

# **Analysing the role of the MOU on Cooperation in Taxation and Related Matters as an instrument for coordination and integration in SADC**

## **1 Introduction**

The origins of Southern African Development Coordination Conference (SADCC)<sup>1</sup> lie in the Frontline States,<sup>2</sup> a group of Southern African countries that fought for independence from colonial rule. Their aim was to help liberate the entire region from colonial rule. During the 1960s and 1970s, these newly independent states supported national liberation movements in the region by coordinating their political, diplomatic and military struggle to bring an end to colonial and white minority rule. The idea was to secure international cooperation for economic liberation and collective self-reliance.<sup>3</sup> At that time, according to the late President of Botswana, Sir Seretse Khama, ‘economic dependence had in many ways made political independence somewhat meaningless’.<sup>4</sup> An additional effort steered by former President Kaunda of Zambia was to establish a transcontinental belt of independent and economically powerful nations from Dar es Salaam and Maputo on the Indian Ocean, to Luanda on the Atlantic.<sup>5</sup> The SADCC was formed in 1980 and was

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<sup>1</sup>Hereafter the SADCC.

<sup>2</sup>Clough and Ravenhill ‘Regionalism in southern Africa: The SADCC’ in Clough (ed) *Political change in southern Africa* (1982). See also Thompson *Challenge to imperialism: The Frontline states in the liberation of Zimbabwe* (1984). See also Nsekela (ed) *Southern Africa: Towards economic liberation* (1981) 21.

<sup>3</sup>Tsikata ‘Southern Africa: Trade, Liberalisation and Implications for a Free Trade Area’ (Unpublished paper presented at the Annual Trade and Industrial Policy Secretarial Forum, Muldersdrift 1999) 14. See also Gibb ‘Southern Africa in transition’ (1998) *JMAS* 87-306.

<sup>4</sup>Khama (1979) June 15-July 14 *Africa Research Bulletin* 51-55. See also Gibb (note 3 above) 287-306.

<sup>5</sup>Kaunda ‘Address’ (Unpublished speech delivered at the Lusaka Economic Summit of the Southern African Development Coordination Conference in Lusaka 1 April 1980) 3-4.

transformed into the Southern African Development Community (SADC)<sup>6</sup> in 1992 with a focus on both socio-economic cooperation and cooperation in matters of political security.<sup>7</sup>

This *de facto* regional organisation lacked a treaty and a number of other legally binding instruments.<sup>8</sup> Consequently, the SADC was formed as an international regional organisation established in terms of a treaty and declaration referred to as the ‘Treaty of Southern African Development Community’ (the SADC Treaty) signed by the heads of state and government of the signatory member states.<sup>9</sup>

The SADC Treaty provides the legal framework for the organisation by setting out the status,<sup>10</sup> principles and objectives,<sup>11</sup> obligations of member states,<sup>12</sup> membership,<sup>13</sup> the institutions,<sup>14</sup> procedural matters relating to areas of cooperation among member states,<sup>15</sup> cooperation with other international organisations,<sup>16</sup> financial issues,<sup>17</sup> dispute settlement,<sup>18</sup> and lastly sanctions, withdrawal and dissolution.<sup>19</sup> The SADC Treaty makes provision for formulation of subsidiary legal instruments such as protocols giving specific mandates to various SADC institutions. To date 23 protocols have been adopted.<sup>20</sup>

This note analyses the role of the Memorandum of Understanding (MOU) on

<sup>6</sup>Hereafter the SADC.

<sup>7</sup>Saurombe ‘The SADC trade agenda, a tool to facilitate regional commercial law: An analysis’ (2009) 5 *SA Merc LJ* 697.

<sup>8</sup>Olivier ‘Southern African Development Community’ in EU Commission for Democracy Through Law *Federal and Regional States in the Perspective of EU Integration* (1999) 15.

<sup>9</sup>The SADC Treaty was signed at Windhoek, Namibia on 17 August 1992, and entered into force on 30 September 1993. The Treaty was amended at Blantyre, Malawi in August 2001. A consolidated version of the Treaty and all its amendments can be accessed on the SADC official website <http://www.sadc.int> (accessed on 10/06/2011). The SADC comprises of 15 member states: Angola, Botswana, Democratic Republic of Congo Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

<sup>10</sup>Article 14 SADC Treaty.

<sup>11</sup>*Id* chap 3 arts 4 and 5.

<sup>12</sup>*Id* art 6.

