



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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### Proclamation

by the

**PRESIDENT OF THE REPUBLIC OF NAMIBIA**

No. 24

1997

#### ANNOUNCEMENT OF THE SIGNING OF THE SADC PROTOCOL ON TRANSPORT, COMMUNICATIONS AND METEOROLOGY BY THE REPUBLIC OF NAMIBIA

Under Article 32(8) of the Namibian Constitution I hereby announce that the SADC Protocol on Transport, Communications and Meteorology set out in the Schedule was signed by the Republic of Namibia in Maseru, Lesotho on 24 August 1996, and ratified by the National Assembly under Article 63(2)(e) of the Constitution on 30 July 1997.

Given under my Hand and the Seal of the Republic of Namibia at Windhoek this 29th day of September, One Thousand Nine Hundred and Ninety-seven.

**SAM NUJOMA**

**President**

**BY ORDER OF THE PRESIDENT-IN-CABINET**

**SCHEDULE**

**PROTOCOL**

**ON**

**TRANSPORT, COMMUNICATIONS**

**AND**

**METEOROLOGY**

**IN THE**

**SOUTHERN AFRICAN DEVELOPMENT**  
**COMMUNITY (SADC) REGION**

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## *INTRODUCTORY PROVISIONS*

## PREAMBLE

The Governments of -

The Republic of Angola  
The Republic of Botswana  
The Kingdom of Lesotho  
The Republic of Malawi  
The Republic of Mauritius  
The Republic of Mozambique  
The Republic of Namibia  
The Republic of South Africa  
The Kingdom of Swaziland  
The United Republic of Tanzania  
The Republic of Zambia  
The Republic of Zimbabwe

ENJOINED as the Member States of the Southern African Development Community hereinafter referred to as "the SADC";

MINDFUL of the principles of international law which govern their relations as sovereign states;

IN PURSUANCE of Articles 22 and 23 of the SADC Treaty which provides for Member States to conclude a Protocol to expand and deepen their co-operation in the areas of infrastructure and services;

MINDFUL of the protocols which Member States have concluded or will conclude in other sectors, in particular the trade and industry sector;

DETERMINED to establish viable and sustainable transport, communications and meteorology systems;

RECOGNIZING THAT -

transport, communications and meteorology functions have a regional and global character and are a prerequisite for the promotion of economic growth and development and the improvement of the quality of life and social interaction of all their citizens within the region, continentally and internationally;

the rules of the global multilateral trading system as embodied in the relevant instruments of the World Trade Organization and in particular, the General Agreement on Trade in Services, provide a framework for their sectoral and sub-sectoral co-operation;

they are all members of the African Economic Community and bound to implement this Protocol in accordance with the principles of that organization;

their rights and obligations under regional and international agreements must be built collectively to promote convergence and compatibility with regional

and global trends, while a unified approach is adopted to issues of common interest;

the transport, communications and meteorology infrastructure, equipment, human resources, technology and services represent the collective patrimony of the region and comprise assets of significant strategic value;

their transport, communications and meteorology networks are essentially interdependent and that a collective benefit may be derived from greater integration and co-operation between these networks;

regional peace and security are prerequisites for economic growth and prosperity;

all facets of their regional and domestic policies are horizontally and vertically interactive and therefore need to be co-ordinated to their mutual advantage;

economic and institutional reform must be undertaken at both regional and national level in a multifaceted manner and in accordance with appropriate time frames to provide an environment within which the transport, communications and meteorology sectors can prosper and grow;

regional co-operation must be given a collective impetus through public and private sector collaboration and support;

public sector support is required in providing a comprehensive, transparent and predictable enabling policy, legal and regulatory environment within which service providers, customers and labour may fruitfully interact in the transport, communications and meteorology sectors in collaboration with international co-operating partners and all other stakeholders;

public and private sector service providers have made a significant contribution to the regional economy;

broad-based public and private capital investment in infrastructure and service provision, human resource development, research and development is an essential pre-condition for regional growth and prosperity;

the regional private sector requires targeted support measures and guidelines to develop its production and investment capacity and that joint ventures may contribute towards capacity enhancement;

labour forms an integral component of the transport, communications and meteorology sectors and is central to their growth and prosperity;

other sectoral activities have a fundamental impact on the transport, communications and meteorology sectors;

concrete results must be achieved at the earliest opportunity as an urgent priority, while acknowledging that the achievement of collective and individual

objectives of the transport, communications and meteorology sectors is a long term process requiring continuous planning, monitoring and review;

WISHING to contribute to the harmonious, balanced, equitable and sustainable development of the SADC;

HEREBY AGREE AS FOLLOWS -

## **CHAPTER 1 DEFINITIONS**

### **Article 1.1 Definitions**

In this Protocol, unless the context otherwise indicates -

**“annex”** means an annex to this Protocol as annexed on the date of signing of the Protocol, but also any annex as may from time to time be added to the Protocol by mutual agreement between Member States;

**“Committee of Ministers”** means the Committee of Ministers of Member States responsible for transport, communications and meteorology portfolios established by the Council pursuant to Article 11(2)(g) of the Treaty and referred to in Article 13.4 of this Protocol;

**“Community”** means the organization for economic and social integration established by Article 2 of the Treaty;

**“Committee of Senior Officials”** means the Committee of Permanent/Principal Secretaries, Secretaries, Directors-General, National Directors and officers of equivalent rank responsible for transport, communications and meteorology portfolios referred to in Article 13.5 of this Protocol;

**“corridor”** means a major regional transportation route along which a significant proportion of Member States’ or non-Member States’ regional and international imports and exports are carried by various transport modes, the development of which is deemed to be a regional priority;

**“Corridor Planning Committees”** means the committees referred to in Article 3.5 of this Protocol;

**“Council”** means the Council of Ministers of the SADC established by Article 9 of the Treaty;

**“extra-territorial jurisdiction”** means the right conferred upon one Member State to authorize the performance of an activity legally requiring official sanction in the territory of another Member State;

**“Executive Secretary”** means the chief executive officer of the SADC appointed under Article 10(7) of the Treaty;

**“freight container”** means an article of transport equipment that is of a permanent character, strong enough to be suitable for repeated use and specially designed to transport goods by more than one mode;

**“harmonization”** means the dynamic process of establishing mutually complementary policies, legislation, rules, standards, practices or systems between Member States on the basis of agreed minimum requirements;

**“host country”** means the Member State to which the responsibility of co-ordinating the transport, communications and meteorology sectors has been assigned and in whose territory the SATCC-TU is located;

**“integrated transport”** means a regional transportation system which integrates all modes, designates a network of defined transport corridors, emphasizes connections, choices and co-ordination of transport services and promotes an optimal yield from the region’s transportation resources;

**“intermodal transport”** means the transport of goods by several modes from one point or port of origin via one or more interface points to a final point or port, where one of the carriers organizes the whole transport without assuming liability for the entire transport from origin to final destination;

**“land-locked state”** means a state which has no sea-coast;

**“Member State”** means a state party to the Treaty;

**“multimodal transport”** means the carriage of goods by at least two different modes of transport on the basis of a multimodal transport contract from a place in one country at which goods are taken in charge by the multimodal transport operator to a place designated for delivery situated in a different country but excluding the picking up and delivery of goods carried out in the performance of a unimodal transport contract, as defined in such contract;

**“multimodal transport contract”** means a contract whereby a multimodal transport operator undertakes, against payment of freight, to perform or procure the performance of international multimodal transport;

**“multimodal transport operator”** means any person who, on his/her own behalf or through another person acting on his/her behalf, concludes a multimodal transport contract and who acts as a principal, not as an agent or on behalf of the consignor or of the carriers participating in the multimodal transport operations, and who assumes responsibility for the performance of the contract;

**“national”** means pertaining to any matter peculiar to or characteristic of an individual Member State;

**“non-Member State”** means a state not party to the Treaty;

**“Protocol”** means this instrument of implementation of the Treaty and includes any annex, amendment or extension thereof which form an integral part of this Protocol;

**“Railway Route Management Groups”** means the groups referred to in Article 7.8 of this Protocol;

**“region”** means the geographical territory of the Member States of the SADC;

**“Regional Trunk Road Network”** means the network of regional trunk roads providing access to major centres of population and economic activity contemplated in Article 4.3 of this Protocol;

**“road infrastructure”** means roads, bridges and road furniture;

**“road traffic”** means the flow of traffic and interaction between pedestrians, drivers and vehicles on the road network;

**“road traffic quality management”** means the control and management of road traffic in order to effect qualitative road traffic operations resulting in order, discipline and safety on the road network;

**“road transport”** means the conveyance of passengers and freight on the road network between origins and destinations by means of road transport vehicles;

**“road transport management”** means the control and management of road transport to ensure that such transport is undertaken in the most efficient and economic manner to the satisfaction of the users thereof;

**“Road Transport Route Management Groups”** means the groups referred to in Article 5.6 of this Protocol;

**“SATCC”** means the commission referred to in Article 13.3 and established by Article 9 of the Treaty;

**“SATCC-TU”** means the Technical Unit supporting the functions of SATCC referred to in Article 13.9 of this Protocol;

**“Secretariat”** means the SADC Secretariat established by Article 9 of the Treaty;

**“service provider”** means the public or private sector provider of a transport, communications or meteorology facility and/or operational service;

**“sub-sectoral committee”** means a committee referred to in Article 13.6 of this Protocol;

**“Treaty”** means the Treaty establishing the Southern African Development Community; and

**“Tribunal”** means the Tribunal established by Article 9 of the Treaty.

Article 1.2  
**Abbreviations**

The following list of abbreviations shall be applicable in this Protocol -

<b>AFCAC</b>	:	African Civil Aviation Commission
<b>ASK</b>	:	Available Seat Kilometres
<b>CIF</b>	:	Cost, Insurance and Freight
<b>ICAO</b>	:	International Civil Aviation Organization
<b>ICAO SARPs</b>	:	International Civil Aviation Organization Standards and Recommended Practices as contained in the Annexes to the Convention on International Civil Aviation, 1944
<b>IMO</b>	:	International Maritime Organization
<b>ISO</b>	:	International Standards Organization
<b>ITU</b>	:	International Telecommunication Union
<b>LUT</b>	:	Local Users Terminal
<b>NMCs</b>	:	National Meteorology Centres
<b>RMSN</b>	:	Regional Meteorology Support Network
<b>RPK</b>	:	Revenue Passenger Kilometres
<b>RSIS</b>	:	Regional Rolling Stock Information and Management System
<b>RTRN</b>	:	Regional Trunk Road Network
<b>SADC</b>	:	Southern African Development Community
<b>SAR</b>	:	Search and Rescue
<b>SARSAT/COSPAS</b>	:	Search and Rescue Satellite Aided Tracking/ Kosmicheskaya Sistyema Polska Avarynykh Sudov
<b>SAR 1979</b>	:	International Convention on Maritime Search and Rescue, 1979
<b>SATCC</b>	:	Southern Africa Transport and Communications Commission

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<b>SATCC-TU</b>	:	Southern Africa Transport and Communications Commission Technical Unit
<b>STCW 1978</b>	:	International Convention on Standards of Training, Certification and Watchkeeping of Seafarers, 1978
<b>UN</b>	:	United Nations
<b>UPU</b>	:	Universal Postal Union
<b>WMO</b>	:	World Meteorology Organization
<b>WMO Convention</b>	:	Convention on the World Meteorological Organization



**CHAPTER 2**  
**SCOPE, INTRA- AND EXTRA-COMMUNITY RELATIONS GENERAL**  
**OBJECTIVE**  
**AND STRATEGIC GOALS**

**Article 2.1**

**Scope**

The scope of this Protocol comprises the entirety of the transport, communications and meteorology sectors in each Member State and the region, including, but not limited to -

- (a) all policy, legal, regulatory, institutional, operational, logistical, technical, commercial, administrative, financial, human resource and other issues;
- (b) international, continental, regional and national dimensions; and
- (c) the public and private sectors in each Member State, as well as collectively in the region, to the degree that their activities overlap with the subject-matter of this Protocol.

**Article 2.2**

**Intra- and Extra-Community Relations**

Member States acknowledge their existing bilateral and multilateral relations -

- (a) with each other; and
- (b) with non-Member States and groupings of states; and

affirm their intention to expand their intra- and extra-Community relations in a manner which is consistent with and complements this Protocol and facilitates its implementation.

**Article 2.3**

**General Objective**

Member States' general objective is to establish transport, communications and meteorology systems which provide efficient, cost-effective and fully integrated infrastructure and operations, which best meet the needs of customers and promote economic and social development while being environmentally and economically sustainable.

**Article 2.4**

**Strategic Goals**

Member States shall engage all stakeholders in giving effect to this Protocol by promoting the following strategic goals -

- (a) Integration of regional transport, communications and meteorology networks to be facilitated by the implementation of compatible policies, legislation, rules, standards and procedures;
- (b) elimination or reduction of hindrances and impediments to the movement of persons, goods, equipment and services;
- (c) broad-based investment to develop, preserve and improve viable strategic transport, communications and meteorology infrastructure within an investor-friendly environment generating adequate returns;
- (d) restructured state enterprises and public utilities which are financially independent and commercially viable;
- (e) optimal utilization of public and private financial, human and other resources and the effective allocation of existing scarce resources;
- (f) adequate own funding and appropriate supplementary funding, amongst others, through recovery of full costs for maintenance of infrastructure and service provision and progressive recovery of full future costs for infrastructure and service provision and use on an equitable basis;
- (g) regional and global competitiveness of the Community's large and small service providers;
- (h) complementarity and economies of scale between the Community's service providers;
- (i) co-operative policy development facilitated by strategic partnerships between government and a responsible and competent regional private sector;
- (j) regional development fostered by strategic partnerships between international co-operating partners and regional stakeholders;
- (k) customer driven service provision characterized by adequate access to basic transport, communications and meteorology services and progressive improvement of service quality;
- (l) improved diversity of services and provision of services on a competitive bid basis through the promotion of fair and healthy competition between service providers in terms of transparent, flexible, predictable and streamlined regulatory frameworks;
- (m) informed decision-making and improved investor confidence to facilitate commercial activity;
- (n) focused investment in joint human resource development programmes, information management schemes, research and development projects and technology transfer initiatives; and
- (o) effective environmental management with due consideration of relevant international and regional conventions.

