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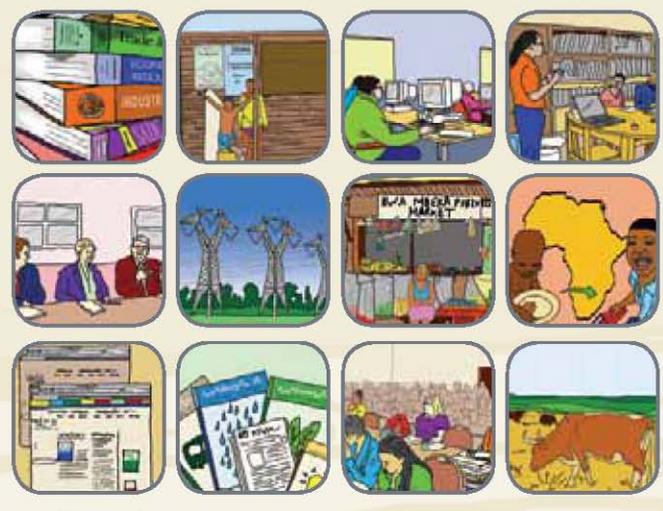
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TRADE & INDUSTRIAL POLICY STRATEGIES

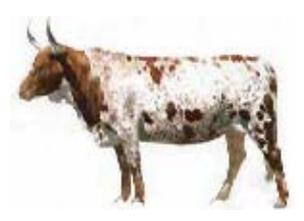


## Services Sector Development and Impact on Poverty Thematic Working Group

### Increasing Temporary Movement of Natural Persons in the SADC Region: What Should be Done?

**Albert Makochekanwa**

December 2009



indigenous growth

**INCREASING TEMPORARY MOVEMENT OF NATURAL PERSONS IN THE  
SADC REGION: WHAT SHOULD BE DONE?**

**REPORT PREPARED FOR UNIVERSITY OF MAURITIUS FOR THE SERVICES  
SECTOR DEVELOPMENT IN SADC AND ESA REGION PROJECT**

**By**

**MAKOCHEKANWA ALBERT**  
PHD IN ECONOMICS FINALIST  
UNIVERSITY OF PRETORIA  
SOUTH AFRICA  
Email: [almac772002@yahoo.co.uk](mailto:almac772002@yahoo.co.uk).

And

**MARINGWA JAMES**  
TRADE POLICY ANALYST (TPA)  
COMMONWEALTH SECRETARIAT'S HUB & SPOKES PROJECT  
ORGANIZATION OF EASTERN CARIBBEAN STATES (OECS) SECRETARIAT  
ST LUCIA

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## **ABSTRACT**

Given that the Southern African Development Community's (SADC) intention is to become a common market (CM) whereby labour and capital will be envisioned to freely move among the bloc's member states, the study investigates the extent to which the region is prepared for free movement of natural persons. The study investigates the extent to which the current regional member countries' laws and regulations, measures and practices encourage or inhibit free movement of citizens across their respective territories. The research found out that, national laws, regulations and practices inhibit free movement of regional citizens across member states. Some of the regulations, laws and practices which inhibit free movement of people include stringent visa requirements, different requirements for registration of foreign business, non recognition of relevant educational qualifications obtained in other member states, strict entry requirements in certain sectors such as medical and legal fields, application bureaucracies and the cost of applying for permits. The study suggests some possible actions that the regional bloc may consider implementing in an attempt to encourage and ensure the successful implementation of the envisioned common market, especially with regards to free movement of regional citizens. The policy suggestions recommends commitment by SADC States to the implementation of agreed Protocols and policies on enhancing free movement of people through (i) recognition of qualifications obtained in regional institutions of higher learning by all member states, (ii) expedition of the ratification of the Protocol on Free Movement of People, (iii) making labour markets more flexible, (iv) simplify administrative procedures, (iv) development of SADC expert and employment vacancy database in collaboration with the United Nations Educational Scientific and Cultural Organization (UNESCO) and International Organization of Migration (IOM) (v) prioritizing employment of regional qualified personnel before considering non-regional candidates.

## TABLE OF CONTENTS

ABSTRACT.....	2
TABLE OF CONTENTS.....	3
1 INTRODUCTION AND BACKGROUND .....	4
1.1 Introduction.....	4
1.2 Background to SADC .....	5
1.3 Justification of the study .....	6
1.4 Study questions .....	7
1.5 Objectives of the study.....	7
2 LITERATURE REVIEW .....	7
3 METHODOLOGY .....	10
4 FREE MOVEMENT OF PEOPLE WITHIN SADC REGION .....	10
4.1 Regional commitment to free movement of natural persons .....	10
4.1.1 Factors limiting the signature and implementation of the Protocol.....	11
4.2 SADC Country Characteristics: Visa and Work Permit Regimes .....	13
4.2.1 Angola.....	13
4.2.2 Botswana.....	14
4.2.3 Democratic Republic of Congo (DRC).....	16
4.2.4 Lesotho.....	17
4.2.5 Madagascar .....	18
4.2.6 Malawi .....	18
4.2.7 Mauritius.....	20
4.2.8 Mozambique .....	22
4.2.9 Namibia.....	23
4.2.10 Seychelles .....	24
4.2.11 South Africa.....	26
4.2.12 Swaziland.....	28
4.2.13 Tanzania.....	29
4.2.14 Zambia .....	31
4.2.15 Zimbabwe .....	33
Source: author compilation from preceding analysis.....	37
4.3 Restrictions to free movement of natural persons in SADC region.....	37
4.3.1 Motives behind establishment of barriers to free movement of people....	38
5 ACTIONS TO ENHANCE FREE MOVEMENT OF REGIONAL CITIZENS.....	39
5.1 Mutual recognition of qualifications.....	39
5.2 Expedite ratifying of Protocol on free movement of natural persons .....	40
5.3 Make labour markets more flexible .....	40
5.4 Simplify administrative procedures .....	40
5.5 Development of SADC skills database.....	40
5.6 Promote employment of regional citizens .....	41
6 CONCLUSIONS AND POLICY RECOMMENDATIONS.....	41
6.1 Conclusion .....	41
6.2 Policy recommendations .....	42

# 1 INTRODUCTION AND BACKGROUND

## 1.1 Introduction

The essence of regional integration and interdependency in Africa is well recognized and supported at the African Union (AU) level through constructive cooperation and collaboration with the various African Regional Economic Communities (RECs) including the Southern African Development Community (SADC)<sup>1</sup>, Common Market for Eastern and Southern Africa (COMESA), Economic Community of West Africa (ECOWAS) and the East African Community (EAC). SADC now operates as a Free Trade Area (FTA) where goods are traded duty free across borders and the intention is to go higher up the integration ladder to become a Customs Union by year 2012. Article 23 of the SADC Trade Protocol realizes the significance of liberalization of trade in services and, by extension, promoting free movement of natural persons within the SADC region.

Despite decades of close formal cooperation and integration, citizens of southern African countries still face a myriad of restrictions when they leave their countries of origin in search for jobs and investment options within the region. Impediments to free movement of persons within the region are varied and diverse including high visa fees, mandatory medical tests and discrimination against people with HIV/AIDS, high investment thresholds, non-transparent economic needs tests and bureaucratic authorizations by designated government authorities. It is the treatment that people get when they cross borders that they feel ostracized and marginalized. Recent outbursts of violence during South Africa's May 2008 xenophobic attacks on foreign citizens could highlight hidden perceptions and reality of the regional integration process. It is this feeling of one person being called such names as '*foreigner*', '*alien*', '*makwere-kwere*', '*karushu*', '*job vendor*' or '*stealer*', '*spreaders of diseases*' and '*perpetrators of crime*' to '*homeless*' that gives a bad taste to the freedom of movement of natural persons across borders in southern Africa. Least to say that freedom of movement of natural persons in southern Africa should be relatively easier given the contiguity of countries, the closer historical cooperation from the colonialism era and the pan-African approaches that most governments have taken over the years; all with the common objective of living as one big family.

Thus, although the volume of international migration within sub-Saharan Africa (SSA) and in particular southern Africa, since 1980, surpasses anything witnessed in the 20<sup>th</sup> century prior to this date (Campbell, 2004), the direction of movement has been to other continents, especially Europe and the west. Whilst Europe and the West (for instance, USA) present far much better opportunities for higher returns to education for schooled southern African migrants, and better opportunities for low skilled migrants, there are also a number of inhibiting factors (including the ones highlighted above) within the

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<sup>1</sup> The current 15 Member States are: Angola, Botswana, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

SADC countries which both compel its citizens, especially the labour-force age group to leave the region, and also which de-motivate or inhibit regional labour to freely supply its services in other bloc countries (McGuire, 2002; and TIPS, 2005).

Whilst trend statistics on temporary movement of labour may not be readily available at the SADC regional level, some estimates show that globally, the region accounts for a very small fraction of total trade in services, only 1%, as estimated by the Development Research Centre on Migration, Development and Poverty (2005). This small percentage is not considered to be a reflection of the potential for temporary movement of labour, but a reflection of the existing limits and restrictions imposed on the movement of people.

Given that the SADC region intends to become a common market (CM) by 2015 whereby labour and capital will be envisioned to freely move within the bloc's member states, it becomes imperative for the current regional member countries' laws and regulations, measures and practices which inhibit free movement of citizens across their respective territories to be investigated. Once the constraint factors are identified and analyzed, the next step will be to provide some policy suggestions as to what could the region and member countries do to facilitate free movement of regional citizens across member countries. Otherwise, without enhanced free movement of natural persons, effective attainment of common market (CM) may be an insurmountable barrier and this will be at the peril of the region's integration agenda.

## **1.2 Background to SADC**

The Southern African Development Community (SADC) (hereafter called the Community) has been in existence since 1980, when it was formed as a loose alliance of nine majority-ruled States in Southern Africa known as the Southern African Development Coordination Conference (SADCC), with the main aim of coordinating development projects in order to lessen economic dependence on the then apartheid South Africa. The transformation of the organization from Co-ordinating Conference into a Development Community (SADC) took place on August 17, 1992 in Windhoek, Namibia when the Declaration and Treaty was signed. The Community vision is that of a common future, a future within a regional community that will ensure economic well-being, improvement of the standards of living and quality of life, freedom and social justice and peace and security for the peoples of Southern Africa. To encourage the free movement of SADC citizens across the regional member countries, under what is generally referred as "Mode IV" in World Trade Organization's (WTO) General Agreement on Trade in Services (GATS) lexicon<sup>23</sup>, the region has initiated a number of protocols dealing with facilitation of movement of people in the region.

