

# **CONSOLIDATED TEXT OF THE TREATY OF THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY**

AS AMENDED

PREAMBLE

WE, the Heads of State or Government of:

The Republic of Angola

The Republic of Botswana

The Democratic Republic of Congo

The Kingdom of Lesotho

The Republic of Malawi

The Republic of Mauritius

The Republic of Mozambique

The Republic of Namibia

The Republic of Seychelles

The Republic of South Africa

The Kingdom of Swaziland

The United Republic of Tanzania

The Republic of Zambia

The Republic of Zimbabwe

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

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

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

CONSCIOUS of our duty to promote the interdependence and integration of our

National economies for the harmonious, balanced and equitable development of the Region;

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

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

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

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

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

FURTHER DETERMINED to meet the challenges of globalization;

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

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

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

## **Chapter ONE.**

### **Article 1. Definitions**

In this Treaty, unless the context otherwise requires:

"Community" means the organisation for economic integration established by Article 2 of this Treaty;

"Council" means the Council of Ministers of SADC established by Article 9 of this Treaty;

"Executive Secretary" means the Chief Executive Officer of SADC appointed under Article 10 (7) of this Treaty;

"Funds" means resources available at any given time for application to programmes, projects and activities of SADC as provided by Article 26 of this Treaty;

"High Contracting Parties" means States, herein represented by Heads of State or Government or their duly authorised representatives for purposes of the establishment of the Community;

"Integrated Committee of Ministers" means the Integrated Committee of Ministers established by Article 9 A of this Treaty;

"Member State" means a member of SADC;

"Organ" means the Organ on Politics, Defence and Security Co-operation established by Article 9 of this Treaty;

"Protocol" means an instrument of implementation of this Treaty and includes any

Amendment thereto;

"Region" means the geographical area of the Member States of SADC;

"Regional Development Fund" means the Regional Development Fund established by Article 26A of this Treaty;

"Regional Indicative Strategic Development Plan" means a plan, based on the strategic priorities and SADC Common Agenda, designed to provide strategic direction with

Respect to SADC projects and activities;

"SADC" means the Southern African Development Community;

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

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

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

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

"Sector Coordinating Unit" means a unit referred to in Article 38 of this Treaty; means a Standing Committee of Officials established by Article 9 of this Treaty;

"Standing Committee" means the Summit of the Heads of State or Government of SADC established by Article 9 of this

Treaty;

"Summit""Treaty" means this Treaty establishing SADC and includes any amendment

Hereto;

"Tribunal" means the Tribunal of the Community established by Article 9 of this Treaty; "Troika" means the system referred to in Article 9A of this Treaty.

## **Chapter TWO. Establishment and Legal Status Article 2 Establishment**

1. By this Treaty, the High Contracting Parties establish the Southern African Development Community (hereinafter referred to as SADC).

2. The Headquarters of SADC shall be at Gaborone, Republic of Botswana.

1. SADC shall be an international organisation, and shall have legal personality with capacity and power to enter into contract, acquire, own or dispose of movable or immovable property and to sue and be sued.

2. In the territory of each Member State, SADC shall, pursuant to paragraph 1 of this Article, have such legal capacity as is necessary for the proper exercise of its functions.

## **Chapter THREE.**

PRINCIPLES, OBJECTIVES, SADC COMMON AGENDA AND GENERAL UNDERTAKINGS ARTICLE 4 PRINCIPLES

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

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

1. The objectives of SADC shall be to:

a. promote sustainable and equitable economic growth and socioeconomic development that will ensure poverty alleviation with the ultimate objective of its eradication, enhance the standard and

Quality of life of the people of Southern Africa and support the socially disadvantaged through regional integration;

b. promote common political values, systems and other shared values which are transmitted through institutions which are democratic, legitimate and effective;

c. consolidate, defend and maintain democracy, peace, security and stability;

d. promote self-sustaining development on the basis of collective self-reliance, and the interdependence of Member States;

e. achieve complementarity between national and regional strategies and programmes;

f. promote and maximise productive employment and utilisation of resources of the Region;

g. achieve sustainable utilisation of natural resources and effective

Protection of the environment;

h. strengthen and consolidate the long standing historical, social and cultural affinities and links among the people of the Region;

i. combat HIV/AIDS or other deadly and communicable diseases;

j. ensure that poverty eradication is addressed in all SADC activities

And programmes; and

k. mainstream gender in the process of community building.

