement in the lives of people. Explicit recognition of the primacy and centrality of human rights in the integration mechanism is the surest way of guaranteeing that economic growth results in an improvement in the quality of people’s lives.

Consequently, it is critical that the SADC integration mechanism does more than pay lip service to the promotion and protection of human rights if its goal of holistic human development is to be reached. The promotion and protection of human rights must not be viewed as a mere condiment to the integration initiative, but must rather be elevated as one of its central or core purposes.

The legal basis for elevating human rights protection

The legal basis for adopting a human rights-centred approach to regional integration is clear. All SADC members have undertaken obligations under human rights law through the ratification of various international treaties or the application of customary international law. Consequently, every policy or activity that is formulated or pursued in order to achieve the aims and objectives of the regional integration initiative must conform to the human rights obligations of the member states.⁷⁰ Such an approach, it is submitted, not only finds support in international law and within the SADC trade framework but also augurs well with the aims and objectives of the regional integration initiative.

The UN Charter⁷¹ establishes general human rights obligations, which affirm the need to respect human rights in the quest for economic development. Under the Charter, all members of SADC have undertaken to promote “higher standards of living, full employment, and conditions of economic and social progress and development” as well as “universal respect for and observance of, human rights and fundamental freedoms for all”.⁷² Thus under the UN Charter, economic development and the protection and promotion of human rights go hand-in-hand and

one may not be sacrificed for the other. Similarly, the Universal Declaration of Human Rights (UDHR)⁷³ – which is widely viewed as the authoritative elaboration⁷⁴ of the UN Charter obligations relating to human rights – establishes the civil, cultural, economic, political and social needs necessary to human dignity and transforms these needs into legal entitlements or rights to be protected by member states of the UN. In other words, under the UN Charter and the UDHR, civil, cultural, economic, political and social rights may not be rationed in the quest for economic development.⁷⁵

Thus, the approach in this case is to ensure that the provisions of the SADC Treaty as well as the protocols under it are not construed in isolation of the human rights objective, but rather are interpreted and implemented in a manner that furthers the promotion and protection of human rights.⁷⁶ Indeed, article 31(3)(c) of the Vienna Convention on the Law of Treaties⁷⁷ confirms the appropriateness of such an approach by providing that every international treaty must be interpreted by taking into account “any relevant rules of international law applicable in the relations between the parties”. The SADC Treaty and the protocols under it do not escape this rule. Consequently, in their interpretation and implementation, SADC member states must adopt a human rights approach and ensure that primacy is given to their obligations to protect and promote human rights.

The benefits of adopting this approach

There are several functional benefits that may be ascribed to the adoption of a human rights approach in the implementation of the regional integration process.

First, a human rights approach allows for the explicit recognition of the linkage between trade and human rights. This, in turn, results in the better understanding of the interaction between regional integration, trade and human rights. It also allows for the establishment of constructive dialogue between human rights, environmental, finance and trade practitioners and the designing of bal-

anced and coherent policy making within the integration arrangements.

Second, a human rights approach to regional integration examines integration law and policy comprehensively, focusing not only on economic growth or market growth but also on how these processes impact on human security and welfare. In other words, such an approach ensures that regional integration contributes positively to the provisioning of health systems, education, water supply, food security, labour, political processes and so on. It examines the effect of integration on individuals and seeks rules and policies that take into account and benefit the rights of all individuals.

While regional integration offers opportunities for increased growth and development, the integration process, in particular where it leads to unregulated private sector activities, may threaten human security by diminishing access for the poor to essential services. SADC member states have obligations, both under their constitutions and international law, to guarantee human social security and should not therefore leave the concerns of human welfare to market forces under the integration processes.

Finally, elevating the role of human rights within the integration process will help SADC member states reconcile their obligations under human rights and trade law. In this manner, the approach seeks the means by which the integration of SADC economies can take place in a way that advances the objective of promoting and protecting human rights.

The structure of a human rights approach to regional integration

In order “to foster regional development and integration”,⁷⁸ the SADC Treaty identifies “areas of co-operation through which member states co-ordinate, rationalise and harmonise their macro-economic and sectoral policies and strategies and programmes and projects”.⁷⁹ The implementation of these areas of co-operation is conducted at three levels, namely: the provision of a legal framework; the assignment of an institutional framework;

and the design and implementation of a programmatic framework.

The legal framework is the constitutive basis of co-operation. It may be sourced from the SADC Treaty itself⁸⁰ or from the protocols entered into under the Treaty.⁸¹ These constitutive documents identify and demarcate particular areas of co-operation which are viewed as vital to the achievement of the aims and objectives of the regional integration initiative.