*TRANSPORT*

### **CHAPTER 3**

### **INTEGRATED TRANSPORT**

#### **Article 3.1**

#### **Objectives**

Member States shall promote economically-viable integrated transport service provision in the region -

- (a) characterized by high performance standards and consistent levels of efficiency and reliability of all individual component parts of the transport chain;
- (b) on the basis of complementarity and co-operation between modes, modal choice optimization, seaport hinterland optimization and with due regard to modal advantages;
- (c) bearing in mind the need to preserve the region's transportation infrastructure;
- (d) by encouraging the development of multimodal service provision; and
- (e) compatible with responsible environmental management;

to support the development of major regional development corridors and facilitate travel between their territories.

#### **Article 3.2**

#### **Integrated Transport Policy**

1. In order to attain the desired integrated transport objectives, Member States agree to develop a harmonized integrated transport policy, which includes the-

- (a) establishment of infrastructure, logistical systems and institutional frameworks;
- (b) establishment of appropriate legal and financial frameworks;
- (c) execution of research and technology transfer; and
- (d) development of effective communication networks;

which support intra- and intermodal synergy and optimal utilization of modes.

2. Member States shall apply the following principles -

- (a) the right of freedom of transit for persons and goods;
- (b) the right of land-locked Member States to unimpeded access to and from the sea;

- (c) the right of coastal Member States to unimpeded access to and from land-locked Member States;
  - (d) equality of treatment of the nationals and passenger service providers of Member States with regard to the provision, access and use of infrastructure and immigration and clearance procedures;
  - (e) the right of individual Member States to negotiate access and freedom of transit rights consistent with the principles of this Protocol, while recognizing that individual needs of Member States may require specific bilateral arrangements; and
  - (f) all modes of transport are allowed the necessary economic space to operate in a self sustaining free market environment.
3. Member States shall, in the exercise of their full sovereignty over their territory, have the right to take all measures necessary to ensure that the application of the principles contemplated in paragraph 2 shall in no way infringe their legitimate interests.

### Article 3.3 **Infrastructure**

1. Member States shall co-operate in providing, operating and maintaining transport infrastructure which supports the provision of integrated transport services, considering that infrastructure should progressively be self sustaining with funding based on a user pay principle.
2. To this end, Member States shall create and maintain regulatory frameworks, investment regimes and incentives which may facilitate the provision of such infrastructure by the private and/or public sector.
3. For the purposes of paragraphs 1 and 2, Member States shall promote the effective management of existing and future infrastructure by both public and private sector and encourage -
  - (a) the provision of integrated multi-user ship-to-shore and shore-based transshipment facilities;
  - (b) joint ventures by multinational groupings to develop commercial facilities dedicated to the handling of regional trade;
  - (c) the development of strategically located and commercially viable dry ports where appropriate;
  - (d) the provision of integrated passenger transfer facilities;
  - (e) the improvement and integration of frontier facilities, including the provision of common user facilities at frontiers;

- (f) the provision of receiving, off-loading, storage and final distribution facilities at destination; and
- (g) the integration of infrastructure development along identified regional development corridors.

#### Article 3.4

#### **Logistical Systems**

1. Member States shall co-operate in incrementally promoting the development of logistical systems by public and private sector bodies to support effective intermodal transport operations characterized by -
  - (a) intermodal synergy;
  - (b) intramodal co-operation, especially between established service providers and small, medium and micro enterprises; and
  - (c) optimal use of unitized loading units such as freight containers and pallets to transport cargoes.
2. For the purposes of paragraph 1, Member States shall endeavour and work towards the elimination or reduction of impediments on the movement of persons.
3. The logistical systems referred to in paragraph 1 shall aim to enhance the efficiency of specific regional development corridors in -
  - (a) the transshipment of cargoes;
  - (b) the transfer of persons between modes;
  - (c) the processing of cargoes and persons at transshipment points, frontiers and destination points; and
  - (d) the planning and operation of transport equipment and infrastructure.
4. For the purposes of paragraph 2, Member States shall in particular focus on -
  - (a) the harmonization of domestic legislation, including provisions dealing with statutory liability of service providers;
  - (b) the development of simplified and harmonized documentation which supports the movement of cargoes along the length of the logistical chain, including the use of a harmonized nomenclature;
  - (c) the implementation of state-of-the-art rapid communication, information and data processing and exchange facilities to support corridor operations and supplying real-time logistical and other information to corridor users;

- (d) the encouraging of containerization, including the balancing of supply and demand;
  - (e) the improvement of rail transit times;
  - (f) the enhancement of performance of rail and freight container information tracking systems;
  - (g) the limitation of dwell times in ports and dry ports;
  - (h) the implementation of measures to enhance the security of cargoes and protect the life and property of passengers; and
  - (i) the development and implementation of quality controls including safety standards applicable to all modal transport operators.
5. Member States shall encourage the adoption of simplified measures falling outside the sectors addressed in this Protocol which may also contribute towards the objectives of this Chapter. Such measures may include -
- (a) clearance and pre-clearance procedures at borders, ports and dry ports for goods and pre-clearance of freight containers;
  - (b) financial requirements for import, export and transit movement of goods and road vehicles; and
  - (c) clearance procedures for SADC nationals, including immigration and public health measures.
6. Member States shall promote the necessary liaison between their various ministries and departments to execute the provisions of this Article.

#### Article 3.5

#### **Institutional Framework**

1. Member States shall establish institutional frameworks involving all transport modes to promote inter- and intra-modal co-operation between stakeholders and to support the development of regional development corridors facilitating unimpeded access and travel between the territories of the Member States.
2. Member States shall establish criteria to identify regional development corridors which may include all modes or be modal specific.
3. For the purposes of this Article, Member States shall promote the establishment of cross-border multimodal Corridor Planning Committees comprising of public and private sector stakeholders in the Member State or States whose territory or territories are traversed by such corridors.
4. Member States shall support the functioning of Corridor Planning Committees by developing -

- (a) performance criteria for major regional development corridors to facilitate planning and prioritization;
  - (b) databases on infrastructure and operational matters to deliver recent, comparable and relevant information on transport and travel needs of the region to support planning and development by all stakeholders; and
  - (c) institutional models for such committees.
5. Corridor Planning Committees shall include adequate representation by -
- (a) all modal transport operators servicing the corridor including multimodal transport operators;
  - (b) transport and infrastructure authorities with responsibilities in respect of the provision and management of transport and related infrastructure facilities along the corridor;
  - (c) port authorities;
  - (d) customs and excise authorities with responsibilities in respect of the corridor;
  - (e) freight forwarding and clearing agents servicing the corridor;
  - (f) trade and industry authorities and bodies;
  - (g) financial and insurance institutions, industrialists and developers;
  - (h) border post authorities;
  - (i) immigration authorities with responsibilities in respect of the corridor;
  - (j) tourism groups;
  - (k) users of corridor systems and facilities; and
  - (l) any other stakeholders.
6. Corridor Planning Committees shall be structured and assume functions according to the specific requirements of a corridor.
7. The SATCC-TU may, on an interim basis, assist Corridor Planning Committees with technical, secretarial and other functions until such committees have established the necessary internal support.
8. Member States shall develop the major surface regional development corridors to be identified.
9. The functions of Corridor Planning Committees may be facilitated by national committees comprising national, public and private sector stakeholders on such corridor.



## **CHAPTER 4**

### **ROAD INFRASTRUCTURE**

#### **Article 4.1**

##### **Objectives**

Member States agree to ensure and sustain the development of an adequate roads network in support of regional socio-economic growth by providing, maintaining and improving all roads including primary, secondary, tertiary and urban roads, including those segments which collectively constitute the RTRN in order to -

- (a) ensure access to major centres of population and economic activity;
- (b) ensure access between ports of entry between Member States and harbours of importance to the region;
- (c) minimize total road transport costs;
- (d) preserve assets vested in road infrastructure; and
- (e) minimize detrimental impacts to the environment.

#### **Article 4.2**

##### **Road Infrastructure Policy**

In order to attain road infrastructure objectives, Member States agree to develop a harmonized regional road infrastructure policy aimed at -

- (a) monitoring the adequacy and quality of the regional road infrastructure and the need to mobilize resources to meet the developmental objectives contemplated in Article 4.1 of this Protocol;
- (b) introducing commercial management practices to foster institutional, economic and technical efficiency in their national roads sectors;
- (c) supporting, nurturing and co-ordinating their national roads activities to the benefit of the region as a whole;
- (d) developing complementary strategies to reduce the cost of constructing and maintaining their respective road networks including consideration of the potential for reducing road financing needs by contracting out all types of road construction and maintenance activities; and
- (e) acknowledging the need of the region for a vibrant, capable, varied and geographically extensive contracting and consulting industry and endeavouring to define and develop the optimal environment for development of the regional contracting industry.

## Article 4.3

**Regional Trunk Road Network and Route Numbering System**

1. Member States shall adopt a common definition of the RTRN and common route numbers, which shall serve as a basis for a co-ordinated plan for the construction and development of roads of regional and continental importance which they intend to undertake within the framework of their national programmes.
2. Member States agree that the definition of the RTRN will be revised annually.

## Article 4.4

**National Roads Authorities**

Member States agree to establish autonomous accountable national roads authorities which are representative of the public and private sector and which have clearly defined responsibilities for -

- (a) overseeing, regulating and managing roads on a commercial basis by -
  - (i) applying economic criteria in respect of the optimal scope, design and timing for road programmes; and
  - (ii) implementing effective performance measurement and independent auditing;
- (b) effective utilization of funding for roads;
- (c) promoting the involvement of the private sector, road users, local authorities, financial institutions and environmental interest groups in the planning, design, construction, maintenance, operation, and financing of roads;
- (d) promoting competition by introducing competitive terms and conditions in infrastructure planning, design, construction, maintenance and operation contracts;
- (e) developing a transparent process for the awarding of infrastructure contracts contemplated in paragraph (d);
- (f) ensuring accountability to stakeholders for the provision, operation and management of roads;
- (g) promoting public awareness on the importance of roads for mobility and trade purposes and engendering the culture of ownership and proper use of roads amongst road users;
- (h) collaborating with road transport and traffic authorities to strengthen enforcement of road transport and traffic regulations; and
- (i) reviewing the classification of national roads systems and the definition of the RTRN.

Article 4.5  
**Funding Sources**

1. Member States agree to develop and implement cohesive and definitive road funding policies with a view to -
  - (a) identifying adequate, sustainable and appropriate sources of road funding which includes general revenue, road user charges and funds generated jointly by the public and private sectors;
  - (b) increasing transparency in the road funding process;
  - (c) ensuring that revenues obtained from road users under road user charges shall be regarded as dedicated for the provision, maintenance and operation of roads;
  - (d) ensuring that road users, including foreign road users, contribute to the full costs of maintaining roads and progressively contribute to the full costs of providing roads while -
    - (i) ensuring that the revenues obtained from foreign road users are devoted to the maintenance of the RTRN within their respective territories;
    - (ii) ensuring that the use of roads is priced so as to improve economic efficiency in road transport; and
    - (iii) promoting equity between different categories of road users;
  - (e) ensuring that Member States shall apply the principle of non-discrimination in implementing road user charging instruments to foreign road users.
2. In order to promote harmonized national road user charging systems, Members States shall develop a common understanding in respect of the types of road user charging and the levels of such charges and introduce in their respective territories on the basis of regular exchange of information -
  - (a) fuel levies (designated as road charges);
  - (b) vehicle licence fees;
  - (c) road tolls;
  - (d) abnormal and awkward load charges;
  - (e) weight-distance type charges;
  - (f) cross-border road user charges;
  - (g) entry fees payable by foreign registered vehicles; and

- (h) parking and traffic congestion costs.

#### Article 4.6

##### **Regional Funding Initiative**

1. Member States agree to implement harmonized cross-border road user charging systems which shall be regularly reviewed, improved and supplemented through improved research and data collection.
2. Member States acknowledge that national funding may be insufficient to ensure adequate extension, maintenance or improvement of the RTRN and, to this end, agree to encourage, in support of the activities of national roads authorities -
  - (a) the development of joint regional research and other programmes to assess on a continuous basis the adequacy of road funding in the region;
  - (b) the development of transparent and comprehensive regional strategies aimed at procuring funding sources which may include the levying of cross-border road user charges and the collective or individual procurement of loans; and
  - (c) the establishment of a regional road maintenance fund.

#### Article 4.7

##### **Harmonized Technical Standards**

1. Member States agree to implement complementary, flexible, sustainable, affordable, appropriate and transparent national road management systems.
2. Member States agree to develop appropriate harmonized technical standards in respect of, amongst others -
  - (a) infrastructure planning and design standards including land use planning standards;
  - (b) soils and materials testing standards; and
  - (c) road and bridge construction and maintenance contract documentation including general conditions of contract, specifications and standard methods of measurement.
3. For the purpose of this Article, Member States shall ensure that the construction of new roads which will form part of the RTRN and the maintenance of roads which already form part of the RTRN contracted from a date to be agreed upon, shall comply with harmonized minimum road and bridge design standards and specifications.
4. Member States shall strive to adopt a harmonized position with regard to the construction of new roads which will not form part of the RTRN.

## **CHAPTER 5**

### **ROAD TRANSPORT**

#### **Article 5.1**

##### **Objectives**

Member States shall facilitate the unimpeded flow of goods and passengers between and across their respective territories by promoting the development of a strong and competitive commercial road transport industry which provides effective transport services to consumers.

#### **Article 5.2**

##### **Road Transport Policy**

In order to obtain road transport objectives, Member States agree to develop a harmonized road transport policy providing for equal treatment, non-discrimination, reciprocity and fair competition, harmonized operating conditions and promoting the establishment of an integrated transport system as set out in Chapter 3.

#### **Article 5.3**

##### **Market Access in respect of International Transport**

1. Member States shall progressively introduce measures to liberalize their market access policies in respect of the cross-border carriage of goods.
2. Member States, shall give effect to paragraph 1 in a phased manner in the sequence set out in paragraph 7.
3. In introducing the measures set out in paragraph 7, Member States shall be guided by the need to ensure reciprocal benefits for each other's carriers in respect of general operating conditions.
4. Two or more Member States which are in the position to implement the provisions of this Article ahead of other Member States may agree to liberalize their policies on the basis envisaged in paragraph 7, by concluding appropriate bilateral agreements.
5. Member States which have already implemented the measures contained in the first or subsequent phases set out in paragraph 7, shall not be required to reverse their process of liberalization but may proceed with further liberalization on the basis envisaged in paragraph 4.
6. Member States confirm their intention ultimately to all achieve the same levels of liberalization as foreseen in this Article, and that this be formalized by concluding a multilateral agreement.
7. For the purposes of paragraph 1, Member States shall introduce the following liberalization phases -

- (a) PHASE I: Abolition of restrictions on carriers of two Member States to

carry goods on a defined route between -

- (i) such States; or
- (ii) in transit across the territory of another Member State en route to a third Member State or non-Member State:

Provided that such transit traffic may only be undertaken if the carrier's vehicle traverses the territory of its home state.