2. In order to achieve the objectives set out in paragraph 1 of this Article, SADC shall:

a. harmonise political and socio-economic policies and plans of Member States;

b. encourage the people of the Region and their institutions to take initiatives to develop economic, social and cultural ties across the Region, and to participate fully in the implementation of the programmes and projects of SADC;

c. create appropriate institutions and mechanisms for the mobilisation of requisite resources for the implementation of programmes and operations of SADC and its institutions;

d. develop policies aimed at the progressive elimination of obstacles to the free movement of capital and labour, goods and services, and of the people of the Region generally, among Member States;

e. promote the development of human resources;

f. promote the development, transfer and mastery of technology;

g. improve economic management and performance through regional co-operation;

h. promote the coordination and harmonisation of the international relations of Member States;

i. secure international understanding, co-operation and support, and mobilise the inflow of public and private resources into the Region; and

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

1. The SADC Common Agenda shall be as reflected in Article 5 of this Treaty.

2. Without prejudice to paragraph 1 of this Article, the Council shall develop and implement the SADC Common Agenda.

1. Member States undertake to adopt adequate measures to promote the achievement of the objectives of SADC, and shall refrain from taking any measure likely to jeopardise the sustenance of its principles, the achievement of its objectives and the implementation of the provisions of this Treaty.

2. SADC and Member States shall not discriminate against any person on grounds of gender, religion, political views, race, ethnic origin, culture, ill health, disability, or such other ground as may be determined by the Summit.

3. SADC shall not discriminate against any Member State.

4. Member States shall take all steps necessary to ensure the uniform application of this Treaty.

5. Member States shall take all necessary steps to accord this Treaty the force of national law.

6. Member States shall co-operate with and assist institutions of SADC in the performance of their duties.

## **Chapter FOUR. Membership**

### **Article 7. Membership**

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

### **Article 8. Admission of New Members**

1. Any State not listed in the Preamble to this Treaty may become a member of SADC upon being admitted by the existing members and acceding to this Treaty.

2. The Summit shall determine the procedures for the admission of new

Members and for accession to this Treaty by such members.

3. The Council shall consider and recommend to the Summit any application for

Membership of SADC.

4. The admission of any State to membership of SADC shall be effected by a unanimous decision of the Summit.

5. Membership of SADC shall not be subject to any reservations.

## **Chapter FIVE. Institutions**

### **Article 9. Establishment of Institutions**

1. The following institutions are hereby established:

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

2. Other institutions may be established as necessary.

### **Article 9A. Troika**

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

- a. the Summit;
- b. the Organ;
- c. the Council;
- d. the Integrated Committee of Ministers; and
- e. the Standing Committee of Officials.

2. The Troika of the Summit shall consist of:

- a. the Chairperson of SADC;
- b. the Incoming Chairperson of SADC who shall be the Deputy Chairperson of SADC; and
- c. the Outgoing Chairperson of SADC.

3. The respective offices of the Troika of the Summit shall be held for a period of one year.

4. The membership and term of office of the Troika of the Council, the Integrated Committee of Ministers and the Standing Committee of Officials shall correspond to the membership and term of office of the Troika of the Summit.

5. The Troika of the Organ shall consist of:

- a. the Chairperson of the Organ;
- b. the Incoming Chairperson of the Organ who shall be the Deputy Chairperson of the Organ; and
- c. the Outgoing Chairperson of the Organ.

6. The Troika of each institution shall function as a steering committee of the institution and shall, in between the meetings

of the institution, be responsible for:

- a. decision - making;
- b. facilitating the implementation of decisions; and
- c. providing policy directions.

7. The Troika of each institution shall have power to create committees on an ad hoc basis.

8. The Troika of each institution shall determine its own rules of procedure.

9. The Troika of each institution may co-opt other members as and when required.

## **Article 10. The Summit**

1. The Summit shall consist of the Heads of State or Government of all Member States, and shall be the supreme policy-making Institution of SADC.

2. The Summit shall be responsible for the overall policy direction and control of the functions of SADC.

3. Subject to Article 22 of this Treaty, the Summit shall adopt legal instruments for the implementation of the provisions of this Treaty; provided that the Summit may delegate this authority to the Council or any other institution of SADC as the Summit may deem appropriate.

4. The Summit shall elect a Chairperson and a Deputy Chairperson of SADC from among its members for one year on the basis of rotation.

