

The copyright of this thesis rests with the University of Cape Town. No quotation from it or information derived from it is to be published without full acknowledgement of the source. The thesis is to be used for private study or non-commercial research purposes only.

PHILIP GATSINZI

GTSPHI001

LLM in Commercial Law

**IMPLEMENTING THE AFRICAN ECONOMIC COMMUNITY TREATY: THE
ROLE OF REGIONAL ECONOMIC COMMUNITIES IN AFRICA'S TRADE AND
MARKET INTEGRATION**

SUPERVISOR: PROF. EVANCE KALULA

Research dissertation presented for the approval of the Senate in fulfilment of part of the requirements for the LLM Degree in Commercial Law in approved courses and a minor dissertation. The other part of the requirement for this qualification was the completion of a programme of courses.

I hereby declare that I have read and understood the regulations governing the submission of Masters dissertations, including those relating to length and plagiarism, as contained in the rules of this University, and that this dissertation conforms to those regulations.

FEBRUARY, 2010

DECLARATION

Research dissertation presented for the approval of Senate in fulfilment of part of the requirements for the degree of Master of Laws (Commercial Law) in approved courses and minor dissertation. The other part of the requirements for this qualification was the completion of a programme of courses.

I hereby declare that I have read and understood the regulations governing the submission of Master of Laws (LLM) dissertations, including those relating to length and plagiarism, as contained in the rules of the University, and that this dissertation conforms to those regulations.

.....

Philip Gatsinzi

.....

Date

University of Cape Town

DEDICATION

To my father and mother with gratitude.

University of Cape Town

ACKNOWLEDGEMENTS

The successful completion of this dissertation owes so much to many people. Therefore, they deserve to share in my spoils. However, I alone bear full responsibility for any errors.

First and foremost, I am heavily indebted to my supervisor Professor Evance Kalula for his advice that African trade and market integration is worth considering. His advice, encouragement and insightful comments greatly improved the quality of this work.

I warmly acknowledge the financial support received from the Government of the Republic of Rwanda. Without it, my stay in South Africa would have been a nightmare.

I would like to thank my colleagues Shingirirayi Gona and Johannes Mashele for their excellent editorial work and their insights on this topic under review. Their support, albeit without a pay cheque for it, is highly appreciated.

My special thanks go to the staff of the Brand Van Zyl Law Library and the African Studies Library for their friendly service and support at all times.

I am also grateful for the encouragement and support from a number of colleagues and friends: John, James, Julian, Gideon and Ferdinand. To all other colleagues and friends, I say thank you.

TABLE OF CONTENTS

DECLARATION	i
DEDICATION	ii
ACKNOWLEDGEMENTS	iii
TABLE OF CONTENTS	iv
ACRONYMS AND ABBREVIATIONS	vi
ABSTRACT	ix
CHAPTER ONE: INTRODUCTION	1
1.1 Background of the study	1
1.2 Justification of the study	6
1.3 The scope of the study	8
1.4 Research Methodology	9
1.5 Structure of the study	9
CHAPER TWO: IMPLEMENTATION OF THE AFRICAN ECONOMIC COMMUNITY TREATY	11
2.1 Introduction	11
2.2 The historical foundation of the African Economic Community Treaty	11
2.3 The objectives of the Africa Economic Community Treaty	14
2.4 Modalities for the establishment of the Community	15
2.5 Progress in implementation of the Community Treaty	18
2.6 Challenges militating against the implementation of the African Economic Community Treaty	27
2.7 Conclusion	35

CHAPTER THREE: INITATIVES TO ACCELERATE THE IMPLEMENTATION OF THE AFRICAN ECONOMIC COMMUNITY TREATY	37
3.1 Introduction	37
3.2 The Protocol on relations between the African Economic Community and Regional Economic Communities	38
3.3 Attempts to rationalise the Regional Economic Communities	39
3.4 The Minimum Integration Programme (MIP).....	42
3.5 Conclusion.....	43
CHAPTER FOUR: WAY FORWARD AND CONCLUSION	45
4.1 The way forward/ Agenda for Action.	45
4.2 Conclusion.....	50
BIBLIOGRAPHY.....	53

ACRONYMS AND ABBREVIATIONS

ACODE	Advocates Coalition for Development
ACP	African, Caribbean and Pacific (group of countries)
AEC	African Economic Community
AGOA	African Growth and Opportunity Act
APPER	Africa's Priority Programme for Economic Recovery
ARIA	Assessing Regional Integration in Africa
AU	African Union
AUC	African Union Commission
ASEAN	Association of South-East Asian Nations
CEMAC	Central African Economic and Monetary Community
CEN-SAD	Community of Sahel-Saharan States
CEPGEL	Economic Community of the Great Lakes Countries
COMAI	Conference of African Ministers in Charge of Integration
COMESA	Common Market for Eastern and Southern Africa
CSO	Committee of Secretariat Officials
EAC	East African Community
EBA	Everything But Arms
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
EEC	European Economic Community
EFCCD	ECOWAS Fund for Cooperation, Compensation and Development
EU	European Union

FAL	Final Act of Lagos
FTAs	Free Trade Areas
GDP	Gross Domestic Product
GNP	Gross National Product
IGAD	Inter-Governmental Authority on Development
IGOs	Inter-Governmental Organisations
IOC	Indian Ocean Commission
ISRT	Inter-State Road Transit
LPA	Lagos Plan of Action
MIP	Minimum Integration Programme
MRU	Mano River Union
NAFTA	North American Free Trade Agreement
OAU	Organisation of African Unity
ODA	Overseas Development Aid
PTA	Preferential Trade Area of Eastern and Southern African States
RECs	Regional Economic Communities
SACU	Southern African Customs Union
SADC	Southern African Development Community
SADCC	Southern African Development Coordination Conference
SIA	Status of Integration in Africa
UDEAC	Central African Economic and Customs Union
UEMOA	West African Economic and Monetary Union
UMA	Arab Maghreb Union

UNECA	United Nations Economic Commission for Africa
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UN-NADAF	United Nations New Agenda for the Development of Africa
UNPAERD	United Nations Plan of Action for Africa's Recovery and Development
USSR	Union of Soviet Socialist Republics
Vol	Volume
WTO	World Trade Organisation

University of Cape Town

ABSTRACT

Trade has led to tremendous growth in many parts of the world. However, Africa's share of the global trade has remained low. To address this imbalance, regional integration has been embarked on to emancipate Africa from poverty and reduce barriers to trade.

The wisdom of collective action is not new on the African continent. However, the uncontrolled establishment of Regional Economic Communities had become more of a liability than an asset to the African People, at the time African Economic Community Treaty (the Abuja Treaty) was signed. This was because these Regional Economic Communities (RECs) lacked human, material and financial resources necessary to achieve their objectives.

Therefore, the signing of the African Economic Community Treaty is a significant milestone in Africa's desire to find a viable solution to the inefficiencies of the RECs. However, the successful implementation of the Abuja Treaty is heavily dependent on the RECs' capacity to fulfil their obligations towards the African Economic Community Treaty (AEC). This study seeks to demonstrate that if Regional Economic Communities are given necessary incentives, they would be true agents of Africa's economic integration. But since the signing of the Community Treaty is simply a roadmap to the formation of an economic community in future, and the African integration process ought to be at the third stage, it is timely to examine whether the Abuja Treaty time frame has been respected.

While Africa has made some strides in the integration process, an array of institutional issues and challenges militating against the integration of the African continent need to be addressed, as a matter of urgency. This study analyses these challenges, evaluates initiatives that have been put in place to circumvent them and makes recommendations, which if taken seriously by stakeholders, would make Regional Economic Communities true agents of Africa's trade and market integration, which is under review.

CHAPTER ONE: INTRODUCTION

1.1 Background of the study

While global trade has led to ‘tremendous growth in many regions of the world because of trade in goods and services and movement of capital and human resources,’ Africa’s share of world trade is poor.¹ Africa’s share of world exports was 10% in 1960 but it had shrunk to about 2% in 2000.² This has had the effect of marginalising Africa from the world’s trading system. In addition, of the 46 poorest countries in the world, 31 of them are in Africa.³ It is noted that African countries generally have a low per capita income with 40 to 60% of its population (900 million) living on less than \$2 dollars per day.⁴ To address this trade imbalance and emancipate Africa from poverty and underdevelopment, regional integration has emerged as a viable mechanism because it would remove ‘barriers to intra-African trade and international trade.’⁵

This wisdom for collective action on the African continent is currently manifested in the establishment of the African Economic Community (AEC) and Regional Economic Communities (RECs) but the enthusiasm to cooperate has long been in existence. As early as 1910, the Southern African Customs Union (SACU) was formed in Southern Africa.⁶ British East Africa had a customs union in 1917 and there were other integration initiatives in British West Africa and French-speaking West and Central Africa.⁷

Since the formation of the Organisation of African Unity (OAU) in 1963,⁸ numerous programmes and strategies have been developed to promote Africa’s economic development and the welfare of its peoples.⁹ These included the Monrovia Strategy of 1979, the Lagos Plan of Action (LPA) and the Final Act of Lagos (1980), the Africa’s Priority Programme for

¹ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (2006) at xv.

² Ibid. at 2-3.

³ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa III: Towards Monetary and Financial Integration in Africa Report* (2008) at 23.

⁴ John Akokpari, Dilemmas of Regional Integration and Development in John Akokpari et al (Eds) *The African Union and its institutions* (2008) 85 at 95.

⁵ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xv.

⁶ Matthew R.A Heiman, ‘The drive towards regionalization in southern Africa: Fictional reality’ in *The African Journal of International and Comparative Law*, Vol. 9 (1997) 639 at 646.

⁷ O. Akanle, ‘The legal and Institutional Framework of the African Economic Community,’ in M. A. Ajomo and Omoboraji Adewale (Eds), *African Economic Community Treaty: Issues, Problems and Prospects* (1993) 1 at 4.

⁸ The Organisation of African Unity has since the adoption of the Constitutive Act of the African Union in 2002 been replaced by the African Union.

⁹ The African Union, *Consolidated report of the consultative meetings of Accra and Lusaka*, (2006) at 1.

Economic Recovery-APPER (1985) and the United Nations Plan of Action for Africa's Economic Recovery and Development-UNPAERD (1986).¹⁰ Against the background of disappointing results registered by these policies during two decades of Africa's independence, seventies and eighties also saw the birth of a plethora of regional institutions (about 200) aimed at the integration of the continent.¹¹ But while these RECs were pursuing a noble cause,' their uncontrolled establishment proved more of a liability than an asset.¹²

Due to serious problems RECs had to contend with, African integration had become elusive at the time the African Economic Community Treaty was signed in June 1991. As Ambassador Brownson N. Dede, the former OAU Assistant Secretary General for Economic Development observed, '[m]any of them [were] in a state of financial coma, starved of funds and the resources, human, material, necessary for the achievement of their objectives.'¹³ It is for this reason that the AEC was created to rationalise the competing RECs and strengthen them to 'effectively discharge their responsibilities.'¹⁴ Whether the Community has been effective in addressing these impediments, and in particular strengthen them, is subject to scrutiny in chapter 2 of this study.

Against the backdrop of numerous failed integration attempts in the three decades after independence, it is pertinent at this juncture to discuss the question as to why African countries with different economic and political systems had to embark on the daunting task of economic integration of the continent through the adoption of the AEC Treaty.

The drive to Africa's economic integration was precipitated by internal as well as external factors. First, the signing of the AEC Treaty was a translation into reality of a long-held dream of Pan-Africanism¹⁵ advocated by the 'founding fathers of Africa's independence movements.'¹⁶ However, African leaders at the time differed on the scope of this unity. While

¹⁰ Brownson N. Dede, Keynote address delivered at the International Conference on the African Economic Community, Abuja, January 27-30, 1992 as cited in M. A. Ajomo and Omoboraji Adewale (Eds), *African Economic Community Treaty: Issues, Problems and Prospects*, (1993) xxxii at xxxviii.

¹¹ The African Union, Consolidated report of the consultative meetings of Accra and Lusaka (note 9) at 1.

¹² Samuel M. Makinda and F. Wafula Okumu, *African Union: Challenges of globalization, security and governance* (2008) 53.

¹³ Brownson N. Dede (note 10) at xxxv.

¹⁴ Ibid.

¹⁵ The concept of Pan-Africanism has been defined by Ikome Nguendi as 'the awareness of unity that developed among Africans as a result of the deep feelings of dispossession, inferiority, discrimination, and loss of dignity and freedom occasioned by long years of inhuman treatment during colonial rule.'

¹⁶ SKB Asante, 'Towards the African Economic Community' in SKB Asante et al (Eds), *Towards African Economic Community*, (2001) 1 at 2.

some like Kwame Nkrumah advocated for political and economic unity, the gradualists (who constituted the majority) preferred that economic integration should precede political integration and even then, be implemented in stages beginning with functional cooperation and coordination and leading eventually to a common market.¹⁷ In due course, the gradualists carried the day which paved the way for the formation of the OAU and different RECs on the continent.¹⁸

One of the ‘most unfortunate colonial legacies’ was the fragmentation of Africa into small unviable economic entities.¹⁹ Of the 53 African states, 14 have populations of less than 3 million and 5 countries notably the Democratic Republic of Congo, South Africa, Ethiopia, Egypt and Nigeria have a population above 30 million. This dilemma was aptly described by Anyang Nyong’o as follows:

...[a] few countries have domestic markets large enough to justify the establishment of “core” industries such as steel, chemical and fertilizer industries. Other countries cannot embark on export-led growth through import substitution given levels of income warranting the initial growth of domestic market in preparation for future exports. In both cases, if Africa is viewed as an emerging single market, successful import substitution as well as “core” industrial development would serve to build a large industrial base capable of exporting competitively. Regional integration and economic cooperation is a *sine qua non* for all this.²⁰

Therefore, Africa’s quest for economic integration constitutes an attempt to obtain a large market which is a precursor for industrialisation and mass production.

