



Institutional Design for the Secretariat of the Southern Africa Customs Union (SACU)

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Table of Contents

Executive Summary	ii
Forward	v
Introduction	1
I. Defining the Functions of the Secretariat	2
II. Recommended Organizational Structure	4
III. Existing Organizational Structure	8
IV. Contrasting the Two Designs	15
V. The SACU System – A Work in Progress	15
VI. Conclusions and Recommendations	21
Annexes	

EXECUTIVE SUMMARY

The purpose of this report is to present a design of an institutional structure¹ for the Secretariat of the Southern African Customs Union (SACU).

In 2002, Botswana, Lesotho, Namibia, South Africa, and Swaziland entered into an agreement (Agreement) to integrate their economies.

To that aim, they set up an institutional structure that consisted of the following organs: Council of Ministers, Commission, Secretariat, Tariff Board, Technical Liaison Committees, National Bodies, and Tribunal.

The Agreement assigned the following functions to the Secretariat:

- Administrative (day-to-day work of SACU)
- Monitoring (of Agreement implementation)
- Secretarial (conferences, meetings, minutes)
- Policy assistance (policy harmonization, trade negotiations, trade facilitation)
- Book keeping/accounting (customs revenue pool)
- Record keeping (SACU records)

In order to perform these functions, the Secretariat was organized into the following “Directorates” and a core of professional staff was indicated for each:

- Corporate Services Directorate
- Trade Facilitation and Revenue Management Directorate
- Policy Research and Development Directorate.

However, the choice of this departmental structure does not seem to have been based on any specific design criteria. On the other hand, the design recommended in this report is based on a systems approach. It starts out with the output of the Secretariat (as indicated by the above listed functions), departmentalizes these functions according to a set of criteria, and then assesses the capacity needs to carry out these functions.

The following criteria were used in designing the Secretariat’s organizational structure:

- Functional differentiation
- Function beneficiary

¹ As used in this report, the term “institutional” structure refers comprehensively to the departmental structure as well as to the respectively assessed professional capacity and capacity building, whereas “organizational ” structure refers to the departmental structure only.

- Functional affinity
- Comprehensiveness of capacity needs

On the basis of the above criteria, the following departmental units are recommended for carrying out the functions (a separate Corporate Department is also included for managing the Secretariat's internal operations part of the design – as opposed to the existing structure, which mixes the Secretariat's internal and external operations):

- Administration unit (to administer SACU-wide affairs)
- Policy unit
- Trade & Investment Relations unit
- Legal unit

It is, however, suggested that the functions do not necessarily need to be organized into as many separate departments. They can instead be formed as distinct units of a smaller number of departments that can be accommodated in a modified existing structure. Yet, it is still strongly argued that the corporate department should be limited to managing the Secretariat's internal affairs.

Although the focus of this report is on the design of the Secretariat, the work of the latter in carrying out its mandated functions can be affected by factors external to it but from within the SACU system. Such factors, if any, are pointed out in the report.

This SACU system is viewed as consisting of an institutional infrastructure, an operational infrastructure (operational guidelines to guide the internal workings of the various organs as well as their inter-institutional relationships), and a policy framework.

Progress on completing the institutional infrastructure is ongoing. However, as defined by the Agreement, the SACU structure lacks a national focal point in each of the member states, whose function would be to promote and oversee the implementation of the Agreement. This lack is viewed as putting an added burden on the Secretariat in terms of having to deal with various bodies in the respective member states, instead of one coordinating national focal point responsible for all SACU-related matters.

On the other hand, work on the internal part of the operational infrastructure is also ongoing, but not apparently on the external part, which may cause some delay in the work of the Secretariat, especially with regard to policy harmonization.

Presently, the Secretariat suffers from continuing severe capacity limitations, exacerbated by the delayed arrival of the recruited staff. Also, it appears that planning at the Secretariat has been driven by budget considerations instead of the reverse. Moreover, the Secretariat finds itself in a catch-22 situation: it is expected to carry out certain responsibilities, yet it does not have the commensurate capacity to discharge them.