5. The Summit shall meet at least twice a year.

6. The Summit may create committees, other institutions and organs as it may consider necessary.

7. The Summit shall appoint the Executive Secretary and the Deputy Executive Secretary, on the recommendation of the Council.

8. Subject to Article 8 of this Treaty, the Summit shall decide on the admission  
Of new members to SADC.

9. Unless otherwise provided in this Treaty, the decisions of the Summit shall be taken by consensus and shall be binding.

## **Article 10A. Organ on Politics, Defence and Security Co-operation**

1. The Summit shall select a Chairperson and a Deputy Chairperson of the Organ on the basis of rotation from among the members of the Summit

Except that the Chairperson of the Summit shall not simultaneously be the  
Chairperson of the Organ.

2. The term of office of the Chairperson, Incoming Chairperson and the  
Outgoing Chairperson of the Organ shall be one year respectively.

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

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

- a. foreign affairs;
- b. defence;
- c. public security; or
- d. state security,

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

structures.

5. The structure, functions, powers and procedures of the Organ and other related matters shall be prescribed in a Protocol.
6. The Secretariat shall provide Secretariat services to the Organ.
7. Decisions of the Organ shall be taken by consensus.

## **Article 11. The Council**

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

Or this Treaty.

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

## **Article 12. Integrated Committee of Ministers**

1. The Integrated Committee of Ministers shall consist of at least two ministers from each Member State.
2. It shall be the responsibility of the Integrated Committee of Ministers to:
  - a. oversee the activities of the core areas of integration which include:
    - i. trade, industry, finance and investment;
    - ii. infrastructure and services;
    - iii. food, agriculture and natural resources; and

- iv. social and human development and special programmes;
  - b. monitor and control the implementation of the Regional Indicative Strategic Development Plan in its area of competence;
  - c. provide policy guidance to the Secretariat;
  - d. make decisions on matters pertaining to the directorates;
  - e. monitor and evaluate the work of the directorates; and
  - f. create such permanent or ad hoc subcommittees as may be necessary to cater for cross-cutting sectors.
3. The Integrated Committee of Ministers shall, with respect to its responsibilities under paragraph 2 of this Article, have decision making powers to ensure rapid implementation of programmes that would otherwise wait for a formal meeting of the Council.
4. The Chairperson and Deputy Chairperson of the Integrated Committee of Ministers shall be appointed from the Member States holding the Chairpersonship and Deputy Chairpersonship, respectively, of the Council.
5. The Integrated Committee of Ministers shall meet at least once a year.
6. The Integrated Committee of Ministers shall report and be responsible to the Council.
7. Decisions of the Integrated Committee of Ministers shall be taken by consensus.

### **Article 13. The Standing Committee of Officials**

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

### **Article 14. The Secretariat**

1. The Secretariat shall be the principal executive institution of SADC, and shall
- Be responsible for:
- a. strategic planning and management of the programmes of SADC;
  - b. implementation of decisions of the Summit, Troika of the Summit, Organ on Politics, Defence and Security Co-operation, Troika of the Organ on Politics, Defence and Security Co-operation, Council, Troika of the Council, Integrated Committee of Ministers and Troika of the Integrated Committee of Ministers;
  - c. organisation and management of SADC meetings;
  - d. financial and general administration;
  - e. representation and promotion of SADC;
  - f. coordination and harmonisation of the policies and strategies of Member States;



- g. gender mainstreaming in all SADC programmes and activities;
- h. submission of harmonized policies and programmes to the Council for consideration and approval;
- i. monitoring and evaluating the implementation of regional policies and programmes;
- j. collation and dissemination of information on the Community and maintenance of a reliable database;
- k. development of capacity, infrastructure and maintenance of intra-regional information communication technology;
- l. mobilization of resources, co-ordination and harmonization of programmes and projects with cooperating partners;
- m. devising appropriate strategies for self financing and income generating activities and investment;
- n. management of special programmes and projects;
- o. undertaking research on Community building and the integration process; and
- p. preparation and submission to the Council, for approval, administrative regulations, standing orders and rules for management of the affairs of SADC.

2. The Secretariat shall be headed by the Executive Secretary.

3. The Deputy Executive Secretary shall have delegated powers and assist the Executive Secretary in the execution of his or her functions.

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

5. Except as otherwise provided in this Treaty, the structures of the Secretariat

And specifications, descriptions and grading of jobs of the staff of the Secretariat shall be as determined from time to time by the Council.