Apart from elaborating the areas of co-operation, the legal framework also establishes the institutional structures which are mandated to oversee the defined areas of co-operation. These institutions are called sectoral co-ordinating units. According to SADC practice, these units are distributed to the various member states as co-ordinating agents.⁸²

At the practical level, the areas of co-operation are implemented through programmes and projects designed and planned by the SADC Secretariat.⁸³ These programmes and projects are then assigned to and co-ordinated by the various sectoral co-ordinating units.⁸⁴

For example, in relation to trade, SADC has prioritised this sphere by according it the status of an area of co-operation. The legal framework for co-operation is sourced from the SADC Treaty⁸⁵ and the Trade Protocol. At the institutional level, the programmes and projects under this area of co-operation are entrusted to Tanzania.⁸⁶ The programmes and projects planned and developed by the Secretariat have focused on trade liberalisation and the increase of intra-SADC trade.⁸⁷ The enforcement of the obligations which member states have assumed under the Trade Protocol and the settlement of trade-related disputes are entrusted to the Panel of Trade Experts (the Trade Panel).⁸⁸ The Trade Panel is an ad hoc adjudicating body appointed by the Council of Trade Ministers to deal with trade disputes when they arise.⁸⁹

Despite being one of the primary objectives of the integration initiative, the protection and promotion of human rights receives little or no attention within SADC's legal, institutional or programmatic frameworks.

A human rights approach to regional integration, however, would require the formal elevation of human rights protection and pro-

motion on to the SADC agenda. This prioritisation of human rights would require the adoption of a protocol on human rights, the establishment of a sectoral co-ordinating unit for the implementation of the protocol, and the formulation of programmes and projects relating to human rights protection by the SADC Secretariat.

In relation to enforcement of the human rights protocol, it is proposed that a SADC human rights commission or sectoral co-ordinating unit be established. The commission could be mandated with the duty to examine SADC integration laws and policies in order to ensure that they are compatible with the human rights obligations of member states. In the execution of this mandate, the commission could, among other things, carry out studies which encourage dialogue on human rights and trade, undertake human rights assessments of integration law and policy, and devise or encourage integration implementation strategies which are compatible with human rights.

Conclusion

The development of a strong trade agenda within the SADC regional integration initiative is critical to the achievement of sustainable development within the region. However, the absence of an explicit human rights approach within the trade regime jeopardises the achievement of the objectives of the regional arrangement. The SADC Treaty acknowledges the crucial role of human rights in the pursuit of economic growth. This recognition must be built into the legal, institutional and programmatic framework of SADC. Without mainstreaming human rights into the SADC agenda, positive changes in economic growth will not result in qualitative changes among the region's citizens.

The insistence on trade and increased productivity without equal concern to human rights protection may result in distorted development, whereby vulnerable groups such as women and children are exposed to the adverse effects of trade such as child labour and diminished social protection. It is therefore important that the trade regime be imple-

mented in accordance with international human rights norms. In order to achieve this, there is need to develop an explicit human rights function within the SADC regional integration arrangements.