<sup>13</sup>*Id* chap 4 arts 37 and 8.

<sup>14</sup>*Id* chap 5 arts 9 and 16A.

<sup>15</sup>*Id* art 21.

<sup>16</sup>*Id* art 24.

<sup>17</sup>*Id* chap 9 arts 25 to 27 and chap 10 arts 28-30.

<sup>18</sup>*Id* art 32.

<sup>19</sup>*Id* chap 13 arts 33 to 35.

<sup>20</sup>See list of Protocols available on the official SADC website <http://www.sadc.int> (accessed on 10/06/2011).

Cooperation in Taxation and Related Matters<sup>21</sup> as an instrument for coordination of taxation and further integration in SADC. This MOU is the first instrument to deal with issues of cooperation in taxation in SADC member states and has been incorporated in Annex 3 of the Protocol on Investment and Finance.<sup>22</sup> This analysis is undertaken in the context of the underlying legal instruments at the centre of regional integration in the SADC. We first consider the background to the SADC as a regional organisation and the legal regime which provides the framework for the SADC's regional integration programme. This is followed by a detailed examination of the MOU on Taxation in which we point to its relevance to the coordination and integration programme of SADC. We then critically examine other regional blocs and agreements which have been concluded by the SADC and how they contribute to the coordination of taxation and deeper regional integration within the member states. The experience of the European Union<sup>23</sup> in furthering regional integration in the area of taxation and lessons for the SADC from that experience are considered, before we close with arguments for and against deepening regional integration within the theme of the note which is the MOU in taxation, and offer concluding remarks.

## **2 The SADC Protocol on Trade**

The SADC Protocol on Trade was adopted in 1996 with implementation commencing in 2000. The SADC Protocol on Trade provides a framework for SADC's trade integration programme. Article 22 of the SADC Treaty provides a legal mandate for member states to conclude such protocols as may be necessary in each area of cooperation. The SADC Protocol on Trade was therefore created pursuant to the SADC Treaty and met the criteria in article 22. This SADC Protocol on Trade sets out the basis for regional economic integration, a key objective of economic liberation as set out in the first statement in the SADC preamble. Through the SADC Protocol on Trade the SADC has already established a free trade area in terms of article 2(5), and further integration stages have been fully conceived in the 'Regional Indicative Strategic Development Plan' (RISDP).<sup>24</sup> However, the legality of the RISDP has been questioned since it has not been incorporated into the SADC Treaty and the SADC Protocol on Trade. However, such an argument may be discounted by the fact that the RISDP does not conflict with the SADC Protocol on Trade, but actually derives its relevance from the Protocol.

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<sup>21</sup>Hereafter the MOU on Taxation.

<sup>22</sup>This Protocol was signed in 2006 and came into force in 2010.

<sup>23</sup>Hereafter the EU.

<sup>24</sup>Hereafter the RISDP. The RISDP was adopted in 2003.

The aim of the Protocol is to regulate trade among SADC member states and with third party states at both the bilateral and the multilateral levels. Annex VI to the SADC Protocol on Trade establishes a trade dispute settlement mechanism for SADC members modeled on the World Trade Organisation's<sup>25</sup> equivalent.<sup>26</sup> Reference to Annex VI as a dispute settlement alternative for SADC members dispels the fear that there will not be a dispute settlement mechanism in the SADC while the Tribunal remains suspended.<sup>27</sup> However, unlike the SADC Tribunal which enjoyed jurisdiction over all SADC legal instruments, Annex VI deals exclusively with trade dispute settlement. The absence of trade disputes in the SADC has rendered this forum redundant and we shall not consider it further in this note.

### **3 Legal regime and current status of integration in SADC**

The SADC institutional and legal framework is enshrined in a treaty and a wide range of protocols, MoUs, charters, declarations, regulations and guidelines.<sup>28</sup> Apart from these fundamental instruments, SADC has also adopted three major strategic documents: the RISDP, the Blueprint for Development, and the Strategic Indicative Plan for the Organ on Politics, Defence and Security Cooperation.<sup>29</sup>

The SADC has laid out its plan for achieving full regional integration. This plan was to begin with the creation of a free trade area<sup>30</sup> in 2008, followed by a customs union in 2010,<sup>31</sup> a common market in 2015, a monetary union in 2016, and a single currency in 2018.<sup>32</sup>

The agreement between SADC member states to move towards a customs union (and a common market); and to gain the full benefit of freer trade within

<sup>25</sup>Hereafter the WTO.