Third, Africa embarked on economic integration in order to reduce its dependence on the west. By way of example, intra-regional trade was 8.1% in Africa while trade with Western Europe, and North America constituted 50.9% and 17.0% respectively. This was in sharp contrast with intra-regional trade in Western Europe and North America which was 67.3% and 40.0% respectively.²¹ Brownson Dede argues that hopes to promote trade with what was then the European Economic Community (now European Union) through the much-acclaimed Lome Conventions did not bear any tangible results. While Africa, Caribbean and Pacific (ACP) trade with EEC constituted 8% of total EEC imports at the

¹⁷ Francis Nguendi Ikome, *From the Lagos Plan of Action to the New Partnership for Africa’s Development* (2007) at 39.

¹⁸ *Ibid.* at 39-40.

¹⁹ *Ibid.* at 35.

²⁰ As cited by John Akokpari (note 4) at 96.

²¹ *Ibid.* at 97.

commencement of Lome Convention I in 1975, it had reduced to 7.2% at the start of Lome Convention II in 1980 and to 4% at the coming into force of Lome Convention III in 1985.²² This dire situation was not helped further by Africa's development partners' failure to honour their aid commitments to the continent over the years. For example the United Nations New agenda for the Development of Africa (UN-NADAF) was adopted in the 1990s with a commitment from donor countries to earmark 0.7% of their Gross National Product (GNP) as Overseas Development Aid (ODA) but only Denmark, Norway and Sweden honoured their commitments.²³ Thus seeking a clean break with the dependency syndrome and aspiring to become self-reliant became a matter of necessity.²⁴

Furthermore, it is imperative to note that the dramatic changes taking place in Eastern Europe and the former Union of Soviet Socialist Republics (USSR) impacted heavily on the decision to embark on economic integration. With conversion of these countries to capitalism, it was pertinent that Africa's trading partners (who also doubled as some of the leading sources of financial aid) would look to the East for business and investment.²⁵ Therefore, these 'startling events' could not be ignored since EEC constituted the export destination for Africa's exports with 58% while the United States of America and Japan made up for most of the difference.²⁶

The road to Abuja was in no small measure also motivated by the global trend towards regionalism in world trade at the beginning of the 1990s.²⁷ Brownson Dede submits that in the past years, Europe, North America and East Asia had 'seen wisdom of collective action and increased strength and prosperity' and moved swiftly to form regional trading blocks such as the European Economic Community (EEC), North American Free Trade Agreement (NAFTA) and Association of South-East Asian Nations (ASEAN). In the precarious situation in which Africa was, it had no other choice.²⁸ Particular inspiration emanated from the EEC which had started as a free trade area and eventually became a

²² Brownson N. Dede, (note 10) at xxxvii.

²³ John Akokpari (note 4) at 94.

²⁴ *Ibid.* at 95.

²⁵ Clement Akpangbo, address delivered at the International Conference on the African Economic Community, Abuja, January 27-30, 1992 as cited in M. A. Ajomo and Omoboraji Adewale (Eds), *African Economic Community Treaty: Issues, Problems and Prospects*, (1993) xxviii at xxix.

²⁶ *Ibid.*

²⁷ SKB Asante (note 16) at 1.

²⁸ Brownson N. Dede (note 10) at xxxvi.

European community.²⁹ To this effect, at a lecture delivered at the Nigerian Institute of International Affairs in 1991, Dr. Salim Ahmed Salim (the former Secretary General of OAU) observed as follows:

Africa remains more an economic appendage to the EEC and a permanent source of raw materials than equal partners. This is why [he] believed that it [had] never been more opportune and urgent for sober reflection on the part of our Governments, in order for Africa to draw lessons from this major development in European economic and monetary union.³⁰

Additionally, there was a growing concern for African Leaders ‘to act in concert in order to enhance their bargaining position vis-à-vis foreign governments, international institutions and multinational corporations.’³¹ Ibrahim Babangida the former President of the Federal Republic of Nigeria could not have been more apt when he noted that:

Today Africa has been so relegated to the periphery in world affairs that the genuine fear is that the continent runs the risk of becoming permanently marginalised in the global scheme of things. It does little credit to our Africanness to note that according to nearly all indices by which human progress is measured at the end of the 20th century, Africa enjoys the dubious distinction of bringing up the rear.³²

Not surprisingly therefore, this collective will of African leaders was manifested in Abuja, Nigeria, in June, 1991 when the OAU Summit signed the African Economic Community Treaty. This was supposed to be a precursor of Africa’s long road to Africa’s common market and economic and monetary Union. The Treaty is arguably the most important economic charter in the history of the continent and its potential to promote Africa’s economic development is unrivalled.³³ Therefore, what follows is what made it paramount to undertake this study.

²⁹ Thompson Bankole, ‘Economic integration efforts in Africa: A milestone – The Abuja Treaty’ in *The African Journal of International and Comparative Law* Vol. 5 (1993) 743 at 745.

³⁰ Dr. Salim Ahmed Salim as cited by M.A. Ajomo, Address delivered at the International Conference on African Economic Community, Abuja, January 27-30, 1992, in M.A. Ajomo and Omoboraji Adewale (Eds) 1993 xx at xxv.

³¹ Piet Konings and Henk Meilink, ‘Regional economic integration in Sub-Saharan Africa’ in Alex E. Fernandez Jilberto and Andre Mommen (eds), *Rationalization and globalization in the modern world economy: Perspectives on the third world and transitional economies* (1998) 128 at 131.

³² Ibrahim Babangida, Address delivered at the International Conference on African Economic Community, Abuja, January 27-30, 1992 in M.A. Ajomo and Omoboraji Adewale (Eds), *African Economic Community Treaty: Issues, Problems and Prospects* (1993) xl at xl.

³³ Clement Akpangbo, address delivered at the International Conference on the African Economic Community, Abuja, January 27-30, 1992 in M. A. Ajomo and Omoboraji Adewale (Eds), *African Economic Community Treaty: Issues, Problems and Prospects*, (1993) xxviii at xxix.

1.2 Justification of the study

The signing of the Abuja Treaty on June 3, 1991 has been hailed by scholars as a milestone along the path to unifying Africa's 'fragmented and vulnerable economies into a single and more powerful economic bloc.'³⁴ It should be noted that the degree of success of Africa's integration is anchored on the strength of Regional Economic Communities.³⁵ However, before the signing of the African Economic Community Treaty, the existing RECs were weak and largely paper organisations 'whose elaborate treaties had nothing more than memorials of faulty development strategies.'³⁶ The former Organisation of African Unity (OAU) Assistant Secretary General for Economic Development, Ambassador Brownson N. Dede aptly described their situation as follows:

In the ...30 years of Africa's independence, the road to regional integration [was] littered with dead or dying inter-governmental organisations..... Many of them [were] in a state of financial coma, starved of funds and resources; human and material necessary for the achievement of their objectives. A majority of them existed on paper, while others were involved in what Otto Von Bismarck, the 19th century German statesman would have described as "ploughing the same disputed fallow." They [were] involved in the duplication of efforts, in wasting limited human and material resources competing with one another in pursuing the same objectives.³⁷

Although the AEC provides adequate solutions for overcoming these challenges for example in article 6 sub-paragraph 2 in which the community undertakes to strengthen the existing RECs and article 88(4) which calls for the coordination and harmonisation of the existing and future RECs, it is justifiable to ask the following questions: First, has the implementation of the Community Treaty been effective in responding the pre-1991 challenges and deficiencies of the RECs? Second, have the RECs been strengthened as the Abuja Treaty provides to become true agents of Africa's economic integration? This study seeks to discuss these issues.

Integration under the Abuja Treaty would be a gradual process spanning 34 years with an additional margin of 6 years.³⁸ This transitional period consists of 6 stages of variable durations. While modalities for the implementation of this Treaty will be discussed in Section

³⁴ SKB Asante (note 16) at 2. See also Thompson Bankole (note 29) at 744.

³⁵ Article 6 of the African Economic Community Treaty.

³⁶ Francis Nguendi Ikome (note 17) at 93.

³⁷ Brownson N. Dede (note 10) at xxxv.

³⁸ Article 6 paragraph 1 and 5 of the African Economic Community Treaty.

2.4, it should be noted that according to the Abuja Treaty framework, Africa's economic integration process would have been at the third stage; in which there would be a free trade area and customs union in every regional bloc.³⁹ In addition, preparations of the fourth stage ought to be already underway since the third stage should be completed in 2017; which is around the corner.⁴⁰ Therefore, in light of the above, it is significant to establish whether the Abuja Treaty time frame has been respected or alternatively examine obstacles hindering RECs' expectations and provide intellectual inputs aimed at strengthening the capacity of these RECs.

One of the major impediments to Africa's integration is multiple memberships of the RECs. While this challenge will be discussed with others in Section 2.5, it is imperative to discuss it briefly here. About 95% of the African states belong to more than one REC.⁴¹ Apart from member states failing to honour their financial obligations towards different RECs, the duplication of programmes, low level of implementation of REC programmes and low attendance of meetings is attributable to this stumbling block.⁴² This accordingly undermines RECs' effectiveness as building blocks of Africa's integration. This state of affairs raises a few pertinent questions this study attempts to answer. First, is it feasible to attain continental integration with the existing number of RECs? Second, can the RECs taken individually go through the entire integration process provided by the Abuja Treaty when member states belong to many RECs? This paper will also focus attention on these issues.

Lastly, in view of the Sirte Declaration of the Heads of State and Government of the OAU,⁴³ that was adopted on September 9, 1999 in Libya; where African leaders undertook to take measures to shorten the timetable for the realisation of AEC treaty; and to strengthen and consolidate RECs as pillars of the AEC, among other things, to day 10 years after this Declaration, it is not premature to undertake a study to establish whether Africa's political leaders have walked the talk.

³⁹ Article 6 sub-paragraph 2c *ibid*.

⁴⁰ Article 6(2)(c) *ibid*.

⁴¹ African Union, Consolidated report of Accra and Lusaka consultative meetings (note 9) at 5.

⁴² United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xvii.

⁴³ Available at http://www.africa-union.org/Docs_AUGovernment/decisions/Sirte_Declaration_1999.pdf Accessed on 20/06/2009.

1.3 The scope of the study

The objectives of the African Economic Community are to promote economic, social and cultural development of the African continent.⁴⁴ The Treaty is also aimed, *inter alia*, to coordinate and harmonise activities of Regional Economic Communities, putting in place a continental framework for mobilisation of human and material resources and promoting cooperation in all forms of human endeavour, in order to raise the standard of living and foster peaceful relations between member states of the Community.⁴⁵

From the foregoing, it is evident that the Community Treaty is a comprehensive treaty in scope and adopts a holistic approach to development. Accordingly, the Treaty deals with economic, as well as, non-economic factors, including the pursuit of social, cultural, political and environmental goals.⁴⁶ However, for the purposes of this research, the focus for this study is on trade and market integration.

In addition, given the fact that the upper limit of words for a minor dissertation is set at 25,000 words, it is not feasible to discuss other forms of integration envisaged by the African Economic Community Treaty.

This research will explore the level of implementation of the Abuja Treaty by the RECs on the basis of the 6 stages through which Africa's trade and market integration will be created. It analyses progress registered in terms of trade and market integration by the RECs in their long march to obtaining an African economic and monetary union by the year 2028. Further more, this study will discuss challenges faced by RECs in the integration process and make recommendations on the way forward, in order to shape the future of these communities through lessons learnt.

For the purposes of this study, it should be noted that, unless, the context indicates otherwise, RECS only include regional groupings and inter-governmental organisations recognised by the African Union (AU) as such. These consist of the Community of Sahel-Saharan States (CEN-SAD), the Common Market for Eastern and Southern Africa (COMESA), the East African Economic Community (EAC), and the Economic Community of Central African States (ECCAS). Other RECs recognised by the AU include the Economic

⁴⁴ Article 4(1)(a) of the African Economic Community Treaty.

⁴⁵ Article 4(1)(b) *ibid*.

⁴⁶ SKB Asante (note 16) at 5.

Community of West African States (ECOWAS), the Inter-Governmental Authority on Development (IGAD) and the Southern African Development Community (SADC).⁴⁷ Although the Arab Maghreb Union (AMU) is also a recognised REC, unless expressly indicated, it is not included in this research because of unavailability of its data. In addition, the main source of information for this study is the African Union yet on the basis of uniformity, UMA does not cooperate with the AU at the instigation of Morocco; which is not a member of the continental body.⁴⁸

1.4 Research Methodology

This study is literature-based. Reliance therefore was placed on relevant primary and secondary sources relating to African integration. These include treaties, declarations, protocols, books and journals.

Research materials were mainly obtained from the University of Cape Town Libraries and in particular the Brand Van Zyl Law Library, the African Studies Library and the Government Publications Library. This research also benefited from materials from the University of Western Cape, School of Government Library.

Lastly, internet materials and resources were consulted and have been instrumental in enabling the researcher to obtain current treaties, declarations, protocols, decisions and reports emanating from Regional Economic Communities and the African Union.

1.5 Structure of the study

This study is composed of four chapters.

Chapter one is an introduction to this study. It looks at how according to many indices of human progress, Africa enjoys a dubious distinction of being at the bottom. It also tries to answer why African states had to embark on the ambitious task of integrating the African continent yet history is littered with many failed attempts. Chapter one also contains what motivated the researcher to undertake this study at the time he did, the scope of this study and the methodology that has been used.

⁴⁷ For a list of RECs recognized by the African Union see Decisions and Declaration of the Seventh Ordinary session of the Heads of State and Government of the African Union. Available at http://www.africa-union.org/root/au/Conferences/Past/2006/July/summit/doc/Decisions_and_Declarations/Assembly-AU-Dec.pdf. [Accessed on 26/11/2009.]

⁴⁸ The African Union, Consolidated report of Accra and Lusaka consultative meetings, (note 9) at 3.

Chapter two provides some historical foundation of Africa's desire for collective action that was manifested in the formation of different regional and continental groups and/or strategies. The objective, modalities and progress registered to date in the implementation of the African Economic Community Treaty are analysed and the challenges that need to be addressed for economic integration to be a success are discussed.

Chapter three is a comprehensive analysis of different initiatives that are in place to circumvent key challenges militating against regional integration in Africa. In particular, different attempts at rationalisation of Africa's Inter-Governmental Organisations (IGOs) and the Protocol on relations between the African Union and Regional Economic Communities are discussed. In addition, a continental framework for cooperation, coordination and convergence dubbed the Minimum Integration Programme is expounded.