Conclusions reflecting the above observations are made concerning the following:

- The institutional infrastructure
- The operational infrastructure
- The policy framework
- The ambiguity of certain Agreement provisions relating to the Secretariat
- The pending organizational structure of the Secretariat
- The current budgeting and planning at the Secretariat

Recommendations are made with regard to the following:

- Clarifying the ambiguities in the Agreement;
- Completing the internal and initiating work on the external operational guidelines;
- Expanding the role of the National Bodies to where they would become national focal points for the regional integration process;
- Getting the Secretariat to initiate research and proposals on a policy harmonization mechanism; and
- Initiating planning on an outreach program for the benefit of the Secretariat's stakeholders, especially the civil society and the business community.

A set of prioritized recommendations for the next three months (June-August) is provided concerning the following:

- Facilitating the speedy move to Windhoek of the recruited departmental Directors;
- Advertising for the rest of the budgeted professional and support staffs;
- Conducting orientation workshops for the incoming Directors into the SACU agreement and the institutional and operational dimensions of SACU, along the lines of the system defined in this report and in the Business Plan: the institutional and operational infrastructures and the policy framework;
- Conducting discussion sessions with the incoming staff on the functions assigned to the Secretariat in Articles 2 and 10 of the Agreement;
- Familiarizing the Directors with the Secretariat's Business Plan for the 2005-2006 financial year and the program of planned activities;
- Conducting extended workshops on, and training the professional staff in, the mechanics of strategic planning, including SWOT analysis, and the planning and monitoring tool of Logical Framework Analysis (Log frame);
- Workshops on preparing a strategic plan for the Secretariat as a whole;
- Workshops on preparing individual Directorate strategic plans that are integral to the Secretariat's strategic plan; and
- Workshops on developing individual Directorate prioritized actions plans based on the respective strategic plans.

FOREWORD

The initial assignment for this project was to design an institutional structure for the Secretariat of the Southern Africa Customs Union (SACU).

In addition to the above the consultant was requested to assist with the preparation of a high priority business plan for the Secretariat for the financial year 2005-2006. The reason for the priority was the scheduled presentation of the plan at a fast approaching SACU Council of Ministers (Council) meeting in Pretoria on April 28, 2005.

This report focuses on a proposed institutional design for the Secretariat. However, to the extent that the performance and effectiveness of the Secretariat may be affected by factors external to it but internal to the SACU structure, such factors will be pointed out and briefly discussed for the purpose of drawing attention to them.

The Business Plan was subsequently approved by the Council of Ministers at their meeting in Pretoria., South Africa.

INTRODUCTION

The SACU Structure

It has become common practice to refer to SACU as the oldest customs union in the world. The first SACU agreement was dedicated to the issue of external tariffs and tariff revenue, one that still retains importance in the new Agreement.

However, by the mid 1990s, developments in international trade and the globalization of markets provided the SACU member states with a compelling incentive to revisit the purpose and scope of the original agreement.

Rounds of negotiations resulted in the 2002 Agreement (Agreement). Although it went beyond tariffs and into the broader aspects of trade, both intra-regional and international, the new Agreement was aimed at no less than the economic integration and collective economic development of the member states (see Appendix 2: Article 2 of the Agreement).

To implement the provisions of the Agreement, the latter called for formally constituting the following organs:

- Council of Ministers;
- Customs Union Commission;
- Secretariat;
- Tariff Board;
- Technical Liaison Committees;
- National Bodies; and
- Tribunal.

“Aware that the implementation of the 1969 Agreement is hampered by a lack of common policies and common institutions,”² the new Agreement established a Secretariat to which it assigned a multi-pronged mandate. Among other responsibilities, the Secretariat is to “assist in the harmonization of national policies and strategies of Member States in so far as they relate to SACU.”³

With the establishment of a policy harmonizing body, the Secretariat, the Council has in fact successfully addressed a weakness that was inherent in similar regional groupings, namely the absence of a regional body to coordinate the move forward of the process of regional economic integration.