A positive and encouraging development towards achieving the objectives of free movement of people within the region was indicated by the member states' agreement to

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<sup>2</sup> According to GATS' Article 2(d), Mode IV trade in services is defined as the supply of a service by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member.

speed up the process of establishing a single visa (a Univisa) for tourists visiting southern Africa. This decision was taken at a ministerial conference which was held in Luanda in March 2008<sup>4</sup>. Specifically, the conference encouraged the removal of obstacles to the movement of SADC citizens within the region through bilateral agreements, which includes waiver of visas. The region's Univisa is to be modeled along the lines of the European Schengen visa system, which is by far considered the best model. Nevertheless, SADC member states need to resolve outstanding issues such as costs, policy agreements, procedures and requirements for issuing of the Univisa.

It is however important to note that SADC regional integration process realizes the existence of economic and development disparities between and amongst SADC states. Therefore, at issue here would be the application of the principle of 'variable geometry' whereby the more developed member countries will move at a faster pace in liberalizing their jurisdictions while the less developed states are given longer time frames and helped out seek more capacity building support for the implementation of the Protocol commitments, for instance through Aid for Trade etc. Nevertheless, one key point to note is that liberalization of Mode IV commitments is not synonymous with deregulation. Member states would have to properly align their domestic labour and immigration legislation guiding movement of persons to the regional Protocol and they will still be able to enjoy their domestic policy space with checks and balances.

### **1.3 Justification of the study**

Whilst the SADC region has been in existence since 1980, regional co-operation in the area of movement of natural persons has been limited. According to Ndulo et al (2005), the policy stance on the temporary movement of labour in SADC involves limited entry of foreign skilled people and no entry of foreign unskilled people. This scenario therefore presents a major challenge to the regional bloc's integration agenda, especially given that the region envisions to become a common market (CM) by 2015, an integration which involves free movement of regional citizens across member states. With roughly five years to the adoption and implementation<sup>5</sup> of this regional integration agenda, individual member states therefore need to seriously identify and remove the several respective laws, regulations and other factors which are currently inhibiting movement of labour across the region.

The fact that studies have shown, for instance, that approximately 50% of Botswana and Zimbabwean professionals will emigrate if they were exposed to opportunities in other countries (Africa and elsewhere) to improve their income and professional mobility (Campbell, 2004), it will be to the advantage of the region to create a conducive environment to attract such labour, otherwise the labour will go 'elsewhere'. For example, the aggressive recruiting of health professionals from the SADC region by European and North American continues to denude the region of scarce skills at a time

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<sup>4</sup> "SADC tourists to get single visa". Available at: [http://www.news24.com/News24/Africa/News/0,,2-11-1447\\_2294276.00.html](http://www.news24.com/News24/Africa/News/0,,2-11-1447_2294276.00.html).

<sup>5</sup> The study assumes that this deadline will not be missed

when the region cannot afford to lose them implies this trend need to be counteracted by easing movement of people within the region. Benefits from the liberalization of labour movement could be quite substantial as measured by the levels or amounts of remittances flow to the source country. In addition temporary workers abroad may bolster the productivity of those remaining behind through transfer of expertise, technology, facilitating entry to markets and access to networks etc. This is very paramount to the SADC region given that for it to build capacity in the services sector, the region needs access to specialists and professionals from within the region (as well as from abroad) (Ndulo et al, 2005). Thus, no sound country and regional policies for enhancing movement of natural persons can be done unless a thorough understanding of the existing impediments to movement of people within the region have been identified and analyzed.

#### **1.4 Study questions**

The study will therefore seek to provide answers to the following questions:

- i. Why is there limited movement of SADC citizens across the member countries?
- ii. What are the inhibiting factors, both at regional level and more at individual country level? and;
- iii. What can be done, both at regional and individual country levels, to encourage or facilitate free movement of regional citizens within the SADC region?

#### **1.5 Objectives of the study**

The objectives of the study are therefore to:

- i. Investigate the possible factors inhibiting free movement of regional citizens across SADC member states; and
- ii. Suggest possible ways or policies through which movement of natural persons can be enhanced across SADC member states.

## **2 LITERATURE REVIEW**

Whilst SADC has been in existence since 1980, regional member states have not made significant commitments to liberalize the movement of persons, not only in the region, but also even in the GATS agreement (Ndulo et al, 2005). According to respective WTO commitments, of the 14 SADC member countries, five have made no commitment in the area of movement of labour, while those that have made commitments, limit their market opening to highly skilled persons only as indicated by Table 1.

Although the table provides some insights to the SADC's barriers to trade in Mode IV, the commitments at the WTO level nevertheless do not give a sufficient reflection of the true extent of barriers to movement that exist in the region. As such, the following reviewed papers suggest some of the major factors which have (and continue to) limited significant trade in Mode IV among member states by limiting movement of natural persons.

**Table 1: GATS Horizontal Commitments made by SADC Countries: Presence of Natural Persons Mode of Supply**

Country	Limitations to market access	Limitation on national treatment
Angola	No commitment	No commitment
Botswana	ABC	DE
Congo D R	No commitment	No commitment
Lesotho	ABC	None
Madagascar	No commitment	No commitment
Malawi	ABC	D
Mauritius	A	D
Mozambique	No commitment	No commitment
Namibia	AB	No commitment
Seychelles	Not a WTO member	Not a WTO member
South Africa	ABE	D
Swaziland	No commitment	No commitment
Tanzania	No commitment	No commitment
Zambia	ABC	D
Zimbabwe	AB	D

**Source: WTO**

**Key:** A = limited access to highly skilled persons only; B = limited to employees of companies operating in the country; C = development of locals required; D = no discrimination for those permitted to enter under market access commitment only; E = professionals need to be domestically registered

Campbell (2004) considers the reluctance of some SADC member states, especially South Africa and Botswana, to ratify the draft protocol on free movement of persons in SADC region, as one of the many reasons currently inhibiting movement of other SADC member states' citizens into these two countries. Thus, whilst these two countries have contributed to the 'drafting' of these protocols, the fact that they are still to ratify them continues to be a barrier to trade in services' Mode IV dimension. The same author also points out that xenophobia<sup>6</sup>, where citizens of one SADC members are generally hostile

<sup>6</sup> Whilst investigation of the motives for this behaviour (for instance in the case of South Africa) is beyond the scope of this paper, suffice to point that some of the reasons for this unwelcome behaviour includes, among others: (1) fear of job loss by South African citizens as more opportunities, especially for general labour will be given to foreigners who, in most cases, can accept lower wages and do not complain much on the working conditions, (ii) pressure on social services such as health care and housing forcing South African citizens to get less than what they could get in the absence of pressure from foreigners, (iii) some South African women were also complaining that foreign ladies were 'stealing' their husbands.

to non-citizens living in their country, has also contributed to reduced free movement of SADC citizens across regional states.

An analysis by Eisenberg (1999) argues that SADC member states have a less transparent approach in cases where there are less formal assessments of economic needs. Using the example of South Africa's laws on temporary movement of labour, the study finds that lack of transparency in the process makes it far more restrictive in practice than on paper. According to the author, three problems contribute to this (in the case of South Africa). First, there is no public document detailing the criteria for selection and any economic needs assessment is an informal arrangement with the Department of Labour. Second, this lack of a precise policy also leaves open for interpretation aspects of the law that are important such as what constitutes commercial presence (is it a wholly owned business or is a certain level of shareholding or association appropriate too). Third, a discretionary policy invariably is open to influence and corruption. Powerful commercial groups are able to get their requests approved quickly and efficiently while less influential interests must wait.

Ndulo et al (2005) claims that the policy stance on the temporary movement of labour in SADC involves limited entry of foreign skilled people and no entry of foreign unskilled people. The rationale for this unbalanced stance stems from the fact that, with regards to skilled labour, regional member countries accept that there is a skills shortage in their countries and they face pressure from multinationals to allow them to bring in skilled people with their investment. On the other hand, for unskilled labour entry, each of SADC countries face high unemployment which has even been made worse in recent years by structural adjustment of their economies (SADC, 2001). As such, SADC states have been unwilling to potentially exacerbate the unemployment level by allowing the temporary entry of unskilled labour from other member countries.

McGuire (2002) argues that governments use other methods, over and above the general immigration regulations, to prevent or limit entry of foreign labour suppliers. These may include refusal to recognize the qualifications of foreign service suppliers, thus, limiting the scope of work such service suppliers may carry out. Good examples of this restriction method is Botswana's regulations which requires all doctors practicing in that country to register with the Botswana Medical Council, while South Africa requires all potentially foreign workers to have their qualifications vetted by the South African Qualifications Association (SAQA) so as to establish their respective equivalent South African grades/levels. Whilst these regulations may seem simple, in reality they sometimes deter potential service suppliers due to the time, cost and bureaucratic tendencies involved.

Other factors include the fact that most countries do not have a skills development agenda that influences how many and what type of skilled persons they allow to work temporarily in their countries.

### **3 METHODOLOGY**

The study relied on document review as the main vehicle of achieving its objectives. Specifically, the study reviewed and analyzed the following relevant documents for SADC member states:

- i. SADC protocols (especially the latest versions) on movement of natural persons;
- ii. Immigration/migration laws and regulations regarding employment of foreign labour, both skilled and unskilled; and laws on temporary movement of labour;
- iii. Investment policy documents for SADC countries; and
- iv. Other publicly available documents (literature) which deals with movement of natural persons within the SADC region

### **4 FREE MOVEMENT OF PEOPLE WITHIN SADC REGION**

#### **4.1 Regional commitment to free movement of natural persons**

Temporary movement of natural persons in and out of SADC countries is not a new phenomenon to the region as regional citizens started moving within the region since time immemorial<sup>7</sup>. However, significant movement has largely been linked to the mining industry in South Africa and the presence of multinationals (Ndulo et al, 2005). Movement of regional citizens to the latter regional country is largely reflected in the import of foreign labour by South Africa and the equally large exports of labour from its neighbouring countries (specifically Lesotho, Swaziland, Mozambique and Zimbabwe). This movement of regional citizens to South African miners was mainly composed of semi-skilled and unskilled labourers. However, over the years, decline in South Africa's mining activities as a result of factors such as low gold price and greater depths to extract the ore has resulted in gradual decline of this type of particular labour from SADC exporting countries into importing South Africa. Nevertheless, it is important to note that most of this labour movement within the region (or into South Africa) was mainly guided by individual countries immigration laws and there was no regional policy providing any mutual cooperation.