<sup>26</sup>See 'Understanding on rules and Procedures Governing the settlement of Disputes' 15 April 1994 (Marrakesh Agreement Establishing the WTO).

<sup>27</sup>The Protocol setting up the Tribunal came into force in 2001. However, it was suspended by the SADC Summit of Heads of State and Government in August 2010.

<sup>28</sup>[www.sadc.int](http://www.sadc.int) (accessed on 18/10/2011).

<sup>29</sup>Hereafter SIPO. See [http://www.tralac.org/cgi-bin/giga.cgi?cmd=cause\\_dir\\_news\\_item&news\\_id=45318&cause\\_id=1694](http://www.tralac.org/cgi-bin/giga.cgi?cmd=cause_dir_news_item&news_id=45318&cause_id=1694) and <http://www.sadc.int/>.

<sup>30</sup>Hereafter FTA.

<sup>31</sup>In 2009 the SADC agreed to postpone the 2010 target for establishing a customs union and rather focus on the implementation of the FTA.

<sup>32</sup>See the RISDP. The RISDP stems from the objective of regional integration that the treaty seeks to achieve. As a result the RISDP seeks, among others, to remove barriers that prevent economic relationships between countries in the region and to harmonise the regulatory and legal environments across member states.

the region, will increase pressure to relax internal border controls on trade between member states. The consequence of this move demands an examination of all relevant components to free trade such as taxation policies and laws. This provides the SADC with a major agenda for the years to come.

In practice, the issues of taxation are no longer confined to national territories and jurisdictions only in that significant changes to the economic environment in recent years have propelled international tax issues to the forefront. Globalisation has increased world trade and the mobility of capital and labour. The cross-border trade in services through the use of e-commerce has also brought new challenges to taxation of cross-border transactions. These changes have highlighted weaknesses in the current tax systems of member states and to the potential weaknesses of the free trade area. In an international context, there is a fundamental question as to where taxation should take place, for example, in the country in which consumption takes place (the destination principle),<sup>33</sup> or in the country of production (the origin principle).<sup>34</sup> Furthermore, as SADC moves towards deeper integration it is important that mechanisms for sharing tax revenues that accumulate in a customs union are found.

With these challenges in mind, the case for tax coordination in member states in a regional grouping has been strengthened. It is argued that, like tax coordination, tax policy should proceed from the assumption that the market must achieve optimal allocation of resources. Accordingly, the tax systems of member states of a customs union or a common market should also be designed and coordinated so that they interfere as little as possible with this premise.<sup>35</sup>

#### **4 SADC Memorandum of Understanding on Cooperation in Taxation and Related Matters<sup>36</sup>**

The SADC tax coordination and integration agenda is reflected in the 2002 SADC MOU on Taxation and the 2006 SADC Protocol on Finance and

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<sup>33</sup>The destination principle requires that goods and services are taxed in the place of consumption.

<sup>34</sup>The origin principle requires that goods and services are taxed at the place of origin or where value is added.

<sup>35</sup>Cnossen 'Coordination of indirect taxes in the Southern African Development Community (SADC): Lessons from European experience' (2011) 61 *Tax Notes International* 943.

<sup>36</sup>The memorandum was subsequently incorporated in the Protocol on Finance and Investment of 2006 in its Annex 3. The MOU appears in that Annexure. However, this MOU is the first instrument adopted by the SADC to deal with the tax coordination agenda.

Investment. The memorandum deals with issues such as the establishment of a SADC database; personal capacity building; the application and treatment of tax incentives for income tax purposes; tax treaties; indirect taxes; and some review and dispute settlement arrangements. In the preamble, the member states recognise that the memorandum is intended to pursue and attain the objectives of the SADC as an organisation. These include, among others, development and economic growth; the realisation of complementarity between national and regional strategies; the harmonisation of their political and socio-economic policies and plans; the improvement of economic management and performance through regional cooperation; and the reduction of economic imbalances.<sup>37</sup>

In its article 2, the memorandum recognises the need to have a comprehensive database which is publicly accessible. Member states will be required to take the necessary steps to develop the SADC Tax Database which will include detailed information regarding all direct and indirect taxes and other levies in each member state. In order to keep the tax database up to date, member states undertake to provide – annually or when significant changes occur – the relevant information to the body concerned. However, it remains to be determined who will host the database, as well as issues of accessibility for other countries that are still struggling with their ICT capacity. The question is: ‘Who can compete with the South African tax system that is so complex and advanced and meets global standards?’