In Part one of this report, the Secretariat’s functions will be defined. Part Two describes the structure in progress at the Secretariat that had been decided at a 2004 strategy-planning workshop. Part Three describes the recommended institutional structure. Part

² 2002 SACU Agreement, Preamble.

³ Article 10, Paragraph 4.

Four provides a brief note to contrast the two designs. Part Five discusses the SACU system as it affects the Secretariat's ability to carry out the functions assigned to it. Finally, Part Six offers conclusions and recommendations, as well as a prioritized action plan to move the Secretariat forward over the next four months.

I. DEFINING THE FUNCTIONS OF THE SECRETARIAT

1. Introduction

The design of an institutional structure for an organization must be informed by its purpose and the functions it must perform. In turn, these functions inform the design of its organizational capital: human, informational, communication, operational, and physical capacities. This report deals mainly with defining and organizing the functions of the Secretariat and recommending a commensurate professional capacity respective to its functions.

The functions to be performed by the Secretariat are directly outlined in Article 10 of the Agreement and, by extension, in Article 2, that it appears to subsume. Some functions, however, are not clear enough. These will be pointed out, as the clarity of responsibilities can affect the clarity of purpose and delivery. Insufficiently clarified responsibilities prejudice the performance and the evaluation of an organization.

2. Article 10 of the Agreement

The purpose of an organizational design is to provide an organization with a structure and a capacity that, not only reflect its functions and responsibilities but, more importantly, enable it to carry out the latter efficiently and effectively.

The functions directly assigned to the Secretariat are outlined in Article 10 of the Agreement (Appendix 1). A review of this Article reveals the following functions referenced by the respectively numbered sub-Articles:

- Administrative (1) – “The Secretariat shall be responsible for the day-to-day administration of SACU.”
- Monitoring (2): (Agreement Implementation) – “The Secretariat shall monitor the implementation of all decisions of the Council and the Commission.”
- Secretarial (3): (Meetings, Conferences, Minutes) – “The Secretariat shall arrange meetings, disseminate information and keep minutes of meetings of SACU institutions.”
- Policy assistance (4): (Policy Harmonization) - “The Secretariat shall assist in the harmonization of national policies and strategies of Member States in so far as they relate to SACU.”

- Book Keeping/Accounting (7): (Revenue Pool) – “The Secretariat shall be responsible for keeping a record of all transactions into and out of the Common Revenue Pool.”
- Coordinative/Assisting (8): (Trade Negotiations) – “The Secretariat shall coordinate and assist in the negotiation of trade agreements with third parties.”
- Record Keeping (10): “The Secretariat shall be the depository of all records of SACU.”

In broad terms, except for sub-Articles 1, 4, and 8, the sub-Articles are clear, in that they deal with rather concrete areas of concern.

Sub-Article 4 states that “the Secretariat shall assist in the harmonization of national policies and strategies of Member States in so far as they relate to SACU.” Since these policies and strategies are spelled out in Article 2, it seems logical to assume that Article 2 is subsumed in Article 10. The position of the Secretariat, as expressed in its 2004-2005 Business Plan, is consistent with this assumption.

3. Article 2 of the Agreement

With reference to the preceding paragraph, the Secretariat has several additional responsibilities, namely assisting in the harmonization of such national policies as the facilitation of “the development of common policies and strategies” (sub-Article 2(h)) and the promotion of “conditions of fair competition in the Common Customs Area”, 2(c).

Still another function assigned to the Secretariat is defined in sub-Article 2(a), namely the facilitation of “the cross-border movement of goods between the territories of the Member States.” Technically, this refers to trade facilitation as distinct from trade negotiations and refers to all the phases involved in managing the supply chain of goods, from the point of origin to the final destination. Among other areas, it includes production efficiency and quality control, shipping and freight forwarding, banking and documentation, ICT, transport and roads, customs clearance procedures, etc.