## **Article 15. The Executive Secretary**

1. The Executive Secretary shall be responsible to the Council for the following:

- a. consultation and coordination with the Governments and other institutions of Member States;
- b. pursuant to the direction of Council, Summit or on his or her own initiative, undertaking measures aimed at promoting the objectives of SADC and enhancing its performance;
- c. promotion of co-operation with other organisations for the furtherance of the objectives of SADC;
- d. organising and servicing meetings of the Summit, the Council, the Standing Committee and any other meetings convened on the direction of the Summit or the Council;
- e. custodianship of the property of SADC;
- f. appointment of the staff of the Secretariat, in accordance with procedures, and under Terms and Conditions of Service determined by the Council;
- g. administration and finances of the Secretariat;
- h. preparation of Annual Reports on the activities of SADC and its institutions;
- i. preparation of the Budget and Audited Accounts of SADC for submission to the Council;
- j. diplomatic and other representations of SADC;
- k. public relations and promotion of SADC; and
- l. such other functions as may, from time to time, be determined by the Summit and Council.

2. The Executive Secretary shall liaise closely with other institutions, guide, support and monitor the performance of SADC in the various sectors to ensure conformity and harmony with agreed policies, strategies, programmes and projects.

3. The Executive Secretary and the Deputy Executive Secretary shall be appointed for four years, and be eligible for

appointment for another period not exceeding four years.

## **Article 16. The Tribunal**

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

## **Article 16A. Sadc National Committees**

1. Each Member State shall create a SADC National Committee.
2. Each SADC National Committee shall consist of key stakeholders.
3. Each SADC National Committee shall, in its composition, reflect the core areas of integration and coordination referred to in paragraph 2 of Article 12 of this Treaty.
4. It shall be the responsibility of each SADC National Committee to:
  - a. provide input at the national level in the formulation of SADC Policies, strategies and programmes of action;
  - b. coordinate and oversee, at the national level, implementation of SADC programmes of action;
  - c. initiate projects and issue papers as an input to the preparation of the Regional Indicative Strategic Development Plan, in accordance with the priority areas set out in the SADC Common Agenda; and
  - d. create a national steering committee, sub-committees and technical committees.
5. Each national steering committee shall consist of the chairperson of the SADC National Committee and the chairpersons of sub-committees.
6. Sub-committees and technical committees of the SADC National Committee shall operate at ministerial and officials levels.
7. A national steering committee shall be responsible for ensuring rapid implementation of programmes that would otherwise wait for a formal meeting of the SADC National Committee.
8. Sub-committees and technical committees shall endeavour to involve key stakeholders in their operations.
9. Each Member State shall create a national secretariat to facilitate the operation of the SADC National Committee.
10. Each national secretariat of a SADC National Committee shall produce and submit reports to the Secretariat at specified intervals.
11. Each Member State shall provide funds for the operation of its national secretariat which shall be structured according to the core areas of integration referred to in paragraph 2 of Article 12 of this Treaty.
12. Each SADC National Committee shall meet at least four times a year.
13. For purposes of this Article, key stakeholders include:
  - a. government;
  - b. private sector;
  - c. civil society;

- d. non-governmental organizations; and
- e. workers and employers organizations.

## **Article 17. Specific Undertakings**

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

### **MEETINGS**

## **Article 18. Quorum**

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

## **Article 19. Decisions**

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

## **Article 20. Procedure**

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

# **Chapter SEVEN. Co-operation**

## **Article 21. Areas of Co-operation**

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

## **Article 22. Protocols**

1. Member States shall conclude such Protocols as may be necessary in each area of co-operation, which shall spell out the objectives and scope of, and institutional mechanisms for, co-operation and integration.

2. Each Protocol shall be approved by the Summit on the recommendation of the Council.
3. Each Protocol shall be open to signature and ratification.
4. Each Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by two thirds of the Member States.
5. Once a Protocol has entered into force, a Member State may only become a party thereto by accession.
6. Each Protocol shall remain open for accession by any State subject to Article 8 of this Treaty.
7. The original texts of each Protocol and all instruments of ratification and  
Accession shall be deposited with the Executive Secretary who shall transmit certified copies thereof to all Member States.
8. The Executive Secretary shall register each Protocol with the Secretariat of the United Nations Organization and the Commission of the African Union.
9. Each Protocol shall be binding only on the Member States that are party to the Protocol in question.
10. Decisions concerning any Protocol that has entered into force shall be taken by the parties to the protocol in question.
11. No reservation shall be made to any Protocol.