Article 3 of the memorandum deals with capacity building. This article recognises the need to develop the expertise of tax officials and to develop training initiatives to advance professionalism in tax. Member states also recognise the importance of information technology and the challenges which they face in this area. They undertake to work together in responding to these challenges, including the review of issues relating to e-commerce, e-billing or e-customs clearance, and the impact this may have on tax revenue collection and on the flow of goods and services. To achieve this collaboration between member states requires rules, not a loose agreement or memorandum.

In its article 4, the memorandum deals with the application and treatment of tax incentives. Here member states agree to establish a common approach to the treatment of tax incentives. This will ensure a more coordinated approach to tax incentives thereby avoiding tax competition which is likely to arise in member states as a result of their differing treatment and application of tax incentives. The issue of tax competition is a serious issue in taxation which can distort trade practices and which should be discouraged.

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<sup>37</sup>See the Preamble to the MOU on Taxation.

Article 6 deals with tax treaties. The member states recognise the importance of developing a common policy for the negotiation of tax treaties either with other countries outside of the SADC, or *inter se*. The member states intend to develop a model tax treaty for the SADC, which takes account of the peculiar socio-economic development needs of member states. This approach will be enhanced by member states drawing guidelines for the effective exchange of information and the implementation of mutual assistance and cooperation procedures.

In article 6 the memorandum emphasises the need for SADC member states to take specific steps to achieve effective coordination and harmonisation in the administration of indirect taxes. At the centre of this harmonisation is the possible coordination of excise duties; value added tax (VAT), and sales tax.<sup>38</sup> The memorandum also provides for the establishment of a SADC forum for member states to deal with VAT matters at the regional level. This provision is at the centre of any future plans to coordinate and harmonise indirect taxes by member states.

The memorandum is relevant to SADC's policies and is intended to pursue the objectives set out in the SADC Treaty. For the SADC to become a customs union (and later a common market), discriminatory border taxes will have to be abolished and uniform and common tax systems adopted. Therefore, the implementation of the memorandum will be the first step towards achieving a coordinated and harmonised indirect tax system in the SADC. With the customs union having failed to materialise as planned in 2010, it is clear that the SADC had put the cart before the horse. Hopefully this memorandum will pave way for the full realisation of the custom union.

The aim of the SADC in coordinating and harmonising tax regimes within the community is to ensure uniformity in the treatment of goods and services and to eliminate trade distortions between member states. Harmonisation of tax systems will also eliminate any trade competition between member states. This means that legal instruments like the SADC Protocol on Trade will have to be fully implemented to go along with tax harmonisation.

The areas of tax laws which need to be harmonised can be identified from the various legal instruments adopted by the SADC. It is important that when developing a strategy for harmonisation of these laws, a realistic framework for the harmonisation process should be developed. This will require

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<sup>38</sup>Of the fourteen SADC member states, only one, Angola, still has a manufacturers' sales tax, while other member states have introduced a VAT.

cooperation of member states and coordination of the processes at the national and regional level and involvement of all relevant sectors.

#### 4.1 *Tripartite Free Trade Agreement between COMESA, EAC and SADC 2011*

The negotiations recently launched for a tripartite free trade agreement (FTA) between the Common Market for Eastern and Southern Africa (COMESA),<sup>39</sup> the East African Community (EAC),<sup>40</sup> and the SADC makes no provision for taxation and related matters. The tripartite FTA is based on three key issues: market integration; infrastructure development; and industrial development. The objectives of the agreement are to facilitate trade and provide for non-tariff barrier programmes. This agreement still ignores crucial issues of taxation which underlie the facilitation of trade.

The tripartite FTA is not an attempt to merge COMESA, the EAC, and the SADC, but rather involves merging the existing FTAs in these three bodies into a single wider FTA within the context of intra-regional liberalisation.<sup>41</sup> Therefore it is not a regional economic community<sup>42</sup> negotiation process, but a process driven by member states as customs territories within the RECs.<sup>43</sup> It will be interesting to see how these negotiations develop considering that SADC member states are also pursuing other agendas like the MOU on Taxation. This complication does not end with the tripartite FTA, but extends to the African Economic Community<sup>44</sup> where the SADC is seen as a major building bloc.