Notes

1. OS Saasa, Economic cooperation and integration among developing countries, in OS Saasa (ed) *Economic integration and cooperation in Africa*, African Centre for Technology Studies, Nairobi, 1991, pp 7–8.
2. F Foroutan, Regional integration in sub-Saharan Africa: Past experience and future prospects, in J de Melo & A Panagariya (eds) *New dimensions in regional integration*, Cambridge University Press, Cambridge, 1993, p 234.
3. P Robson, *Economics of international integration*, Routledge, London, 1998, pp 63–68, noting that such countries are not able to attract investment because it cannot be profitably utilised.
4. T Kaime, The legal framework for foreign direct investment in Malawi, Unpublished LLB(Honours) thesis, University of Malawi, 2001, pp 11–12.
5. Robson, op cit, p 63; Foroutan, op cit, p 234, noting that “[t]he appeal of some form for regional integration in sub-Saharan Africa is almost intuitive”.
6. T Ostegaard, *SADCC beyond transportation: The challenge of industrial cooperation*, Scandinavia Institute of African Studies, Uppsala, 1989, pp 13–16. See also S Haggard, *Developing nations and the politics of global integration*, The Brookings Institution, Washington DC, 1995, pp 1–14; Foroutan, op cit, p 234.
7. JH Wagao, Trade relations among SADCC countries, in S Amir, D Chitala & I Mandaza (eds) *SADCC: Prospects for disengagement and development in Southern Africa*, United Nations University, London, New Jersey, 1987, pp 147, 148.
8. These were Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe.
9. Preamble to the Memorandum of Understanding of the Institutions of the Southern African Development Co-ordination Conference reprinted in *SADCC: A handbook*, SADCC, Gaborone, 1988, p 3.
10. SEA Mvungi, *Constitutional questions in the regional integration process: The case of the Southern African Development Community with references to the European Union*, Institut fur Internationale Anglegenheiten, Hamburg, 1994, pp 73–86.
11. C Ng’ong’ola, Regional integration and trade liberalisation in the Southern African Development Community, *Journal of International Economic Law* 14, 2000, pp 485, 489.
12. Mvungi, op cit, pp 89, 107–145, noting the competition brought to bear by the relatively more successful Southern African Customs Union, the Preferential Trade Area and the Common Market for Eastern and Southern Africa.
13. The SADC Treaty is reproduced in *SADC Declaration, Treaty and Protocol of the Southern African Development Community*, SADC, Gaborone, 1992, p 5. SADC documents may also be accessed at the institution’s official website <www.sadc.int> (20 May 2003).
14. For profiles of individual SADC member states, see <www.sadc.int/english/memberstates/index.html> (20 May 2003).
15. SADC, Towards the Southern African Development Community, a Declaration by the Heads of State and Government of Southern African states, in SADC, op cit, p 5.
16. Ng’ong’ola, op cit, pp 491–493; Mvungi, op cit, pp 93–94.
17. SADC Treaty, art 5(1)(a), (d).
18. SADC Treaty, art 5(1)(a).
19. SADC Treaty, art 5(1)(f).
20. SADC Treaty, art 5(1)(g).
21. SADC Treaty, art 5(1)(a).
22. SADC Treaty, art 5(1)(b).
23. SADC Treaty, art 5(1)(g).
24. SADC Treaty, art 5(1)(i).
25. SADC Treaty, art 5(1)(k).
26. SADC Treaty, art 5(1)(b).
27. SADC Treaty, art 5(1)(c).
28. SADC Treaty, art 5(2)(b).
29. SADC Treaty, art 5(2)(b).
30. SADC Treaty, art 5(2)(c).
31. SADC Treaty, art 5(2)(d).
32. SADC Treaty, art 5(2)(a).
33. SADC Treaty, art 5(2)(f).
34. SADC Treaty, art 4(c).
35. SADC protocols are available at <www.sadc.int/english/protocols/index.html> (20 May 2003).
36. SADC Treaty, preamble, para 4.
37. SADC Treaty, preamble, para 5.
38. SADC Treaty, arts 21(1), (2), (3)(c).
39. See SADC Treaty, arts 5(1)(a), (d), (e), (f), (h) and 5(2)(a), (b), (d), (f), (g), (i).
40. SADC Protocol on Information and Communication, available at <www.sadc.int/english/protocols/index.html> (20 May 2003).
41. SADC Protocol on Productivity, available at <www.sadc.int/english/protocols/index.html> (20 May 2003).
42. SADC Protocol on SQAM, available at <www.sadc.int/english/protocols/index.html> (20 May 2003).
43. SADC Protocol on Mining, Trade, Transport and Meteorology available at <www.sadc.int/english/protocols/index.html> (20 May 2003).
44. SADC Protocol on Finance and Investment available at <www.sadc.int/english/protocols/index.html> (20 May 2003).
45. See SADC sectoral reports available at <www.sadc.int/english/reports/index.html> (20 May 2003). See also SADC *The official SADC trade and investment review 2001* <www.sadcireview.com/