Chapter four provides recommendations for addressing numerous challenges Regional Economic Communities face in their endeavour to be true agents of Africa's trade and market integration. Recommendations also emphasise the pivotal role individual African states and the African Union have to play in the integration process. Lastly, chapter four concludes the study with a call for African leaders to use this opportunity provided by the Abuja Treaty to bring about the integration of the continent; which is a revered duty they owe to motherland-Africa.⁴⁹

⁴⁹ SKB Asante (note 16) at 20.

CHAPER TWO: IMPLEMENTATION OF THE AFRICAN ECONOMIC COMMUNITY TREATY

2.1 Introduction

This chapter discusses how regional integration has been a strategy for the transformation of Africa for a long time beginning with the formation of the Southern African Customs Union (SACU) in 1910.⁵⁰ Over the years, some regional economic groupings were dissolved and others formed reflecting Africa's desire to promote economic cooperation and integration in order to overcome its development challenges.⁵¹

In June 1991, the Heads of State and Government of the Organisation of African Unity signed the African Economic Community Treaty in order to promote Africa's economic, social and cultural development of the African continent. The modalities through which the community will be formed are discussed and so are the achievements registered in order to determine the strength of the African regional integration.

Lastly, challenges militating against the successful implementation of the Abuja Treaty are examined in order to help the future of these regional groupings through lessons learnt and accelerate the integration process.

2.2 The historical foundation of the African Economic Community Treaty

The Abuja Treaty is an outcome of a long process of Africa's desire for collective action. The genesis of Africa's integration can be aptly categorised into 3 periods: the colonial era (before 1960); the post-independence period (1960-1980); and lastly the post Lagos Action Plan era (1980-1991).⁵²

As early as 1910, the Southern African Customs Union (SACU) was formed in Southern Africa bringing together the then Union of South Africa and 'the former High Commission territories of Bechuanaland, Basutoland and Swaziland.'⁵³ In 1917, Kenya and Uganda had formed a customs union and were joined by Tanganyika (now Tanzania) 10

⁵⁰ See Matthew R.A Heiman (note 6) at 646.

⁵¹ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (2004) at 27.

⁵² O. Akanle (note 7) at 4.

⁵³ Wikipedia, Southern African Customs Union (2009) Available at: http://en.wikipedia.org/wiki/Southern_African_Customs_Union [Accessed 18 May 2009. See also Matthew R.A Heiman (note 6) at 646.

years later.⁵⁴ At the dawn of independence, East Africa had common services in fields of transport and communication, external trade, university education and monetary policy.⁵⁵ Similar initiatives in British West Africa included, but were not limited to, the West African Currency Board, the West African Court of Appeal, the West African Cocoa Research Institute and the West African Airways Corporation.⁵⁶ There were also integration efforts in French-speaking West and Central Africa. Unfortunately, at independence, most of these integration efforts had crumbled or were severely weakened.⁵⁷

Rather than building on the integration initiatives available at the time, independence ignited ‘intense rivalries as well as excessive political and economic nationalism’ which led to the collapse of most of these inter-governmental groupings.⁵⁸ A case in point is the collapse of the previous East African Community composed of Kenya, Uganda and Tanzania, in which Kenya’s partners accused it of ‘receiving of a lion’s share of the benefits accruing from integration.’⁵⁹ Notwithstanding the above, a number of new alliances sprung up from independence. These included the Customs Union of Central Africa (UDEAC) formed in 1964 bringing together Cameroon, the Republic of Congo, the Central African Republic, Chad, Gabon and Equatorial Guinea. However, even then, no tangible progress was registered and what was available to show for this period is the formation of the former Organisation of African unity (OAU) in 1963.⁶⁰

During the period between 1980 and 1991, there emerged a new vigour for integration partly due to the realisation that trade and aid from the western world were insufficient to emancipate Africa from poverty.⁶¹ More importantly, previous strategies had not led to the continent’s aspirations of self-reliance and self-sustainability.⁶² It is this desire to make a clean break with the dependence syndrome and stagnation which is manifested in the Lagos Plan of Action (LPA). Thus:

The effect of unfulfilled promises of global development strategies has been more sharply felt in Africa than in the other continents of the world. Indeed,

⁵⁴ O. Akanle (note 7) at 4.

⁵⁵ Francis Nguendi Ikome (note 17) at 42.

⁵⁶ *Ibid.* at 41.

⁵⁷ O. Akanle (note 7) at 5.

⁵⁸ *Ibid.* at 5.

⁵⁹ John Akokpari (note 4) at 103.

⁶⁰ O. Akanle (note 7) at 6.

⁶¹ Francis Nguendi Ikome (note 17) at 47.

⁶² *Ibid.* at 51.

rather than result in an improvement in the economic situation of the continent, successive strategies have made it stagnate and become more susceptible than other regions to the economic and social crises suffered by the industrialised countries. Thus, Africa is unable to point to any significant growth rate, or satisfactory index of general well being, in the past twenty years. Faced with this situation, and determined to undertake measures for the basic restructuring of the economic base of our continent, we resolved to adopt a far-reaching regional approach based primarily on collective self-reliance.⁶³

Initiatives of 1980s included the laudable Lagos Plan of Action (LPA) and one of its annexes the Final Act of Lagos (FAL); which are regarded as the genesis of the AEC Treaty.⁶⁴ LPA sought an overhaul of Africa's development strategies in order to achieve self-reliance, economic growth and sustainable development. In its 13 chapters, it dealt with social as well as economic factors which included food and agriculture, transport and communication, energy, trade, industry, finance, statistics and population.⁶⁵

LPA divided Africa into regions which would constitute pillars for the African Economic Community that would be established in the year 2000.⁶⁶ West Africa would be served by the Economic Community of West African States (ECOWAS) -which had been established in 1975; Central Africa would be represented by the Economic Community of Central African States (ECCAS); East and Southern Africa would be served by the Preferential Trade Area (now the Common Market for Eastern and Southern Africa-COMESA); while the Arab Maghreb Union (UMA) would represent North Africa.⁶⁷

Regrettably at the end of 1980, almost all the targets set by the LPA had not been achieved and its laudable ideals were confined to annals of history.⁶⁸ It is submitted that the demise of LPA is attributable to factors such as the lack of enforcement mechanisms, excessive reliance on donor support and the heavy debt burden.⁶⁹ However, to gain an in-depth understanding of the failure of the LPA, it is imperative to evaluate these causes from the perspective of trade and industry.

Concerning trade, it should be noted that sustainability and viability of integration initiatives rest on the capacity of member states to share the gains and costs of integration in

⁶³ Ibid. at 51-52.

⁶⁴ O. Okanle (note 7) at 8.

⁶⁵ Francis Nguendi Ikome (note 17) at 53.

⁶⁶ Piet Koinings and Henk Meilink (note 31) at 133.

⁶⁷ Ibid at 133.

⁶⁸ John Akokpari (note 4) at 93.

⁶⁹ Ibid. at 93.

an acceptable manner.⁷⁰ With the LPA, it was an uphill task. While there were attempts to reduce imbalances in sharing the benefits and burdens of integration by introducing monetary compensation schemes and regional industrial planning, these initiatives proved counterproductive in a number of ways. First, since RECs did not have independent sources of revenue, disbursements to disadvantaged member states of these communities had to be footed by the privileged states. With the acute economic crisis of 1980's, it became increasingly difficult and the privileged states started reneging on making payments.⁷¹ Second, even where the monetary compensation schemes effected payments promptly, it is submitted that the recipient countries considered these disbursements too little because 'they claimed to lose not only customs revenue, but also the various learning and multiplier effects associated with the establishment of their industries.'⁷²

Regarding regional industrial planning, Nguendi Ikome observes that for this to be a reality, it necessitated a coordinated approach towards investors yet the choice of where to invest is heavily dependent on factors such as 'the state of infrastructure, available human resources, domestic policies and political conditions.' As a result, this made some countries unattractive to investment which undermined the LPA.⁷³

Having discussed the genesis of the African Economic Community from colonial times up to the signing of the community Treaty, it is pertinent to consider the objectives of the African Economic Community Treaty in the next section.

2.3 The objectives of the Africa Economic Community Treaty

The aim of the African Economic Community Treaty is to promote economic, social and cultural development of the African continent in order to enhance Africa's self-reliance, promotion of an endogenous development, as well as, a self-sustaining development.⁷⁴

Pursuant to article 4(1)(b) of the AEC Treaty, another key objective of the Abuja Treaty is to create a continental framework for development and mobilisation of Africa's human and material resources in order to attain a self-sustaining development.

⁷⁰ Francis Nguendi Ikome (note 17) at 84.

⁷¹ Ibid at 85.

⁷² Ibid at 86.

⁷³ Ibid at 86.

⁷⁴ Article 4(1)(a) of the African Economic Community Treaty.

The Treaty seeks further to promote cooperation in all forms of human endeavour with a view to raising the standard of living of African Peoples, promoting economic stability and fostering cordial and peaceful relations among member states.⁷⁵

Lastly, the Community Treaty is aimed at coordinating and harmonising activities, policies and programmes among Regional Economic Communities, with a view to the gradual establishment of the African Economic Community.⁷⁶

From the foregoing, it is discernible that the AEC Treaty is a holistic development strategy because it seeks integration in economic sectors on the one hand and links them with a quest for cooperation in, *inter alia*, social, political, cultural and environmental matters.⁷⁷ However, for the purposes of this study, and as indicated earlier in section 1.3, only trade and market aspects of the community Treaty will be explored.

2.4 Modalities for the establishment of the Community

Although article 2 of the African Economic Community Treaty stipulates that the Community is hereby established, it should be noted that the Community was not in actual sense created immediately because it would be a gradual process spanning 34 years, with an additional margin of 6 years⁷⁸ using Regional Economic Communities as building blocks.⁷⁹ Therefore, the Community is aspirational in nature and can aptly be described ‘a framework or interim arrangement for the formation of an economic community.’⁸⁰

While the community Treaty recognises the regions of Africa as ‘North Africa, West Africa, Central Africa, East Africa and Southern Africa,’ it is surprising to note that regardless of the existence of at least one regional grouping in every region, more RECs continued to be accredited by the OAU or AU irrespective of the fact that ‘members of the new RECs were already participants in other pre-existing RECs.’⁸¹ As a result, the African

⁷⁵ Article 4(1)(c) *ibid.*

⁷⁶ Article 4(1)(d) *ibid.*

⁷⁷ SKB Asante, (note 16) at 5.

⁷⁸ Article 6(1) and 6(5) of the African Economic Community Treaty.

⁷⁹ H.K Mutai, *Compliance with International Trade Obligations: The Common Market for East and Central Africa* (2007) at 106.

⁸⁰ *Ibid.* at 105.

⁸¹ *Ibid.* at 106.

Union now recognises 8 of the 14 regional groupings existing on the African continent.⁸² It was not until July, 2006 at Banjul in the Gambia that the Seventh Ordinary Session of the AU resolved to put an end to the recognition of more RECs.⁸³

According to article 6(2) of the Community Treaty, integration would be achieved through the gradual coordination and harmonisation of the activities of RECs. The Treaty identifies a set of activities and programmes to be implemented concurrently at each stage by all the RECs before transition from one stage to another.⁸⁴ However, due the disparity in the level of development in different member states, ‘unison in movement’ has become an uphill task to achieve in practice. While underscoring the problems associated with this sequencing of activities Asante aptly observed as follows:

[T]he completion of one stage is the start of the next one and so on, forming a chain. However, if one or more sub regional groupings is not able to meet the conditions of say, the third stage, then the whole process is likely to be blocked. The idea of sequencing reflects the expectation that all members of sub regional groupings would simultaneously attain the objectives of each stage, and preferably as rapidly as possible within the time frame accorded. Progress towards the formation of the AEC could very well depend on the speed at which the slowest groupings moved towards attainment of the basic objectives marking each stage.⁸⁵

Regional integration espoused by the Abuja Treaty is regional in orientation. As such, Regional Economic Communities were designated pillars or building blocks of the African Economic Community. Therefore, as a stepping stone, the first stage (within 5 years after the ratification of the Treaty) was earmarked for the strengthening of RECs and establishing them in regions where they do not exist.⁸⁶

⁸² For a full list of RECs recognized by the AU, see the United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xiii.

⁸³ The decision on the moratorium on the recognition of Regional Communities. Available at http://www.africa-union.org/root/au/Conferences/Past/2006/July/summit/doc/Decisions_and_Declarations/Assembly-AU-Dec.pdf. [Accessed on 26/11/2009.]

⁸⁴ Article 6(2) and 6(4) of the African Economic Community Treaty.

⁸⁵ SKB Asante, (note 16) at 11.

⁸⁶ Article 6(2)(a) of the African Economic Community Treaty.

The second stage (a period of 8 years) would involve stabilisation and gradual removal of tariff and non-tariff barriers to regional and intra-regional trade, strengthening sectoral integration, as well as, coordinating and harmonising the activities of RECs.⁸⁷

The third stage to be achieved in 10 years committed member states in each region to establish a free trade area through the gradual removal of tariff and non-tariff barriers and a customs union by adopting a common external tariff.⁸⁸ A free trade area denotes free trade in goods and services within member states while each member retains the freedom to retain its own tariffs and non-tariff barriers on goods and services produced by non-member states.⁸⁹ A customs union on the other hand refers to the consolidation of a free trade area but member countries go further to agree on a common external tariff on goods from non-member countries.⁹⁰

Establishing a continental customs union through the coordination and harmonisation of tariff and non-tariff barriers and adoption of a common external tariff would be the fourth stage and it would take 2 years.⁹¹

In the fifth stage of 4 years, an African Common Market will be established through the adoption of uniform policies in areas such as agriculture, industry, energy, scientific research and transport and communications. This stage will be further obtained through the harmonisation of financial and fiscal policies, as well as, the free movement of persons.⁹²

Lastly, the sixth stage will witness, *inter alia*, the consolidation of the African Common Market and the establishment of the African Economic and Monetary Union, the creation of the African Central Bank and a single African currency. The duration for this period is 5 years.⁹³

Following the analysis of the modalities through which the AEC Treaty will be created, it is pertinent to evaluate the progress achieved so far in order to gain a deeper understanding of the strengths and weaknesses of the RECs in their quest for trade and

⁸⁷ Article 6(2)(b) *ibid.*

⁸⁸ Article 6(2)(c) *ibid.*

⁸⁹ Sipho Buthelezi, *Regional integration in Africa: Prospects and challenges for the 21st century* (2006) at 2.