#### 4.2 *AEC- SADC as a building bloc*

Articles 29 to 34 of the Treaty establishing the AEC require member states to adopt measures to eliminate customs duties, quotas, other restrictions or prohibitions, and administrative trade barriers. They also require adoption by member states of a common external customs tariff.<sup>45</sup> This will be in preparation for the African Customs Union. Although this will be important for the African continent, 'first things first' and harmonisation must start at the regional level.

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<sup>39</sup>Hereafter the COMESA.

<sup>40</sup>Hereafter the EAC.

<sup>41</sup>Kalenga (2011) SADC Annual Conference 7-9 September 2011, Cape Town. Available at: [www.tralac.org](http://www.tralac.org) (accessed 10 October 2011).

<sup>42</sup>Hereafter the REC.

<sup>43</sup>See Kalenga n 41 above.

<sup>44</sup>Hereafter the AEC.

<sup>45</sup>See arts 30, 31 and 32 AEC Treaty (1991).



The AEC is an attempt to create an economic community covering the whole of Africa's 53 countries; if successful the AEC will be the largest in the world.<sup>46</sup> The community, as can be seen from the goals it seeks to achieve, is more than a trading arrangement or a mechanism for promoting cooperation in production based on the creation of a common market. In addition, it seeks to integrate national markets and cooperation in production. The states joining the community also undertake to cooperate with each other in certain functional areas, for example on social, political, and economic matters. Central to this agenda is the improvement of the lives of African citizens.

Article 4(2) of the AEC provides several ways in which the objectives of the treaty are to be achieved. These include the liberalisation of trade and the abolition of non-tariff barriers among member states in order to establish an FTA. The objectives of the relaxation and eventual abolition of qualitative and administrative restrictions and the evolution of a common trade policy are central. The continent, through the AEC Treaty, seeks the gradual removal, from member states of obstacles to the free movement of persons, goods, services, and capital, and the right of residence and establishment.<sup>47</sup>

## **5 The European approach and lessons for the SADC**

The experience of the EU is widely perceived as an example for regional economic integration and is used as a model by a number of regional groupings considering regional integration. A culture of compliance with taxation laws also brings certainty to national and regional plans for development. It is argued that the EU is often considered as a model to be followed by other regional groupings – if not in the short term due to unfavourable circumstances prevailing in the region – at least in the long run, as an ultimate aim.<sup>48</sup> It is within this context that the SADC has also used the EU as its model for furthering its regional integration.

Tax policy in the EU consists of two components: direct taxation and indirect taxation. Direct taxation remains the sole responsibility of each member state and attempts to control direct taxation policy, have been limited to encouraging tax coordination and attempts to stamp out harmful tax practices.<sup>49</sup> On the other hand, indirect taxation which affects free movement

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<sup>46</sup>Frimpong *African Union* (2010) 92-103.

<sup>47</sup>See AEC Treaty 1991.

<sup>48</sup>Bilal 'Can the EU be a model of regional integration? Risks and challenges for developing countries' (2005) *European Centre for Development Policy Management (ECDPM)* 3 available at <http://www.ecdpm.org/bilal> (accessed 7 August 2012).

<sup>49</sup>See James 'Taxation and the EU' (2006) *Institute for the Study of Civil Society* available at <http://civitas.org.uk/eufacts/FSECON/EC3.htm> (accessed 7 August 2012).

of goods and the freedom to provide services, is to some extent regulated at the community level.

The move towards the common market in the EU was first introduced by the adoption of the Treaty of Rome, which established the European Economic Community in 1957.<sup>50</sup> Article 14(2) provided for the establishment of the internal market by 31 December 1992. Article 94 gives the Council the authority to issue directives for the establishment and functioning of the common market. These provisions are amongst the ones which are at the centre of coordination of tax systems of EU member states.

The treaty had a number of consequences for the tax systems of EU member states, including the abolition of customs duties, the coordination of the major internal indirect taxes. What remains to be achieved is the selective approximation of corporation taxes.<sup>51</sup>

In order to achieve the common market, the member states had to ensure that competition was not distorted amongst them. In order to address this challenge, the member states had to restructure and amend their indirect taxes. This development is marked by the introduction of a common consumption-type VAT within the Community. This resulted from the adoption and subsequent implementation of the Sixth Directive on Value Added Tax in 1977 which prescribes a uniform basis of assessment for member states and harmonises various administrative procedures.<sup>52</sup>

As part of the programme to create a single market within the EU, a unified excise duty was adopted in 1991, and in 1992 a standard base of VAT rates of above 15 per cent was set across the EU. While this created some integration in the sale of goods, to have a real single market all countries would have to have a similar rate of business tax,<sup>53</sup> which would result in a European tax system with similar rates in all countries.<sup>54</sup> However, this has to date not been introduced.