## **Article 23. Stakeholders**

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

## **Chapter EIGHT. Relations with other States, Regional and International Organisations Article 24**

1. Subject to the provisions of Article 6(1), Member States and SADC shall maintain good working relations and other forms of co-operation, and may enter into agreements with other states, regional and international organisations, whose objectives are compatible with the objectives of SADC and the provisions of this Treaty.
2. Conferences and other meetings may be held between Member States and

Other Governments and organisations associated with the development efforts of SADC to review policies and strategies, and evaluate the performance of SADC in the implementation of its programmes and projects, identify and agree on future plans of co-operation.

## **Chapter NINE. Resources, Funds and Assets Article 25 Resources**

1. SADC shall be responsible for the mobilisation of its own and other resources required for the implementation of its programmes and projects.
2. SADC shall create such institutions as may be necessary for the effective mobilisation and efficient application of resources for regional development.

3. Resources acquired by SADC by way of contributions, loans, grants or gifts, shall be the property of SADC.
4. The resources of SADC may be made available to Member States in pursuance of the objectives of this Treaty, on terms and conditions mutually agreed between SADC and the Member States involved.
5. Resources of SADC shall be utilised in the most efficient and equitable Manner.

## **Article 26. Funds**

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

1. There is hereby established a special fund of SADC to be known as the Regional Development Fund in which shall be accounted receipts and expenditure of SADC relating to the development of SADC.
  2. The Regional Development Fund shall, subject to this Treaty, consist of contributions of Member States and receipts from regional and non-regional sources, including the private sector, civil society, non-governmental organisations and workers and employers organisations.
  3. The Council shall determine the modalities for the institutionalization, operation and management of the Regional Development Fund.
  4. The Regional Development Fund shall be governed in terms of financial regulations made in accordance with Article 30 of this Treaty.
1. Property, both movable and immovable, acquired by or on behalf of SADC shall constitute the assets of SADC, irrespective of their location.
  2. Property acquired by Member States, under the auspices of SADC, shall belong to the Member States concerned, subject to provisions of paragraph 3 of this Article, and Articles 25 and 34 of this Treaty.
  3. Assets acquired by Member States under the auspices of SADC shall be accessible to all Member States on an equitable basis.

## **Chapter TEN.**

### **"FINANCIAL PROVISIONS ARTICLE 28 THE BUDGET**

1. The budget of SADC shall be funded by financial contributions made by Member States, and such other sources as may be determined by the Council.
  2. Member States shall contribute to the budget of SADC based upon a formula Agreed upon by the Summit.
  3. The Executive Secretary shall cause to be prepared, estimates of revenue And expenditure for the Secretariat, and submit them to the Council, not less than three months before the beginning of the financial year.
  4. The Council shall approve the estimates of revenue and expenditure before the beginning of the financial year.
  5. The financial year of SADC shall be determined by the Council.
1. The Council shall appoint external auditors and shall fix their fees and remuneration at the beginning of each financial year.
  2. The Executive Secretary shall cause to be prepared and audited annual statements of accounts for the Secretariat and submit them to the Council for approval.

## **Article 30. Financial Regulations**

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

## **Chapter ELEVEN. Immunities and Privileges Article 31**

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

2. The immunities and privileges conferred by this Article shall be prescribed in a Protocol.

## **Chapter TWELVE. Settlement of Disputes Article 32**

Any dispute arising from the interpretation or application of this Treaty, the

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

### **CHAPTER THIRTEEN**

#### **SANCTIONS, WITHDRAWAL AND DISSOLUTION ARTICLE 33 SANCTIONS**

1. Sanctions may be imposed against any Member State that:

- a. persistently fails, without good reason, to fulfill obligations assumed under this Treaty;
- b. implements policies which undermine the principles and objectives of SADC; or
- c. is in arrears in the payment of contributions to SADC, for reasons other than those caused by natural calamity or exceptional circumstances that gravely affect its economy, and has not secured the dispensation of the Summit.

2. The Summit shall determine on a case-by-case basis sanctions to be imposed under subparagraphs a) and b) of paragraph 1 of this Article.