⁹⁰ *Ibid.* at 3.

⁹¹ Article 6(2)(d) of the African Economic Community Treaty.

⁹² Article 6(2)(c) *ibid.*

⁹³ Article 6(2)(f) *ibid.*

market integration of the African continent. This would undoubtedly help to shape the future of these regional communities through the lessons learnt.

2.5 Progress in implementation of the Community Treaty

Trade and market integration of the African continent under the African Economic Community is being pursued through programmes aimed at obtaining free trade areas, customs unions and common markets by Regional Economic Communities.⁹⁴ This involves the removal of tariff and non-tariff barriers and development of common trade policies with a view to enhancing intra-REC trade and obtaining a convergence of RECs; which is a prerequisite for the formation of an African Common Market.⁹⁵

Significant progress has been registered by various RECs although they have not moved at the same pace. The East African Community (EAC) is a customs union from 2005⁹⁶ while the Common Market for Eastern and Southern Africa (COMESA) became a customs union in 2009.⁹⁷ The Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS) and the South African Development Community have attained a free trade area while the Community of Sahel-Saharan States (CEN-SAD) and the Inter-Governmental Authority on Development (IGAD) are in the process of establishing theirs.⁹⁸

According to RECs' projections, ECCAS and SADC will create customs unions in 2010⁹⁹. In comparison with the Abuja Treaty time frame, it should be noted that, apart from CEN-SAD and IGAD, other RECs are clearly set to have achieved the target of having a customs union in every REC by 2017,¹⁰⁰ although a number of factors have militated against the creation of viable free trade areas and customs unions, where they exist. While a big number of these RECs have achieved a free trade area, some of their members have not been participating. A case in point is COMESA which launched its free trade area in 2000 but only

⁹⁴ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa III: Towards Monetary and Financial Integration in Africa Report* (note 3) at 29.

⁹⁵ *Ibid* at 31.

⁹⁶ African Union, *Status of Integration in Africa (SIA)* (2009) at 99.

⁹⁷ See COMESA 'launches its customs union' and the 'final communiqué of the 13th Summit of the COMESA Authority of the Heads of State and Government.' Available at <http://www.comesa.int/lang-en/component/content/article/34-general-news/168-comesa-launches-its-customs-union>. [Accessed on 19/06/2009.]

⁹⁸ The African Union, *Status of Integration in Africa (SIA)* (note 96) at 9.

⁹⁹ *Ibid.* at 9.

¹⁰⁰ The African Union, *Minimum Integration Programme (MIP)*, (2009) at 6.

14 out of 19 members were involved in the free trade area at establishment of its customs union in 2009.¹⁰¹

The formation of a customs union is undermined by overlapping memberships. Without a common external tariff and customs union regulations, participation in more than one customs union is impossible because it would be flouting the World Trade Organisation (WTO) rules.¹⁰² Illustratively, with the EAC and COMESA already customs unions and SADC planning to have its own in 2010, member states belonging to more than one of these RECs will have no other choice but to decide on which of them to belong.¹⁰³ This phenomenon was aptly highlighted by President Yoweri Museveni of the Republic of Uganda, who while referring to the EAC member states (who are also members of COMESA) during the launching of the COMESA customs union observed that: '[w]e have not discussed it among ourselves, but it does not stop others from moving on. The rest can move on while we sort ourselves out.'¹⁰⁴ Additionally, the viability of planned customs unions in ECOWAS and SADC will also depend on their compatibility with the already existing West African Economic and Monetary Union (UEMOA) and the Southern African Customs Unions (SACU) respectively.¹⁰⁵

Therefore, the creation of a free trade area incorporating COMESA, EAC and SADC agreed upon by the tripartite summit held in October 2008 in Kampala (Uganda) is a step in the right direction in overcoming myriad challenges posed by multiple memberships of RECs¹⁰⁶ and bringing about the necessary convergence of RECs – a precursor of deeper integration.¹⁰⁷ Accordingly, other RECs should draw upon this experience to bring continental integration closer.

¹⁰¹ The African Union, *Status of Integration in Africa (SIA)* (note 96) at 35. See also E-COMESA newsletter, Issue # 206 of May, 29, 2009. Available at http://about.comesa.int/attachments/080_e-COMESA_newsletter_206.pdf [Accessed on 19/06/09.]

¹⁰² Dani Venter and Ernst Neuland, *Regional Integration- Economic Partnership Agreements for Eastern and Southern Africa*, 1st Edition (2007) at 252.

¹⁰³ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa III: Towards Monetary and Financial Integration in Africa Report* (note 3) at 32.

¹⁰⁴ Yves Niyigira, *Countries opt out of COMESA*, AU Monitor Daily. Available at <http://www.pambazuka.org/aumonitor/comments/2333/>. Accessed on 28/7/2009.

¹⁰⁵ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa III: Towards Monetary and Financial Integration in Africa Report* (note 3) at 32.

¹⁰⁶ The African Union, *Status of Integration in Africa (SIA)* (note 96) at 64.

¹⁰⁷ The African Union, Erastus Mwencha, the Deputy Chairperson of the African Union Commission's statement at the Ministerial meeting of the Fourth Conference of African Ministers in charge of Integration (COMAI IV) held at Yaoundé, Cameroon on May 7, 2009.

While trade and market integration is anchored on the removal of tariff and non-tariff barriers to trade within the Regional Economic Communities, these barriers remain a big stumbling block to intra-African trade. Police roadblocks and harassment from customs and migration officials in some countries are still matters of great concern.¹⁰⁸ For instance in Nigeria, as a result of the desire to protect infant and strategic industries, blanket restrictions have been imposed on particular goods which has adversely affected trade in West Africa.¹⁰⁹ This Nigerian policy is said to be motivated by growing concerns that some countries in West Africa like Benin are acting as re-export centres of goods manufactured outside the region which flouts ECOWAS rules of origin.¹¹⁰ In the SADC region, there is evidence to suggest that non-tariff barriers have been substituted with tariff barriers, often imposed without the knowledge of other member states in this Regional Economic Community.¹¹¹

In the case of ECOWAS, obstacles to trade ought to have been eliminated due to the signature of the ECOWAS Inter-State Road Transit (ISRT) Convention and its supplement in 1982 and 1990 respectively.¹¹² ISRT system is a framework through which member states of ECOWAS agreed to ensure free movement of goods in this Regional Economic Community.¹¹³

Having experimented policies aimed at creating free trade areas and customs unions on the African continent for decades, it is pertinent to evaluate if these policies have had a positive effect on the development of intra-African trade.

There is evidence indicating that progress in intra-REC trade ranges from poor to modest improvements from 2000-2005. Tables 2.1 and 2.2 below, show that export and import indices of Regional Economic Communities and other Inter-Governmental Organisations over the same period.

¹⁰⁸ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa III: Towards Monetary and Financial Integration in Africa Report* (note 3) at 32.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² African Union, *Status of Integration in Africa (SIA)* (note 96) at 29.

¹¹³ Ibid.

Table 2.1

Intra-REC indices of export trends (base year = 2000)

REC	2000	2001	2002	2003	2004	2005	Average Growth
CEMAC	100.00	121.88	139.34	152.07	181.15	206.98	150.24
CENSAD	100.00	100.20	132.67	140.09	171.83	212.30	142.85
CEPGL	100.00	106.73	127.42	142.86	187.62	214.37	146.50
COMESA	100.00	115.74	124.40	146.12	173.44	205.13	144.14
EAC	100.00	111.67	115.25	118.78	126.05	144.02	119.30
ECCAS	100.00	106.63	104.26	103.66	124.93	142.74	113.70
ECOWAS	100.00	81.93	114.31	109.74	157.13	196.99	126.68
IGAD	100.00	128.63	125.56	150.77	142.58	167.00	135.76
IOC	100.00	126.66	99.43	169.01	146.22	150.14	131.91
MRU	100.00	82.34	89.36	104.65	108.18	123.60	101.35
SADC	100.00	89.31	100.26	128.02	150.35	173.06	123.50
UEMOA	100.00	104.66	115.74	145.30	166.50	187.71	136.65
UMA	100.00	103.89	109.88	122.29	125.61	172.31	122.33

Source: ARIA III.

While exports would have generally been impressive, because some RECs and other IGOs like CEMAC, CEN-SAD, CEPGEL and COMESA had an export growth rate of over 40% in 2000-2005 and others are between 20-40%, Intra-African export trade remains a tiny fraction of Africa's total export trade. According to WTO statistics, Africa's trade with itself constituted 9.8% and 8.9% of Africa's total export trade during this period respectively.¹¹⁴

Similarly, intra-REC import indices in table 2.2 show an impressive growth rate especially in IOC, COMESA, CEN-SAD, CEPGEL and CEMAC over the same period. Regrettably again, intra-African import trade is very low compared to Africa's import trade with the rest of the world (see table 2.3 below).

Furthermore, it should be noted that when Africa's trade is compared to other regions, the results are not any better. Illustratively, while intra-African trade was only 9.8% and 8.9% in 2000-2005, it was 72.7% in 2001 and 73.2 in 2005 for Europe's exports and 66.8% and 66.7% for the 25 countries that made up the European Union (EU) respectively. When compared with Asia and South and Central America, intra-export trade for Asia was 51.5% in 2005 while it was 24.3% for South and Central America in the same year.¹¹⁵

It should be noted further that Africa's exports are characterised by mainly the export of primary goods which consist of unprocessed agricultural products like coffee, tea, cocoa and cotton coupled with fuel, mineral products and limited manufactured goods (see table 2.4).

¹¹⁴ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa III: Towards Monetary and Financial Integration in Africa Report* (note 3) at 33-35.

¹¹⁵ *Ibid.* at 35.

Table 2.2

Intra-REC indices of import trends (base year = 2000)

REC	2000	2001	2002	2003	2004	2005	Average Growth
CEMAC	100.00	119.18	113.58	152.78	170.35	194.64	141.75
CENSAD	100.00	118.63	115.70	159.09	178.36	218.93	148.45
CEPGEL	100.00	106.72	127.45	142.81	187.56	214.30	146.47
COMESA	100.00	122.51	126.13	159.99	201.26	238.71	158.10
EAC	100.00	97.51	103.46	146.24	195.29	223.13	144.27
ECCAS	100.00	105.67	92.05	105.65	121.29	138.59	110.54
ECOWAS	100.00	105.67	92.05	105.65	121.29	138.59	110.54
IGAD	100.00	120.01	119.49	151.44	162.64	197.74	141.89
IOC	100.00	125.80	174.38	207.73	306.20	314.71	204.80
MRU	100.00	87.49	94.95	113.27	124.86	142.67	110.54
SADC	100.00	98.38	108.13	118.43	175.48	201.75	133.69
UEMOA	100.00	108.53	122.68	141.13	170.11	190.99	138.91
UMA	100.00	102.82	112.09	124.61	127.03	174.27	123.47

Source: ARIA III.

Table 2.3

Overall direction of trade (average percentage of exports and imports between 2000 and 2005)

RECs	INTRA REC		REST OF AFRICA (ROA)		ASIA (including China)		CHINA		EUROPEAN UNION (EU)		JAPAN		USA		REST OF THE WORLD (ROW)		WORLD	
	Exp. %	Imp. %	Exp. %	Imp. %	Exp. %	Imp. %	Exp. %	Imp. %	Exp. %	Imp. %	Exp. %	Imp. %	Exp. %	Imp. %	Exp. %	Imp. %	Exp. %	Imp. %
CEMAC	0.9	5.2	2.7	8.9	23.1	6.9	11.6	2.8	36.1	52.4	0.8	1.9	28.9	13.1	7.4	11.6	10.0	10.0
CENSAD	12.2	13.0	4.5	6.4	18.9	16.4	6.0	6.1	35.5	39.1	1.9	2.7	8.7	4.9	18.3	17.5	10.0	10.0
CEPGL	2.7	1.6	4.7	35.5	17.6	8.3	3.9	3.7	39.8	33.5	6.0	2.4	7.0	4.1	22.2	14.7	10.0	10.0
COMESA	8.7	11.1	8.6	17.2	12.6	16.8	6.0	6.2	41.5	26.3	3.0	3.1	8.1	4.7	17.5	20.8	10.0	10.0
EAC	12.6	18.7	7.2	9.9	17.3	15.2	3.6	5.1	30.4	24.5	2.0	4.5	3.7	4.8	26.8	22.5	10.0	10.0
ECCAS	0.7	3.8	2.2	14.0	18.8	9.1	10.1	42.5	3.1	50.6	2.1	0.8	23.6	10.7	11.5	9.7	10.0	10.0
ECOWAS	13.9	15.8	5.5	5.2	20.7	17.3	4.2	6.8	40.4	40.7	1.7	2.9	7.3	4.3	10.0	13.7	10.0	10.0

IGA D	21 .5	15 .2	5. 8	3. 6	18 .0	21 .9	11 .8	8. 3	19. 9	19. 7	3. 9	3. 7	2. 8	5. 0	28 .2	30 .9	10 0	10 0
IOC	3. 0	3. 6	1. 8	15 .1	7. 3	21 .4	0. 8	6. 4	63. 8	32. 9	3. 4	2. 8	16 .6	3. 0	4. 1	21 .1	10 0	10 0
MRU	0. 4	1. 3	3. 9	9. 4	7. 8	25 .2	1. 4	5. 6	68. 7	38. 7	0. 2	7. 3	6. 5	4. 5	12 .4	13 .6	10 0	10 0
SAD C	19 .9	33 .1	2. 3	2. 6	12 .2	14 .2	6. 3	3. 8	3.8	40. 7	25 .2	2. 9	9. 4	5. 4	11 .2	16 .7	10 0	10 0
UEM OA	11 .5	14 .9	18 .6	13 .7	30 .8	12 .9	6. 8	4. 9	25. 2	40. 3	2. 0	1. 8	3. 0	3. 0	9. 0	13 .3	10 0	10 0
UMA	2. 5	3. 1	4. 5	1. 7	3. 0	9. 0	1. 0	3. 9	70. 4	60. 3	2. 8	2. 4	5. 1	3. 9	13 .1	19 .6	10 0	10 0
Aver age	8. 5	10 .8	5. 6	11 .0	16 .0	15 .0	5. 6	5. 1	42. 7	37. 2	2. 5	3. 1	10 .1	5. 5	14 .8	17 .4	10 0	10 0

Source: ARIA III, compiled from IMF DOT 2006 by ECA, China included in Asia, but separated as a memorandum.