Accordingly, another distinct function to be added to those listed above is Trade Facilitation and what it entails of the relevant capacity to carry it out. Thus, as per Article 2, the following functions are have been assigned to the Secretariat:

- Facilitation of common policies and strategies, 2(h);
- Promotion of fair competition within SACU , 2(c); and
- Trade Facilitation, 2(a).

The above review shows that the functional scope of the Secretariat becomes far-reaching and encompassing. This does not necessarily affect the functional departmentalization as much as it does the capacity needs assessment, in terms of the range and extent of the expertise needed to research, formulate, and propose policy measures in the respective areas.

4. Some Secretariat Responsibilities Need Clarification

Obviously, the Agreement cannot be expected to be comprehensively detailed and to precisely define the various responsibilities assigned to the Secretariat. Often, such details are reserved for annexes. Nonetheless, to ensure that they are discharged as intended, some of the functions are not clear enough and are in need of clarification. It was pointed out earlier that the clarity of responsibilities affects the clarity of purpose and delivery. Also, that insufficiently clarified responsibilities prejudice the performance and the evaluation of an organization. Specifically, the following functions would definitely benefit from further clarification through various means, such as addenda or annexes to the Agreement.

- a. Day-to-day administration of SACU;
- b. Assisting in the harmonization of national policies; and
- c. Assisting in trade negotiations.

In items (b) and (c) above, two questions arise with regard, first, to the form of the assistance expected of the Secretariat and, second, to the party or parties to whom such assistance is to be provided. Specifically, is the assistance to be substantive, in terms of formulating and proposing harmonizing policy measures and trade positions, or just logistically coordinative?

Yet, it bears adding here that it may have been the case that this matter has indeed not been overlooked but that it had been intended that the necessary clarifications would be forthcoming in due course.

II. THE EXISTING INSTITUTIONAL STRUCTURE

1. Established Departments (Directorates)

It was pointed out earlier that an institutional structure is in progress at the Secretariat. It had been decided at a 2004 strategy-planning workshop. This structure consists of the following three units (Directorates). The responsibilities described below (except for distinguishing between SACU and Secretariat related ones under the Corporate Services Directorate) are summarized verbatim from an otherwise extensive list⁴:

⁴ A complete text is reproduced in Appendix 3.

a. Corporate Services Directorate

SACU-Related Functions⁵:

- Provide legal advice to the Council of Ministers, the Commission, the Secretariat, and other SACU institutions on the interpretation and implementation of the Agreement, trade negotiations, treaties, protocols, and legal instruments;
- Serve the Tribunal; and
- Facilitate the development within the Member States of facilities to enhance information sharing and to undertake and promote research on legal issues of common concern within the mandate of SACU.

Secretariat-Related Functions:

- Financial resource management;
- Human resource management and development;
- Management of general services and procurement; and
- Development of HIV/AIDS policy for the Secretariat.