- (b) PHASE II: Abolition of restrictions on carriers of one Member State to carry goods on a defined route between another Member State and a third Member State or non-Member State, irrespective of whether the carrier's vehicle traverses the territory of its home state; and
  - (c) PHASE III: Abolition of restrictions on carriers of one Member State to carry goods between another Member State and a third Member State or a non-Member State.
8. Nothing in this Article shall be construed as requiring a Member State to permit carriers of another Member State to carry goods between points in such first mentioned Member State.
  9. Nothing in this Article shall be construed as imposing an obligation on any Member State to introduce liberalization measures in favour of carriers of another Member State in the event that such other Member State does not accord equal market access to carriers of the first Member State.
  10. For the purposes of introducing the phased liberalization contemplated in paragraph 7, Member States may apply interim quotas and capacity management measures on a temporary basis.
  11. Member States shall review the provisions of existing multilateral and bilateral agreements to which they are party and, where necessary, take appropriate steps to ensure that such agreements comply with the provisions of this Chapter.
  12. Member States shall also, guided by regional and national policy reforms, consider the possibilities of future liberalization of road passenger services.

#### Article 5.4 **Regulatory Mechanism**

Member States shall comply with this Chapter by concluding standardized bilateral or multilateral agreements based on the principles of non-discrimination, reciprocity and extra-territorial jurisdiction which address the following -

- (a) Single SADC carrier permits or licences;
- (b) carrier registration;
- (c) quota and capacity management systems;

- (d) harmonized administrative (including consultative) procedures, documentation and fees;
- (e) information management, including a harmonized format of supporting information systems and exchange of information procedures;
- (f) establishment of joint route management committees on a bilateral or multilateral basis;
- (g) carrier obligations in respect of drivers, vehicles, passenger manifests, cargo manifests and returned permits or licences as well as sanctions against carriers in the case of contraventions; and
- (h) harmonized transport law enforcement, including carrier identification to facilitate on-the-road law enforcement such as the utilization of standardized vehicle identification logos.

#### Article 5.5

#### **Domestic Road Transport Policies**

Member States shall ensure that domestic measures shall conform to regional policies and co-ordinate their efforts in this regard.

#### Article 5.6

#### **Road Transport Route Management Groups**

1. Member States shall, pursuant to the principles contained in Article 3.5 of this Protocol, in respect of corridor planning, establish bilateral or multilateral Road Transport Route Management Groups, on high volume routes to be identified in an annex, to facilitate a partnership approach envisaged in Article 2.4, paragraph (h) and (i) of this Protocol, in the regulation and management of cross-border road transport services.
2. Road Transport Route Management Groups shall support the activities of Corridor Planning Committees and facilitate consensus with regard to -
  - (a) the liberalization measures referred to in Article 5.3 of this Protocol;
  - (b) quotas and capacity management measures which may be agreed; and
  - (c) monitoring and the taking of corrective action.
3. Nothing in this Article shall preclude the establishment of separate Road Transport Route Management Groups for freight and passenger transport. In the event of separate groups being established as foreseen in paragraph 2, the membership of such groups may be adapted according to need.
4. Road Transport Route Management Groups established as contemplated in this Article shall define their own functions and devise their own procedures in

accordance with the objectives of this Protocol: Provided that such groups shall annually report to the Corridor Planning Committees contemplated in Article 3.5 of this Protocol, on their activities.

#### Article 5.7

##### **Information Management**

1. Member States shall implement information management procedures on a corridor basis and collect information regarding matters to be identified.
2. Member States shall maintain and update databases of the information referred to in paragraph 1 and provide such information upon demand to other Member States and participants in Road Transport Route Management Groups.

#### Article 5.8

##### **Road Transport Facilitation**

Member States recognize the need to adopt measures to facilitate the free flow of goods and passengers in the region and shall, in line with the objectives set out in Chapter 3, endeavour to co-ordinate the activities of other authorities which impact on road transport, especially at border-posts and inland clearing depots.

#### Article 5.9

##### **Road Transport Law Enforcement**

1. Member States recognize the need for efficient road transport law enforcement to support the effective implementation of road transport policies.
2. For this purpose, Member States shall harmonize -
  - (a) definitions, classifications and descriptions of road transport offences;
  - (b) penalties, including the imposition of penalties in host countries;
  - (c) administrative actions in respect of carriers committing offences;
  - (d) the training of law enforcement officers; and
  - (e) the implementation and maintenance of a comprehensive road transport offence register.
3. Member States shall optimally utilize regional resources in respect of law enforcement by -
  - (a) the establishment of joint training facilities or programmes;
  - (b) undertaking joint law enforcement exercises and sharing equipment; and
  - (c) expanding the role of the private sector to regulate itself.



## **CHAPTER 6 ROAD TRAFFIC**

### **Article 6.1**

#### **Objectives**

Member States shall enhance the overall quality of road traffic in the region with the emphasis on promoting acceptable levels of safety, security, order, discipline and mobility on the roads and protecting the environment and road infrastructure.

### **Article 6.2**

#### **Road Traffic Policy**

In order to attain road traffic objectives, Members States agree to develop a harmonized regional road traffic policy in respect of -

- (a) the harmonization of relevant road traffic and safety legislation;
- (b) control measures in respect of vehicles, drivers and traffic operations; and
- (c) the harmonization and implementation of relevant technical standards.

### **Article 6.3**

#### **Fitness of Vehicles**

1. Member States shall ensure acceptable harmonized levels of vehicle fitness in the region.
2. Member States shall develop and implement a harmonized vehicle fitness system which shall entail harmonized standards in respect of -
  - (a) vehicle testing, including vehicle categories to be tested, the frequency of testing and testing procedures;
  - (b) testing stations and testing equipment, including certification, inspection and calibration;
  - (c) vehicle examiners, including training and certification; and
  - (d) vehicle fitness standards.
3. Member States shall require roadworthy certification and/or vehicle fitness certification in respect of all vehicles in their territories as proof that vehicles have undergone the required tests.
4. Member States shall develop a common format for roadworthy certification and vehicle fitness certification.
5. A Member State shall recognise the roadworthy certification and/or vehicle

fitness certification issued in another Member State in respect of a vehicle registered in such State for the purposes of the free movement of such vehicle within its territory: Provided that a Member State shall retain the right of scrutiny to prevent the use of falsified documentation.

6. Member States agree that, with the exception of the Republic of Angola, they shall phase out the registration of left-hand vehicles: Provided that left-hand vehicles registered prior to the termination of registration of such vehicles shall be permitted to continue operating thereafter.

#### Article 6.4

#### **Safety Standards of Vehicles and Equipment on or in respect of Vehicles**

1. Member States shall adopt and implement harmonized regulations on vehicle safety and equipment on or in respect of vehicles, as well as markings on vehicles, and for this purpose, Member States who have not yet acceded to the Agreement Concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicle Equipment and Parts, 1958, shall consider acceding thereto.
2. Member States shall develop maximum or minimum standards, as the case may be, in respect of equipment required on or in respect of vehicles.

#### Article 6.5

#### **Dimensions of Vehicles and Vehicle Combinations**

1. Member States shall develop and implement harmonized standards in respect of vehicle dimensions and vehicle combinations.
2. Vehicles or vehicle combinations which exceed the harmonized standards referred to in paragraph 1 may only be authorized to circulate on the basis of special permits issued by authorities designated by each Member State for that purpose.

#### Article 6.6

#### **Loads on Vehicles**

1. Member States shall implement harmonized permissible axle mass loads and gross vehicle mass and gross combination mass limitations with due consideration of the need to balance financial needs and interests of preserving the region's road infrastructure, optimizing road transport operations and enhancing road traffic safety.
2. In order to attain the objectives stated in paragraph 1, Member States shall develop a sustainable strategy, which shall include -

- (a) an action programme for the incremental or phased in implementation

of harmonized maximum axle mass loads by Member States which are not in a position to implement such loads immediately;

- (b) the procurement of adequate and sustainable funds for improvement, extension and maintenance of the region's road infrastructure contemplated in Chapter 4; and
  - (c) the development and implementation of a regional overloading control strategy which shall provide for, amongst others -
    - (i) co-ordinated programming of overloading control activities;
    - (ii) co-operation with regard to the sharing of weighbridge facilities and equipment in the region;
    - (iii) a co-ordinated approach in respect of the maintenance and calibration, practices and procedures and the management of information collected at weighbridges;
    - (iv) harmonized legislation which ensures the necessary legislative authority to prosecute offenders;
    - (v) harmonized penalties or administrative fees for vehicle overload offences which take account of factors such as pavement damage and travel distance;
    - (vi) effective enforcement procedures;
    - (vii) the introduction of special training programmes for traffic officers, prosecutors and transport operators and their employees;
    - (viii) common training standards and the provision of joint training to enforce the sharing of technical resources and expertise;
    - (ix) the possibility of involving the private sector as a form of self-regulation in order to promote voluntary compliance;
    - (x) the introduction of administrative control measures in respect of habitual offenders; and
    - (xi) the launching of public awareness campaigns.
3. Member States shall adopt a harmonized position with regard to the application of a bridge formula.

#### Article 6.7

#### **Abnormal, Awkward and Hazardous Substance Loads**

1. Member States shall develop and implement harmonized standards for the conveyance of abnormal, awkward and hazardous substance loads in respect of, amongst others -

- (a) the classification of such loads; and
  - (b) the requirements and conditions in respect of the conveyance of such loads, including -
    - (i) the issuing of authorizations;
    - (ii) the nature and mass dimensions of the load;
    - (iii) the designation of routes;
    - (iv) the need for escort vehicles;
    - (v) maximum speed limits; and
    - (vi) harmonized authorization, escort and other relevant fees in this regard.
2. Member States which have not yet acceded to the Basel Convention on the Transboundary Movements of Hazardous Substances and their Disposal, 1989, shall consider acceding to that Convention.

#### Article 6.8 **Third Party Insurance**

1. Member States shall investigate mechanisms for the creation of a harmonized system of third party insurance in the region.
2. For this purpose, Member States shall take cognizance of existing systems to provide third party insurance in the region and shall, in devising the mechanisms foreseen in paragraph 1, be guided by the following principles -
- (a) Adequacy of cover;
  - (b) affordability;
  - (c) efficient procedures to collect premiums;
  - (d) recognition of insurance issued in a Member State throughout the region; and
  - (e) administrative flexibility.

#### Article 6.9 **Training and Testing of Drivers**

Member States shall develop and implement harmonized standards with regard to the training and testing for learner's and driving licences and professional driving permits or other documentation issued for the same purpose, including -

- (a) curricula;
- (b) examination and testing procedures;

- (c) inspection and certification of testing facilities;
- (d) training and certification of examiners; and
- (e) training and certification of driving instructors.

#### Article 6.10

##### **Driving Licences**

1. A Member State shall issue, upon successful completion of the relevant test in respect of a certain licence code, a driving licence for the categories to be agreed upon.
2. Member States shall adopt a harmonized format for driving licences.
3. Each Member State shall recognize driving licences issued according to the agreed SADC codes and format by other Member States or an International Driving Permit as corresponding and equal to its own, and for this purpose, a licence issued in one Member State shall be valid for the driving of a vehicle in respect of which it has been issued in any other Member State.
4. Member States shall harmonize learner's licence testing and codes with a view to encouraging the mutual recognition of each other's learner's licences.
5. The provisions of this Article shall also apply to professional driving permits or other documentation issued for the same purpose.
6. Member States shall require drivers to carry their driving licences and professional driving permits, as the case may be, at all times during a journey on a public road.

#### Article 6.11

##### **Traffic Operations**

1. Member States shall co-operate in harmonizing traffic operations management and for this purpose, Member States shall take steps to adopt and implement harmonized and minimum standards in respect of -
  - (a) traffic signs including traffic signals, road signs and markings;
  - (b) rules of the road;
  - (c) speed limits appropriate to road design;
  - (d) driving signals; and
  - (e) driving hours.

2. Member States shall develop, adopt and implement a harmonized road traffic signs and signals system.
3. For the purpose of developing harmonized rules of the road, Member States shall consider accession to the UN Conventions on Road Traffic of 1949 and 1968.

Article 6.12

**Road Traffic Quality Management Plan**

1. Member States shall co-operate to develop and implement a co-ordinated regional road traffic quality management plan to -
  - (a) improve road traffic safety which contributes to the quality of life of the region's inhabitants;
  - (b) reduce the burden imposed on their economies by traffic-related fatalities, injuries suffered by inhabitants and damage to property;
  - (c) improve discipline on the roads;
  - (d) protect the road infrastructure and environment against wilful and unnecessary damage; and
  - (e) enhance the levels of administrative and economic order on the road network.
2. The plan contemplated in paragraph 1 has to promote collaboration between Member States to -
  - (a) create, enhance and maintain awareness of road traffic quality issues, inform target groups and change perceptions in this regard amongst the general population through communication;
  - (b) develop human resources in road traffic management and traffic control;
  - (c) increase and maintain related knowledge and skills through education and training;
  - (d) conduct joint research and share research findings, especially in the field of road traffic operations, traffic quality and road and vehicle engineering;
  - (e) exchange and transfer technology;
  - (f) improve road traffic control and policing and the adjudication of offences; and
  - (g) improve road traffic information management and exchange.
3. Member States shall co-ordinate their national and regional efforts to promote

traffic quality in order to achieve maximum results. To this end, Member States shall develop common road traffic quality indicators with a view to exchanging statistics on such indicators regularly, but at least once per annum.

4. Member States shall establish a regional co-ordinating body comprising representatives of all executive law enforcement authorities responsible for roads, traffic management and traffic control with a view to developing, implementing, operating and managing a harmonized road traffic quality management plan.
5. Member States shall facilitate the establishment of community structures to ensure community involvement in road traffic quality programmes.

#### Article 6.13

#### **Road Traffic Control and Policing**

Member States shall co-operate in developing and implementing a regional road traffic control and law enforcement plan which shall provide for -

- (a) development of a system of common powers for enforcers of road traffic legislation;
- (b) development of a common schedule of road traffic-related offences and penalties as well as documentation used by law enforcers;
- (c) development of a common syllabus and minimum standards for the training and certification of road traffic enforcers, the designation of joint training centres to provide joint training and the reciprocal recognition of qualifications;
- (d) establishment of a regional academy for advanced traffic control training on tertiary level;
- (e) the development of common strategies for undertaking joint law enforcement actions;
- (f) the development, in respect of critical road traffic offences, of co-ordinated traffic control or law enforcement programmes such as -
  - (i) overloading control;
  - (ii) speed management;
  - (iii) control of alcohol and drug impaired drivers;
  - (iv) safety aspects of vehicles;
  - (v) vehicle, driver and operator documentation; and
- (g) development of harmonized standards in respect of law enforcement equipment such as weighbridges, speed measuring devices and alcohol meters.