Table 2.4

African merchandise exports

	Total Merchandise			Fuels and Mining Products			Manufactured Products			Agricultural Products		
	From Africa	Value in billion \$	Share (%)	Value in billion \$	Share (%)	Value in billion \$	Share (%)	Value in billion \$	Share (%)			
	2005	2000	2005	2005	2000	2005	2005	2000	2005	2005	2000	2005
To World	297.7	100 %	100 %	194.2	100 %	100 %	63.0	100 %	100 %	32.3	100 %	100 %
To Europe	127.8	50.3 %	42.9 %	74.2	45.7 %	38.2 %	34.5	60.1 %		15.2	50.0 %	47.2 %
To North America	60.2	17.3 %	20.2 %	52.9	24.7 %	27.2 %	5.1	8.6 %	8.1 %	2.0 %	5.0 %	6.3 %
To Asia	48.6	16.4 %	16.3 %	33.4	18.3 %	17.2 %	7.7	9.8 %		5.0 %	18.2 %	15.3 %
To Africa	26.5	9.8 %	8.9 %	9.4	5.1 %	4.8 %	11.4	16.2 %		5.5 %	18.7 %	17.1 %

Source: ARIA III, compiled from WTO 2006 by ECA.

A critical issue that needs to be examined is why despite embracing trade liberalisation policies, Regional Economic Communities are still heavily dependent on multilateral trade. Various explanations for this state of affairs are offered. First, Africa

produces primary goods it does not consume yet the bulk of its imports constitute manufactured goods produced elsewhere.¹¹⁶ Second, world liberalisation initiatives such as the United States of America's African Growth and Opportunity Act (AGOA) and the European Union's Everything But Arms (EBA) have led to a significant reduction in tariffs for Africa's products.¹¹⁷ Lastly, China's growing interest in Africa's products that has led to the scrapping of tariffs on 190 commodities that come from 25 African countries should not be underestimated.¹¹⁸

Having established the status of trade and market integration in Africa, what follows are the challenges that militate against the formation of viable RECs in general and the implementation of the AEC Treaty in particular.

2.6 Challenges militating against the implementation of the African Economic Community Treaty

While significant progress has been registered in terms of creating free trade areas and customs unions, regrettably all Regional Economic Communities are still shaky due to their internal deficiencies, little national support, inefficient national coordination, lack of popular participation in the integration process and dissatisfaction over the distribution of the benefits accruing from integration, among other factors. So, to understand the cause of this weakness, it is imperative to elucidate these factors.

Overlapping membership of the Regional Economic Communities stands out as one of the most severe impediments curtailing progress towards integration. For instance, while the African Union recognises 8 RECs, the African continent has 14 Inter-Governmental Organisations.¹¹⁹ In addition, 'out of 53 member states of the African union (AU), 26 belong to two of the fourteen IGOs, 20 belong to 3 of them, and only one country belongs to four.'¹²⁰ Instead of a region containing one Regional Economic Community as prescribed in the Abuja Treaty,¹²¹ each region has an average of 3 to 4 regional economic groupings.¹²² In Southern

¹¹⁶ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 100.

¹¹⁷ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa III: Towards Monetary and Financial Integration in Africa Report* (note 3) at 34.

¹¹⁸ *Ibid.* at 35.

¹¹⁹ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xiii.

¹²⁰ *Ibid.*

¹²¹ Article 1(d) of the African Economic Community Treaty.

Africa, the Southern African Development Community (SADC) co-exists with the Southern African Customs Union (SACU), the Indian Ocean Commission (IOC), and the Common Market for Eastern and Southern Africa (COMESA); which also covers part of Central, Eastern and Northern regions of the continent. In Central Africa, the Economic Community of Central African States (ECCAS) co-exists with the Economic Community of the Great Lakes Countries (CEPGEL), the Central African Economic and Monetary Union (CEMAC) and COMESA, as observed above. In West Africa, the Economic Community of West African States (ECOWAS) shares space with Mano River Union (MRU), the West African Economic and Monetary Union (UEMOA) and the Community of Sahel-Saharan States (CEN-SAD); this partly covers North Africa. Lastly, North Africa has the Arab Maghreb Union (UMA).¹²³ It is submitted that overlapping membership leads countries not to be fully committed to the objectives of a particular regional grouping, thus rendering them inefficient and ineffective.¹²⁴ Even where the objectives of these regional groupings are compatible, it nonetheless ‘exerts considerable material, financial and human’ constraints on member states. It is as a result of this heavy burden that Namibia withdrew its membership from COMESA.¹²⁵

Related to overlapping membership is the duplication of programmes between Regional Economic Communities in the same geographic region. A case in point is West Africa where for instance ‘programmes in market and trade integration and agriculture and food security are undertaken by three of the four regional communities’ yet trade in this region remains low.¹²⁶ Similarly, COMESA and SADC have similar goals of promoting cooperation and integration in areas such as ‘science, technology, industry and peace and security.’¹²⁷ While one REC covering the whole region would be sufficient to undertake all programmes, the presence of similar programmes in different RECs within the same geographic region denotes that when it comes to trade, each REC will possess its own rule of origin, trade facilitation procedures and common external tariff (where applicable), among

¹²² United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 45.

¹²³ *Ibid* at 45.

¹²⁴ John Akokpari (note 4) at 100.

¹²⁵ *Ibid*.

¹²⁶ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xvii.

¹²⁷ Matthew R.A. Heiman (note 6) at 660.

other things, which hampers intra-regional trade.¹²⁸ Besides, duplicated efforts squander the already scarce resources of the continent.¹²⁹

Another major impediment to the successful implementation of the integration process is the lack of funds. Most Regional Economic Communities largely depend on donor financial support to survive. With donor funding on the decline coupled with multiple memberships of the member states to these regional communities, Regional Economic Communities find themselves between a rock and hard place.¹³⁰ It is noted that in 2006, a third of the member states of the Regional Economic Communities failed to pay their membership contributions while it had risen to more than half in some communities.¹³¹ This hurdle has been further acknowledged by the African Union. Thus:

[member states] recognize that the main obstacle to the full implementation of the policies, measures and programmes of the RECs include resource constraints, at the levels of the Union, RECs, the member states ... to plan, manage, implement, follow-up, and monitor the implementation of agreed decisions, policies, measures, programmes and activities.¹³²

Therefore, it is illogical to expect Regional Economic Communities to discharge effectively their obligations under the Abuja Treaty when they have inadequate funding.

The impact of scarcity of funds is also felt when it comes to the staffing of Regional Economic Communities. In a survey conducted by the Economic Commission for Africa and the African Union, most RECs indicated that they had 'poor employment rates of the professional staff' although the programmes implemented by these RECs are technical in nature.¹³³ In addition, a high rate of staff turnover was reported to be a serious hindrance to development of many small communities.¹³⁴

The formation of free trade areas and customs unions has been hampered by a profound fear of revenue loss by a good number of African countries because of their

¹²⁸ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xviii.

¹²⁹ Matthew R.A. Heiman (note 6) at 660.

¹³⁰ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 129-130.

¹³¹ *Ibid.* at xviii.

¹³² See article 25(1) of the Protocol on the relationship between the African Union and Regional Economic Communities.

¹³³ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xviii.

¹³⁴ *Ibid.*

overdependence on taxes from international trade to finance public expenditure, yet tariff and non-tariff barriers have to be eliminated for deeper integration to succeed.¹³⁵ For instance, the 1996 data indicates that the degree of dependence on foreign trade was 49% for Lesotho, 34% for Zambia and 12% for Botswana¹³⁶ which are high proportions by all standards. Consequently, the higher the dependence, the higher the chances that a particular country will be reluctant to liberalise its trade for fear of significant revenue loss or state survival.

The integration process has also had to contend with the issue of national sovereignty. Akokpari argues that ‘statehood and sovereignty’ being new to most African countries denotes that states will make safeguarding their sovereignty a top priority, yet for any meaningful integration to be effective, countries have to part with some measure of sovereignty and give it to regional organisations. Wachira also observes that international law is tilting in favour of giving up some sovereignty if supra-national organisations are to realise their potential. Regrettably, it is even this question of national identity that ‘is actually a cause of the current divide in the debate on a Union Government.’¹³⁷

Another major hurdle to the smooth implementation of the Abuja Treaty is the relationship between RECs and AEC. Although the realization of the African Economic Community is heavily dependent on the strengthening of Regional Economic Communities,¹³⁸ the Council of Ministers, at Algiers in Algeria, in July 1999, noted with concern that RECs have not taken the gradual formation of the AEC as their individual and collective responsibility, especially regarding ‘programme co-ordination and participation in all AEC related activities.’¹³⁹

While article 22(1) of the 2008 protocol on relations between the African Union (AU) and the Regional Economic Communities (RECs) provides that:

‘... [T]he Union shall take appropriate measures, through its principal policy organ, against a Regional Economic Community whose policies, measures, programmes are incompatible with the objectives of the Treaty or whose

¹³⁵ Ibid. at 10.

¹³⁶ Chinyamata Chipeta, ‘Development Integration in Southern Africa,’ in Ibbo Mandaza and Dani Nabudere (eds), *Pan-Africanism and integration in Africa*, (2002) 180 at 184.

¹³⁷ Marilyn Aniwa, ‘Rationalising regional economic Communities and implementing the treaty establishing the Africa Economic Community: The Role of Parliaments,’ in Timothy Murithi (ed), *Towards a Union Government for Africa* (2008) 69 at 75.

¹³⁸ Article 6(2) of the African Economic Community Treaty.

¹³⁹ SKB Asante (note 16) at 11.

implementation of its policies measures, programmes and activities lags behind...

It is perhaps premature at this moment to identify the gap between commitment and delivery.

Insufficient coordination at the continental level is also a matter of great concern. While coordination organs; notably the Committee on Co-ordination and the Committee of Secretariat Officials, were established to co-ordinate and harmonise policies, programmes and activities of the RECs, attendance at their meetings has not been sufficient and 'little is exchanged or discussed on the progress of coordination or harmonizing policies and programmes at the country, Regional Economic Community, continental and sectoral levels, when meetings take place.'¹⁴⁰

Horizontally, the situation is not helped by the fact that RECs are not at the same pace in the pursuit of the integration strategy. As observed earlier (see section 2.5), the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA) are customs unions.¹⁴¹ The Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS) and the Southern Africa Development Community have attained a free trade area while the Community of Sahel-Saharan States (CEN-SAD) and the Inter-Governmental Authority on Development (IGAD) are in the process of establishing theirs.¹⁴² Unison in movement envisaged by the Abuja Treaty¹⁴³ has not been possible. Therefore, moving to deeper levels of integration becomes an uphill task. Illustratively, the third stage requires member states to form regional free trade areas and customs unions which would eventually give way to a continental customs union (the 4th stage). Therefore, a full-fledged regional customs union can not be possible when some RECs are not yet free trade areas (FTAs) and the FTAs have not become customs unions.

¹⁴⁰ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xxii.

¹⁴¹ Regarding the East African Community see The African Union, *Status of Integration in Africa (SIA)* (note 96) at 99. For COMESA see, *COMESA 'launches its customs union'* and the '*Final communiqué of the 13th Summit of the COMESA Authority of the Heads of State and Government.*' Available at <http://www.comesa.int/lang-en/component/content/article/34-general-news/168-comesa-launches-its-customs-union>. [Accessed on 19/06/2009.]

¹⁴² The African Union, *Status of Integration in Africa (SIA)* (note 96) at 9.

¹⁴³ Article 6(2) of the African Economic Community Treaty.

Another substantial hurdle to the integration process is treaty implementation. From experience, concluding a treaty is one thing but its implementation is another. While the African Economic Community Treaty was signed in 1991, it was ratified in 1994.¹⁴⁴ Again, while rationalization of all the RECs in each sub-region into ‘a single integration unit’ was endorsed by the First session of the Heads of State and Government of the AEC at Harare, Zimbabwe, in 1997,¹⁴⁵ that resolution has not materialised to this day.

In addition, treaties and protocols across various Regional Economic Communities are not complementary, take too long to negotiate, sign and ratify which impedes the timely implementation of REC programmes.¹⁴⁶ Different mechanisms for ratifying international agreements are partly the cause for the delay. In a survey conducted by the Economic Commission for Africa and the African Union, in more than half of African countries, it is only the legislature which ratifies treaties and protocols while in the remaining states ratification is either undertaken by both the Parliament and Head of State or the Cabinet alone.¹⁴⁷ As expected where the Parliament is involved, the ratification is likely to take longer. Concerns pertaining to delays in programme implementation were aptly highlighted by ECOWAS’ Executive Secretary as follows:

During the past year, the institutions of the Community have endeavoured to identify and bring to the attention of Member States, the factors hampering the implementation of two crucial ECOWAS programmes, namely the free movement of persons, and the trade liberalization scheme. Given the political will to cooperate, it should now be possible for more Member States to implement those two programmes more effectively.¹⁴⁸

Similarly in COMESA, while the protocol on the free movement of persons, labour and services and the right to settlement was adopted by the Heads of State and Government of the COMESA Authority in May, 2001 and requires only seven member states members of the nineteen member states to sign it for to be effective, less than seven member states had signed it by 2009.¹⁴⁹

¹⁴⁴ Marilyn Aniwa (note 137) at 69.

¹⁴⁵ SKB Asante (note 16) at 12.

¹⁴⁶ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 69.

¹⁴⁷ *Ibid.* at 78.

¹⁴⁸ Executive Secretariat of ECOWAS, *A time for implementation (1988-89 ECW/CMXXV/2)*, Report of the Executive Secretary, as cited in Thompson Bankole (note 29) at 763.

¹⁴⁹ The African Union, *Status of Integration in Africa (SIA)* (note 96) at 43.