- sectoral/20%reports% 202001/industry.htm> (12 May 2003).
46. Other non-trade sectors include gender, health, legal, water, culture, sports and information. See SADC sectoral reports, *ibid*.
 47. See SADCC *Southern Africa: Towards economic liberation: A declaration by the governments of the independence states of Southern Africa*, SADCC, Gaborone, 1980. See also SADC Treaty, preamble, para 1.
 48. Mvungi, *op cit*, pp 74–75.
 49. Wagao, *op cit*, p 148.
 50. Robson, *op cit*, p 63.
 51. LA Winters, Regionalism vs multilateralism, in RE Baldwin, D Cohen, A Sapir & A Venables (eds) *Market integration, regionalism and the global economy*, Cambridge University Press, Cambridge, 1999, p 39; J Bhagwati, Regionalism versus multilateralism: An overview, in de Melo & Panagariya *op cit*, p 22.
 52. SADC Treaty, art 4(1)(c).
 53. SADC Treaty, preamble, para 7.
 54. Mvungi (n 45 *op cit*) 149.
 55. See SADC's sectoral layout available at <www.sadc.int/english/reports/index.html> (20 May 2003).
 56. See generally, V Seymour, Regional economic integration and human rights: SADC and South Africa, in N Steytler (ed) *Democracy, human rights and economic development in Southern Africa*, Community Law Centre, Cape Town, 1997.
 57. JM Diller & DA Levy, Child labour, trade and investment: Toward harmonisation of international law, *American Journal of International Law* 91, 1997, p 665.
 58. See generally S Haggard *Developing nations and the politics of global integration*, The Brookings Institution, Washington DC, 1995, pp 1–15; W Wallace (ed) *The dynamics of European integration*, Royal Institute of International Affairs, London, New York, 1990, pp 1–26.
 59. D Combs, Problems of governance in the Union, in A Duff, J Pander & R Price (eds) *Maastricht and beyond: Building the European Union*, Routledge, London, 1994, pp 157–178.
 60. *Ibid*, 157.
 61. G Budlender, Lawyers and poverty: Beyond access to justice, in *Second Carnegie inquiry into poverty and development in Southern Africa*, Carnegie Conference Paper No. 91, 1994.
 62. J Oloka-Onyango & D Udagama, Human rights as the primary objective of international trade, investment and finance policy and practice, UN Doc.E/CN.4/Sub.2/1999/11, 1999, para 4.
 63. K Watkins, *The Oxfam Poverty Report*, Oxfam, London, 1995, pp 109–110; R McCorquodale & R Fairbrother, Globalisation and human rights, *Human Rights Quarterly*, 21, 1999, p 758, noting that “it would appear that instead of creating order, the rule of law, and the protection of human rights [international trade] can create conditions of disorder, authoritarian rule, and the disintegration of the state entity with consequent violations of human rights”.
 64. McCorquodale et al, *ibid*, 758.
 65. Oloka-Onyango et al, *op cit*, para 47.
 66. UN sub-Commission on the Protection and Promotion of Human Rights, Trade liberalisation and its impact on human rights, Resolution 1999/30, 1999.
 67. UN Declaration on the Right to Development, adopted 4 December 1986, art 1, UN GA Res 48/128 (1986); Copenhagen Declaration and Programme of Action, Report of the World Summit for Social Development, Copenhagen, 6–12 March 1995 (1995) chap I, res.1, annex I and II, UN Doc.A/CONF.166/9, 1995.
 68. Oloka-Onyango et al, *op cit*, para 49.
 69. J Bengoa, The relationship between enjoyment of human rights, in particular economic, social and cultural rights and income distribution, UN Doc.E/CN.4/Sub.2/1998/8, 1998.
 70. UN sub-Commission on the Protection and Promotion of Human Rights, *op cit*, para 5, noting that “[s]tates have concurrent human rights obligations under international law and should therefore promote and protect human rights during the negotiation and implementation of international rules on trade ...”.
 71. UN Charter adopted on 26 June 1945 (entered into force on 10 January 1946) 1 *United Nations Treaty Series*, p xvi.
 72. UN Charter, art 55 (a) & (c).
 73. Universal Declaration of Human Rights, adopted on 10 December 1948, UNGA Res.217 A (II) 1948.
 74. Some authors have argued that the Declaration has attained the status of customary international law. See B Sloan, General Assembly Resolutions revisited (forty years later), *British Yearbook of International Law*, 1987, p 88; T Buergenthal, International human rights: Accomplishments and prospects, *Washington Law Review* 63, 1988, p 9.
 75. UN sub-Commission on the Protection and Promotion of Human Rights, *op cit*, pp 1–2.
 76. *Ibid*, para 7.
 77. 1969 Vienna Convention on the Law of Treaties, adopted on 23 May 1969 (entered into force on 27 January 1980) 1155 *United Nations Treaty Series*, p 331 reprinted in *International Legal Materials*, 1969, p 679.
 78. SADC Treaty, art 21(1).
 79. *Ibid*, art 21(2).
 80. The Treaty identifies seven areas of co-operation. See SADC Treaty, art 21(3).
 81. The Treaty provides for the elaboration of the scope of co-operation and the identification of new areas of co-operation through protocols approved by the SADC Summit of the Heads of State and Government on the recommendation of the SADC Council of Ministers and brought into effect by the signatures and ratification by the member state parties thereto. See SADC Treaty, art 22.

-
82. Ng'ong'ola correctly notes that the SADC "Treaty does not specifically provide for the allocation of co-ordination responsibilities" and that the practice is a carry-over from SADC's predecessor, SADCC. See Ng'ong'ola, *op cit*, p 493.
 83. SADC Treaty, art 14(1)(a).
 84. For a compilation of reports submitted to the Secretariat by the various co-ordinating units, see SADC sectoral reports, *op cit*.
 85. SADC Treaty, art 21(3)(c).
 86. See SADC sectoral reports, *op cit*.
 87. T Bertelsmann, Trade integration in Southern Africa, *South African Journal of International Affairs* 6, 1998, p 47.
 88. Trade Protocol, art 32.
 89. *Ibid*.