Article 6.14  
**Incident Management Systems**

1. Member States agree to develop compatible incident management systems with a view to reducing safety hazards and restoring road capacity as soon as possible after an incident occurs by minimizing the time that dangerous obstructions remain on roads.
2. In order to attain the objectives stated in paragraph 1, Member States agree to develop harmonized strategies which cater for -
  - (a) the rapid detection and reporting of incidents such as vehicle accidents and hazardous or chemical spills;
  - (b) the rapid verification of the extent and type of incident;
  - (c) rapid and effective response and the safeguarding of incident scenes;
  - (d) the effective removal of wreckage, debris and spilled materials;
  - (e) appropriate traffic management to mitigate the effects of incidents;
  - (f) communicating information on road and traffic conditions and alternative routes to road users;
  - (g) the sharing of human and other resources in dealing with incidents; and
  - (h) the listing of regional emergency assistance centres or locations which includes hospitals, ambulance and fire brigade services and chemical response units.

Article 6.15  
**Environmental Control**

1. Member States shall adopt and implement road traffic measures which shall enhance their capacity to assess and their capability to control the impact of road transport on the environment, including -
  - (a) common standards to enhance vehicle pollution control;
  - (b) measures relating to the transboundary movements of hazardous substances; and
  - (c) developing and implementing incident management systems for environmental incidents impacting on road transport contemplated in Article 6.14 of this Protocol.
2. For the purpose of this Article, Member States confirm their commitment in terms of Article 6.7, paragraph 2 of this Protocol.



## Article 6.16

**Development of Road Traffic Information Systems**

1. Member States shall develop compatible national road traffic information systems in support of the administration and enforcement of their national and the regional road traffic and road traffic quality systems.
2. The road traffic information systems shall contain information in respect of, amongst others -
  - (a) vehicle registration and licensing;
  - (b) driver and professional driver registration;
  - (c) registration of authorized officers;
  - (d) registration of vehicle and driver testing facilities;
  - (e) traffic offences and prosecutions;
  - (f) collisions;
  - (g) traffic offence patterns;
  - (h) traffic incidents;
  - (i) geographical information systems with regard to traffic incidents; and
  - (j) systems to report on key performance indicators.

## **CHAPTER 7 RAILWAYS**

### **Article 7.1**

#### **Objectives**

Member States shall facilitate the provision of a seamless, efficient, predictable, cost-effective, safe and environmentally-friendly railway service which is responsive to market needs and provides access to major centres of population and economic activity.

### **Article 7.2**

#### **Railway Policy**

In order to attain railways objectives, Member States agree to develop a harmonized regional railway policy in respect of -

- (a) the economic and institutional restructuring of railways in a phased and co-ordinated manner, which shall include consideration of the following -
  - (i) According autonomy to railways in order to enable them to achieve full commercialization by, amongst others, streamlining railway organizations, reforming management and upgrading essential railway labour and improving labour productivity;
  - (ii) increasing private sector involvement in railway investment with a view to improving railway work and service standards and lowering unit costs for services;
  - (iii) enhancing operational synergy amongst the various railway service providers in the region; and
  - (iv) promoting the establishment of an integrated transport system as set out in Chapter 3 which supports fair competition between railway service providers on the one hand and the providers of other transport services on the other; and
- (b) the expansion and strengthening of Governments' capacity to -
  - (i) provide definitive policy frameworks;
  - (ii) develop supportive regulatory and investor-friendly legislation; and
  - (iii) monitor compliance with such policy and legislation.

### **Article 7.3**

#### **Infrastructure**

1. Member States agree to monitor the adequacy of permanent way and rolling stock required to meet regional developmental needs.

2. In order to attain the objective stated in paragraph 1, Member States shall develop complementary strategies aimed at, amongst others -
  - (a) encouraging private sector technology transfers and investment in permanent way and rolling stock provisioning and maintenance;
  - (b) identifying options to lower maintenance costs which shall include the undertaking of research on the development of regional capacity to manufacture railway spare parts, facilities and equipment;
  - (c) sharing resources along regional corridors; and
  - (d) standardizing inspection and maintenance procedures for rolling stock.

#### Article 7.4

#### **Operational Areas of Co-operation**

1. Member States shall facilitate co-operation amongst railways in the region with regard to -
  - (a) the development of an integrated regional network of railway corridors;
  - (b) the enhancement of the safety of railway operations, which may include -
    - (i) adopting common safety rules and regulations governing railway signs, signals and rolling stock;
    - (ii) standardizing accident investigation procedures;
    - (iii) developing and implementing common rules for the placement and securing of loads in open-top wagons and flat wagons; and
    - (iv) adopting applicable and appropriate standards on the safe movement of cargo and passengers;
  - (c) the development of common standards for customer services, which includes -
    - (i) the development of uniform conditions of railway carriage throughout the regional railway system;
    - (ii) the provision of regionally synchronized scheduled railway services; and
    - (iii) the provision of trackage rights;
  - (d) promoting data information exchange, which includes -
    - (i) the development of a harmonized and compatible system of data collection, collation and exchange including the establishment of

- a centralized database aimed at the provision of regular and reliable statistics in support of regional railway planning;
- (ii) development and maintenance of a RSIS aimed at improved predictability of service, efficient utilization of rolling stock and the provision of information to customers on their shipments; and
  - (iii) development and maintenance of a freight container information and management system;
- (e) the establishment of adequate, appropriate and advanced telecommunications links amongst railways in the region;
  - (f) the development of harmonized and simplified procedures and documents and a common freight nomenclature such as the Harmonized System of Freight Nomenclature with a view to establishing a single railway invoicing system which is acceptable for customs clearance throughout the SADC region and which is compatible with that of other transport modes;
  - (g) the establishment of regional railway costing principles and the establishment of a regional system for account settlement which provides for simplified payment procedures as well as account settlement procedures;
  - (h) the pooling of railway resources such as motive power and rolling stock, equipment, materials and workshops for efficient utilization on a regional basis; and
  - (i) the development of performance indicators, which may include -
    - (i) traffic performance indicators relating to rolling stock utilization and efficiency measurement;
    - (ii) equipment performance indicators relating to the utilization of equipment and no fault maintenance performance which ensures locomotive and rail reliability;
    - (iii) labour productivity indicators; and
    - (iv) financial performance indicators.

#### Article 7.5 Technical Standards

Member States shall promote the development and implementation of compatible technical standards in respect of infrastructure and operational equipment, which shall include taking cognisance of the following -

- (a) Infrastructure equipment -

- (i) signalling systems;
  - (ii) telecommunication equipment;
  - (iii) permanent way equipment;
  - (iv) line-side equipment; and
  - (v) station equipment.
- (b) operational equipment -
  - (i) locomotives;
  - (ii) wagons;
  - (iii) coaches; and
  - (iv) maintenance and workshop equipment.

#### Article 7.6

#### **Transportation of Hazardous Materials**

Member States shall promote the adoption of common safety rules and regulations governing the transportation of hazardous materials.

#### Article 7.7

#### **Human Resources Development**

1. Member States shall co-operate in enhancing the capacity and capability of human resources in the region to ensure that personnel keep abreast of new developments in technology and regional standards and procedures and maintain similar and adequate standards of performance through -
  - (a) the development of a common syllabus for the training of -
    - (i) rolling stock inspection and maintenance personnel; and
    - (ii) crews and train operating staff,to ensure similar standards and quality of inspection and maintenance;
  - (b) the development of common standards for competence evaluation and certification of such staff and, as an interim measure, the reciprocal recognition of qualifications to facilitate cross-border operations and the movement of personnel within the region; and
  - (c) the joint provision of training and the development of a directory of training specializations and centres.

#### Article 7.8

#### **Regional Co-operation**

1. Member States shall encourage regional railway stakeholders to constitute regional bodies in the manner contemplated in Article 13.13 of this Protocol

and for such bodies to obtain consultative status in the manner contemplated in Article 13.6 of this Protocol.

2. Member States shall, pursuant to the principles contained in Chapter 3 in respect of corridor planning, establish bi- or multilateral Railways Route Management Groups on routes to be agreed upon.
3. Railway Route Management Groups shall support the activities of regional railways and the Corridor Planning Committees contemplated in Article 3.5 of this Protocol and facilitate the provision of a seamless, efficient and cost-effective railway service on the corridors they serve.
4. Railway Route Management Groups shall define their own functions and devise their own procedures in accordance with the objectives of this Protocol: Provided that such groups shall report annually on their activities to the multimodal Corridor Planning Committees contemplated in Article 3.5 of this Protocol.

## **CHAPTER 8**

### **MARITIME AND INLAND WATERWAY TRANSPORT**

#### Article 8.1 **Objectives**

Member States shall promote the economic and social development of the region by developing and implementing harmonized international and regional transport policies in respect of the high seas and inland waterways which -

- (a) maximize regional and international trade and exchange;
- (b) provide appropriate frameworks for economic and concomitant institutional restructuring;
- (c) promote a safe and clean marine, maritime and inland waterway environment;
- (d) encourage the provision of accessible, viable and productive landside infrastructure;
- (e) establish a customer-sensitive and needs-driven approach; and
- (f) promote the establishment of an integrated transport system set out in Chapter 3.

#### Article 8.2 **Maritime and Inland Waterway Transport Policy**

1. In order to attain maritime and inland waterway transport objectives, Member States shall develop a harmonized maritime and inland waterway transport

policy and collectively investigate and develop a common understanding with regard to -

- (a) the net benefits of a common shipping and ports policy and, in particular, the economic benefits of such policy and its possible redistributive effects amongst Member States;
- (b) the existing diversity in economic policy between Member States and the impact thereof on the development and implementation of a common shipping and ports policy;
- (c) the provisions of their existing shipping and ports legislation and the need for a review thereof to provide an appropriate legal framework for the implementation of a common shipping and ports policy;
- (d) the promotion of shipowning, ship registration, ship operation and slot chartering in Member States and the individual and collective benefits thereof;
- (e) the growth and development of a viable SADC merchant shipping industry, including the role of concessions and incentives to improve competitiveness;
- (f) tonnage capacity in Member States, including enhanced use of coastal shipping and feeder services while recognizing the benefits of liner conferences as well as the ongoing reappraisal of the conferences by the international maritime community;
- (g) the role of coastal shipping and the encouragement of joint ventures and alliances between shipowners to promote economies of scale;
- (h) efficiency in maritime transport along their individual coastlines, inland waterways and ports and optimization of shipping services;
- (i) the role of maritime transport in regional trade within the region while maintaining its role in international transport through the conclusion of bilateral agreements with SADC's main trading partners;
- (j) the role of regional and international private enterprise in providing shipping services;
- (k) trading practices, including the advantages of selling bulk cargoes from the region at prices including cost, insurance and freight (CIF) and co-operation between exporters and shipowners to ship such cargoes in SADC ships;
- (l) the role of shippers' councils; and
- (m) the promotion of the role of the private sector in providing cargo handling services and the application of commercial criteria by public-sector undertakings providing such services.

2. Member States shall progressively remove restrictions, if any, on cabotage by ships registered in a Member State.
3. Member States permitting cabotage by ships registered in another Member States, affirm their intention to maintain their current policy.
4. Member States shall collectively investigate the access granted to ships registered in any Member State to the market of any non-Member State.
5. Member States shall co-ordinate their policies and investigate appropriate joint reciprocal action against those non-Member States which do not grant SADC ships access to their markets on a basis equivalent to the access enjoyed by ships registered in such non-Member States to the SADC market.

#### Article 8.3

#### **Port Infrastructure and Operations**

1. Member States shall undertake appropriate institutional restructuring to improve port operations in order to maximize efficiency and encourage the efficient and effective movement of goods and persons through the region's ports by promoting viable investment in port infrastructure and operations, promoting competition in the provision of port services and improving landside facilities.
2. Member States shall adopt enabling measures giving effect to paragraph 1 in respect of -
  - (a) the planning of operations, including the complementary operation of the region's ports;
  - (b) co-ordination of port development and the optimal utilization of existing facilities;
  - (c) superstructure, including the creation or improvement of container handling capacity to promote integrated service provision;
  - (d) safety of shipping and navigation with due cognizance of the applicable sections of this Protocol; and
  - (e) harmonized tariff structures and regulation of charges to avoid monopolistic exploitation.
3. Member States shall promote efficient port management and operations through economic and institutional reform measures accommodating -
  - (a) autonomous decision-making on commercial issues;
  - (b) ownership options, including sub-options which accommodate public and/or private ownership of facilities or portions of facilities and encourage competition in the supply of port services;



- (c) leasehold and other arrangements to encourage private investment in port facilities;
  - (d) funding arrangements;
  - (e) frameworks for free trade areas or processing zones;
  - (f) corridor management on the basis of integrated transport contemplated in Chapter 3; and
  - (g) Corridor Planning Committees contemplated in Article 3.5 of this Protocol.
4. Member States shall not discriminate in the treatment of nationals of other Member States including juristic persons, with regard to the provision of or access to any port services, including the freedom to establish facilities: Provided that nothing in this paragraph shall be construed as obliging a Member State to afford such nationals or juristic persons treatment more favourable than such state affords its own nationals or juristic persons.

#### Article 8.4

##### **Regional Co-operation**

1. Member States shall encourage co-operation and liaison between the regional private sector and, in particular -
- (a) shipowners and ship operators;
  - (b) port users, including shipping agents;
  - (c) port authorities and terminal operators;
  - (d) freight forwarders;
  - (e) marine insurers; and
  - (f) maritime administrations.
2. Member States shall encourage the regional private sector to constitute regional bodies in the manner contemplated in Article 13.13 of this Protocol and for such bodies to obtain consultative status in the manner contemplated in Article 13.6 of this Protocol.