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

- a. when in arrears for one year, suspension of the Member State's right to speak and receive documentation at meetings of SADC;
- b. when in arrears for two years, suspension:
  - i. of the Member State's right to speak and receive documentation at meetings of SADC; and
  - ii. by SADC of recruitment, and renewal of contracts of employment, of personnel from the Member State;
- c. when in arrears for three years, suspension:
  - i. of the Member State's right to speak and receive documentation at meetings of SADC;
  - ii. by SADC of recruitment, and renewal of contracts of employment, of personnel from the Member State; and
  - iii. of provision by SADC of funds for new projects in the Member State; and
- d. when in arrears for four or more years, suspension:
  - i. of the Member State's right to speak and receive documentation at meetings of SADC;
  - ii. by SADC of recruitment, and renewal of contracts of employment, of personnel from the Member State; and
  - iii. of provision by SADC of funds for new projects in the Member State; and
  - iv. of cooperation, between SADC and the Member State, in the areas of cooperation spelt out in Article 21 of this Treaty."

4. The sanctions referred to in paragraph 3 of this Article shall be applied by the Secretariat without reference to the Summit or Council except that the application of the sanctions shall be subject to the Secretariat notifying -

- a. prior to any meeting of SADC, Member States in default; and
- b. Member States at the beginning of any meeting of SADC."

1. A Member State wishing to withdraw from SADC shall serve notice of its intention in writing, a year in advance, to the Chairperson of SADC, who shall inform other Member States accordingly.

2. At the expiration of the period of notice, the Member State shall, unless the notice is withdrawn, cease to be a member of SADC.

3. During the one year period of notice referred to in paragraph 1 of this Article, the Member State wishing to withdraw from SADC shall comply with the provisions of this Treaty, and shall continue to be bound by its obligations under this Treaty up to the date of its withdrawal.

4. A Member State which has withdrawn shall not be entitled to claim any property or rights until the dissolution of SADC.

5. Assets of SADC situated in the territory of a Member State which has withdrawn, shall continue to be the property of SADC and be available for its use.

1. The Summit may decide by a resolution supported by three-quarters of all members to dissolve SADC or any of its institutions, and determine the terms and conditions of dealing with its liabilities and disposal of its assets.

2. A proposal for the dissolution of SADC may be made to the Council by any Member State, for preliminary consideration, provided, however, that such a proposal shall not be submitted for the decision of the Summit until all Member States have been duly notified of it and a period of twelve months has elapsed after the submission to the Council.

#### CHAPTER FOURTEEN AMENDMENT OF THE TREATY ARTICLE 36

1. An amendment of this Treaty shall be adopted by a decision of three-quarters

Of all the Members of the Summit.

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

#### CHAPTER FIFTEEN LANGUAGE

### **Article 37.**

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

#### CHAPTER SIXTEEN

#### SAVING PROVISIONS AND TRANSITIONAL PROVISIONS ARTICLE 38 SAVING PROVISIONS

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

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

2. The directorates shall be phased in at the Secretariat within a period of two (2) years from 9th March, 2001.

#### CHAPTER SEVENTEEN

#### SIGNATURE, RATIFICATION, ENTRY INTO FORCE, ACCESSION AND DEPOSITARY ARTICLE 40 SIGNATURE

This Treaty shall be signed by the High Contracting Parties.

## **Article 41. Ratification**

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

## **Article 42. Entry Into Force**

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

## **Article 43. Accession**

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

1. The original texts of this Treaty and all instruments of ratification and accession shall be deposited with the Executive Secretary of SADC, who shall transmit certified copies to all Member States.

2. The Executive Secretary shall register this Treaty with the Secretariat of the United Nations Organisation and the Commission of the African Union.

## **CHAPTER EIGHTEEN**

### **TERMINATION OF THE MEMORANDUM OF UNDERSTANDING ARTICLE 45**

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

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

DONE AT Windhoek, on the 17th day of August, 1992 in two (2) original texts in the English, and Portuguese languages, both texts being equally authentic [as amended at

Blantyre, on \_day of August, 2001 in three (3) original texts in English,

French and Portuguese languages, all texts being equally authentic].

REPUBLIC OF ANGOLAREPUBLIC OF BOTSWANA

DEMOCRATIC REPUBLIC OF CONGO

KINGDOM OF LESOTHO

REPUBLIC OF MALAWI

REPUBLIC OF MAURITIUS

REPUBLIC OF MOZAMBIQU

EREPUBLIC OF NAMIBIA

REPUBLIC OF SEYCHELLES

REPUBLIC OF SOUTH AFRICA

KINGDOM OF SWAZILAND

UNITED REPUBLIC OF TANZANIA

REPUBLIC OF ZAMBIA