b. Trade Facilitation and Revenue Management Directorate

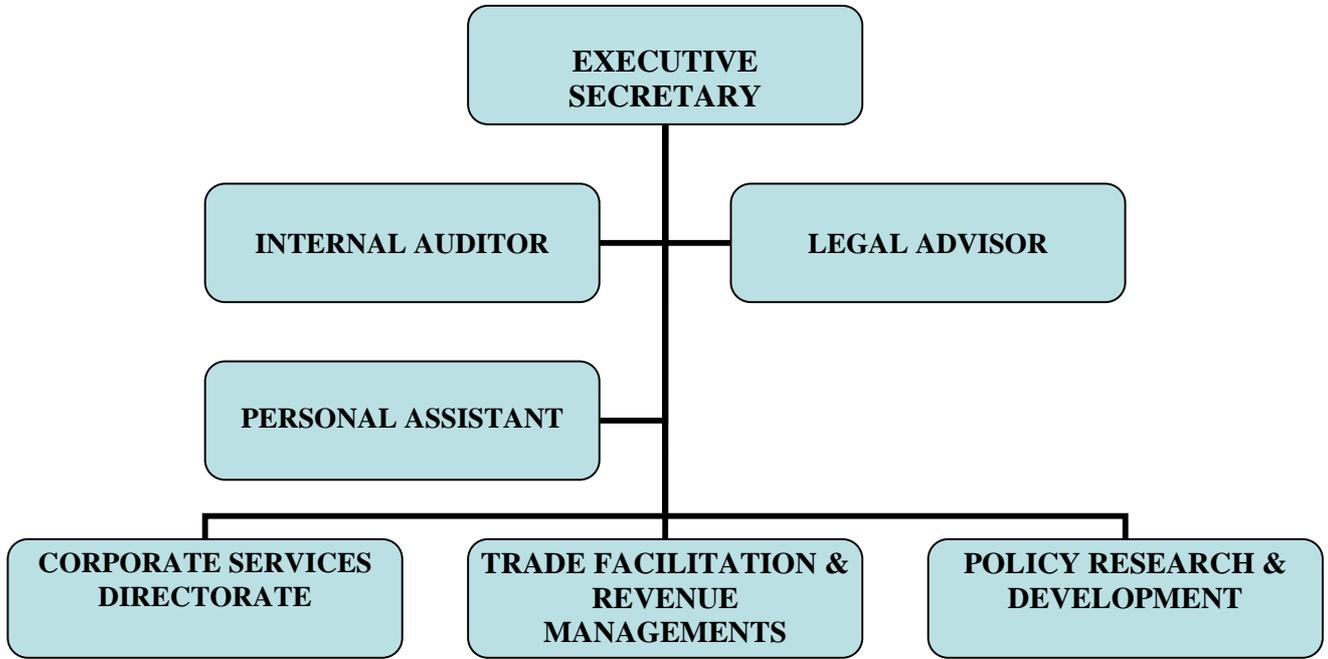
- Encourage cooperation among the Member States in the application of import restrictions to ensure that economic objectives of any import control legislation are attained;
- Monitor the application of measures for the protection of infant industries in Botswana, Lesotho, Namibia and Swaziland;
- Promote the application of similar legislation with regards to customs and excise duties in the Member States;
- Facilitate the equitable sharing of revenue arising from customs, excise and surcharge duties levied; and
- Maintain a database for trade statistics necessary for the calculation and sharing of the revenue from the Common Revenue Pool.

c. Policy Research & Development Directorate

- Integrate and harmonize policies and strategies;
- Monitor the implementation of policies and instruments to address unfair trade practices in the Common Customs Area;
- Promote cooperation among the Member States in the application of investment incentives; and
- Monitor the impact of FTAs on the member countries' economies and on specific economic sectors.

⁵ For clarity of functional differentiation and resource allocation, it is the practice in this report (as was the case in the BP) to distinguish between SACU-related activities from those that are Secretariat-related.

Figure 1. **EXISTING INSTITUTIONAL STRUCTURE**



2. Personnel Needs as they Should be Determined by Decided Functions

The following shows the various types of capacity that the above functions ought to require per Directorate⁶:

a. Corporate Services Directorate:

- Finance;
- Human resources management and development;
- Legal:
 - * General
 - * International trade
- Legal-MIS
- ICT

b. Trade Facilitation and Revenue Management Directorate:

⁶ But are not actually those in the structure under implementation.