In an attempt to adopt policies and implement measures in accordance with member countries' obligation that they submitted under GATS, and also to provide a mutual cooperation framework on movement of natural persons, the region adopted the June 1995 *Draft Protocol on the Free Movement of Persons in the Southern African Development Community (SADC)* which was subsequently replaced in January 1997 and further replaced again by the 2005 *Protocol on The Facilitation of Movement of Persons*

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<sup>7</sup> The benefits and costs which accrue to both receiving and sending countries emanating from movement of natural persons across countries are outside the scope of this study.

within SADC. Although member states have indicated their willingness to cooperate in the free movement of natural persons, most countries as shown in Table 2 have signed the protocol, though Mozambique is the only country that has already ratified it (as of now).

**Table 2: SADC 2005 Protocol on the facilitation of movement of persons**

States that have signed	States that have ratified	States still to sign	States to accede
Lesotho Mozambique Namibia South Africa Swaziland Zambia Zimbabwe	Mozambique	Angola Botswana Malawi Mauritius Tanzania	Madagascar Seychelles

Source: SADC Secretariat

It is however important to note that the level of political will towards promoting the free movement of natural persons seemed to have been higher in the early stages of the SADC regional integration process compared to recent years. This is evidenced by the change in the title of the Protocol over the years. For instance, the initial document of June 1995 was titled “Draft Protocol on The ***Free Movement*** of Persons in the Southern African Development Community (SADC)” while the latest document of 2005 is titled “Protocol on The ***Facilitation*** of Movement of Persons within SADC”. The Change from “Free Movement” to “Facilitation” may imply that the SADC countries shifted their emphasis from targeting free movement of natural persons as the main objective to a lesser aim of facilitation of movement of natural persons.

In June 2007, SADC states also adopted the SADC Protocol on Trade in Services which will inspire liberalization of six (6) key services sectors namely: Construction, Communication, Transport, Energy, Tourism and Finance. In light of this, SADC States have concluded a number of protocols and Memoranda of Understanding (MoU) containing provisions for liberalizing service sectors and harmonizing regulations on Transport, Communications and Meteorology, Energy, Development of Tourism, Education and Training and Health.

#### **4.1.1 Factors limiting the signature and implementation of the Protocol**

Reasons limiting the signature and implementation of the SADC Protocol on free movement of persons include:

*i. Funding of the Protocol*

The funding and implementation of the Protocol was seen to be a challenge by member states as it relates to funding all requisite reforms to policies, statutory rules and administrative practices. Besides being an ‘extra’ burden, funding of the Protocol was (is) not a priority for some member countries who face ‘serious’

challenges including dealing with HIV/AIDS pandemic and reconstruction (e.g., Angola, Mozambique, DRC after years of war), among other priorities.

ii. Harmonization of laws

This requires modification of domestic laws, statutory instruments and administrative practices and subordinating national political interests to long term regional goals and ambitions and was not seen as priority by member states.

iii. Complexity brought by overlapping membership

For some SADC member countries, overlapping membership or belonging to more than one regional groupings (e.g. SADC and COMESA and the Portuguese Speaking Country Community (CPLP) like Angola) poses significant challenges in terms of undertaking binding commitments under different jurisdictions and policy environments whose mandates and objectives may not necessarily be consistent.

iv. Missing issues in the Protocol

The Protocol does not make provision on how a given SADC member state may deal with a problem which may involve (or is caused) by citizens from member states. For instance, the Protocol is silent on forced migration. A good example involves the cases of Zimbabwe and DRC where, due to political instability at source or home, many Zimbabweans and Congolese have flocked to South Africa, mostly as illegal or undocumented immigrants. Once these migrants are in the host country, the receiving member state's governments have to provide social amenities for these forced immigrants and this drains host economies financial and other resources without the help from the sending member country. Unfortunately, the Protocol is silent and does not enunciate how member states would deal with the problem. As such, some member states are de-motivated to sign and ratify it.

v. The effect of bilateral arrangements

Existing bilateral arrangements may also act as a disincentive to sign and/or ratify the Protocol. For example, bilateral arrangement between South Africa and Lesotho through the Lesotho/SA Joint Bilateral Commission Agreement of Cooperation (JCC),<sup>8</sup> signed on 19 June 2007, allows Lesotho people to move freely into South Africa without visas and stay without time bounds. Therefore, to South Africa and Lesotho, this situation would simply render the Protocol not

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<sup>8</sup> This arrangement provides for (a) the broadening of the current visa exemption to being non-time bound (as compared to 30 days of stay in a year), (b) exemption from requirements of a visitor's permit and (c) category exemption to RSA and Lesotho citizens not to have to report to immigration when entering or leaving the RSA.

different from the status-quo (implying therefore no haste to ratify the Protocol because bilateral arrangements already cater for that).

## **4.2 SADC Country Characteristics: Visa and Work Permit Regimes**

This section provides summarized immigration regulations for each of the SADC member states regarding laws pertaining to visa entry, work permits and other procedure that regional citizens of one member country are required to have before entering another SADC country<sup>9</sup>. It is also important to note that given South Africa's relatively developed economic system; more than 80 percent of regional movement of natural persons normally migrate to this member country.

### **4.2.1 Angola**

All SADC citizens, except those from Namibia, are required to obtain a visa for entry into Angola. The process for accessing or obtaining of work permit for foreigners in Angola is neither very clear nor transparent.

#### *4.2.1.1 Ordinary Visa<sup>10</sup>*

The processes of the granting of ordinary visa depend on the approval of the Migration and Foreigners Services in Luanda from the day which the application is submitted. The time of stay in the country with this type of visa may not exceed 90 days. The following are some of the requirements for ordinary visa:

- i. An invitation letter sent by the individual or institution to be contacted in Angola;
- ii. Copy of a travel itinerary
- iii. US\$141 certified check or money order
- iv. Proof of mean of subsistence while in Angola (US\$100 per day)

#### *4.2.1.2 Work Visas*

Normally, the work visa must be initiated in the country of origin. The Consular office must send the work visa request to the Angolan Migration Services and Aliens (SME) in Angola for approval. The processing time for a Work Visa takes at least 45 days including the day of the submission of the complete paper work required. The work visa

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<sup>9</sup> The immigration regulations and laws detailed in this section apply at national levels and those which are sector specific are outside the scope of this study (sector specific may includes those which apply say to medical doctors, accountants etc)

<sup>10</sup> <http://www.angola.org/visa.html>

is valid for two years and multiple entries are permitted and the validity of the visa may not exceed the period of the contract.

Over and above the requirements listed above under ordinary visa, the following extra requirements also apply:

- i. Copy of a contract signed by the representative of the firm or institution employing, hiring or sponsoring the trip, stating specifically the job to be performed by applicant, the duration of the contract, and the fact that employer takes full financial responsibility for the applicant. Contract must be authenticated by a commissioner of oaths (public notary) and it must be addressed to the Consular services of the Embassy of Angola.
- ii. Statement authenticated by a commissioner of oaths (public notary) indicating that applicant agrees to abide by the Angolan laws
- iii. Police Clearance authenticated by the Department of State stating that applicant has no pending criminal proceedings
- iv. Medical Certificate of health, including HIV test results authenticated by commissioner of oaths (public notary)
- v. Certified check or Money Order in the amount of US\$300
- vi. Diploma or Certificate of Achievement
- vii. Work Contract

#### 4.2.1.3 Impediments to free movement of people into Angola

- i. *Employment contract:* This requirement means that those who may want to get employment once in Angola are restricted, especially the self-employed group.
- ii. *Medical requirements:* The country discriminates those with HIV/AIDS
- iii. *Work visa permits are only for skilled foreigners:* The country's work permits does not make provision for the employment of unskilled foreigners as evidence by the requirement to submit diploma or certificate of achievement.
- iv. *Language barrier:* Angola is a Portuguese speaking nation while most of SADC nationals (with exception of Mozambique and DRC) speak English.

### **4.2.2 Botswana**

#### 4.2.2.1 Visitor's visa

SADC nationals from Angola, DRC, Madagascar and Mozambique require visas to enter Botswana. Entry visas which are obtained at border posts are valid for a maximum of thirty (30) to ninety (90) days. No visitor is allowed to stay in excess of ninety days in Botswana in one calendar year even though extensions (permission granted through a waiver pending outcome of application for a residence permit) may be granted by immigration offices. The following are required on application for the visa:

- i. Application fee of Pula 25 (approx. US\$4<sup>11</sup>)
- ii. Return visa or residence permit from the visitor's country of residence
- iii. Confirmation letter from the country if a person is coming for business purposes
- iv. Return air ticket.

#### 4.2.2.2 Work permit

All foreign workers, working in any occupation for profit or reward for whatever duration need work permits in Botswana as guided by the Non-Citizens Act. These permits are issued only after the necessary licenses for specific economic activity have been acquired. Work permits for experts can be issued for one to three years and can be extended if necessary. More so Botswana does not issue permits when local skills are available. However, the negative impacts of HIV/AIDS on workforce numbers has made Botswana want to attract foreign skills that they do not have and with the support of Botswana Export Development and Investment Authority (BEDIA) and Botswana Development Corporation (BDC). Non-resident consultants, supervisors, or directors visiting Botswana do not require work permits. The following pertain to work permit:

- i. No visitor on a Botswana visa is allowed to work.
- ii. For employees the cost of a residence permit is BWP 500 (approx. US\$73)
- iii. Application for work and residence permit costs BWP 600 (approx. US\$88) for investors while the waiver cost requirements (for work and residence permit) for employees is BWP 1200 (approx. US\$178)

#### 4.2.2.3 Impediments to free movement of people into Botswana

- i. *Issue of permit upon economic test:* Work permits are issued only after the necessary licenses for specific economic activity have been acquired.
- ii. *Preference for local skills:* The country does not issue permits when local skills are available, thus limiting chances of SADC nationals.
- iii. *Registration with relevant professional boards:* In certain fields, the country requires potential foreign workers to first register with relevant professional boards before they are allowed to work. A good example is the requirement that all doctors wishing to practice in Botswana must register with Botswana Medical Council.