#### Article 8.5

##### **International Standards and Recommended Practices**

1. Member States affirm their intention to apply international standards and recommended practices of the IMO and to participate as a region in the formulation of new standards and practices in respect of -
- (a) maritime safety;
  - (b) aids to navigation;

- (c) search and rescue;
  - (d) hydrography;
  - (e) maritime training, including training of seafarers;
  - (f) service conditions of seafarers;
  - (g) treatment of stowaways;
  - (h) protection of the marine environment; and
  - (i) maritime communications.
2. Member States shall promote the safety of life and property at sea by strengthening the capacity of their maritime administrations to bar unseaworthy ships from coastal waters and inland waterways by, amongst others -
- (a) effectively executing port state control functions, in particular ship inspection and port clearance and information exchange on inspection findings;
  - (b) promoting initiatives to conclude regional port state control agreements, which shall be annexed to this Protocol;
  - (c) undertaking coast guard patrols;
  - (d) licensing crew; and
  - (e) manning control units.
3. Member States shall co-operate in improving the provision and operation of aids to navigation in the SADC coastal waters and inland waterways by upgrading aids to navigation to achieve a comparable standard throughout the region, pooling resources and sharing expertise.
4. Member States shall take all steps necessary to develop their search and rescue capacity on a regional basis by -
- (a) the consideration of practical low cost actions to improve capacity with immediate effect;
  - (b) the investigation of options to develop a regional search and rescue organization with participation by all Member States including a consideration of available search and rescue capacity and capability, funding requirements and legal, operational and organizational requirements; and
  - (c) the promotion of effective co-operation with the police force or coast guards and the civil aviation sub-sector and the telecommunications and meteorology sectors.

5. Member States shall co-operate in developing the standard of hydrographic practice within the region, in conjunction with the Regional Hydrographic Commission and shall focus on -
  - (a) the updating of existing charts or the charting of the coastline and inland waterways of the region, including all ports;
  - (b) maintaining of updated charts on a regular basis; and
  - (c) co-operation with regard to the application of hydrographic services and co-ordination of workplans, exchange of information and optimizing resources where practical.
6. Member States shall promote rules and standards in respect of service conditions and treatment accorded to seafarers at sea and on shore and shall focus on -
  - (a) minimum standards in merchant ships;
  - (b) seafarers' welfare at sea and in port;
  - (c) health protection and medical care for seafarers;
  - (d) social security; and
  - (e) care and repatriation of seafarers.
7. Member States shall co-operate in the protection of the marine environment by -
  - (a) effective delineation of responsibility for environmental protection;
  - (b) continuous creation of awareness in their territories of marine environmental damage, cause and effect;
  - (c) preparation and implementation of oil spill contingency plans, including sharing resources;
  - (d) preventing and dealing with the dumping of toxic and nuclear wastes, sewage, dredger and land-based spoil and other ordinary pollutants and mechanisms to clean up waste;
  - (e) combatting erosion resulting from depletion of coastal vegetation and fishing;
  - (f) upgrading facilities and developing capacity to prevent pollution and undertake clean-up actions;
  - (g) setting in place adequate arrangements to compensate for damage caused;
  - (h) the application of the IMO Regional Strategy and Action Plan for the Protection of the Marine Environment, after appropriate review; and

- (i) monitoring the passage of vessels carrying hazardous, including nuclear, cargoes around coastal states.
9. Member States shall introduce and maintain maritime communications systems to ensure effective maritime communications in the region and review current and future capacity and requirements with regard to maritime communications, in particular -
- (a) by strengthening the capacity of their maritime administrations in order to effectively execute marine communications functions;
  - (b) through collaboration and co-ordination with the telecommunications and meteorology sectors;
  - (c) by defining and maintaining minimum equipment standards;
  - (d) by the upgrading of sub-standard coastal radio facilities to acceptable international standards; and
  - (e) through utilization of new technologies.

#### Article 8.6

#### **Human Resource Development**

Member States shall provide training in conformity with the STCW 1978 to which all states are party and shall provide for -

- (a) regional co-operation and harmonization of the training and certification of seafarers based on an optimal use of available resources;
- (b) training with regard to landside functions such as port management and operations, port safety, shipping management, including the handling of dangerous goods; and
- (c) optimizing training resources and exchange of personnel.

### **CHAPTER 9 CIVIL AVIATION**

#### Article 9.1

#### **Objectives**

- 1. Member States, recognizing the importance of air transport as a means of serving the national interests of the SADC Member States and the importance of promoting social and business relations amongst their nationals, shall ensure the provision of safe, reliable and efficient services in accordance with the ICAO SARPs, with a view to improving levels of service and cost-efficiency in support of the socio-economic development of the region.

2. Member States recognise further that in order to overcome the constraints of small national markets, market restrictions and the small size of some SADC airlines and further to ensure the competitiveness of regional air services in a global context, there is a need for enhanced co-operation within the regional air transport market.

#### Article 9.2

#### **Civil Aviation Policy**

In order to attain civil aviation objectives, Member States agree to develop a harmonized regional civil aviation policy in respect of, amongst others -

- (a) the gradual liberalization of intra-regional air transport markets for the SADC airlines;
- (b) regionally owned airlines;
- (c) the economic and concomitant institutional restructuring of the SADC airlines, airports and the provision of air traffic and navigation services in a phased and co-ordinated manner, which shall include -
  - (i) the commercialization of the SADC airlines, airports and the provision of air traffic and navigation services by -
    - (aa) the rationalisation of the relationship between Governments and civil aviation institutions and restructuring such institutions in respect of financing, scale and scope of operations, legal status and management; and
    - (bb) human resource development;
  - (ii) the development of ownership options, including the extent to which national, regional, continental and international strategic investors can be introduced to -
    - (aa) provide capital;
    - (bb) enhance and fully utilize existing management and human resources;
    - (cc) enhance technology transfers; and
    - (dd) improve services; and
  - (iii) the promotion and sustainment of fair competition between service providers;
- (d) the expansion and strengthening of Governments' capacity to -

- (i) provide definitive policy frameworks;
- (ii) develop supportive regulatory and investor-friendly legislation; and
- (iii) monitor compliance with such policy and legislation;
- (e) the expansion and strengthening of regional capacity in support of Governments' national capacity building which may include the establishment of an appropriate regional institutional mechanism;
- (f) the assessment of the adequacy and optimal utilization of infrastructure;
- (g) the promotion of compliance with ICAO SARPs;
- (h) the promotion of adherence by Member States to the International Air Services Transit Agreement, 1944; and
- (i) the promotion of the establishment of the integrated transport system as set out in Chapter 3.

#### Article 9.3

#### **Enhancement of Commercial Viability and Competitiveness of Regional Air Services**

1. Member States agree to strengthen the SADC airline industry, enhance the overall performance of the SADC airlines and improve and sustain their competitiveness.
2. In order to enhance the commercial viability and competitiveness of regional air services, Member States agree to foster an environment to facilitate, amongst others -
  - (a) competent airline management;
  - (b) the formation of viable joint venture operations which may include the integration of some of the SADC airlines with a view to establishing regionally owned airlines; and
  - (c) the optimal utilization of existing aircraft capacity in the region.
3. In order to attain the objectives contemplated in paragraph 2, Member States shall encourage common approaches in respect of, amongst others -
  - (a) ownership of the SADC airlines and the participation of Governments, nationals, public and private institutions and foreign strategic investors in such ownership;
  - (b) the management and control of regionally owned airlines;

- (c) air transport networks, with regional and intra-regional routes to be treated separately;
  - (d) airline business plans, which may include setting common business objectives, long-term project orientation, business and strategic planning, management information systems and accounting practices;
  - (e) airline operational planning, which may include standardization of equipment to facilitate work and service exchange so as to benefit from economies of scale, standardization of procedures, fleet sharing, joint scheduling, code sharing, joint market promotion, joint use of facilities for maintenance, marketing, product sales, training, joint fuel purchases, joint insurance and pooling and sourcing of spares;
  - (f) the establishment of an aircraft leasing facility within the SADC;
  - (g) human resource development in the civil aviation sector within the SADC;
  - (h) improved cost-effectiveness of aircraft maintenance and the enhanced provision of safe air services, which may include -
    - (i) common rules for the regulation of the licensing of aircraft maintenance organizations;
    - (ii) the building of capacity to support the establishment of aircraft maintenance organizations and co-ordinated planning; and
    - (iii) the development of aircraft maintenance organizations;
  - (i) safe and cost-effective airspace management, which may include -
    - (i) the development of common approaches for the provision of efficient civil aviation communication infrastructure and services;
    - (ii) co-operation with a view to the early implementation of the ICAO Africa and Indian Ocean Flight Information Plans;
    - (iii) support for the relevant efforts of ICAO and AFCAC; and
  - (j) search and rescue.
4. For the purposes of this Article, Member States agree to encourage the development of distinct roles for owners, boards and management of the SADC airlines.

#### Article 9.4

#### **ICAO Standards and Recommended Practices**

1. Member States, recognizing that co-operation is indispensable to the realisation

of the national, regional, continental and international objectives of the civil aviation sector, shall ensure compliance with ICAO Standards in accordance with the Convention on International Civil Aviation, 1944, and shall encourage compliance with ICAO Recommended Practices.

2. For the purposes of attaining the objective set out in paragraph 1, Member States agree to establish co-operative means and develop regional strategies for complying with ICAO Standards in accordance with the Convention on International Civil Aviation, 1944, and ICAO Recommended Practices.
3. Member States shall encourage recognition of each other's licences and certificates of airworthiness, provided they comply with ICAO SARPs.

#### Article 9.5

#### **Establishment and Management of the SADC Permanent Mission to ICAO**

1. Member States acknowledge the pivotal role of the ICAO in developing the principles and techniques of international air navigation and fostering the planning and development of international air transport.
2. To this end, Member States agree to -
  - (a) co-ordinate their representation in the ICAO and develop a common position with regard to the establishment and management of the SADC Permanent Mission to ICAO; and
  - (b) undertake to provide the support which is necessary for the effective functioning of the SADC Permanent Mission to the ICAO.



*COMMUNICATIONS*

## **CHAPTER 10**

### **TELECOMMUNICATIONS**

#### **Article 10.1**

##### **Objectives**

Member States agree to take advantage of international technological developments and to develop national telecommunications networks for the provision of reliable, effective and affordable telecommunications services in order to -

- (a) ensure adequate high quality and efficient services responsive to the diverse needs of commerce and industry in support of regional social and economic growth;
- (b) achieve regional universal service with regard to telecommunications services and regional universal access to advanced information services; and
- (c) enhance service interconnectivity in the region and globally.

#### **Article 10.2**

##### **Telecommunications Policy**

In order to attain telecommunications objectives, Member States agree to develop a harmonized regional telecommunications policy aimed at -

- (a) the economic and institutional restructuring of telecommunications in a phased and co-ordinated manner which shall include consideration of the following -
  - (i) granting public telecommunications service providers financial and management authority irrespective of ownership;
  - (ii) ownership options with due regard to the achievement of universal service goals and the extent to which strategic public and private investors could be introduced to -
    - (aa) provide capital;
    - (bb) accelerate network development and universal service;
    - (cc) enhance management and development of human resources; and
    - (dd) improve customer service;
  - (iii) promoting and sustaining fair competition between telecommunications service providers;
- (b) expanding and strengthening of Governments' capacity to -
  - (i) provide predictable strategic development policy frameworks;

- (ii) develop supportive regulatory and investor-friendly legislation; and
- (iii) monitor compliance with such policy and legislation;
- (c) the development of universal service goals, parameters for priority setting and performance indicators;
- (d) the granting of access to, subject to mutual agreement and on the basis of reciprocity, and use of telecommunications networks and services by each other's service providers on reasonable and non-discriminatory terms and conditions for the supply of services in their national jurisdictions;
- (e) encouraging indigenous participation in the telecommunications sector; and
- (f) encouraging the enhancement of capacity and capability of service providers with a view to improving service provision in the region.

### Article 10.3 **Universal Service**

For the purpose of policy development in respect of universal service, Member States agree to develop a common understanding of universal service by determining -

- (a) the basic elements which characterize universal service provision, including consideration of whether a service is -
  - (i) essential in view of its social and culture importance;
  - (ii) reasonably accessible to all people of the region on an equitable and non-discriminatory basis;
  - (iii) supplied as efficiently and economically as possible and is therefore as affordable as possible; and
  - (iv) supplied at a technical standard which reasonably meets the social and commercial needs of the region;
- (b) parameters to govern universal service priority setting, including consideration of -
  - (i) degrees of deprivation which includes special needs of persons with disabilities;
  - (ii) geography with particular reference to the needs in rural areas;
  - (iii) the availability of applications for service provision;
  - (iv) the institutional bases for providing universal service; and
  - (v) the capacity of all levels of government to assist with the establishment of the necessary infrastructure;

- (c) indicators for measurement of progress with universal service provision; and
- (d) intermediate measures in the endeavour to achieve universal service which may include defining universal access as such an intermediate measure.

#### Article 10.4 **Broadcasting**

1. Member States confirm that the scope of this Protocol includes the provision of broadcasting and information technology infrastructure and recognize the need for the content or substance of that which is transmitted to be dealt with in another appropriate Protocol.
2. Member States agree, in view of the convergence of the information technology, broadcasting and telecommunications sectors, to establish appropriate institutional mechanisms for co-operation and co-ordination between appropriate sector co-ordinators.
3. Member States shall encourage the strengthening of co-operation and co-ordination between the broadcasting and telecommunications sectors whilst retaining the structural separation between the operating organizations.

#### Article 10.5 **Network Provision and Maintenance**

1. Member States agree to monitor the regional telecommunications infrastructural provisioning and maintenance needs and the adequacy of funding required to meet such developmental needs.
2. In order to attain the objectives contemplated in paragraph 1, Member States shall promote complementary strategies aimed at encouraging -
  - (a) private sector investment in network provision and maintenance;
  - (b) complementary purchasing of equipment with a view to securing price reductions;
  - (c) prevention of technology dumping in the region;
  - (d) development of regional maintenance policy and centres; and
  - (e) research and development.

#### Article 10.6 **Regional Co-operation**

1. Member States shall encourage regional co-operation amongst their Governments, regulators, service providers and other stakeholders to promote

common business interests in the region and globally and, to this end, Member States shall also encourage the establishment of regional bodies in the manner contemplated in Article 13.13 of this Protocol and the granting of consultative status to such bodies in the manner contemplated in Article 13.6 of this Protocol.

2. Member States agree to develop complementary strategies in respect of the development of telecommunications networks and services including the need for appropriate mechanisms for the funding of the provision of universal service.

#### Article 10.7

#### **Regulatory Framework**

Member States shall ensure the separation between the regulation and operation of telecommunications services within their national jurisdictions, and, to this end, Member States shall -

- (a) establish autonomous, independent and national regulatory bodies which shall have statutory authority to regulate and monitor specified telecommunications-related activities in the respective Member States; and
- (b) encourage the establishment of industry-based bodies or fora with a view to ensuring participation by industry in telecommunications policy development.