Economic integration of the continent is further hindered by little national support for Regional Economic Community programmes and policies. Apart from funding constraints indicated earlier in this section, RECs have been plagued by weak national co-ordination mechanisms for the RECs' programmes and policies. In a survey undertaken by the Economic Commission for Africa and the African Union, only 32% of the member states of the African Union had a ministry 'dedicated solely to regional integration.'¹⁵⁰ Further more, there is little translation of Regional Economic Community programmes and policies into the planning and budget processes of the member states.¹⁵¹ As a result, some programmes end up not implemented in the countries in question, while in some states integration ends with the signing of protocols.¹⁵²

Integration of the African continent is further curtailed by conflicts in different African countries. Conflicts are a disservice to regional integration in a number of ways: Firstly, they destroy the infrastructure which constitutes a formidable challenge to trade and investment in such areas.¹⁵³ Secondly, states with conflicts will be diverted from focusing on integration thus squandering resources that would have promoted the integration agenda.¹⁵⁴ Thirdly, conflicts have the potential to create mistrust and even outright confrontation in particular cases between states in the same Regional Economic Community. For instance, the ECOWAS' decision to intervene in Liberia in 1990s at the instigation of Nigeria caused a rift between Anglophone West Africa; which was in favour of intervention and Francophone West Africa (Cote d'Ivoire bloc); which was against it, unwilling to contribute troops or allegedly supporting forces fighting against the regional force, that was in Liberia to restore peace and security.¹⁵⁵ Similarly, a rift developed in SADC during the conflict that pitted the Government of the Democratic Republic of Congo and rebels supported by Rwanda and Uganda. While some SADC member states like Angola, Zimbabwe and Namibia intervened on behalf of the Government of DRC, other member states refused to pronounce themselves

¹⁵⁰ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xviii.

¹⁵¹ *Ibid.* at xix.

¹⁵² *Ibid.* at xix.

¹⁵³ The African Union, *Status of Integration in Africa (SIA)* (note 96) at 17.

¹⁵⁴ *Ibid.* at 17.

¹⁵⁵ John Akokpari (note 4) at 100.

on this matter and ‘full unity’ was restored after the withdrawal of foreign troops from that country in 2003.¹⁵⁶

It should be noted that Government organs have tended to ‘monopolize dialogue on integration’ between themselves leaving out broad sections of the population.¹⁵⁷ While questioning the viability of integration driven by politicians and bureaucrats without the citizens on board, George Kanyeihamba, the former Justice of the Supreme Court of Uganda, at a conference organised in Kampala (Uganda), on fast-tracking the political federation of the East African Community (EAC) observed as follows:

The campaign for the East African Community and a possible EA federation are the preserve of the ruling classes in the region. It can be said therefore that the EAC is the result of a gentleman’s agreement between the leadership of the respective states with little, if any, input from the people of East Africa. I question the sincerity and viability of creating a political federation.¹⁵⁸

Similar sentiments were echoed by participants from other East African Community member countries at this conference, which came to the extent of questioning the legitimacy of the EAC itself. For example Prof. John Kabudi, the Dean of the School of Law at the University of Dar es Salaam observed that ‘[t]here are no East Africans in the EAC and they won’t be created by a treaty.’¹⁵⁹ Therefore, for integration to succeed, the integration agenda has to be widely disseminated to bring on board the citizens of the member states of the Regional Economic Communities and/or African Economic Community, as the case may be.

Also sidelined in the integration process of the continent is the private sector. Treaties of most Regional Economic Communities do not provide for the role to be played by the private sector in the integration process. As a result, the private sector does not take part in ‘the identification, formulation and implementation of the integration policies and programs.’ Yet, it could have been instrumental in pushing for macro-economic stability, ratification of

¹⁵⁶ Ibid.

¹⁵⁷ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xix.

¹⁵⁸ As cited by Charles Kazooba, *Pressure piles on EAC to go slow on political union*, the East African newspaper, available at <http://www.theeastafrican.co.ke/news/-/2558/830986/-/px3tn9z/-/index.html>. [Accessed on December 28, 2009].

¹⁵⁹ Ibid.

treaties and protocols, institutional quality and funding the integration agenda, among other things.¹⁶⁰

2.7 Conclusion

This chapter examined the progress registered by Regional Economic Communities in the implementation of the Abuja Treaty. The road to Abuja was a long and chequered one. As far back as 1910, the Southern African Customs Union (SACU) was formed in Southern Africa and other regional and continental initiatives soon followed. However, due to problems ranging from political and economic nationalism to dissatisfaction over the distribution of the benefits of integration, all these initiatives had collapsed or were severely weakened at the time the African Economic Community Treaty was signed in June, 1991 in Abuja, Nigeria.

Although the African Economic Community Treaty stipulates that the Community is hereby established,¹⁶¹ it is evident that it is aspirational in nature but would in actual sense be created through a gradual process spanning 34 years using Regional Economic Communities as building blocks. During this period, specific activities to be implemented concurrently were identified for each of the six stages through which the community will be created.

The objectives of the Abuja Treaty include, *inter alia*, promoting economic, social and cultural development of the African continent to enhance Africa's self-reliance, promote an endogenous and self-sustained development. In view of the spirit of the Sirte Declaration¹⁶² which calls for fast-tracking the timeframes provided by the Abuja Treaty, this chapter analyses whether the Regional Economic Communities have been successful in attaining the objectives of the African Economic Community and whether the Abuja Treaty time frames have been respected in the first place. Regrettably however, some Regional Economic Communities are lagging behind in the implementation of the six stages provided by the Abuja Treaty. Accordingly, a lot needs to be done in order to bring them on board.

¹⁶⁰ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 4.

¹⁶¹ Article 2 of the African Economic Community Treaty.

¹⁶² Available at http://www.africa-union.org/Docs_AUGovernment/decisions/Sirte_Declaration_1999.pdf

While substantial progress has been registered in terms of the creation of free trade areas and customs unions, a lot still needs to be done in order to bring non-participant member states on board. Extra effort is also necessary in order to eliminate the remaining tariff and non-tariff barriers to trade. While the study indicates that it is crucial to improve intra-African trade because Africa's trade with itself is very low compared to other world regions, African countries should also be mindful of the benefits multilateral trade has for their economies and accordingly, also need to harness it.

Lastly, considering that Regional Economic Communities are at different stages of integration and given the formidable challenges to be overcome before reaching the final stage of integration envisaged by the Abuja Treaty, it is discernible that a lot of work still needs to be done to speed up regional and continental integration. Therefore, the Protocol on the relations of the African Union and the Regional Economic Communities, attempts to rationalise the RECS and the Minimum Integration Programme (MIP); which are the subject of the next chapter represent undoubtedly the beginning of a solution to these predicaments of the RECs.

CHAPTER THREE: INITIATIVES TO ACCELERATE THE IMPLEMENTATION OF THE AFRICAN ECONOMIC COMMUNITY TREATY

3.1 Introduction

Since the signing of the Abuja Treaty, several initiatives have been undertaken in the realm of promoting regional integration in Regional Economic Communities without the continental blueprints.¹⁶³ This is manifested, *inter alia*, by multiple memberships of RECs and inefficient coordination and harmonisation of RECs' activities that characterised the era preceding the Protocol on the relations between the African Union and Regional Economic Communities and the Minimum Integration Programme. Yet, a continental coordination mechanism is essential to realise the objectives of the Abuja Treaty.¹⁶⁴

This chapter starts by demonstrating how the signing of the Protocol on the relations between the African Union and the Regional Economic Communities is one of the milestones achieved to date by the African continent in its endeavour to promote cooperation, coordination and harmonisation of RECs' programmes. In addition, a comparison with its predecessor is made in order to identify the weaknesses of the previous protocol and get acquainted with what should be expected of the new protocol.

Since Africa needs to converge activities, programmes and policies of the RECs for economic integration to be realised,¹⁶⁵ chapter three also focuses on the difficulties encountered in Africa's attempts to rationalise its Inter-Governmental Organisations around a single regional community. Different options that have been available for consideration in the rationalisation exercise by the African Union and other stakeholders are discussed in order to get an in-depth understanding of the various scenarios that are available.

Lastly, chapter three considers the Minimum Integration Programme (MIP); which is a continental framework geared at promoting co-operation, coordination and convergence of the activities, programmes and policies of Regional Economic Communities in order to accelerate the implementation of the Abuja Treaty.

¹⁶³ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 91.

¹⁶⁴ *Ibid.* at 92.

¹⁶⁵ *Ibid.* at 109.

3.2 The Protocol on relations between the African Economic Community and Regional Economic Communities

One of the most important milestones in trying to overcome the challenges discussed in section 2.6 was the signing of the Protocol on relations between the African Union and Regional Economic Communities, which was signed on February 27, 2008.¹⁶⁶ The protocol serves as a framework to promote cooperation, coordination and harmonisation of programmes and activities of RECs; which is a prelude to the formation of the African Economic Community.¹⁶⁷

Among other things, the Protocol aims at fostering closer cooperation between RECs and the African Union through coordination and harmonisation of measures, policies, programmes and activities of RECs in all sectors.¹⁶⁸ The Protocol further seeks to accelerate the integration of the continent by shortening the implementation periods stipulated in article 6 of the Abuja Treaty¹⁶⁹ and promoting ‘the sharing of experience in all fields among the RECs. Lastly, harmonising RECs’ relations with international financial institutions is also one of the key objectives of this Protocol.¹⁷⁰

To achieve these objectives, the Protocol provides for two coordination organs notably; the Committee on Coordination and the Committee of Secretariat Officials (CSO). CSO is mandated with preparing the ground work on coordination and harmonisation of RECs policies and activities, as well as, to constantly monitor progress registered by each REC in attainment of stages 2 through 4 of the African Economic Community.¹⁷¹ The Committee on Coordination on the other hand, is mainly vested with powers of providing policy orientation on implementation of the protocol and resource mobilisation.¹⁷²

In comparison with the 1998 Protocol on relations between the African Economic Community and Regional Economic Communities it replaced, this Protocol can be credited for 3 substantial innovations. First, unlike its predecessor, meetings of the coordination

¹⁶⁶ Available at http://knowledge.uneca.org/member-states/observatory-on-regional-integration/regional-economic-commissions-in-africa/african-union/au-treaties-and-protocols/au-protocols/Signed%20AU-RECS%20Protocol_27Jan09.pdf. [Accessed on November 26, 2009.]

¹⁶⁷ Article 88 of the African Economic Community Treaty.

¹⁶⁸ Article 3(a) of the Protocol on relations between the African Union and Regional Economic Communities.

¹⁶⁹ Article 3(d) *ibid.*

¹⁷⁰ Article 3(h) *ibid.*

¹⁷¹ Article 2(a) *ibid.*

¹⁷² Article 7(2) *ibid.*

organs will be held at least twice a year as opposed to once that was provided in the 1998 protocol.¹⁷³ Second, the African Union will establish a liaison office at the headquarters of each REC so as to facilitate coordination and improve information exchange between RECs themselves or RECs vis-à-vis the African Union.¹⁷⁴ Lastly, another great milestone is the fact that the AU is mandated to sanction RECs or member states over delays or non-implementation of measures, programmes and activities geared at the formation of the African Economic Community.¹⁷⁵

It should be noted that with the biannual coordination meetings, reports on the status of integration, the COMAI¹⁷⁶ implementation meetings and the annual publication of 'Assessing Regional Integration,' a lot more will be achieved in coordinating the integration of the continent.¹⁷⁷

3.3 Attempts to rationalise the Regional Economic Communities

Having established in section 2.6 how multiple membership and duplication of programmes have created unhealthy competitions making Regional Economic Communities inefficient and additionally squander the continent's scarce resources, there is no doubt that there have been several attempts to rationalise RECs. These attempts have their antecedent in the resolution of the OAU Council of Ministers of 1976 which called for the creation of 5 regions on the African continent notably; North Africa, West Africa, Central Africa, East Africa and Southern Africa.¹⁷⁸ Similarly, the resolution AHG/Res.161 (xxiii) of the 23rd ordinary summit of the OAU in 1987 requested:

[T]he Secretary General of OAU, the Executive Secretary of the ECA, and the authorities of sub-regional and regional economic groupings, particularly ECOWAS, PTA, SADCC, and ECCAS to take the necessary steps to ensure

¹⁷³ See articles 8(1) and 10(1) *ibid*.

¹⁷⁴ Article 21(1) *ibid*.

¹⁷⁵ Article 22 *ibid*.

¹⁷⁶ COMAI refers to the Conference of African Ministers in Charge of Integration that meets once a year in ordinary session and in extra-ordinary sessions in case the need arises. For details further details, see Decision DOC.EX.CL/282(X) of the Seventh Ordinary Session of the assembly of the African Union, held on 1-2 July, 2006 at Banjul, the Gambia.

¹⁷⁷ The African Union, Dr. Maxwell Mkwezalamba (the Commissioner for Economic Affairs of the African Union Commission), statement to COMAI IV meeting of experts at the Fourth Conference of African Ministers in Charge of Integration (COMAI IV) held on 04 May, 2009 in Yaoundé, Cameroon.

¹⁷⁸ See CM/Res. 464 (XXVI) Resolution on the Division of Africa into Five Regions. Available at http://www.africa-union.org/official_documents/council%20of%20ministers%20meetings/com/7CoM_1976a.pdf Accessed on 20/06/2009.

coordination, harmonization and rationalization of activities, projects and programmes of all the African inter-governmental cooperation and integration organizations in their respective regions in order to avert overlaps, power conflicts and wastage of efforts and resources.¹⁷⁹

The first phase of rationalisation was undertaken between 1983-94 in West Africa and Central Africa.¹⁸⁰ After a number of studies undertaken on the Economic Community of West African States (ECOWAS) by the United Nations Economic Commission for Africa (UNECA) and a structural audit on the Economic Community of Central African States (ECCAS), these two Regional Economic Communities were designated sole RECs in their respective regions.¹⁸¹ However, in both attempts, these RECs did not live to their expectations. For instance in the case of ECOWAS, no West African regional groupings amended their constitutive treaties to reflect this decision; which is an indication that Inter-Governmental Organisations in West Africa were not prepared to be rationalised around a single regional community.¹⁸²

The second phase (1995-2000) consisted of efforts by UNECA aimed at fronting rationalisation based on ‘priorities, guiding principles for efficiency and less rigid approach for rationalising intergovernmental organisations.’ This rationalisation focussed on COMESA, ECCAS and ECOWAS but even then, there is nothing to show for these efforts.¹⁸³

Following the consultative meetings with experts on the rationalisation of Regional Economic Communities which were held in October 2005, and March 2006 in Accra, Ghana and in Lusaka, Zambia respectively, four options for rationalisation were recommended.¹⁸⁴ The first one is ‘[m]aintaining the status quo’ which implies retaining the Regional Economic Communities as they are (fourteen including six that are not recognized by the African Union) and deal with each of them in order to foster economic integration.¹⁸⁵ However, this has the potential to break up ‘regional markets and synergies expected from integration may

¹⁷⁹ The African Union, *Consolidated report of consultative meetings of Accra and Lusaka* (note 9) at 2.