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<sup>11</sup> At current rates 1USD=BWP 6.85401

### 4.2.3 Democratic Republic of Congo (DRC)

#### 4.2.3.1 Visitors' visa<sup>12</sup>

Currently, all foreign nationals will need visas to enter DRC, with the exception of travelers in transit flights who do not leave the airport. Visas for DRC are relatively standard with both single and multiple options are available to get visas for DRC. The following are required to be submitted for a visa to the DRC:

- i. An international certificate of vaccination showing immunization against yellow fever
- ii. A copy of airline tickets or itinerary from an authorized travel agent
- iii. A letter from the company assuming all financial responsibilities for the traveler (for business trips only)
- iv. An invitation letter notarized in the DRC (for tourists, journalists, missionaries and personal business).

The application fees range from US\$75 for one entry for one month to US\$360 for multiple entries for six months. Transit visa costs approximately US\$30 for one-way and US\$60 for return. Visas generally take up to two weeks to be processed, and delays are the norm.

#### 4.2.3.2 Work permit<sup>13</sup>

For one to work in the DRC, he or she must have a work permit or a resident permit. A work permit is obtained from the ministry of labour while the resident permit is obtained from the immigration services. Both work and resident permits are valid for two years and can be renewed. For a work permit (or expatriate), a maximum of US\$2150 is expended for a successful completion of the procedure and obtaining of the different documents. One is given a work permit upon proof of the prospective employer having offered him/her a job.

#### 4.2.3.3 Impediments of free movement of people into DRC

- i. *Application fees:* For both visa and work permits, the application fees may deter some potential SADC workers or visitors.
- ii. *Proof of job offered/invitation:* The requirement for proof of job offer for work permit and invitation for visitor's visa is a hindrance to free movement of people.

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<sup>12</sup> [www.overlandingafrica.com/drc/visas](http://www.overlandingafrica.com/drc/visas).

<sup>13</sup> PriceWaterHouseCoopers (2008), "Democratic Republic of Congo – Opportunities abound" presented at Business Partners in Africa Conference.

- iii. *Language barrier*: DRC is a French speaking country while most of SADC citizens are English speaking (with the exception of Angola and Mozambique), thus most people are discouraged to visit or go and work in the DRC

#### 4.2.4 Lesotho<sup>14</sup>

##### 4.2.4.1 Visitor's visa

Nationals of 12 of the other 14 SADC countries, with the exception of Angola and Mozambique, can visit Lesotho for up to three months (90 days) without a visa. Although some citizens from certain countries can obtain business visas on arrival, others must apply for visas prior to arrival. One can apply for a visa at the nearest Lesotho Embassy or Consulate.

The following types of visa are normally available for business visitors:

- *72 hour visa*: In cases where a potential visitor do not have a valid visa to visit Lesotho and is from a country where he or she cannot automatically get a visa to enter Lesotho, the Lesotho National Development Corporation can arrange for a 72-hour visa
- Single and Multiple Entry Visas
- *6 Month Border Concessions between South Africa and Lesotho*. Business people who regularly travel between Lesotho and South Africa can apply for a 6 month border concession that will enable them to commute between the two countries without having to report to an immigration officer.

##### 4.2.4.2 Work permit

Lesotho's Labor Code Order of 1992 requires every non-citizen employee or self-employed person to have a work permit. A work permit is issued by the Labor Commissioner under the condition that no qualified Lesotho citizen is available for the position. The statutory maximum duration of a work permit is two years.

##### 4.2.4.3 Impediments of free movement of people into Lesotho

- i. *Preference for local people*: This requirement in respect of work permit limits the potential number of SADC citizens who may have prospects of working in the country.

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<sup>14</sup> <http://www.mticm.gov.ls> and <http://www.state.gov/e/eeb/rls/othr/ics/2009/117365.htm>

- ii. *Maximum permit period:* The statutory maximum period of any work permit presents a potential discouragement as some potential citizens from the region may not be willing to shift for only two years, especially given the high possibility of denial for permit extension.

## 4.2.5 Madagascar

### 4.2.5.1 *Visitor's visa*<sup>15</sup>

All SADC nationals require a visa to enter Madagascar. A 90-day stay visa can be obtained on arrival. Madagascar issues six (6) distinct types of visas specifically relating to:

- i. *Tourism* – valid for stays up to three (3) months and costs US\$ 95 for multiple entry
- ii. *Business and or long term* – for business visas valid up to three months it costs US\$ 95, and, besides normal requirements like valid passport etc, the applicant is supposed to show a recommendation from the company or business organization in Madagascar
- iii. *Scientific Research* – for scientific research visas valid up to three months it costs US\$ 95 and the applicant is also required to produce a Research Authorization issued by the *Ministere de la Recherche Scientifique* (Ministry of Scientific Research) or by the Ministry of Higher Education.
- iv. Private boats
- v. Cruise ships
- vi. *Film and Documentary* – besides the general requirements, an applicant is also required to produce an authorization issued by the Ministry of Information, Culture and Communication.

### 4.2.5.2 *Impediments to free movement of natural persons into Madagascar*

For business visitors and scientific research visitors getting the requisite authorization can be cumbersome due to bureaucratic tendencies within Government Ministries.

## 4.2.6 Malawi

### 4.2.6.1 *Visitor's visa*<sup>16</sup>

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<sup>15</sup> Honorary Consulate of Madagascar: <http://www.madagascar-consulate.org/visainfo.html#film>

<sup>16</sup> [http://www.worldtravelguide.net/country/158/passport\\_visa/Africa/Malawi.html](http://www.worldtravelguide.net/country/158/passport_visa/Africa/Malawi.html).

Citizens from a number of SADC countries do not require a visa to enter Malawi: Botswana, Madagascar, Mauritius, Mozambique, Namibia, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe. Everybody else requires a visa. Malawi has three types of visa and these are single entry, multiple entry and transit visa. The visas are normally valid for three months. The application fee for each of the visa is as follows: single-entry US\$75, multiple-entry US\$115 (up to six months) or US\$150 (up to one year) and transit US\$50

#### *4.2.6.2 Work and residence permits<sup>17</sup>*

The following is the procedure for obtaining a Business Residence Permit or Temporary Employment Permit (TEP):

- i. Investors shall submit an application to the Secretariat for either Business Residence Permits (BRPs) or Employment Permits (EPs)
- ii. New applications for Business Residence Permits (BRP) shall include duly completed application forms for BRP, a business proposal that shall include full details of the proposed investment project, and a police clearance report from country of origin
- iii. New applications for an Employment Permit (EP) shall include duly completed application forms, and 2 copies of curriculum vitae of the applicant
- iv. The processed applications shall be presented before the Investment Approval Committee which shall approve or reject, as the case may be
- v. Upon issuance of the Business Residence Permit (BRP) or Employment Permit (EP), the investor shall be required to pay US\$800 and US\$ 820 or an equivalent amount in Malawi Kwacha for the issuance of Business Residence Permit (BRP) and Employment Permit (EP) respectively

#### *4.2.6.3 Impediments for free movement of natural persons into Malawi*

- i. *Application fees:* The application fees for employment permit are exorbitant for most SADC citizens, especially the lowly skilled. This may act as a deterrent factor
- ii. *Permits are for skilled foreigners:* The requirement for curriculum vitae implicitly means the country's work permits do not formally make provision for the employment of unskilled foreigners.

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<sup>17</sup> [http://www.mceci.org/various\\_applications.asp](http://www.mceci.org/various_applications.asp)

## 4.2.7 Mauritius

### 4.2.7.1 *Visitor's visa*<sup>18</sup>

As indicated in Table 4, nationals from four SADC countries (Angola, DRC, Madagascar and Swaziland) are supposed to have a visa before entering Mauritius. The country is clear and serious about visa requirements for visa countries. It warns passengers arriving without a visa (if required) that they may be repatriated to their country of origin or residence at the transporting carrier's expenses. Some of the requirements for one to get a visa include:

- i. Confirmed booking of accommodation issued by the Mauritian hotel itself, not by the travel agency (the hotel may fax the booking confirmation directly to the Embassy) or if sponsored by a Mauritian citizen, applicant should produce supporting letter of sponsor, stating name, telephone number, address and relationship.
- ii. Confirmed booking of return passage ticket (required information: name of customer, dates of flight and flight numbers)

The costs of processing a visa differ on whether the visa is a tourist or business visa and also whether it is processed with 21 or 30 working days. In case of a tourist visa, it costs US\$60 and US\$30 when processed within 21 and 30 working days, respectively. On the other hand, the processing fee for a business visa for the corresponding processing days is US\$90 and US\$60.

### 4.2.7.2 *Work/Occupation Permit*<sup>19</sup>

A non-Mauritian citizen needs an occupation permit to be eligible to live and work in Mauritius for up to three years. This permit is applied through the Board of Investment (BOI) to the Passport and Immigration Office (PIO). An application, if completed to the satisfaction of the Board of Investment and the Passport and Immigration office, will be determined within three working days of its submission.

In terms of eligibility, a non-citizen wishing to apply for an Occupation Permit should first register with the Board of Investment as an investor, a professional or a self-employed, as the case may be. An investor means a person or body of persons in association, society, partnership or company. A self-employed person is one engaged in a professional activity. A professional is a person holding a contract of employment with a company, society or partnership, with a basic monthly salary exceeding Rs 30,000 (approx. US\$1000).

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<sup>18</sup> <http://www.gov.mu/portal/site/passportSite/menuitem.0bcce5f722a8dc2a9528f049a68521ca/>.

<sup>19</sup> "Guidelines for applying for an Occupation Permit (Investor, Self-employed, Professional)", Available at: [www.gov.mu/portal/goc/compddiv/file/g\\_occup.pdf](http://www.gov.mu/portal/goc/compddiv/file/g_occup.pdf).

#### 4.2.7.2.1 Criteria for registration with BOI

- i. Investor: The business activity should generate an annual turnover exceeding Rs 3 million (approx US\$100 000)
- ii. Professional: Basic salary should exceed Rs 30,000 (approx US\$1000) a month
- iii. Self-employed: Income from the business activity should exceed Rs 600,000 (approx US\$20 000) annually

The Occupation Permit fee is Rs 6,000 (approx US\$200) if the period applied for is 2 years or less. For periods above 2 years and up to 3years, the fee is Rs 10,000 (approx. US\$330). Payment must be made by a bank cheque drawn to the order of the Government of Mauritius.

In addition, both investor and self-employed applicants are required to make a bank guarantee of MRU 50,000 (approx US\$1 660) made in favour of Government of Mauritius, while for a professional, the employer is supposed to submit a signed undertaking that he/she will meet any expense or charge likely to be incurred for the maintenance, support or the repatriation of the holder of the occupation permit to his/her/ country of origin / residence on termination of the contract of employment or for any other reason whatsoever.