#### Article 10.8

#### **Responsibilities of National Regulatory Bodies**

Member States agree that national regulatory bodies shall have responsibility for -

- (a) negotiating and setting universal service obligations for network service providers including public network service providers;
- (b) monitoring the usage of universal service funds by national universal service agencies where such agencies and funds are established;
- (c) licensing of -
  - (i) telecommunications service providers; and
  - (ii) radio spectrum users in as far as the licensing of such users is not undertaken by separate broadcasting regulatory authorities;
- (d) monitoring adherence to licence conditions;
- (e) managing the frequency spectrum in a manner which will ensure the most efficient use of the spectrum;
- (f) undertaking type-approval of telecommunications equipment and setting rules for their connection to public telecommunications networks;

- (g) determining harmonized interconnection guidelines;
- (h) regulating tariffs, if required;
- (i) administering the national numbering plan;
- (j) regulating access to satellite telecommunications networks;
- (k) protecting the integrity and viability of public telecommunications services;  
and
- (l) promoting the stability of the telecommunications industry and enhancing fair competition.

#### Article 10.9

##### **Technical Standards**

1. Member States shall ensure the interconnectivity of telecommunications networks and the interoperability of telecommunications services in the region by encouraging their regulatory authorities to develop harmonized technical standards for network architecture and equipment which shall include formulating or approving numbering plans and setting technical standards in respect of cellular telephone systems, cable specifications, telephone signalling systems and equipment type-approval.
2. For the purpose of this Article, Member States acknowledge that the harmonization of technical standards should be undertaken in a manner which will not undermine the benefits or advantages of economic restructuring and, to this end, agree that the harmonization of standards shall only be required to the extent necessary to -
  - (a) prevent technical damage to public telecommunications networks;
  - (b) prevent technical interference with, or degradation of, public telecommunications transport services;
  - (c) prevent electromagnetic interference and ensure compatibility with other users of the electromagnetic spectrum;
  - (d) ensure users' safety and access to public telecommunications transport networks or services; and
  - (e) promote the development of a regional manufacturing industry.

#### Article 10.10

##### **Human Resource Development**

1. Member States shall co-operate in enhancing the capacity and capability of human resources in the region to ensure that -

- (a) personnel keep abreast of new developments in technology and regional standards and procedures and maintain similar and adequate standards of performance; and
  - (b) the mobility of personnel in the region is increased.
- 2. In order to enhance the capacity and capability of human resources in the region, Member States agree to undertake the following -
  - (a) Development of common curriculum frameworks for the education and training of personnel;
  - (b) development of common standards for competence evaluation and certification of personnel;
  - (c) development of a regional directory of training specialisation and centres;
  - (d) joint provision of training; and
  - (e) conclusion of regional certification agreements to support reciprocal recognition of qualifications.

#### Article 10.11

#### **International Co-operation**

- 1. Member States shall pursue the achievement of regional universal service with regard to telecommunication services and regional universal access to advanced information services through their participation in regional and international telecommunications fora.
- 2. Member States recognize the importance of international standards for the global interconnectivity of networks and the inter-operability of services and undertake to promote those standards through the work of relevant international bodies, including the ITU and the ISO.
- 3. Member States agree to co-ordinate their positions in respect of matters to be dealt with at all international telecommunications and other relevant fora, in order for co-ordinated positions to be adopted and presented at such fora.
- 4. Positions presented at the Council of the ITU by any Member State elected by the Plenipotentiary Conference of the ITU to represent the region shall be co-ordinated positions adopted in accordance with paragraph 3.
- 5. For the purposes of paragraph 3, Member States may, subject to the conditions of the international organization concerned, agree to be represented at international telecommunications fora by a single Member State who shall present a co-ordinated position.

## **CHAPTER 11**

### **POSTAL SERVICES**

#### **Article 11.1**

##### **Objectives**

Member States shall provide efficient market-related universal postal services responsive to consumer needs which are affordable, of a good quality and meet the social needs of communications as a public service mission and maintain complementary and supportive relationships between their respective postal administrations in support of the economic needs of the region.

#### **Article 11.2**

##### **Postal Services Policy**

In order to attain postal services objectives, Member States shall develop a harmonized postal services policy, which includes -

- (a) institutional reform by -
  - (i) promoting commercialization and legal autonomy of postal administrations; and
  - (ii) a separation of regulatory and operational bodies and functions;
- (b) harmonized regulatory and operational policies;
- (c) restructuring of their postal services to achieve balanced development and promote institutional complementarity and systems integration as a precursor to the establishment of a single unified postal territory;
- (d) collaboration in developing common standards of services and operations compatible with universal service standards;
- (e) improvement of postal security;
- (f) continued co-operation with transportation services and other authorities of the region to improve speed and security of mail services throughout the territories of Member States as well as with non-Member States; and
- (g) establishment of equitable frameworks to accommodate the provision of non-reserved services by private sector service providers.

#### **Article 11.3**

##### **Infrastructure**

1. Member States shall maintain and improve their postal infrastructure and equipment in order to secure basic access to postal services for their nationals and expand levels of accessibility.



2. In order to attain the objectives contemplated in paragraph 1, Member States shall collaborate in -
  - (a) identifying infrastructure and equipment needs;
  - (b) undertaking research and disseminating research findings;
  - (c) implementing complementary technologies; and
  - (d) undertaking capital investment in less-favoured regions.

#### Article 11.4

##### **Institutional Framework**

1. Member States shall establish complementary institutional frameworks for their postal services operated along commercial lines.
2. For the purposes of paragraph 1, Member States shall adopt national legislation which establishes postal administrations as legally-autonomous commercial entities subject to appropriate regulatory supervision.
3. The legislation referred to in paragraph 2 shall be based on a regionally harmonized position which -
  - (a) clearly distinguishes between service areas reserved to the universal service provider and other private service providers;
  - (b) vests operational and regulatory functions in two distinct entities; and
  - (c) specifies the responsibilities of the regulatory authority.
4. The responsibilities of the regulatory authority referred to in paragraph 3 (c) shall include, but not be limited to -
  - (a) the scope of the universal services required and the means to achieve this requirement;
  - (b) ensuring that the special rights of reserved service providers are observed;
  - (c) ensuring satisfactory quality of service on the part of the reserved service operator; and
  - (d) ensuring fair competition in the non-reserved area.

#### Article 11.5

##### **Operational Standards and Procedures**

1. Member States shall endeavour to adopt harmonized operating regulations, procedures and quality standards to promote inter-operability based on the

norms laid down by the UPU, in particular, with regard to -

- (a) international postal services;
  - (b) financial services, including postal and money order services;
  - (c) electronic mail;
  - (d) expedited mail service;
  - (e) computerized track-and-trace systems;
  - (f) documentation;
  - (g) postal security and combating postal crime, including the exclusion of prohibited and dangerous goods, drugs and other psychotropic substances from the post;
  - (h) postal rates and inter-administration remuneration rates;
  - (i) human resource training and development; and
  - (j) postal research and development.
2. Such standards shall promote, amongst others, the fixing of common service targets for all postal items and, to this end, Member States may agree on -
- (a) measures to be taken to meet service targets;
  - (b) monitoring systems to be set up to measure compliance with set targets; and
  - (c) regular review procedures to verify progress towards achieving ultimate targets.
3. In adopting harmonized operating regulations, procedures and quality standards for the region, Member States shall develop co-operation frameworks, which may include the exchange of -
- (a) ordinary postal parcels;
  - (b) insured postal parcels;
  - (c) cash-on-delivery parcels;
  - (d) postal orders; and
  - (e) money orders.
4. Member States shall adopt measures to facilitate technical co-operation between international, continental and regional postal institutions and bodies and their

postal administrations.

5. To this end, Member States shall collaborate with the UPU to secure technical assistance aimed at -
  - (a) improving the international accounts system;
  - (b) improving operations and quality of service;
  - (c) identifying markets and customer needs; and
  - (d) strengthening and modernizing structures and operational methods.

Article 11.6  
**Postal Security**

1. Member States shall collaborate in joint programmes to improve mail security and to combat postal crime.
2. For this purposes of paragraph 1, Member States shall -
  - (a) adopt programmes and actions to promote postal security and fight postal crime;
  - (b) prioritize the functions of operational control and inspection and investigation through -
    - (i) the adoption of an appropriate organic and functional structure of a postal security and inspection service;
    - (ii) the assignment of the necessary human and functional resources; and
    - (iii) the formulation of regulations which facilitate interaction between the postal security and inspection services and the external national and international agencies;
  - (c) adopt regulations and enact laws to protect the post against crime and establish specific agencies for the enforcement of such laws;
  - (d) render technical assistance for the development and establishment of operational control and inspection services and for the technical training of personnel of the postal administrations;
  - (e) ensure the consultation of the inspection and postal security services in the design of postal buildings, installations and operating systems involving mail;
  - (f) regularly conduct surveys, studies and investigations about materials and equipment which make the mail more secure;

- (g) establish a permanent regional network for security and inspection services to promote the exchange of technical and administrative information and joint actions;
- (h) encourage the protection of mail committed to airlines, regulate procedures for receiving from and delivering postal dispatches to airlines and computerizing documentation;
- (i) encourage joint development and adoption of security measures by surface or maritime carriers;
- (j) encourage automation or mechanization of systems;
- (k) combat illegal drug traffic;
- (l) disseminate information on security and postal crime to mailers and employees;
- (m) collate statistics to identify weaknesses; and
- (n) intensify actions to ensure safe mailing of dangerous and hazardous materials in line with international practices.

#### Article 11.7

#### **Human Resource Development**

1. Member States undertake to give practical support to national postal training initiatives with a view to improving the quality of training of manpower in their postal services.
2. For the purposes of paragraph 1, Member States shall -
  - (a) co-operate in the harmonization of training standards and curricula;
  - (b) establish a scheme for the exchange of trainees in order to provide an opportunity for the exchange of experiences and enriching understanding of the region;
  - (c) develop training programmes appropriate to the needs and economic circumstances of the region in collaboration with the UPU;
  - (d) develop and adhere to standards of training and certification which shall be acceptable within the region and throughout the member countries of the UPU; and
  - (e) co-operate in the provision of joint training.

*METEOROLOGY*

## **CHAPTER 12**

### **METEOROLOGY**

#### **Article 12.1**

##### **Objectives**

1. Member States acknowledge that they are members of the WMO and, through their national meteorological services, they constitute an integral part of the regional and global system or network of the WMO programmes and structures, in particular the World Weather Watch programme.
2. Member States shall, within the regional and international co-operative system of the WMO, provide adequate legal frameworks and appropriate financial support to the national meteorological services to -
  - (a) establish an integrated network of observation, data processing and communications systems; and
  - (b) enhance the provision of meteorological services for general and specialized applications in the region and internationally.

#### **Article 12.2**

##### **Meteorology Policy**

In order to attain meteorology objectives, Member States shall develop a harmonized meteorology policy which facilitates regional co-operation, strengthens national capacity and ensures compliance with their international commitments.

#### **Article 12.3**

##### **Infrastructure**

1. Member States shall improve existing meteorological infrastructure and equipment and develop new infrastructure, where required to establish an integrated regional system.
2. For the purposes of paragraph 1, Member States shall co-operate -
  - (a) in the planning and development of infrastructure;
  - (b) co-ordinating plans to acquire equipment; and
  - (c) promoting systems interoperability.

#### **Article 12.4**

##### **National Institutional Frameworks**

1. Member States shall collaborate in developing frameworks for the provision

of meteorological services on a national basis to promote regional co-operation and complementarity.

2. For the purposes of paragraph 1, Member States shall -
  - (a) liaise in developing appropriate legal frameworks for their meteorological services which promote operational autonomy and financial self-sufficiency;
  - (b) co-operate in devising adequate institutional and organizational structures; and
  - (c) collaborate in developing and improving their operational capabilities.
3. Member States shall undertake institution building by -
  - (a) providing adequate funding for meteorological services;
  - (b) strengthening national meteorological centres in each state;
  - (c) improving planning and management;
  - (d) human resource development;
  - (e) fostering sustainability through resource planning;
  - (f) investigating the scope for cost recovery and considering the feasibility of a selective commercialization of specific services; and
  - (g) strengthening maintenance capability.

#### Article 12.5

#### **Regional Meteorological Support Network**

1. Member States shall, within the framework of the general objectives of the WMO expand the RMSN, with the aim to ensure -
  - (a) the exchange of information relating to weather and climate matters on a regular basis between national meteorological centres and regional meteorological centres; and
  - (b) the scientific and technical potential of specialized services at national centres is optimally utilized, especially in agrometeorological aspects of food early warning, remote sensing, data archiving, drought monitoring, seasonal outlooks and climate analysis.
2. For the purposes of paragraph 1, Member States shall take the necessary measures to strengthen and rehabilitate national and regional meteorological centres within the framework of the WMO Regional Association I - Africa established in terms of Article 18 of the WMO Convention by -

- (a) designating a national meteorological centre or centres to serve as a regional meteorological centre to execute meteorological services of regional importance;
- (b) linking the remaining national meteorological centres in the region to regional centres thus enhancing the operational capabilities of the RMSN;
- (c) minimizing duplication of activity between national meteorological centres; and
- (d) investigating options for further interaction with the African Centre for Meteorological Applications and Development and other meteorological institutions.

#### Article 12.6

#### **Co-operation Framework**

1. Member States shall develop a co-operation framework with the aim of -
  - (a) strengthening weather and climate monitoring systems;
  - (b) improving public and specialized weather services;
  - (c) promoting sustainable development with the emphasis on climate change and protection of the environment; and
  - (d) strengthening meteorology research capacity in the region.
2. Member States shall strengthen weather and climate monitoring systems by -
  - (a) filling existing observing network gaps in the synoptic surface and upper air and climatological networks;
  - (b) improving climate monitoring networks;
  - (c) improving the performance of existing networks;
  - (d) making greater use of new technology, especially satellites and other remote sensing applications;
  - (e) overcoming gaps in the regional telecommunications network;
  - (f) improving the flow of information;
  - (g) improving the monitoring and performance of existing telecommunications systems; and
  - (h) updating existing meteorological and climatological data processing systems.



