

TREATY OF THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

The SADC Treaty was adopted in 1992 and entered into force in 1993, and was modified by the 2001 Agreement Amending the Treaty of SADC. In the document reprinted here, the 2001 amendments have been integrated into the founding treaty.

PREAMBLE

We, the Heads of State and Government of [SADC countries]

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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 1 April 1980;

In pursuance of the principles of "Towards a Southern African Development Community - A Declaration made by the Heads of State and 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 peoples 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 globalisation;

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:

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CHAPTER THREE: PRINCIPLES, OBJECTIVES AND GENERAL UNDERTAKINGS

Article 4: Principles

SADC and its member states shall act in accordance with the following principles:

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

Article 5: Objectives

1. The objectives of SADC shall be to:
 - a) promote sustainable and equitable economic growth and socio-economic development that will ensure poverty alleviation with the ultimate objective of its eradication, enhance the standard and quality of life of the people of Southern Africa and support the socially disadvantaged through regional integration;
 - b) promote common political values, systems and other shared values which are transmitted through institutions which are democratic, legitimate, and effective;
 - c) consolidate, defend and maintain democracy, peace, security and stability;
 - d) promote self-sustaining development on the basis of collective self-reliance, and the interdependence of member states;
 - e) achieve complementarity between national and regional strategies and programmes;
 - f) promote and maximise productive employment and utilisation of resources 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 peoples of the region;
 - i) combat HIV/AIDS and other deadly or communicable diseases;
 - j) ensure that poverty eradication is addressed in all SADC activities and programmes;
 - 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 peoples 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 peoples 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;
 - j) develop such other activities as member states may decide in furtherance of the objectives of this Treaty.

Article 5A: SADC Common Agenda

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

Article 6: General Undertakings

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

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CHAPTER FIVE: INSTITUTIONS

Article 9: Establishment of Institutions

1. The following institutions are hereby established:
 - a) the Summit of Heads of State and Government;
 - b) the Organ on Politics, Defence and Security;
 - 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;
 - 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 decision; and
 - c) providing policy directions.
7. The Troika of each institution shall have the 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.

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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.
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.

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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 and sectoral policies and strategies, programmes and projects in the areas of co-operation.
3. In accordance with the provisions of this Treaty, member states agree to co-operate in the areas of:
 - a) food security, land and agriculture;
 - b) infrastructure and services;
 - c) industry, trade, investment and finance;
 - d) human resources development, science and technology;
 - e) natural resources and environment;
 - f) social welfare, information and culture; and
 - g) 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: Non-governmental Organisations

1. In pursuance of the objectives of this Treaty, SADC shall seek to involve fully the peoples of the region and non-governmental organisations in the process of regional integration.
2. SADC shall co-operate with, and support the initiatives of the peoples of the region and non-governmental organisations, contributing to the objectives of this Treaty in the areas of co-operation in order to foster closer relations among the communities, associations and peoples of the region.

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CHAPTER TWELVE: SETTLEMENT OF DISPUTES

Article 32

Any dispute arising from the interpretation or application of this Treaty, which cannot be settled amicably, shall be referred to the Tribunal.

CHAPTER THIRTEEN: SANCTIONS, WITHDRAWAL AND DISSOLUTION

Article 33: Sanctions

1. Sanctions may be imposed against any member state that:

a) persistently fails, without good reason, to fulfil obligations assumed under this Treaty;
b) implements policies which undermine the principles and objectives of SADC; or
c) is in arrears for more than one year 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 sanctions shall be determined by the Summit on a case-by-case basis.