#### 4.2.7.2.2 Medical Certificate

All non-citizens applying for an occupation permit are required to conduct a set of compulsory medical tests and submit all the results to any private local doctor who will issue a medical certificate after a medical examination. These tests include:

1. Blood tests for:
  - a) Haemoglobin and Full Blood Count;
  - b) Hepatitis B Surface Antigen;
  - c) Anti HIV screening test for AIDS;
  - d) VDRL test
2. Urine tests for albumin and sugar;
3. Stool test for parasites;
4. Chest x-ray

No application for occupation or residence permit will be accepted if there is evidence that the applicant is suffering from any infectious or contagious disease.

#### 4.2.7.3 Impediments of free movement of people into Mauritius

- i. Cost of medial tests: The monetary costs of going through all the listed mandatory medical tests may prove deterrent for potential workers from the region.
- ii. Favourable medical tests: The requirement that no application for occupation or residence permit will be accepted if there is evidence that the applicant is

suffering from any infectious or contagious disease limits free movement of people from the region, especially given the fact that countries with high rates of HIV/AIDS in the world are from SADC.

- iii. *Monetary requirements*: The monetary requirements, especially for self-employed segment are likely not met by many unskilled self-employed SADC citizens.

## **4.2.8 Mozambique**

### *4.2.8.1 Work permit<sup>20</sup>*

Authorization to employ foreign citizens is conditional upon confirmation by the Employment Centre of the National Institute of Employment and Professional Training that they possess the necessary academic or professional qualifications and that there are no Mozambican citizens, or an insufficient number, with the required qualifications. The employment of foreigners requires the approval of the Ministry of Labour. Once the Ministry approves the application, a "DIRE," a work permit and identification card, is issued. This process can be lengthy and bureaucratic; representation by a local lawyer, consulting firm, or individual familiar with the process will help facilitate obtaining a work permit.

The application shall contain:

- i. The name, headquarters and field of activity of the applicant;
- ii. The identification of the foreign citizen to be employed, the category, function and tasks he or she will take up and the duration of the contract.

The following shall be attached to the application:

- i. Three copies of the employment contract;
- ii. Certificate of academic or technical-professional qualifications of the foreign worker to be employed or documentary evidence of his or her professional experience;
- iii. Opinion of the enterprise trade union committee.

The work permit is valid for a period of two years, which is renewable for a further two years or for the time remaining until the end of the mandate, upon presentation of documentary evidence of the mandate conferred by bodies empowered to do so under the articles of association, with regard to mandataries or representatives of the employers.

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<sup>20</sup> [http://www.alloexpat.com/mozambique\\_expats\\_forum/work-permit-in-mozambique-mozambique-work-visa-t569.html](http://www.alloexpat.com/mozambique_expats_forum/work-permit-in-mozambique-mozambique-work-visa-t569.html).

#### 4.2.8.2 Impediments to free movement of people into Mozambique

- i. *Contract of employment:* The fact that a potential foreign worker is asked to submit proof of contract of employment limits movement of those who may want to seek the job once in the country or the self-employed pool.
- ii. *Proof of qualification:* This limits movement of less and unskilled people from other regional members.
- iii. *Language barrier:* Mozambique is a Portuguese speaking nation while most of SADC nationals (with exception of Angola and DRC) speak English.
- iv. *Opinion of trade committee:* Given that there is no clear guidelines regarding the opinion of this committee, arbitrary and subjective opinions may limit free movement of regional citizens into the country

#### 4.2.9 **Namibia**

##### 4.2.9.1 Visitor's visa<sup>21</sup>

Nationals of five of the SADC member states, namely DRC, Madagascar, Mauritius, Seychelles, require a visa when traveling to Namibia, for a maximum period of 90 days. The cost of this visa is US\$100

##### 4.2.9.2 Work permit<sup>22</sup>

For any national to work in Namibia, he or she must have a temporary residence permit for work purposes. Among requires that one is supposed to submit when making the application includes:

- i. Copies of educational and/or training certificate(s) and copies of certificates of services
- ii. Medical certificate
- iii. Police clearance
- iv. Work offer or representative by employer
- v. Motivation letter from employer
- vi. Proof of advisement of the job vacancy in local newspaper(s)
- vii. If the vacant is with government services a letter of recommendation signed by the permanent secretary of that ministry
- viii. If applicant is medical officer, proof of registration with Medical Board of Namibia
- ix. If applicant is an engineer, proof of registration with Namibia Engineering Council

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<sup>21</sup> <http://namibia.visahq.com/requirements>.

<sup>22</sup> Namibia's Ministry of Home Affairs, Department of Civic Affairs

- x. Handling fee of N\$40 (approx. US\$10)

#### 4.2.9.3 Impediments of free movement of people into Namibia

- i. *Registration with relevant professional body:* Before one applies for work permit as a medical practitioner or engineer he or she is required to obtain registration with the relevant professional body or council. This may act as a deterrent for potential medical practitioners and engineers, especially given that the registration is only done in Namibia.
- ii. *Employer's offer:* Work permits are mostly given once one has been offered a job. Thus, one cannot get work permit first and then go and start searching for vacant positions in the country. This limits free movement of people.
- iii. *Proof of job advertisement:* Potential employers are indirectly committed to extra costs of advertising even if there is high possibility that the skills they require are not available local. This results in fewer jobs being advertised, hence fewer people moving into the country
- iv. *Permits are only for skilled foreigners:* The country's work permits do not formally make provision for the employment of unskilled foreigners.

#### 4.2.10 Seychelles

##### 4.2.10.1 Visitor's visa<sup>23</sup>

According to the country's department of internal affairs, irrespective of the nationality of the visitor and his or her family members, there are no visa requirements to enter Seychelles. Nevertheless, one needs to have the following documents when entering the country in order to obtain immigration clearance:

Return or onward ticket

Proof of accommodation, including contact details

Sufficient funds for the duration of the stay (Minimum of US\$ 150.00 or equivalent per day).

With the above documents, one will be granted a visitor's permit which is initially valid for a period of up to one month. This permit can however be extend for a period of up to three months from the date of issue and capable of further extensions for successive periods not exceeding three months at a time to a maximum period of twelve months, provided that the person still meets the criteria of a bona fide visitor. The visitor's permit is issued free of charge for the first three months after which there will be a fee of around

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<sup>23</sup> [www.seychelles.com/en/plan.../entry\\_formalities.php](http://www.seychelles.com/en/plan.../entry_formalities.php).

Sr1 000 (approx. US\$73<sup>24</sup>) for extension covering each period of three months or any part thereof.

#### *4.2.10.2 Work permit (gainful occupation permit)*

For one to be employed or to work as a self-employed person, he or she needs to have a work permit (gainful occupation permit). Applications for gainful occupation permits should be submitted at least ten weeks before the employee is due to start work, and he/she must not enter Seychelles for the purpose of taking up employment prior to obtaining this permit. The application form is to be completed by the person seeking the permit in the case of a self employed or by the prospective employer. There is a processing fee of Sr. 600 (approximately US\$41) for processing of the application.

In considering an application for a gainful occupation permit, the followings factors are taken into account:

- i. The character, reputation and health of the prospective employee and where relevant, any member of his/her household to be endorsed on the permit;
- ii. The professional or technical qualification of the person to be employed;
- iii. The availability of the services of persons already exist in Seychelles;
- iv. The protection of local interest; and
- v. The economic and social benefit which the applicant/ prospective employee may bring to Seychelles or enhance by his presence.

#### *4.2.10.3 International trade zone work permits*

An International Trade Zone (ITZ) Work Permit allows a non-Seychellois worker to enter and remain in Seychelles and be gainfully occupied in the ITZ. The ITZ Work Permit is applied for by the International Trade Zone operator through the Seychelles Business Authority (SIBA) being the regulator of the Seychelles International Trade Zones. The spouse and minor children of a holder of an ITZ work permit may be endorsed on the permit for the duration of the permit.

#### *4.2.10.4 Impediments of free movement of people into Seychelles*

- i. *Permits are only for skilled foreigners:* The country's work permits do not formally make provision for the employment of unskilled foreigners.

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<sup>24</sup> As of June 25 2009, US\$1: SCR13.7

- ii. *A host of factors*: Some of the factors which are considered before one is given a work permit are arbitrary (for instance protection of local interests or reputation of prospective employee).
- iii. *Visitor's requirements*: Although visas are not required, however requirements such as onward/return ticket and sufficient funds (at least US\$150 per day) may act as deterrent for relatively poor (especially the self-employed) potential SADC member states visitors.

#### **4.2.11 South Africa**

##### *4.2.11.1 Visitor's visa<sup>25</sup>*

Currently, seven<sup>26</sup> of the 14 member states, as shown in Table 4, require visitor's visas. The visas are normally given at the country's high commission or embassy located in the respective country. Visa fees are approximately US\$37 or ±R425 plus traveler's cheques of around US\$450 (or R3000).

##### *4.2.11.2 Work permits<sup>27</sup>*

The country has five types of work permits and these include:

- i. *General work permits*: May be issued to an applicant, in possession of a written and time specific work offer, in line with his/her skills and qualifications. With this permit, the candidate will only be required to work at the company specified on the permit;
- ii. *Exceptional skills*: May be granted to 'an individual of exceptional skills or qualifications' to whom an offer of employment for a specific duration has been made and where certain requirements have been complied with.
- iii. *Inter-company transfer permit*: May be issued to a foreign national who is employed abroad by a company, which also operates a branch/subsidiary or affiliate business in South Africa. Such a permit, if and when approved, is strictly limited to two years without any possibility of extension.

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<sup>25</sup> [http://www.home-affairs.gov.za/Skils\\_faq.asp](http://www.home-affairs.gov.za/Skils_faq.asp)

<sup>26</sup> Currently, the country unilaterally and temporarily suspended visa requirements for all Zimbabwean passport holder since 4<sup>th</sup> of May 2009

<sup>27</sup> [http://www.home-affairs.gov.za/Skils\\_faq.asp](http://www.home-affairs.gov.za/Skils_faq.asp)

- iv. *Corporate permits*: Applications can be made by a prospective employer together with supporting documentation substantiating the need to employ a certain number of employees for a particular occupation over a specific period of time.
- v. *Quota permits*: The issuing of this permit is based on the published quota list of Scarce Skills and can be obtained through a South African Foreign Mission before entering the country. Anybody who has formal qualifications in any of the areas listed in the quota list and a minimum of five years practical experience can apply. Successful candidates will be required to start work at any firm in their field of expertise and to report to the nearest Regional Office of the Department of Home Affairs within 90 days after having entered the RSA.