3. Member States shall improve public and specialized weather services by -
  - (a) increasing liaison with users and increasing their capability to tailor, package and deliver services;
  - (b) training and education of users to ensure effective utilization of services and improved definition of user requirements;
  - (c) introducing new delivery systems and technology; and
  - (d) emphasizing the development of graphical products.
4. Member States shall promote sustainable development with the emphasis on climate change and protection of the environment by -
  - (a) strengthening the capabilities of national meteorological centres in climate applications and advice;
  - (b) enhancing existing environmental monitoring activities;
  - (c) optimizing the use of regional structures; and
  - (d) fostering an awareness of the contributions which can be made by national meteorological centres to planning sustainable development in agriculture, forestry and related areas.

#### Article 12.7

#### **Human Resource Development, Research and Scientific Co-operation**

1. Member States shall develop programmes to train operational meteorologists, research meteorologists and instrument maintenance technicians for both conventional meteorological and computer-based electronic equipment in conformity with the WMO Education and Training Long Term Plan.
2. For the purposes of paragraph 1, Member States shall investigate the need for the establishment of a training centre which may be designated as a WMO Regional Training Centre on the basis of criteria set out in Appendix D of the WMO Technical Regulations on General Meteorological Standards and Recommended Practices and conduct roving seminars and training activities using regional resource persons.
3. Member States shall develop a programme to strengthen meteorological research capacity in the region.
4. For the purposes of paragraph 3, Member States shall investigate -
  - (a) options for collaboration with other African research institutions; and
  - (b) participation in international research programmes, in particular the World Climate Research Programme and Atmospheric Research and Environment Programme.

*INSTITUTIONAL*

## **CHAPTER 13**

### **INSTITUTIONS, IMPLEMENTATION AND MONITORING**

#### Article 13.1

#### **Implementation and Monitoring**

1. Member States shall have primary responsibility for implementing the provisions of this Protocol and shall take all necessary measures to give effect to such provisions, including their observance, by subsidiary levels of government.
2. Member States shall encourage all relevant public and private sector service providers, regulators and other stakeholders to comply with the provisions of this Protocol.
3. Regional impetus to implementation and monitoring shall be facilitated through the collective participation of Member States within the SATCC and regional bodies as contemplated in Article 13.13.

#### Article 13.2

#### **Protocol Development, New Areas of Co-operation and Annexes**

1. Member States shall continuously review the subject matter of this Protocol and, to this end, identify new areas of co-operation.
2. Member States shall dynamically expand their co-operation and, where necessary, update the provisions of this Protocol by amending existing provisions or including new provisions which reflect their deepening co-operation and expanding consensus.
3. Member States shall, in particular, identify and develop new annexes which include relevant technical and implementation decisions based on provisions of this Protocol, which annexes shall form an integral part of this Protocol in the manner contemplated in Article 14.5 of this Protocol.
4. Member States shall progressively implement the provisions of this Protocol in a phased manner, having due regard to the implementation capacity of individual Member States.
5. Nothing in this Protocol shall be construed as preventing one or more individual Member States, between themselves, to undertake the speedier implementation of the provisions of this Protocol and due cognizance shall be given to this option in the preparation of applicable implementation strategies contemplated in Article 13.7, paragraph 4 of this Protocol.

## Article 13.3

**SATCC**

1. The Member States hereby confirm that the SATCC is the commission which has been constituted for the transport, communications and meteorology sectors, contemplated in Article 12 of the Treaty.
2. The SATCC shall comprise of -
  - (a) a Committee of Ministers which shall be the supreme body of the SATCC and provide overall guidance and general co-ordination for the preparation and the implementation of a regional policy agenda and development strategies in the transport, communications and meteorology sectors;
  - (b) a Committee of Senior Officials which shall report to the Committee of Ministers and serve as nodal point to guide and co-ordinate the sectoral and sub-sectoral implementation strategies and sustain their implementation within the parameters of the regional policy agenda;
  - (c) sub-sectoral committees with their specialized working groups which shall report to the Committee of Senior Officials and shall programme and facilitate detailed implementation of sectoral and sub-sectoral strategies, evaluate performance, survey results and identify strengths and weaknesses assisted by regional bodies acting in a consultative capacity;
  - (d) a technical unit, the SATCC-TU; and
  - (e) such other committees or regional bodies as may from time to time be established and approved for incorporation into the SATCC by the Committee of Ministers.
3. The SATCC shall be responsible to the Council contemplated in Article 11 of the Treaty.
4. The SATCC shall work closely with the Secretariat in the execution of its functions contemplated in Article 12 of the Treaty.
5. The SATCC-TU shall be responsible for the necessary co-operation and liaison between the SATCC and the Secretariat by providing such information and documentation regarding the implementation of this Protocol as may be requested from time to time by the Secretariat.

## Article 13.4

**Committee of Ministers**

1. The members of the Committee of Ministers shall be the Ministers responsible for transport, communications and meteorology portfolios.

2. The Committee of Ministers shall meet at least once per year.
3. The Committee of Ministers shall be chaired by the nominated Minister representing the country responsible for co-ordinating the transport, communications and meteorology sectors.
4. The functions of the Committee of Ministers shall include -
  - (a) overall assessment of the adequacy of the transport, communications and meteorology networks to support economic growth and development in the region;
  - (b) adopting a regional transport, communications and meteorology sector policy agenda and development strategies;
  - (c) considering and approving amendments to the agenda and strategies affecting matters of principle;
  - (d) providing policy guidance in response to matters referred to it by the Committee of Senior Officials;
  - (e) considering and approving the annual budget recommended by the Committee of Senior Officials for submission to the Council in the manner contemplated in Article 12 of the Treaty;
  - (f) approving implementation strategies co-ordinated and developed by the Committee of Senior Officials and sub-sectoral committees;
  - (g) considering and approving of the sectoral Annual Report for submission to the Council;
  - (h) submitting proposals to the Council for the amendment of the provisions of this Protocol; and
  - (i) approving new or amending existing annexes to this Protocol.

#### Article 13.5

#### **Committee of Senior Officials**

1. The members of the Committee of Senior Officials shall be the Permanent or Principal Secretaries, Secretaries, Directors-General, National Directors or officers of equivalent rank responsible for transport, communications and meteorology portfolios.
2. The Committee of Senior Officials shall meet at least twice per year.
3. The Committee of Senior Officials shall be chaired by the nominated official representing the country responsible for co-ordinating the sector.
4. The functions of the Committee of Senior Officials shall include -

- (a) reviewing existing policies and recommending a regional policy agenda and development strategies and monitoring the implementation thereof by the sub-sectoral committees contemplated in Article 13.6 of this Protocol;
  - (b) assessing the requirements of and the need for the updating and amendment of the regional policy agenda and development strategies;
  - (c) co-ordinating and considering the implementation strategies developed by the sub-sectoral committees and monitoring their implementation;
  - (d) considering the annual budget to the Committee of Ministers in the manner contemplated in Article 12 of the Treaty;
  - (e) generally reviewing and co-ordinating the activities of the sub-sectoral committees;
  - (f) reviewing the functioning of the SATCC-TU;
  - (g) considering the need for an amendment to this Protocol, a new annex or an amendment to an annex to this Protocol; and
  - (h) performing such other functions as may be determined by the Committee of Ministers.
5. For the purposes of the execution of its functions, the Committee of Senior Officials shall report to the Committee of Ministers on progress achieved in realizing the objectives of this Protocol and formulate recommendations for approval by the Committee of Ministers.

Article 13.6  
**Sub-sectoral Committees**

1. The sub-sectoral committees are -
- (a) Integrated Transport Committee;
  - (b) Roads, Road Transport and Road Traffic Committee;
  - (c) Railways Committee;
  - (d) Civil Aviation Committee;
  - (e) Maritime and Inland Waterway Transport Committee;
  - (f) Telecommunications Committee;
  - (g) Postal Services Committee; and
  - (h) Meteorology Committee.
2. The sub-sectoral committees shall comprise -
- (a) senior officials and technical experts responsible for policy development and technical co-ordination in the sub-sector concerned; and
  - (b) consultative members representing public and private sector interests

representative of service providers, users, regulators, labour and other stakeholders.

3. Member States shall annually in writing confirm appointments to the sub-sectoral committees to provide for continuity and consistency in group membership and appropriation of policies, decisions and implementation strategies. Member States shall appoint officials to committees for minimum periods of two years.
4. A sub-sectoral committee shall be chaired by a nominated official from the Member State which hosts the meeting of such committee.
5. A regional body contemplated in Article 13.13 of this Protocol may approach the appropriate sub-sectoral committee through the SATCC-TU to obtain consultative membership.
6. A sub-sectoral committee shall duly consider an application for consultative status by a regional body and may grant or refuse such application on the basis contemplated in paragraph 7.
7. Consultative membership may be granted to a regional body -
  - (a) having the authority to represent its members; and
  - (b) with a regional membership, which may include members outside the region.
8. A consultative member contemplated in paragraph 7 shall be encouraged to -
  - (a) adopt a constitution;
  - (b) establish headquarters and appoint an executive officer; and
  - (c) provide a contact point to facilitate communication and liaison.
9. A consultative member shall be represented by one member: Provided that it may increase its membership of a sub-sectoral committee if justified by circumstances and subject to the prior approval of that sub-sectoral committee.
10. A consultative member shall participate in meetings of the sub-sectoral committees in a non-voting capacity in order to -
  - (a) create an opportunity for a mutual exchange of views on issues of regional importance;
  - (b) provide meetings with inputs in respect of their areas of activity;
  - (c) be informed on progress with the implementation of this Protocol;
  - (d) report on progress with implementation of this Protocol within their areas of responsibility;

- (e) generally report on their activities and be informed of the activities of sub- sectoral committees; and
  - (f) contribute towards the process of monitoring implementation.
11. Sub-sectoral committees may invite individual technical experts to participate in meetings for a specific purpose.
  12. Meetings of committees shall be structured to facilitate -
    - (a) discussions between all members with a view to formulating joint recommendations to the Committee of Senior Officials; and
    - (b) discussions between the members contemplated in paragraph 2(a) for the purpose of formulating intergovernmental positions in respect of inputs received from consultative members as well as other issues.
  13. Members of sub-sectoral committees contemplated in paragraph 2(a) shall strive to formulate a joint response to recommendations received from consultative members for submission to and approval by the Committee of Senior Officials, indicating the nature of recommendations received and motivating where any deviation from such recommendations is proposed.
  14. Sub-sectoral committees shall meet at such times and venues as is required for the effective execution of their functions.

#### Article 13.7

#### **Functions of Sub-sectoral Committees**

1. Each sub-sectoral committee shall implement this Protocol within its area of responsibility by -
  - (a) undertaking comprehensive policy review to develop harmonized regional and national policies;
  - (b) aligning policies, legislation and procedures with international rules and practices;
  - (c) preparing broad-based implementation strategies aimed at meeting developmental needs and promoting economic growth falling within the parameters of the approved regional development and policy agenda;
  - (d) considering the three-monthly progress reports regarding the implementation of this Protocol;
  - (e) submitting a recommendation to the Committee of Senior Officials to amend an existing annex or to include a new annex to this Protocol; and
  - (f) performing such other functions as may be determined by the Committee of Senior Officials.



2. Sub-sectoral committees shall conduct regional policy reviews in respect of their respective sub-sectors and develop proposals for a regional development and policy agenda for submission to the Committee of Senior Officials.
3. Sub-sectoral committees shall ensure compliance with international obligations by -
  - (a) ensuring complementarity with the policy objectives formulated at international or continental level; and
  - (b) developing common action programmes for the ratification of international agreements and the implementation of and co-ordinated compliance with appropriate international standards and practices.
4. Sub-sectoral committees shall formulate implementation strategies per sub-sector addressing -
  - (a) legal reform measures by -
    - (i) collectively preparing technical drafting guidelines for legislation in those areas where consensus exists; and
    - (ii) synchronizing legislative programmes to promote complementary implementation between Member States;
  - (b) institutional capacity development and resource needs by -
    - (i) identifying institutional requirements, including persons and bodies responsible for individual implementation; and
    - (ii) setting out resource needs and identifying sources of resource provisioning on a regional basis;
  - (c) co-ordinated time frames by -
    - (i) collectively prioritizing matters for short-, medium- and long-term harmonization;
    - (ii) setting time scales for the synchronized implementation of harmonization measures and programmes;
    - (iii) considering the position of Member States with limited implementation capacity and identifying options for speedier implementation between two or more Member States enjoying greater capacity; and
    - (iv) setting interim and final time scales for the execution of processes, procedures and action steps;
  - (d) information and communication requirements;

- (e) financial resource identification by assessing budgetary sources and fund allocations, undertaking cost-benefit analyses and evaluating technical and institutional capacity to comply with international standards and recommended practices;
  - (f) human resource development by -
    - (i) identifying opportunities for co-operation in the transfer of technology, skills and expertise; and
    - (ii) identifying training needs, developing regional training standards and programmes and guidelines for accreditation of centres and standards of qualification in line with international standards and practices; and
  - (g) key economic, financial, technical, operational and social performance indicators.
5. Sub-sectoral committees shall continually review implementation strategies to ensure compliance with the approved regional development and policy agenda and shall refer proposals to amend that agenda affecting matters of principle, to the Committee of Senior Officials.
6. For the purposes of the execution of their functions, the sub-sectoral committees shall report to the Committee of Senior Officials on progress achieved in realizing the objectives of this Protocol and formulate recommendations for approval by the Committee of Senior Officials.
7. A sub-sectoral committee may establish a specialized working group or groups to assist in the execution of its functions.

#### Article 13.8

#### **National Co-ordination**

1. Each Member State shall appoint a sub-sectoral co-ordinator and a deputy for the areas of responsibility of each sub-sectoral committee contemplated in Article 13.6 of this Protocol.
2. Each sub-sectoral co-ordinator shall, in respect of his or her area of responsibility, be responsible for -
- (a) promoting the achievement of the general objectives, strategic goals and sectoral objectives of the Protocol;
  - (b) co-ordinating the national implementation of the Protocol within each sub- sector and identifying actions for the accelerated implementation of the Protocol; and
  - (c) receiving inputs from national public and private sector stakeholders and canvassing the views of such stakeholders regarding any matter dealt with in the Protocol.