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<sup>50</sup>Consolidated Version of the Treaty Establishing the European Community (originally the Treaty of Rome) of the European Communities, C 325/33 of 24 December 2002 available at <http://eurlex.europa.eu/en/treaties/index.htm> (accessed 8 August 2012).

<sup>51</sup>Cnossen 'Coordination of indirect taxes in the Southern African Development Community (SADC): Lessons from European experience' (2011) 61 *Tax notes international* 943.

<sup>52</sup>See Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

<sup>53</sup>*Ibid.*

<sup>54</sup>See James 'Taxation and the EU' (2006) Institute for the Study of Civil Society available at <http://civitas.org.uk/eufacts/FSECON/EC3.htm> (accessed 7 August 2012).

The common market system also requires the abolition of physical barriers such as customs posts between member states. This demands that border-tax adjustments be shifted to books-of-account rather than taking place at the customs posts. In regard to goods, this was effected in 1992 with the introduction of a VAT deferred-payment scheme<sup>55</sup> (under the transitional system which still applies in the EU while proposals are being made to move to a definitive<sup>56</sup> system).<sup>57</sup> The deferred-payment scheme is similar to the reverse-charge rule for services which is already in place.<sup>58</sup>

In the area of excise taxes, the member states have agreed to introduce minimum rates and Community-wide suspension procedures have been developed. The EU coordination of indirect taxes has not been without problems and challenges.<sup>59</sup> Member states have clearly supported the coordination of indirect taxes, but have rejected a move towards tax harmonisation (which would include harmonisation of VAT tax rates). This has resulted, for example, in differing VAT rates in EU member states.<sup>60</sup>

## 6 Conclusion

It is clear that the SADC needs to adopt taxation as an instrument of common, community policy. Taxation is an important component of economic development. The question which arises from this discussion is the extent to which the SADC has conformed to the MOU on Taxation in practice. Have SADC member states taken any steps to implement this MOU in their individual jurisdictions?

The advantage of achieving a coordinated tax system within a community of states is to allow money and people to move between member states without being taxed twice. Double taxation discourages the smooth flow of trade, investment, and further regional integration. Furthermore, a coordinated tax system discourages member states from competing for lower tax rates (tax competition) and therefore makes the operation of a fair single market easier. This ensures that member states compete on a level playing field as far as attracting foreign investment is concerned.

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<sup>55</sup>The deferred payment system requires the buyer of goods to apply the VAT to his or her purchases from abroad and at the same time to take credit for that VAT, all in the same VAT return.

<sup>56</sup>See Cnossen 'Global trends and issues in value added taxation' (1998) *International Tax and Public Finance* 412 n 34.

<sup>57</sup>Schenk and Oldman *Value Added Tax a comparative approach* New (2007) 361 n 11.

<sup>58</sup>Ebrill, Keen, Bodin and Summers *The modern VAT* (2001) 184.

<sup>59</sup>*Ibid.*

<sup>60</sup>For example, in Luxembourg the VAT rate is 15%, while in Hungary it is 27%.

On the other hand, the disadvantage of a coordinated tax system is that since member states have different economic priorities, and each member state may therefore wish to pursue its own priorities at different times. It is also argued that the consequences of tax policy harmonisation can be regarded either as a transfer of economic autonomy from the member states to central, community institutions, or, what is perhaps worse, simply as a neutralisation of the major fiscal tools of economic management.<sup>61</sup> In this way, countries may wish to retain control over their own tax systems and not transfer their economic autonomy – after all, the power to levy taxes is central to national sovereignty and decision making.<sup>62</sup>

However, with the efforts and achievements of SADC in furthering its economic regional integration, there is no doubt that the MOU on Taxation plays an important role in deepening these efforts. We cannot divorce tax issues from trade issues; hence it is argued that this MOU on Cooperation in Taxation and Related Matters will play a crucial role in SADC's agenda for trade and economic regional integration.

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<sup>61</sup>Easson 'Tax harmonisation in the EEC: The Commission's programme' (1981) *British Tax Review* 329.

<sup>62</sup>See James n 54 above.

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