#### 4.2.11.3 Impediments to free movement of people into SA

- i. *Non automatic recognition of foreign academic qualifications*: Before one applies for work permit (both quota and general), one needs to have all formal qualifications evaluated by the South African Qualifications Authority (SAQA). This process takes a minimum of 10 working days and a maximum of 90 working days.
- ii. *Single office for validating foreign certificates*: There is only one SAQA office which does this work and is located in Pretoria, South Africa. The fees for this process ranges from at least R390 to R790 (approx US\$60 to US\$120), depending on the processing time required by the applicant. There will be other fees including postage up to a maximum of R80 (approx. US\$12) (for SADC countries). Because of bureaucracy, time and costs, some potential work permit candidates are discouraged from starting the whole process, and end up being unable to go and work in South Africa.
- iii. *Registration with relevant professional body*: Before one applies for work permit and depending on the profession, one might also be required to obtain registration with the relevant professional board or council if one's field is where such permission is required.
- iv. *Application fee*: One is required to pay R1 520 (or US\$200) as application fee for work permit and a certain amount equivalent to a return air ticket from South Africa to the applicant's original country.
- v. *Traveler's cheques*: Visa applicants are supposed to submit travelers' cheques (TCs) of at least R3000 (approx. US\$450) when they submit their visa applications. This amount sometimes act as deterrent to potential applicants as they may not afford it.
- vi. *Permits are only for skilled foreigners*: The country's work permits do not formally make provision for the employment of unskilled foreigners.

- vii. One cannot legally work (even on temporary basis) using the visa permit.

#### 4.2.12 Swaziland

##### 4.2.12.1 *Visitor's visa*<sup>28</sup>

SADC nationals from Angola, DRC, Madagascar and Mauritius require a visa to enter Swaziland. Nationals of SADC countries that do not require a visa can stay up to three (3) months in Swaziland without a visa but would have to be granted a work permit or visa to take up employment. To be granted a visa, foreign visitors should hold a passport valid for at least six (6) months upon entry into the country. Costs for visas are: US\$27 for a single entry visa; US\$41 for a multiple entry (3 months) visa; US\$ 65 for multiple entry (6 months) visa; US\$100 for a multiple entry (9months) visa and US\$ 103 for a multiple entry (12 months) visa. It is a requirement that all visitors, except tourists, possess a letter of invitation from a Swazi national or for business trips, a letter from the applicant's company giving details of the business and confirming the financial responsibility for the applicant.

Swaziland has categorized foreign entrants or visitors into Swaziland into ten (10) distinct classes (Class A to Class J) depending on reason(s) for entering Swaziland.<sup>29</sup> Save for Classes I and J that do not directly relate to movement of persons for profession or employment purposes, a brief of the other classes' categorization presented in Table 3

**Table 3: Categories of Foreign Entrants into Swaziland**

<b>Class</b>	<b>Major tenets of the class</b>
<b>A</b>	A person who is offered specific employment by a specific employer, who is qualified to undertake that employment and whose engagement will benefit Swaziland
<b>B</b>	A person, being the holder of a dependant's pass, who is offered specific employment by a specific employer, whose engagement in that employment will benefit Swaziland
<b>C</b>	A member of the missionary society approved by the Government of Swaziland
<b>D</b>	A person who intends to engage, whether alone or in partnership, in the business or agriculture or animal husbandry in Swaziland
<b>E</b>	A person who intends to engage, whether alone or in partnership in prospecting for minerals or mining in Swaziland
<b>F</b>	A person who intends to engage, whether alone or in partnership, in a specific trade, business or profession (other than a prescribed profession)
<b>G</b>	A person who intends to engage, whether alone or in partnership, in a specific manufacture in Swaziland
<b>H</b>	A member of a prescribed profession who intends to practice that profession, whether alone or in partnership

**Source:** Swaziland Citizenship and Immigration, Act 17/1982

<sup>28</sup> [http://www.alloexpat.com/swaziland\\_expats\\_forum/visa-to-swaziland-swaziland-visa-guide-t528.html#552](http://www.alloexpat.com/swaziland_expats_forum/visa-to-swaziland-swaziland-visa-guide-t528.html#552).

<sup>29</sup> Swaziland Citizenship and Immigration: Act 17/1982

#### 4.2.12.2 Work permit

All foreign nationals working in Swaziland require work and residence permits. Employers must apply to the Immigration Office for a work permit *demonstrating that no Swazi is available* to fill the vacancy. Government requires companies to employ Swazi nationals unless they can not find a qualified foreigner. The process of obtaining work and residence permits are cumbersome, exasperating and also a reported source for unofficial “expedition” payments.

#### 4.2.12.3 Impediments to free movement of persons into Swaziland

- i. *Proof that no local person is available*: Employers having to demonstrate that no local Swazi is readily available for that job. This requirement could be difficult and quite cumbersome.
- ii. *Cumbersome and bureaucratic procedures*: The process of obtaining work and residence permits are cumbersome, exasperating and also a reported source for unofficial “expedition” payments.

### 4.2.13 Tanzania

#### 4.2.13.1 Visitor's visa

Foreigners seeking to enter the United Republic of Tanzania should be in the possession of valid passports or any other travel document. There are five types of visas valid for entry into Tanzania and these are:

- i. *Ordinary visa*: Is issued at any Tanzania Mission abroad or at any official entry point into Tanzania boarder.
- ii. *Carrying on Temporary Assignment (CTA)*: Is issued to prospective visitors who intend to visit Tanzania for purposes of making feasibility studies, establishing professional and business contacts, and making arrangements for investments during the start-up period. The validity of this visa is two months. This type of visa is issued at the entry point.
- iii. *Multiply entry visa*: Is issued to foreigners who, because of the nature of their business or investments, need to make frequent visits to the country. The validity ranges from three months to one year.
- iv. *Referred visa*: Issuance requires a permission of the Director of Immigration Services or the assistant Director of Immigration Services in Zanzibar. This type of a visa is required for the nationals of certain listed countries<sup>30</sup> and for refugees,

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<sup>30</sup> Non of the listed countries is a SADC member

stateless people and any other nationalities as may be specified from time to time by the authorities.

- v. *Transit visa*: Is for the people whose purpose of their entry into Tanzania is simply to pass through to the other destination abroad without visiting. This type of a visa is only issued to persons with onward tickets, sufficient funds for transit, and an entry visa to the country of destination or any proof that prior arrangements have been made that satisfy this requirement.

The fees for processing the visa at the country's consular or immigration point ranges from US\$50 (mostly for single entry) to US\$100 (mostly for multiple entry).

#### 4.2.13.2 Work Permit<sup>31</sup>

All people intending to reside in the United Republic of Tanzania for business or work or for any other acceptable purpose are issued residence permits. There are three types:

- i. *Class A: for self-employed foreigners (investors)*: For one to get this work permit, he or she should get Certificate of Competence from The Tanzania Investment Centre (T.I.C.) and for those who do not qualify under the TIC should provide a bank proof of US\$300 000 to be considered for this class permit.
- ii. *Class B: for foreigner with jobs*: This class permit is intended for applicants who possess rare qualifications or skills, preferably in highly technical occupations, that are not readily available in the local labour market. For one to get this work permit, the following should be submitted together with the application:
  - Academic qualifications (preferably copies of diplomas);
  - Job description for each individual expatriate;
  - A letter of clearance from the Government for anyone to be employed in a parastatal organization;
  - Membership certificates or clearances from local professional bodies for testing and monitoring the professional integrity of expatriates – i.e. doctors, lawyers, nurses, engineers, pilots, surveyors, accountants and the like;
  - Employment contract;
  - Evidence to show that the company has tried to fill the position with a Tanzanian by producing copies of advertisements announcing the vacancy as well as the C.V. of a Tanzanian alternative.

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<sup>31</sup> <http://www.tanzania.go.tz/permits.html>.

- iii. Class C: other classes of foreigners such as missionaries, students, volunteers.

The following applies to this permit:

- Expatriates are advised to remain with one employer during the contract and complete an understudy programme for jobs they occupy in order to allow the position to be taken over by local personnel in compliance with localization policy.
- A letter of no objection (clearance) by the previous employer authorizing the expatriate to work in the other organization.
- Surrender of the previous permit in respect of the former employer for it to be cancelled.

#### 4.2.13.3 Impediments of free movement of people into Tanzania

- i. *Permit requirements:* The requirements for one to get the work permits are generally burdensome
- ii. *Proof of job advertisement:* Potential employers are indirectly committed to extra costs of advertising even if there is high possibility that the skills they require are not available local. This results in fewer jobs being advertised, hence fewer people will move into the country.
- iii. *Visa application fees:* The application fees for any of the visa may deter potential visitors from regional member states given that the majority of the regional bloc is relatively poor.

#### 4.2.14 Zambia

##### 4.2.14.1 Visitor's visa<sup>32</sup>

Nationals of Angola, Madagascar and the DRC require visas to enter Zambia. An application for an entry visa can be made at the port of entry or at a Zambian mission abroad. Consultants and other experts entering Zambia on business with an organization in Zambia can obtain their visa at the port of entry. One business visit cannot exceed 30 days in a year and the 'business' visitor must produce an invitation letter from the inviting company. Visa fees are US\$50 and US\$80 for single entry (3 months) and double and multiple entries respectively.

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<sup>32</sup> <http://www.victoriafalls-guide.net/zimbabwe-visa.html>

#### 4.2.14.2 Work Permits<sup>33</sup>

Employers seeking to employ expatriate staff are required to apply for work permits from the Immigration Headquarters. These permits are generally issued for two years with provisions for extension or subsequent renewals. Zambian law stipulates that applicants should secure their employment permit while outside the country. However, Government employees, volunteers, missionaries and investors may apply whilst in Zambia.

There are three Employment Permit Fees applicable in Zambia depending on whether one works with the Private Sector, Government or Non-Governmental, Non profit and Religious Organizations. These employment permit fees are K 2million (approx. US\$430 000), K 1million (approx. US\$215 000<sup>34</sup>) and K 500 000 (approx. US\$107 000), respectively.