3. Each Member State shall nominate one sub-sectoral co-ordinator as national co-ordinator to assume overall responsibility within its administration in respect of the transport, communication and meteorology sectors. Such national co-ordinator shall -
  - (a) ensure cross-sectoral co-ordination of implementation strategies within each Member State;
  - (b) be responsible for compiling and submitting the three-monthly progress reports to the SATCC-TU contemplated in Article 13.12, paragraph (d) of this Protocol. Such progress reports shall, amongst others, detail -
    - (i) compliance with agreed implementation targets and outputs;
    - (ii) adherence by a Member State to time frames for implementation;
    - (iii) factors which are constraining or hindering or are expected to constrain or hinder Member States in meeting implementation obligations; and
    - (iv) lessons learnt from implementation experiences which could provide pointers to other Member States in the progress of implementation;
  - (c) liaise with the SATCC-TU and attend meetings with the latter to discuss the implementation of the Protocol;
  - (d) facilitate information exchange between national, public and private sector stakeholders and between the SATCC-TU and the Member State concerned, where possible, using state-of-the-art technology;
  - (e) collate inputs received by sub-sectoral co-ordinators from national and public and private sector stakeholders and furnish such inputs to the SATCC-TU;
  - (f) manage the development of national transport, communications and meteorology databases on the basis of the data needs to be agreed;
  - (g) facilitate the work of SATCC consultants, especially on policy and programme development; and
  - (h) convene and chair, if required, a committee comprising sub-sectoral co-ordinators to facilitate the process of national co-ordination.
4. The SATCC-TU shall provide national co-ordinators with input and guidelines derived from the experience of other Member States in implementing the Protocol.
5. For the purposes of paragraph 4, the SATCC-TU may, from time to time, host regional or national workshops to facilitate and encourage the process of implementation.

Article 13.9  
**SATCC-TU**

The SATCC-TU shall be a body providing technical, implementation and monitoring support to all the implementation agencies with the implementation of the provisions of this Protocol, monitoring compliance by Member States with their obligations in terms of this Protocol and providing secretarial and administrative support to the SATCC and to this end, may receive requests for assistance from all components of the SATCC.

Article 13.10  
**Secretarial and Internal Administrative Support Functions of the SATCC-TU**

The SATCC-TU shall -

- (a) prepare annual schedules of meetings of the SATCC for the following year;
- (b) maintain all records necessary for the efficient discharge of the functions of the SATCC;
- (c) prepare agendas and keep minutes for all meetings of the SATCC;
- (d) prepare, collect and circulate papers, documents and any information which may be required for the work of the SATCC;
- (e) keep a roster of regional bodies and individual technical experts enjoying consultative status for the purposes of implementation of this Protocol; and
- (f) perform any other functions related to the implementation of this Protocol with which it may be tasked.

Article 13.11  
**Technical Support Functions of the SATCC-TU**

The SATCC-TU shall provide technical support through assistance with -

- (a) the development of a regional policy agenda by developing, implementing, formalizing and monitoring regional and national policies;
- (b) identifying research needs and conducting research or having research conducted;
- (c) identifying and evaluating international standards and recommended practices deemed essential for regional implementation;
- (d) developing interactive and unified regional and national data collection and processing systems using reliable data sources and facilitating speedy access to information;

- (e) the maintenance of a library containing relevant international, continental, regional and national technical publications, documents, agreements and legislation;
- (f) the maintenance of inter-sector co-ordination between the transport, communications and meteorology sectors and other sectors within the SADC; and
- (g) any other functions with which it may be tasked.

#### Article 13.12

#### **Monitoring Functions of the SATCC-TU**

The SATCC-TU shall monitor the implementation of this Protocol by -

- (a) liaising on a continuous basis with national and sub-sectoral co-ordinators, Member States, regional and national institutions and other national stakeholders with responsibility for complying with provisions of this Protocol;
- (b) participating in meetings and activities of regional bodies;
- (c) keeping an implementation workplan programming the implementation of a regional policy agenda;
- (d) requesting Member States for regular updates regarding the status of implementation of individual provisions of the Protocol;
- (e) preparing three-monthly reports for consideration by the sub-sectoral committees contemplated in Article 13.6 of this Protocol regarding progress with the implementation of this Protocol;
- (f) identifying potential delays in the implementation time scales and alerting the sub- sectoral committees, Committee of Senior Officials and Committee of Ministers of such delays;
- (g) maintaining a register of accessions by Member States to international agreements, identifying compliance requirements and noting departures from international standards and recommended practices; and
- (h) any other functions with which it may be tasked.

#### Article 13.13

#### **Regional Bodies**

1. The Governments of Member States shall promote the creation of regional bodies where required to provide a framework for collaboration and interaction between and amongst service providers, users, regulators, labour and other stakeholders to participate as equal partners in the process of implementation of this Protocol.

2. Member States shall co-operate with regional bodies established within a sector or sub-sector.
3. In support of their consultative status, the SATCC-TU shall regularly participate in meetings of regional bodies to promote its own consultative responsibilities.
4. The SATCC-TU may, upon request, provide secretariat services to assist with the establishment and mobilization of a regional body for a specified period.

#### Article 13.14

#### **Quorum and Decisions**

1. In accordance with Articles 18 and 19 of the Treaty -
  - (a) a quorum for all meetings of the SATCC shall be two-thirds of the Member States; and
  - (b) subject to the provisions of Article 14.6, paragraph 9 and 10 of this Protocol, decisions of the SATCC shall be taken by consensus.

#### Article 13.15

#### **Operation and Management of the SATCC-TU**

The SATCC-TU shall operate and be managed in accordance with -

- (a) the Agreement between the Government of the Republic of Mozambique and the SADC regarding the hosting of the SATCC Headquarters in Maputo, Mozambique;
- (b) the SADC Financial Regulations, Standing Orders and Rules;
- (c) the SADC Terms and Conditions of Service; and
- (d) the Protocol to the Treaty on Immunities and Privileges, concluded in accordance with Article 31 of the Treaty.

#### Article 13.16

#### **SATCC-TU Employees**

1. SATCC-TU employees shall be appointed in the manner contemplated in the SADC Terms and Conditions of Service as determined by the Council pursuant to Article 11 of the Treaty.
2. All SATCC-TU employees shall perform their duties in compliance with Article 17 of the Treaty as amplified by the SADC Terms and Conditions of Service.
3. The Director of the SATCC-TU shall supervise employees in accordance with the provisions of the SADC Terms and Conditions of Service.

## Article 13.17

**Financial Regulations, Standing Orders and Rules**

1. Financial regulations, standing orders and rules as may from time to time be prepared by the Executive Secretary and approved by the Council, in terms of Article 30 of the Treaty, shall apply to the management of SATCC's finances.
2. The Director of the SATCC-TU shall be responsible for the financial management of the institution in accordance with the Standing Orders and Financial Regulations.
3. The Director of the SATCC-TU may also, in accordance with the annual approved budget enter into an agreement with any other government or institution in respect of specific projects of the SATCC or the financing of the general operations supporting general implementation of this Protocol, subject to subsequent approval by the chairperson of the Committee of Ministers.

## Article 13.18

**The Budget**

1. The Member States shall annually contribute to the funds required to carry out the functions of the SATCC in accordance with the proportions determined by the Council in accordance with Article 28 of the Treaty.
2. The Director of the SATCC-TU shall annually prepare a budget for consideration by the Committee of Senior Officials as prescribed by the Financial Regulations, Standing Orders and Rules, in respect of -
  - (a) the operations of the Director and staff of the SATCC-TU;
  - (b) capital and operational expenditure and sources; and
  - (c) the regional programmes to be undertaken by the SATCC, irrespective of funding sources.
3. The Committee of Senior Officials shall annually submit the budget to the Committee of Ministers for approval and onward transmission to the Executive Secretary who shall deal with the matter in the manner contemplated in Article 28 of the Treaty.

## Article 13.19

**Headquarters of the SATCC**

1. The location and matters relating to the hosting of the headquarters of the SATCC shall be as agreed in the Agreement between the Government of the Republic of Mozambique and the SADC regarding the hosting of the SATCC Headquarters in Maputo, Mozambique.

2. Member States shall collectively consider the impact of the financial burden involved in providing adequate headquarters accommodation and consider various options for alternative accommodation arrangements in the event that the host country is unable to meet its obligations.

## **CHAPTER 14**

### **FINAL PROVISIONS**

#### Article 14.1

#### **Signature, Ratification and Accession**

1. The Protocol shall be open for signature on behalf of any Member State.
2. Member States shall -
  - (a) ratify the Protocol in accordance with their constitutional procedures;
  - (b) adopt, amend or repeal, if required, national legislation to give effect to the provisions of this Protocol;
  - (c) publish this Protocol for notice in the official Gazette of their respective States or through any other appropriate means; and
  - (d) deposit an instrument of ratification with the Executive Secretary in accordance with Article 43 of the Treaty.
3. The Protocol shall remain open for accession by any Member State which is not a signatory state and such accession may be effected by the deposit of an instrument of accession with the Executive Secretary in accordance with Article 43 of the Treaty.
4. The Executive Secretary shall transmit certified copies of an instrument of ratification or accession to all Member States.

#### Article 14.2

#### **Entry Into Force**

1. In the case of a Member State acceding to the Protocol, the Protocol shall enter into force in respect of that State on the thirtieth day after the deposit of an instrument of accession.
2. This Protocol shall enter into force on the thirtieth day after the date of deposit of instruments of ratification, where required, or accession by two-thirds of the Member States in respect of such Member States.



Article 14.3  
**Reservations**

No reservations shall be made in respect of any provisions of this Protocol.

Article 14.4  
**Denunciation**

1. This Protocol may be denounced by any Member State at any time.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Executive Secretary, which shall take effect six months after the date of receipt of such instrument.
3. Within the period of six months following the date of receipt of an instrument of denunciation, the Member State which has deposited such instrument shall continue to comply with the provisions of this Protocol and shall continue to be bound by its obligations.
4. The Executive Secretary shall inform all signatory States of any denunciation of this Protocol.

Article 14.5  
**Amendment of Protocol and Annexes and Inclusion of Annexes**

1. Any Member State or the SATCC-TU may propose an amendment to this Protocol, an amendment of an existing annex or the inclusion of a new annex to this Protocol.
2. A proposal contemplated in paragraph 1 shall be transmitted to the SATCC-TU which shall table such amendment at the next meeting of the Committee of Senior Officials.
3. The Committee of Senior Officials may request a sub-sectoral committee to submit a recommendation with regard to such proposal.
4. The Committee of Senior Officials shall submit a recommendation with regard to such proposal to the Committee of Ministers, noting the differing views of the Member States in the event of a lack of consensus.
5. The Committee of Ministers shall strive to reach consensus with regard to the proposal. In the case of a proposal to amend this Protocol, the Committee of Ministers shall, once consensus is achieved, transmit the proposal to the Secretariat which shall, in turn, submit the proposal to the Council. The Council shall approve the proposal by a unanimous decision.
6. In the case of a proposal to amend an existing annex or include a new annex to this Protocol, the Committee of Ministers shall approve the proposal by a unanimous decision.

Article 14.6  
**Non-compliance**

1. A Member State which anticipates a failure to comply with an implementation obligation, must timeously obtain a derogation from the appropriate sub-sectoral committee. Such derogation shall be of a temporary nature and may not be repeated.
2. A Member State, the SATCC-TU or any other person or body may allege that a Member State is failing to comply with an implementation obligation.
3. In the event that the SATCC-TU identifies an alleged failure, it shall deliver a reasoned opinion to the Member State in question.
4. In the event of a Member State or any other person or body raising the complaint, such State, person or body shall submit a written motivation to the SATCC-TU which shall transmit it to the Member State concerned.
5. The Member State in question shall, within ninety days after the date of receipt of such opinion or motivation, submit its observations upon the reasoned opinion or written motivation to the SATCC-TU.
6. The SATCC-TU shall investigate the complaint and forward its own observations, together with the observations of the Member State, to the responsible sub-sectoral committee within ninety days after the date of receipt of the complaint.
7. A sub-sectoral committee receiving a communication from the SATCC-TU contemplated in paragraph 6 shall, at its first meeting following receipt of the complaint, discuss the matter and attempt to reach an amicable settlement. An amicable settlement shall entail an affirmation by the Member State of its intention to comply with its implementation obligation within a time frame and upon the conditions approved by the sub-sectoral committee.
8. In the event that an amicable settlement is not reached within sixty days after the date on which the communication was received from the SATCC-TU, the committee shall refer the matter to the Committee of Senior Officials.
9. The Committee of Senior Officials shall conduct further investigations to consider whether a Member State's failure to comply with an implementation obligation is -
  - (a) due to a lack of commitment; or
  - (b) due to temporary or permanent factors beyond the control of a Member State which were recorded in the relevant implementation strategy.

For the purposes of its finding in terms of this paragraph, a decision by the Committee of Senior Officials may be taken by two thirds of its members with each Member State having one vote. In the event of the Committee of Senior Officials failing to take a decision within sixty days after the date on which the

matter was referred to it, the matter shall be referred to the Committee of Ministers.

10. The Committee of Senior Officials shall refer its finding in terms of paragraph 9 to the Committee of Ministers which shall confirm or reject the finding on the basis of a decision taken by two thirds of its members with each Member State having one vote.
11. In the event that the Committee of Ministers approves a finding as foreseen in paragraph 9(b), the relevant committee shall be tasked to investigate appropriate support measures to the Member State in question and the amendment of the implementation strategy.
12. In the event that the Committee of Ministers approves a finding as foreseen in paragraph 9(a) and establishes that the non-compliance is detrimental to the interests of other Member States, such Member States shall be entitled to apply reciprocal measures to remove such detriment.
13. The Committee of Ministers shall specify the nature and extent of reciprocal measures which may be applied in order to remove such detriment and prevent any detriment to other Member States resulting from the non-compliance.
14. In the event that the Committee of Ministers does not approve the finding of the Committee of Senior Officials, the matter shall be referred back to the Committee of Senior Officials for reconsideration. The Committee of Senior Officials shall report to the Committee of Ministers within a period of sixty days.
15. An appeal may be lodged against the decision of the Committee of Ministers or the lack of such decision, to the Tribunal which shall deal therewith in the manner prescribed in the Protocol governing its operations.

#### Article 14.7

#### **Relationship with other International Agreements**

1. This Protocol shall not alter in any way the obligations of any Member State stemming from a bilateral or multilateral agreement to which such a Member State is also party at the time of the signing of or accession to this Protocol.
2. Member States affirm their intention to ensure that their existing agreements with each other are progressively adapted over time to comply with the provisions of this Protocol.
3. Member States shall ensure that all future agreements concluded by them with other Member States or non-Member States comply with the provisions of this Protocol.

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

**DONE AT MASERU,** on this 24th Day of AUGUST, 1996 in two original texts in the English and Portuguese languages, both texts being equally authentic.

BOTSWANA  
LESOTHO  
MALAWI  
MAURITIUS  
MOZAMBIQUE  
NAMIBIA  
SOUTH AFRICA  
SWAZILAND  
TANZANIA  
ZAMBIA  
ZIMBABWE