¹⁸⁰ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 47.

¹⁸¹ *Ibid.* 47-48.

¹⁸² *Ibid.* at 48.

¹⁸³ *Ibid.* at 49.

¹⁸⁴ The African Union, *The Rationalisation of the Regional Economic Communities (RECs)*, Presentation to the Pan-African Parliament by Maxwell Mkwezalamba, Commissioner for Economic Affairs, African Union (2006).

¹⁸⁵ *Ibid.*

not be realized.¹⁸⁶ In addition, constraints emanating from multiple memberships, duplication of programmes and ‘difficulty [in] honouring and harmonizing multiple commitments would remain.’¹⁸⁷

The second option is rationalization by merger and absorption. This entails, adhering to the provisions of the Abuja Treaty and Resolution CM/464 of the Council of Ministers that advocated for having Regional Economic Communities corresponding to the five regions of Africa but shorten the period within which integration would be implemented. However, it should be noted that this would necessitate merging Regional Economic Communities in one region.¹⁸⁸

The third alternative provided is rationalization by ‘Anchored Community’ or ‘Rationalization around Rooted Community’ which signifies that harmonisation would be undertaken within the framework of the Abuja Treaty but all activities such as agriculture, education, transport, energy and technology would have to be amalgamated into one regional community.¹⁸⁹ In addition, a country would only be allowed to belong to one community.¹⁹⁰ However, Regional Economic Communities would have to ‘review their mandate and institutional set up, and some treaties or agreements’ would have to be renegotiated, which presents its own set of challenges.¹⁹¹

The last scenario proposed was rationalisation through harmonisation of RECs’ policies and activities.¹⁹² This entails retaining the existing RECs but harmonise their programmes and projects. Additionally, RECs would have to standardise their instruments such as certificates of origin, producer or exporter declarations and customs procedures.¹⁹³ As a result, existing overlaps would be eliminated and joint programmes created which would efficiently utilise the continent’s resources.

¹⁸⁶ Ibid.

¹⁸⁷ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 116.

¹⁸⁸ The African Union, *The Rationalisation of the Regional Economic Communities (RECs)*, Presentation to the Pan-African Parliament (note 184).

¹⁸⁹ Ibid.

¹⁹⁰ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 116.

¹⁹¹ The African Union, *The Rationalisation of the Regional Economic Communities (RECs)*, Presentation to the Pan-African Parliament (note 184).

¹⁹² The African Union, Consolidated report of the Accra and Lusaka consultative meetings (note 9) at 9.

¹⁹³ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 122-123.

Following the recommendations of the first Conference of the African Ministers of Integration (COMAI) of 30-31 March, 2006, the Seventh Ordinary Summit of the African Union held in Banjul the Gambia on 1-2 July 2006 adopted the rationalisation of policies and activities scenario and put a moratorium on the recognition of more Regional Economic Communities.¹⁹⁴

Having established the rationalisation scenario adopted by the African Union, what follows therefore is how this scenario will be implemented to bring about the economic integration of the African continent through what has been dubbed ‘the Minimum Integration Programme.’

3.4 The Minimum Integration Programme (MIP)

Following the Sirte Declaration which called for accelerating the implementation of the Abuja Treaty¹⁹⁵ and the recommendations of the 3rd Conference of African Ministers of Integration held in Abidjan, Ivory Coast, between 22 and 23, 2008, the African Union Commission (AUC) in conjunction with the RECs developed a continental framework for cooperation, coordination and convergence of RECs’ activities, dubbed the ‘Minimum Integration Programme (MIP).’¹⁹⁶

The Minimum Integration Programme consists of different activities, programmes and policies that will be implemented by member states of the African Union, Regional Economic Activities and the African Union Commission in order to fast-track regional and continental integration.¹⁹⁷ MIP is further composed of a monitoring and evaluation mechanism to periodically establish the progress registered in the implementation of the programmes and activities that have been identified.¹⁹⁸

Among other things, the Minimum Integration Programme aims at assisting to identify priority activities to be implemented within a defined calendar in order to accelerate the integration stages stipulated in article 6 of the Abuja Treaty. The Minimum Integration Programme seeks further to identify sectors that demand ‘coordination and harmonization’

¹⁹⁴ See the Decision number DOC/EX. CL/278(IX) available at http://www.africa-union.org/root/au/Conferences/Past/2006/July/summit/doc/Decisions_and_Declarations/Assembly-AU-Dec.pdf. [Accessed on 26/11/2009.]

¹⁹⁵ Available at http://www.africa-union.org/Docs_AUGovernment/decisions/Sirte_Declaration_1999.pdf Accessed on 20/06/2009.

¹⁹⁶ The African Union, *Status of Integration in Africa (SIA)* (note 96) at 12.

¹⁹⁷ The African Union, *The Minimum Integration Programme (MIP)*, (note 100) at 7.

¹⁹⁸ *Ibid.* at 106.

measures within and among the RECs,' and stimulate sharing of successful experiences among Regional Economic Communities. Lastly, MIP is also charged with identifying and supporting joint projects and programmes.¹⁹⁹

The Minimum Integration Programme will be implemented in three phases of 4 years each and the sectors identified as crucial for integration of the continent consist of trade, free movement of persons, goods, services and capital, peace and security, industry, investment and statistics.²⁰⁰ Other sectors include political affairs, social affairs, capacity building and fiscal policy.²⁰¹

Funding for the Minimum Integration Programme will be derived from both internal and external sources. Internal sources will constitute member state contributions and funding to be provided by Africa's financial institutions such as the African Development Bank. On the other hand, external funding envisaged will be the disbursements from development partners.²⁰²

3.5 Conclusion

The evidence from this chapter indicates that African leaders are committed to accelerating regional cooperation and integration through the coordination and harmonisation of the activities and programmes of RECs. It is also evident that African integration can only succeed where the African Union assumes a big role of coordinating the integration of the continent. Therefore, where applicable, sanctions need to be meted against a member state or Regional Economic Community which frustrates the integration process of the continent.

The conclusion derived from the failed attempts to rationalise Africa's Inter-Governmental Organisations is that the factors that caused the failure need to be taken seriously if rationalisation exercise will eventually bear fruit. In addition, it is apparent that the rationalisation scenarios available are not mutually exclusive. Therefore, positive elements of all other options left out need to be incorporated, where necessary.

The analysis further points to the fact that the Minimum Integration Programme (MIP) is critical to fast-tracking the implementation of the Abuja Treaty. However, the success of this ambitious programme will depend on the role played by every stakeholder.

¹⁹⁹ Ibid. at 12.

²⁰⁰ Ibid. at 25.

²⁰¹ Ibid. at 42.

²⁰² Ibid. at 53.

While the African Union Commission will assist in the implementation of some regional projects and facilitate continental coordination, other stakeholders like member states, Regional Economic Communities and Development Partners also have a big role to play. Therefore, the time to act is now if the Minimum Integration Programme is not to constitute another sorry tale of 'Africa's faulty development strategies' that do not go off the ground or remain far behind schedule.

University of Cape Town

CHAPTER FOUR: WAY FORWARD AND CONCLUSION

4.1 The way forward/ Agenda for Action.

In terms of trade and market integration of the African continent, this assessment has shown that Regional Economic Communities have achieved significant success in attainment of free trade areas, customs unions and a common market in the case of East African Community. Despite these achievements, RECs still face enormous challenges in their quest to be pillars on which the African Economic Community will be built. Multiple memberships of RECs and duplication of programmes have an effect of squandering Africa's scarce resources and making RECs inefficient.²⁰³ RECs also have to grapple with inadequate resources, insufficient coordination, delays in signing, ratification and implementation of treaties and protocols and the fear of loss of state sovereignty. These myriad challenges are exacerbated by dissatisfaction with the distribution of benefits and losses from integration, inadequate national support, conflicts in different member states and the monopolisation of the integration process by the political elite to the detriment of the private sector and ordinary citizens.

Given this dismal picture of Africa's economic integration and owing to the desire to have the Abuja Treaty as a viable strategy through which Africa's economic integration would be realised, a number of recommendations are provided in this dissertation, which, if implemented, would go a long way to address or mitigate these challenges and deepen continental economic integration.

The rationale for rationalisation in order to overcome the effects of multiple memberships of the RECs and the duplication of programmes can not be overemphasised. First, inconsistencies related to different legal frameworks, objectives and programmes will be eliminated, thus relieving member states of the heavy material, human and financial burden of supporting many RECs in the same region. Second, institutional restructuring offers an opportunity for RECs' agendas to be aligned with the continental objectives. Lastly, rationalisation would allow for 'hard and fast rules that bind Regional Economic Communities' integration agendas to continental frameworks.'²⁰⁴

²⁰³ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xiii.

²⁰⁴ *Ibid.* at 41.

To overcome resource constraints that are not only an impediment to the smooth functioning of the RECs but also a big stumbling block to the continent's integration agenda, innovative and sustainable self-financing mechanisms need to be put in place.²⁰⁵ These mechanisms may include, but are not limited to, imposing particular tariffs on goods from other regions, special airport levies, dividends from debt relief and allocations from the Gross Domestic Product (GDP).²⁰⁶ A viable self-sustaining mechanism should be moulded on the following principles: First, it should be independent from national budget,²⁰⁷ which would prevent a diversion of resources earmarked for the integration agenda to pressing national issues. Second, revenue from third states needs to be clearly defined to avoid any ambiguity and lastly, sources of revenue need to be sustainable to finance RECs and integration programmes with or without financial support from elsewhere.²⁰⁸

In addition, RECs' financial constraints can as well be addressed by setting priorities pursuant to available resources, in order to match ambition with implementation.²⁰⁹ For example, it is submitted that the European Union started its integration by putting much emphasis on coal and steel industries and later on, it took on agriculture.²¹⁰ Since, the European Union has been a successful integration story, Regional Economic Communities and the African Union need to borrow a leaf from the European Union. Prioritisation is advantageous in a sense that it enhances the capacity of integration institutions. Besides, history has shown that 'attempting too much too quickly is a recipe for further frustration and failure- and suboptimal results.'²¹¹

The establishment of 'compensation and equalization schemes' would go a long way to mitigate the fear of loss of revenue and unfair distribution of benefits accruing from integration and trade liberalisation.²¹² A number of these schemes have been set up in different Regional Economic Communities. A case in point is the ECOWAS Fund for

²⁰⁵ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 65.

²⁰⁶ *Ibid.* at 4.

²⁰⁷ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 130.

²⁰⁸ *Ibid.*

²⁰⁹ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 4.

²¹⁰ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 22.

²¹¹ *Ibid.* at 41.

²¹² United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa III: Towards Monetary and Financial Integration in Africa Report* (note 3) at 3.

Cooperation, Compensation and Development (EFCCD) which was formed in 1975 to provide, among other things, compensation for loss of revenue resulting from liberalisation of trade, promotion of equitable economic development and providing support to poor member states of ECOWAS.²¹³ Such schemes need to set up in other regions, and where they exist, they should be consolidated. Further more, it should be noted that regional integration may create winners or losers in the short run but it is beneficial in the long run. Therefore, countries need to conduct a cost-benefit analysis so as to maximise the benefits and mitigate the loss.²¹⁴

For integration to succeed, it is imperative that the time frames for various integration stages such as free trade areas and customs unions be respected in order guard against seemingly endless postponements by member states. Failure to abide by the set timeframes needs to be justified, negotiated and agreed upon by other members of the Regional Economic Communities. Only in such circumstances should non-compliance be permitted.²¹⁵

Enhancing continental co-ordination is a matter of necessity. Co-ordination and harmonisation of policies requires that co-ordination organs meet regularly and promote information-sharing. Here, the leadership of the African Union Commission is essential. A survey conducted by the Economic Commission for Africa and the African Union, indicated that there is insufficient communication sharing among the RECs and that RECs expected the leadership in co-ordination to be provided by the African Union.²¹⁶ Therefore the African Union should rise to this challenge and when coordination meetings are held, sharing information on the progress achieved in the co-ordination and harmonization of African economic programmes should be high on the agenda. The Protocol on the relations between the African Union and Regional Economic Communities is a step in the right direction because it will coordinate and harmonise RECs' activities, policies and programmes and align them with continental objectives.

Furthermore, biannual coordination meetings, periodic reports on the status of integration and implementation of COMAI recommendations will do a lot to enhance

²¹³ Ibid. at 16.

²¹⁴ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 5.

²¹⁵ Ibid. at 67.

²¹⁶ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 94.

continental coordination.²¹⁷ However, these efforts at the continental level can not bear fruit if coordination at the national level is not reinforced. Therefore, it is imperative to put in place a separate ministry in charge of integration or a national structure ‘with full authority and capacity to coordinate and monitor the implementation of commitments made to Regional Economic Communities and the African Union.’²¹⁸ To enhance national coordination, a mechanism for information sharing among various ministries involved in the integration process should be put in place. This would undoubtedly provide a clear picture of the areas of cooperation in which the state is involved²¹⁹ and the level of success.