##### 4.2.14.2.1 Self Employment Permit

This is issued to foreign nationals wishing to invest in Zambia and one can apply for this permit while resident in Zambia. Persons older than 21years are eligible to apply for this permit. Investment should take the form of capital or financial resources. All investors in Zambia, foreign or local, are required to apply to the Zambia Development Agency (ZDA) for approval to invest before they are issued with an investment license.

Documents to be submitted on application for a Self Employment Permit include:

- i. A police clearance from the applicant's country of permanent residence
- ii. Certificate of incorporation or certificate of business registration in Zambia
- iii. Proof of personal investment (minimum US\$ 250 000) (which should be in the form of a bank transfer if investment is of monetary nature).
- iv. Investment certificate
- v. Proof of land ownership or lease agreement (where necessary)

Companies holding an Investment License and invests US\$ 250 000 and employs a minimum of 200 Zambians could be entitled to obtain work permits for up to five (5) expatriates<sup>35</sup>. The fees for issuing a work/employment permit and self employment permit were K2 000 000 (approx. US\$430 000) and K1 500 000 (approx. US\$265 000) respectively (as at 2006) and these should be paid by bank certified cheques to the Chief Immigration Officer.

Conditions for obtaining work permits in Zambia are very restrictive and this is worsened by the fact that the law guiding work permits issuance does not take into account the needs of different sectors for expatriate staff. For example, industries that are knowledge-intensive but invest less capital, such as Information and Communication Technologies

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<sup>33</sup> Zambia Ministry of Home Affairs, Department of Immigration

<sup>34</sup> At current rates IUSD=K 4.6512

<sup>35</sup> Zambia Development Agency Act

(ICTs), can require extensive foreign expertise to put certain technological systems in place.<sup>36</sup>

#### 4.2.14.3 Impediments to free movement of persons into Zambia

- i. *Investment thresholds*: The thresholds for investment purposes in Zambia are too high and unaffordable by many micro-and-small to medium-scale business operators and self employed persons in southern Africa.
- ii. *Work permit fees*: The high charges for work permits act as a big deterrent to would-be investors or skilled foreign professionals

#### 4.2.15 Zimbabwe

##### 4.2.15.1 Visitor's visa

SADC nationals from Angola and Madagascar are required to apply for visas to enter Zimbabwe before traveling. South Africans get a 'gratis' (free) visa issued at point of entry in Zimbabwe. A 90-day stay visa is granted to those who meet the requirements

##### Work permit<sup>37</sup>

Work and residence permits are required before somebody starts working in Zimbabwe. These permits are granted for a period one to two years on the condition that a local apprentice will understudy the position with a view to assuming similar duty responsibilities in future. Granted by the Immigration Department under Ministry of Home Affairs, a work permit is normally issued when shown that there is no qualified local Zimbabwean who can fill in the vacant post. There are four (4) types of permits handled under the Immigration Department and these are briefed below.

##### 1) *Temporary Employment Permit*

This is an authority given by the Department of Immigration to a foreign worker to work for an organization or company registered in Zimbabwe.

##### *Specialized areas for Temporary Employment Permits*

- professionals offering scarce skills, which are not easily available in Zimbabwe
- journalist on assignment

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<sup>36</sup> UNCTAD: Investment Policy Review Zambia, 2006

<sup>37</sup> Ministry of Home Affairs, Zimbabwe.

- short term temporary employment permit (6 months) personnel on short contracts
- foreign researchers (who must be cleared first by the Research Council of Zimbabwe)

*Application fee:* there is a non-refundable application fee of US \$100 which is subject to review from time to time.

#### 2) *Missionary's Permit*

This is specifically for religious leaders whose main duty is to lead their congregation in prayer and preach the essential of his creed. Their main requirement is for employment as a Minister of religion or church as required by the leadership of a local congregation.

#### 3) *Business Visitor's Permit*

A business visitor's permit may be granted for thirty (30) days and is non-renewable. Persons eligible for this permit are those coming on business for *Consultancy work, Installation and back up service* for machinery purchased outside Zimbabwe.

#### 4) *Investors Residency Permit*

- A person who wishes to establish a business in Zimbabwe by investing offshore capital and equipment to the sum of US\$ 100 000 in a joint venture with a local or
- A technical expert who (will have) worked in Zimbabwe on a valid work permit for a period not less than three (3) years and has invested not less than US\$ 300 000 or
- A person who invests US\$ 1 000 000 (one million) and above

These thresholds are subject to change on review.

For one to get an investor residency permit there is need for:

- A certificate of approval by the Zimbabwe Investment Centre
- Certificate of Incorporation by the Registrar of Companies

#### 4.2.15.3 *Impediments to free movement into Zimbabwe*

These conditions (applying to both work and residency permits) are quite restrictive to free movement of both skilled and non-skilled workers as well as small to medium scale self employed and business traders, operators or investors because of:

- i. *Proof that no Zimbabwean is available:* There is a requirement that specialist skills required should not be easily available in Zimbabwe for one to get an employment permit.
- ii. *Exorbitant investment threshold:* The amounts of investment thresholds involved are exorbitant and this decrease the number of potential SADC nationals to be granted investor residency permit.
- iii. *Time required to have been in the country:* The fact that for one to get residency permit he or she should have been in the country on valid work permit for at least three years maybe a deterrent to free movement

To this end, Table 4 therefore summaries some of the laws, regulations and other impediments to free movement of natural persons in SADC regional member states.

**Table 4: Factors inhibiting free movement of people in SADC regional countries**

<b>Country</b>	<b>SADC countries which require visas</b>	<b>Laws, regulations and other impediments to free movement of people</b>
<b>Angola</b>	All SADC countries except Namibia	<ul style="list-style-type: none"> <li>▪ Language barrier (Portuguese not common language in southern Africa)</li> <li>▪ Work permits only issued to skilled personnel</li> <li>▪ Discrimination of people infected with HIV/AIDS</li> <li>▪ Work permit given only when one has employment contract</li> </ul>
<b>Botswana</b>	Angola, DRC, Madagascar, Mozambique	<ul style="list-style-type: none"> <li>▪ The country requires all doctors practicing to register with the Medical Council.</li> <li>▪ Issuing of work permit after economic needs test</li> <li>▪ Work permit given only when no locals fit the job</li> </ul>
<b>DRC</b>	All foreign nationals will need visas to enter DRC	<ul style="list-style-type: none"> <li>▪ Language barrier (French is not a common language in SADC)</li> <li>▪ Requirement to produce a job offer letter could be a deterrent to self-employed people</li> <li>▪ Exorbitant application fees</li> </ul>
<b>Lesotho</b>	Angola, Mozambique,	<ul style="list-style-type: none"> <li>▪ Setting maximum time limit for a work permit may not encourage professionals to move for only short periods</li> <li>▪ Work permit given only when no locals fit the job</li> </ul>
<b>Madagascar</b>	All SADC countries	<ul style="list-style-type: none"> <li>▪ For business visitors and Scientific Research visitors getting the requisite authorization can be cumbersome due to bureaucratic tendencies within Government Ministries.</li> </ul>
<b>Malawi</b>	Angola, Lesotho, DRC, Seychelles and Madagascar	<ul style="list-style-type: none"> <li>▪ Residency and Employment Permit fees could be quite a deterrent for many small to micro entrepreneurs from within SADC</li> <li>▪ Work permits are mainly for skilled workers</li> </ul>
<b>Mauritius</b>	Angola, DRC, Madagascar,	<ul style="list-style-type: none"> <li>▪ The monetary costs of going through all the listed mandatory medical tests may provide a deterrence factor for potential</li> </ul>

	Swaziland	<p>workers from the region.</p> <ul style="list-style-type: none"> <li>▪ Need to prove that one is free from infectious or contagious diseases could be a deterrent in SADC with high prevalence of diseases like HIV/AIDS and TB.</li> <li>▪ Monetary requirements for self-employed people are restrictive</li> </ul>
<b>Mozambique</b>	Angola Botswana DRC Lesotho <sup>38</sup> Malawi Mauritius Madagascar Seychelles	<ul style="list-style-type: none"> <li>▪ Language barrier (Portuguese is not a common language in SADC)</li> <li>▪ Requirement to have a contract of employment limits movement of self-employed persons and those willing to look for jobs</li> <li>▪ No clear guidelines regarding the opinion of the trade committee, arbitrary and subjective opinions may limit free movement of regional citizens into the country</li> <li>▪ Proof of qualification may limit movement of unskilled people</li> </ul>
<b>Namibia</b>	DRC, Madagascar, Mauritius, Seychelles,	<ul style="list-style-type: none"> <li>▪ Requirements for medical professionals and engineers to register with the relevant professional body or council</li> <li>▪ Work permit is only issued on evidence of a job offer</li> <li>▪ Work permits mainly given to skilled people</li> <li>▪ Work permit given when it has been proved that no local can fit the job</li> </ul>
<b>Seychelles</b>	No visa requirements for SADC	<ul style="list-style-type: none"> <li>▪ Work permits only issued to skilled professionals</li> <li>▪ Monetary charges associated with a visitor's visa may act as a deterrent to many within SADC</li> </ul>
<b>South Africa<sup>39</sup></b>	Angola, Congo DRC, Madagascar, Mozambique, Tanzania, Zimbabwe <sup>40</sup>	<ul style="list-style-type: none"> <li>▪ Not automatic recognition of academic qualification</li> <li>▪ Single office of verifying foreign qualifications (the South African Qualifications Association (SAQA) in Pretoria)</li> <li>▪ Time and costs involved with having qualifications verified</li> <li>▪ Requirement to be registered with a professional body (in case of say Accounting, lawyers, doctors)</li> <li>▪ Payment of processing fees of R1520 for work permit</li> <li>▪ Work permits are mostly for skilled workers</li> <li>▪ Costs of obtaining a visitor's visa (US\$450)</li> </ul>
<b>Swaziland</b>	Angola, DRC, Madagascar, Mauritius, Mozambique	<ul style="list-style-type: none"> <li>▪ Employers having to demonstrate that no local Swazi is readily available for that job</li> <li>▪ Cumbersome and bureaucratic procedures</li> </ul>
<b>Tanzania</b>	Angola, DRC, Mauritius, South Africa,	<ul style="list-style-type: none"> <li>▪ Work permit requirements are cumbersome and restrictive</li> <li>▪ Need to provide proof of job advertisement by employers</li> <li>▪ Visa fees could be a deterrent to many poor citizens of SADC</li> </ul>
<b>Zambia</b>	Angola, Madagascar, DRC	<ul style="list-style-type: none"> <li>▪ The high investment thresholds are out of reach of many within SADC</li> <li>▪ High fees for work permits</li> </ul>

<sup>38</sup> Mozambique and Lesotho signed a General Cooperation Agreement on 26 August 2009 which will abolish entry visas for citizens of both countries (<http://allafrica.com/stories/200908260860.html> )

<sup>39</sup> Those SADC citizens who are exempt from visas should stay for a maximum of 90 days for each visit

<sup>40</sup> Government officials, including police on cross border investigations are however exempt from visa requirements provided they stay less than 90 days for each visit.

<b>Zimbabwe</b>	Angola, Madagascar	<ul style="list-style-type: none"> <li>▪ Work permits issued only for specialist skills</li> <li>▪ High investment thresholds out of reach of many within SADC</li> <li>▪ Proof that no citizen can fit the job</li> </ul>
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**Source:** author compilation from preceding analysis

### 4.3 Restrictions to free movement of natural persons in SADC region

The foregoing analysis indicates the following as some of the main impediments to free movement of natural persons within SADC region

i. Visa formalities, fees, prohibitions and quotas

The high level of visa fees required in some jurisdictions simply restricts the majority of poor citizens of SADC. Given the large numbers of graduates produced from the numerous universities and colleges and training institutions within SADC, the quotas placed on foreign employees in SADC countries falls far short of utilizing available capacity. This unutilized or underutilized capacity grooms professionals well for brain drain markets like the UK, Canada, Australia and New Zealand.

ii. Economic Needs Test (ENT)

Whilst it is critical that national interests are prioritized and protected, there are hidden restrictions in economic needs tests as there is no common or harmonized regional definition and methodology for conducting ENT. Thus, this could be quite cumbersome, non transparent and ideally restrictive.

iii. Discretionary procedures and administratively cumbersome and bureaucratic

Bureaucratic and non-transparent tendencies end up fuelling corruption and these are hidden costs for would-be investors and employees that may restrict movement by potential workers and investors.

iv. Residence and nationality requirements

For a potential employee or investor all countries require that one possesses a valid work permit and/or a resident permit. Formalities, costs and bureaucracies associated with obtaining this valid documentation restricts movement by would be investors or employees.

v. Non recognition of qualifications and strict requirements for certain sectors

In the absence of common regional qualifications and standards in education, foreign educational and professional qualifications would always be treated as inferior to local standards. There are countries that have relatively better standards

and professional qualifications within the region and these could be used as ‘good practices’ to build regional competencies or centres of excellence and expertise in such sensitive and critical sectors like health, engineering, law and others.

#### **4.3.1 Motives behind establishment of barriers to free movement of people**

SADC’s member states’ paradox of adopting the Protocol on free movement of natural persons on one hand, and the continuation of implementing barriers to free movement of regional citizens on the other hand, such barriers as enumerate in the immediate sub-section 4.3 can be due to the following reasons.

*i. Fear of increased unemployment*

As pointed before, SADC countries are struggling with high unemployment levels, especially of semi-skilled and unskilled labour. Thus, liberalizing entry of regional citizens, especially those of the low and unskilled people will even further the unemployment situation. This fear, especially for countries like South African (the most preferred destination for SADC citizens), is very important even for the ruling political party, African National Congress (ANC) as its majority support comes from the semi-and-unskilled citizens. Also given the combative nature of trade unions in South Africa such as Confederation of South African Trade Union (COSATU) which is closely aligned to the ruling ANC party, any deal that would expose South African labour force and livelihoods would face stiff resistance. Hence, any policy which may be perceived as detrimental to this group of electorate is likely met with resistance even within the ANC decision body itself.

*ii. Possibility of increases illegal immigrants*

Another reason why member states continue to put some barriers is for the fear of possible increase or influx of foreigners, not only legal entrants, but more importantly, entry of illegal immigrants.

*iii. Unnecessary pressure on social services*

For some SADC member states, easy entry requirements will result in influx of foreigners and this may pose a serious problem as there will be pressure exerted on the country’s social services. For instance, in the case of South Africa, the fact that most government hospitals provide free health care for children and/or subsidized health care for adults, it means that with more foreigners, such services will be overstretched.

iv. Security concerns

Another concern for some SADC regional members relates to the issues of security. Influx of foreigners may worsen the problem of maintaining adequate security, especially in cities and towns. This situation will be even more if adoption of lenient immigration laws end up allowing fugitive criminals from other member states crossing borders easily.

v. Possible spread of diseases like HIV/AIDS

Other countries are not comfortable with allowing foreigners to enter their boundaries without some screening, especially without meeting some health requirements. Thus, some SADC member states fear that diseases such as HIV/AIDS can easily spread if foreigners who have succumbed to this disease are allowed to enter their territories.

## **5 ACTIONS TO ENHANCE FREE MOVEMENT OF REGIONAL CITIZENS**

### **5.1 Mutual recognition of qualifications**

There is need for SADC regional member states to cooperate towards the mutual recognition of requirements, qualifications, licenses or other regulations required for regional citizens who decide to move and work in another member state. To enhance this mutual recognition, the SADC region should establish rules to guarantee mutual recognition of professional qualifications (MRQs). Such rules may cover the following, among others:

- i. Harmonization of training requirements in specific sectors which give automatic recognition of professional qualifications. These are mainly to be found in such professions as health, accounting and legal fraternities;
- ii. Providing support for harmonization of licensing and registration procedures;
- iii. Mutual recognition which applies to all professions for which Member States require a qualification (“the general system”), with the exception of the specific sectors;
- iv. Automatic recognition of professional experience for crafts, commerce and industrial sector professions;
- v. Rules applicable to lawyers concerning the provision of services and establishment under the title of their country of origin;

- vi. Recognition of qualifications concerning activities in the fields of commerce and distribution of toxic substances;
- vii. Coordination of the laws of Member States on self-employment, commercial agents, harmonizing the civil law on the relationship between agent and principal.

## **5.2 Expedite ratifying of Protocol on free movement of natural persons**

There is need for the region to speed up the process of ratifying the Protocol on free movement of regional citizens across member countries. This process should also culminate with the total removal of visa requirements up to a period of 90 days. The no visa requirement will make it easier for potential member states' foreign workers to first go to any SADC country solemnly looking for employment before applying for a work permit. This will motivate movement as most people will be encouraged to start the process of applying work permit once offered a job or promised a job after an initial job visit search.

## **5.3 Make labour markets more flexible**

Regional member states should try to market their labour markets more flexible by removing or reducing any needs test especially for potential workers from other member countries of the bloc. Regulations such as those requiring any company which intends to recruit a foreigner to provide adequate proof (including advertising the job in local newspapers, interview minutes etc) should be abolished.

## **5.4 Simplify administrative procedures**

There is need for member countries to simplify administration procedures required for obtaining such documents as work permits. The countries can also try to harmonize their administration procedures, thus making it easier for potential regional labour migrants. Predictability is an important concern for investors and best practice involves having clear policies and consistent application of the law. Issues of transparency are critical as they relates to the conduct and efficacy of the economic needs tests used in the labour market. Also, consideration of automatic work permit quota system based say on the size of investment than the number of local staff employed could be more efficient.

## **5.5 Development of SADC skills database**

Regional member states need to develop skills and vacancy databases which will be publicly available to potential qualified citizens. This can be done in collaboration with such institutions as the United Nations Educational Scientific and Cultural Organization (UNESCO) and International Organization of Migration (IOM). This will help by providing opportunities to those qualified workers from member states who may consider taking up employment within the region than going to Europe or America.

## **5.6 Promote employment of regional citizens**

The SADC region should consider introducing a policy of giving regional citizens first employment priority before non-SADC member states in any job vacancies where candidates from regional member countries will be (technically) qualified. This policy will ensure that most qualified personnel in the region will be guaranteed of jobs, and this may also reduce the brain drain to Europe and America.

# **6 CONCLUSIONS AND POLICY RECOMMENDATIONS**

## **6.1 Conclusion**

Whilst SADC regional integration efforts have paid dividends in a good number of thematic areas and fronts, these successes have sometimes come at a cost to national governments. It is these cost-benefit analyses that national jurisdictions grapple with in seeking to advance the regional integration agenda for the SADC region. On supporting the free movement of persons within the SADC region, much hope has to be placed on the capacity of the SADC countries to implement the ratified Protocol on Freedom of Movement of Natural Persons and national immigration laws and policies or regulatory frameworks that serve the objectives of the SADC regional integration agenda whilst protecting or, at least, serving the best interests of the respective national jurisdictions and their development ideals. The SADC region should strive to curtail the devastating effects of professional capacity losses through brain drain to other countries outside the region and aim to build regional competencies and synergies and facilitating investment returns on locally educated pool of young academicians.

Thus, although the regional integration process leading to the establishment of the SADC FTA may have spurred regional countries to allow each other's citizens visit and stay for thirty (30) days, more still could be done in allowing professionals and investors to contribute to economic growth and development for the region. It is quite clear that SADC countries are more inward looking and in principle have restrictive pieces of legislation and quite deterrent practices and requirements by law to effective free movement of persons as professionals or investors. Whilst protecting local labour markets serves national development plans, objectives and priorities, there is also untapped potential that allowing foreign workers and investors could bring into SADC economies. Countries are more receptive and sympathetic to fears of local job losses, arising as a result of the crowding-out effect of more qualified foreign workers displacing local employees. Foreign investors from better off countries are likely to bring with them more superior capital and personnel and expertise as compared to local investors and that displaces local investors as well. However SADC countries could gain from exchange programmes, skills training and capacity building programmes like understudying, apprenticeships, attachments etc and promoting regional joint ventures and partnerships.

## **6.2 Policy recommendations**

There is merit in harmonizing regional educational standards and qualifications. Closer co-operation on curriculum development especially relating to languages (English, Portuguese and French) will prove vital for the minority-language destinations like Mozambique, Madagascar, DRC and Angola. Also, there is a need to harmonize investment policies and practices whilst paying attention to national sensitivities and priorities. Countries could try automatic work permit quotas whose issuance is based on the size of investment and not necessarily the number of local people employed. Governments need to ensure that their laws relative to work permits clearly reflect different needs of the different sectors in the economy. There are sectors that are highly knowledge-intensive but invest less capital, such as Information and Communication Technologies (ICTs), and these can require extensive foreign expertise to establish certain technological systems in place. There is also need for countries to develop or recommend common methodologies or means of conducting their economic needs test so that the process is made more transparent.

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