Regarding Regional Economic Communities not being at the same pace of the integration process, ‘the sequencing of the activities of the AEC’ needs to be reviewed. The earmarking of a particular duration for each of the six stages of integration presupposes that all the RECs will be moving at the same pace.²²⁰ Reality however, indicates the contrary. Therefore, variable geometry²²¹ should be resorted to. Put differently, countries with more potential should be permitted to move faster with integration than others. This mechanism has for instance been instrumental in ‘accelerating the programmes of SADC while preserving the benefits of SACU.’²²²

To overcome constraints regarding treaty implementation, it is imperative that the stakeholders change their approach towards integration. Instead of focusing on adoption of protocols, a lot of emphasis needs to be put on co-ordination and harmonisation of the RECs programmes and activities. In addition, member states should adopt mechanisms that facilitate speedy implementation of treaties and protocols. For instance, ratification of these instruments could be ‘substituted by acts, decisions and directives that take immediate effect.’²²³ AEC goals also need to be integrated into national budgets and plans.²²⁴

²¹⁷ The African Union, Dr. Maxwell Mkwezalamba (the Commissioner for Economic Affairs of the African Union Commission), statement to COMAI IV meeting of experts at the Fourth Conference of African Ministers in charge of Integration (note 177).

²¹⁸ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 66.

²¹⁹ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 70.

²²⁰ See article 6 of the African Economic Community Treaty.

²²¹ Variable geometry denotes having slow integrators as well as fast integrators both in ratification and implementation provided all these members in a given in community are signatories to the treaty or protocol.

²²² United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 52.

²²³ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 3.

To have a meaningful integration, it is imperative that member states cede part of their sovereignty to a supra-national organisation.²²⁵ It is noted that for RECs to be drivers of regional integration, they need full authority to implement ‘collective decisions and enforce compliance.’²²⁶ Wachira argues that upon ratification of a particular Treaty, a member state is bound by the decisions taken by this agreement.²²⁷ Therefore, community interests should not be sacrificed at the altar of state sovereignty.

Durable peace and security are necessary for regional integration to flourish. Therefore, Regional Economic Communities need to peg their cooperation and convergence on member states being accountable to their people; so as to narrow the differences between ruling and opposition parties and having effective nation institutions, such as the Judiciary and Parliament to provide needed checks and balances.²²⁸ In addition, RECs need to have a mechanism that allows for intervention in internal affairs of member states in order to guard against gross human rights violations and other threats to peace and security. However, above all, education or training on peace and conflict resolution would produce better results.²²⁹ This was specifically highlighted in the United Nations Educational, Social and Cultural organisation (UNESCO) articles of incorporation. Thus: ‘As wars begin first in minds of men, so it is first in the mind that peace-making must begin. To this end, educational curricula need to adapt to the imperatives of peace, justice, security, good governance, and regional integration in Africa.’²³⁰

For integration to succeed, it needs to be widely disseminated in the community. Regional integration should not be a matter of state functionaries alone. It has to be felt and supported by the community.²³¹ To break government’s monotony over the integration process, member states of the AEC need to disseminate the integration agenda especially

²²⁴ The Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at xvi-xvii.

²²⁵ George Mukundi Wachira, *Sovereignty and the United States of Africa: Insight from the EU* (2007) at 1.

²²⁶ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 71.

²²⁷ George Mukundi Wachira (note 225) at 1.

²²⁸ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 70.

²²⁹ *Ibid.*

²³⁰ As cited in United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 70.

²³¹ SKB Asante (note 16) at 18.

targeting influential groups in the community such as trade unions, employers organisations, academicians and the civil society.²³²

Lastly, the role of the private sector should not be underestimated. Where it has involved in the integration process, it has proved a reliable partner in providing the much-needed human and material resources in support of regional integration projects.²³³ For instance, the Association of South-East Asian Nations (ASEAN) attributes its success partly to private sector involvement.²³⁴ A powerful private sector can ‘provide advice to governments, and lobby for continued implementation of positive reforms.’²³⁵ Private sector participation can be encouraged through investment-friendly policies such as establishing charters that promote harmonisation of policies and cross-border investment.²³⁶

4.2 Conclusion

This study demonstrated that regional integration is a credible strategy for emancipating Africa from its development challenges because it removes barriers to intra-African trade, overcomes the inefficiency of Regional Economic Communities and limited capacities of individual African countries through collective action.

This continental vision is embodied in the Abuja Treaty which seeks to create, among other things, an African Monetary and Economic Union starting with the establishment of free trade areas, customs unions and common markets with Regional Economic Communities as building blocks. The critical question is whether these Inter-Governmental Organisations have become true agents of the African Economic Community, especially trade and market integration that is under review in this study.

While the analysis indicates that some strides have been made in the creation of free trade areas and customs unions,²³⁷ Africa’s trade with itself has been 10-13% and consistently below 15% for the past 20 years,²³⁸ which is very low compared to intra-regional trade for

²³² Ibid.

²³³ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 4.

²³⁴ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (note 1) at 17.

²³⁵ Ibid. 86.

²³⁶ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa*, ECA Policy Report (note 51) at 67.

²³⁷ The African Union, *Status of Integration in Africa (SIA)* (note 96) at 9.

²³⁸ United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa III: Towards Monetary and Financial Integration in Africa Report* (note 3) at 55.

other regions in the world. Therefore a lot needs to be done to improve Africa's trade with itself.

This study has raised key challenges that need to be addressed as a matter of urgency for regional integration to be a success. These include, but are not limited to, overlapping membership and duplication of programmes within the RECs, the failure to translate regional policies into national programmes and resource constraints that have hindered the implementation of many REC programmes and the continental integration agenda. Added to this, is insufficient coordination, delays in signing, ratification and implementation of treaties and protocols and the lack of consensus on the integration agenda because government organs have monopolised integration dialogue to the detriment of ordinary citizens and the private sector.

Notwithstanding the myriad challenges, the various stages of integration stipulated in the Abuja Treaty cannot only be achieved, but they can even be exceeded, if the recommendations provided in this study are taken seriously. Furthermore, there are grounds that give cause for optimism, albeit cautious. First, the adoption of the Protocol on the relations between the African Union and the Regional Economic Communities, the establishment of the Minimum Integration Programme and the institutionisation of the annual Conference of African Ministers in Charge of Integration are all clear signs that perhaps more than before, African leaders are committed to regional integration. Second, some African countries like Nigeria, Burkina Faso, Mali, Guinea and Ghana have established ministries exclusively for integration. Lastly, the private sector is increasingly getting involved in the integration process.²³⁹

Above all this, however, the success of the African Economic Community lies squarely with the African leaders. In the current dispensation, there should be no room for rhetoric. Commitments need to be matched with delivery. The time to act is now if the African Economic Community is not to constitute another sorry tale of 'Africa's faulty development strategies' that do not go off the ground or remain far behind schedule. Therefore, the ball is in our hands to prove wrong the cynical world:

That we have the grit, the will and determination to turn Africa from being a dark continent into a beacon of light; from an economically backward and

²³⁹ SKB Asante (note 16) at 19.

vulnerable continent into a self-reliant, self-sustaining and prosperous one; and from being the citadel of political instability, insecurity, and social conflict and unrest into one of stability, security, development, democracy, cooperation and continental integration.²⁴⁰

University of Cape Town

²⁴⁰ A. Adedeji, *Africa and the Africans and their Historical Challenge*, Convocation lecture of the eighth Convocation ceremony of the University of Calabar, Nigeria, 3 December, 1997 as cited in SKB Asante *ibid.* at 20.

BIBLIOGRAPHY

Conventions/ Protocols/ Declarations

The African Economic Community Treaty (1991). Available at http://www.africa-union.org/root/au/Documents/Treaties/Text/AEC_Treaty_1991.pdf . Accessed on 19/07/09.

The Sirte Declaration Available at http://www.africa-union.org/Docs_AUGovernment/decisions/Sirte_Declaration_1999.pdf. Accessed on 20/06/2009.

The 2008 Protocol on the relationship between the African Union and Regional Economic Communities. Available at http://knowledge.uneca.org/member-states/observatory-on-regional-integration/regional-economic-commissions-in-africa/african-union/au-treaties-and-protocols/au-protocols/Signed%20AU-RECS%20Protocol_27Jan09.pdf. [Accessed on November 26, 2009.]

Decisions and Declarations of the Seventh Ordinary Session of the Heads of State and Government of the African Union. Available at http://www.africa-union.org/root/au/Conferences/Past/2006/July/summit/doc/Decisions_and_Declarations/Assembly-AU-Dec.pdf

Resolution on the Division of Africa into Five Regions. Available at http://www.africa-union.org/official_documents/council%20of%20minsters%20meetings/com/7CoM_1976a.pdf Accessed on 20/06/2009.

Reports

The African Union, *Consolidated report of the consultative meetings of Accra and Lusaka*, (2006), Addis Ababa, Ethiopia.

The African Union, *Status of Integration in Africa (SIA)* (2009), Addis Ababa, Ethiopia.

The African Union, *the Minimum Integration Programme (MIP)*, (2009), Addis Ababa, Ethiopia.

United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities (ARIA II) Report* (2006), ECA, Addis Ababa, Ethiopia.

United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa III: Towards Monetary and Financial Integration in Africa Report* (2008), ECA, Addis Ababa, Ethiopia.

United Nations Economic Commission for Africa, *Assessing Regional Integration in Africa, ECA Policy Report* (2004), Addis Ababa, Ethiopia.

Books

Akanle O, 'The legal and Institutional Framework of the African Economic Community,' in Ajomo M. A. and Omoboraji Adewale (Eds), *African Economic Community Treaty: Issues, Problems and Prospects* (1993), Nigerian Institute of Advanced Studies, Lagos.

Akokpari John et al (Eds), *The African Union and its Institutions* (2008), Centre for Conflict Resolution, Cape Town.

Marilyn Aniwa, 'Rationalising regional economic Communities and implementing the treaty establishing the Africa Economic Community: The Role of parliaments,' in Timothy Murithi (Ed), *Towards a Union Government for Africa* (2008), Institute for Security Studies, Pretoria.

Asante SKB et al, *Towards an African Economic Community* (2001), Africa Institute of South Africa, Pretoria.

Buthelezi Siphon, *Regional integration in Africa: Prospects and challenges for the 21st century* (2006), Ikhwezi Africa, East London.

Chipeta Chinyamata, 'Development Integration in Southern Africa,' in Ibbo Mandaza and Dani Nabudere (Eds), *Pan-Africanism and integration in Africa*, (2002), SAPES Books, Harare.

Dede N. Brownson, Keynote address delivered at the International Conference on the African Economic Community, Abuja, January 27-30, 1992 as cited in M. A. Ajomo and Omoboraji Adewale (Eds), *African Economic Community Treaty: Issues, Problems and Prospects*, (1993), Nigerian Institute of Advanced Studies, Lagos.

Ikome Francis Nguendi, *From the Lagos Plan of Action to the New Partnership for Africa's Development* (2007), Institute for Global Dialogue, Midrand.

Konings Piet and Meilink Henk, 'Regional economic integration in Sub-Saharan Africa' in Alex E. Fernandez Jilberto and Andre Mommen (Eds), *Rationalization and globalization in the modern world economy: Perspectives on the third world and transitional economies* (1998), Routledge, New York.

Makinda M. Samuel and Okumu F. Wafula, *African Union: Challenges of globalization, security and governance* (2008), Routledge, London and New York.

Mutai Henry K., *Compliance with International Trade Obligations: The Common Market for East and Central Africa* (2007), Kluwer Law International, the Netherlands.

Wachira George Mukundi, *Sovereignty and the United States of Africa: Insight from the EU* (2007), Institute for Security Studies, Pretoria.

Venter Dani and Neuland Ernst, *Regional Integration- Economic Partnership Agreements for Eastern and Southern Africa*, 1st Edition (2007), Institute for Business Innovation, University of California, Berkeley.

Journals

Bankole Thompson, 'Economic integration efforts in Africa: A milestone – The Abuja Treaty' in *The African Journal of International and Comparative Law* Vol. 5 (1993), African Society of International and Comparative Law, London.

Heiman Matthew R.A, 'The drive towards regionalization in southern Africa: Fictional reality' in *The African Journal of International and Comparative Law*, Vol. 9 (1997), African Society of International and Comparative Law, London.

Seminars/ Presentations/ Speeches

The African Union, *The Rationalisation of the Regional Economic Communities (RECs)*, Presentation to the Pan-African Parliament by Maxwell Mkwezalamba, Commissioner for Economic Affairs, African Union (2006), at Mid-Rand, South Africa, (May 3, 2006).

Akpangbo Clement, address delivered at the International Conference on the African Economic Community, Abuja, January 27-30, 1992 in Ajomo M. A. and Omoboraji Adewale

(Eds), *African Economic Community Treaty: Issues, Problems and Prospects*, (1993), Nigerian Institute of Advanced Studies, Lagos.

Ajomo M.A., Address delivered at the International Conference on African Economic Community' ,held in Abuja from January 27-30, 1992, in Ajomo M.A. and Omoboraji Adewale (Eds), *African Economic Community Treaty: Issues, Problems and Prospects* (1993), Nigerian Institute of Advanced Studies, Lagos.

Babangida Ibrahim, address delivered at the International Conference on African Economic Community, held in Abuja from January 27-30, 1992, in Ajomo M.A.and Omoboraji Adewale (Eds) 1993, Nigerian Institute of Advanced Studies, Lagos.

The African Union, Erastus Mwencha, the Deputy Chairperson of the African Union Commission's statement at the Ministerial meeting of the Fourth Conference of African Ministers in Charge of Integration (COMAI IV) held at Yaoundé, Cameroon on May 7, 2009, African Union, Addis Ababa, Ethiopia.

The African Union, Dr. Maxwell Mkwezalamba (the Commissioner for Economic Affairs of the African Union Commission), statement to COMAI IV meeting of experts at the Fourth Conference of African Ministers in Charge of Integration (COMAI IV) held on 04 May, 2009 in Yaoundé, Cameroon, Addis Ababa, Ethiopia.

Internet

E-COMESA newsletter, Issue # 206 of May, 29, 2009. Available at http://about.comesa.int/attachments/080_e-COMESA_newsletter_206.pdf [Accessed on 19/06/09.]

Kazooba Charles, *Pressure piles on EAC to go slow on political union*, the East African newspaper, available at <http://www.theeastafrican.co.ke/news/-/2558/830986/-/px3tn9z/-/index.html>. [Accessed on December 28, 2009].

Niyigira Yves, *Countries opt out of COMESA*, AU Monitor Daily. Available at <http://www.pambazuka.org/aumonitor/comments/2333/>. Accessed on 28/7/2009.

Wikipedia, *Southern African Customs Union* (2009). Available at http://en.wikipedia.org/wiki/Southern_African_Customs_Union [Accessed 18 May 2009].