- Trade facilitation (customs clearance, banking, freight forwarding, transport modes, roads and railroads, standards, inspections, etc.);
- International economics;
- Economic and Trade statistics;
- Tariff formulation;
- Customs administration; and
- Record keeping.

c. Policy Development and Research Directorate:

- Macroeconomic development;
- International economics;
- Economic modeling;
- Competition law; and
- Investment promotion.
- Industrial economics
- Research

3. Current Plans to Fill the Secretariat's Core Capacity Needs

Of the above areas of needed expertise, the 2005/2006 budget shows that in addition to three Directors, the Secretariat intends to hire the following core professional staff members and to supplement them through outsourcing. Two relevant questions may be posed here. First, whether this list will ultimately be enough to constitute a viable core of professional capacity (such as in the case of the multi-specialty area of trade facilitation). And, second, which areas of expertise are optimally more suited and amenable for outsourcing.

- Trade Facilitation Specialist;
- Trade Negotiation Specialist;
- Senior Economist;
- Economist;
- Regional Integration & Policy Researcher;
- Customs & Revenue Management Specialist;
- Chief Legal Advisor;
- Internal Auditor;
- Accountant; and
- HR Specialist.

Yet, it does not necessarily mean that either the configuration or the extent of this list is permanent. However, in the case of the three most important Secretariat functions, the list may need a second and critical review, simply because of the extensive and varied expertise required: policy harmonization, trade negotiations, and trade facilitation.

For example, in the case of the last function, it would be extremely difficult for one specialist to have the many types of required expertise. Even if one were to be found, the amount of work and level of effort to collect and analyze a considerable amount of information and to propose, among others, policy, institutional, administrative, procedural, legal, financial, transport, and customs reforms is certainly beyond the means of this one specialist, outsourcing some of these tasks notwithstanding.

III. RECOMMENDED INSTITUTIONAL STRUCTURE

The recommended design is based on four criteria: functional differentiation, function beneficiary, functional affinity, and comprehensive capacity needs. Each is briefly discussed below.

1. Functional Differentiation

The recommended design derives from the characterization of, as well as from the nature of the functions to be performed by the Secretariat. Differentiating the functions by specialty informs the organizational structure, whether formal or otherwise, as well as the respective capacity needs. However, in itself, the number of main departments is not overriding. As long as functions are distinguished by affinity, they can form distinct units, again formal or otherwise, under one or more departments.

2. Function Beneficiary

As indicated above, the recommended design proposes a separate departmental unit to serve the internal affairs of the Secretariat and others (perhaps under a main SACU Affairs department, or Directorate) to carry out the functions mandated upon the Secretariat to serve the entire SACU system. The Secretariat is like a service provider, and its clients are the other SACU organs. This service provider would have a separate departmental unit to handle its own internal affairs (payroll, HRM, etc.). However, its clients' business would be handled by separate departmental units (tax accounting, market research and analysis, business planning, etc). Thus, its own internal accounting unit would not handle the clients' accounting services. Legal services, where the beneficiary of the function is the entire SACU system, is included under the Secretariat's Corporate Services Directorate (see Appendix 3, Corporate Services).

3. Functional Affinity

A review of the full text of the responsibilities assigned to each Directorate in the design under implementation will reveal their considerable mix across disparate and distinct functions. In the recommended design, affinity among various functions was sought for the purpose of grouping them under separate departmental units for planning efficiency and cohesive execution, and to facilitate performance evaluation.

4. Comprehensiveness of Capacity Needs

Function differentiation helps to identify capacity needs. The policy harmonization function, for example, is quite comprehensive and encompassing, in terms of the vast policy issues that would be involved. However, a commensurate capacity need not be entirely in-house. A core capacity may be internally established and externally supplemented. However, in order to appropriately identify and rationalize the core capacity, comprehensive capacity needs must first be assessed. Afterwards, a selection process can be undertaken on the basis of studied criteria.

The departmental structure and the types of expertise shown below reflect the range of functions as characterized from the earlier review of Articles 2 and 10 of the Agreement. Again, they need not be entirely in-house. However, it must be emphasized that, for sustainability and effectiveness considerations, a core competency in various fields of expertise must be internal to the Secretariat. Cost consideration should not be a constraining factor. A 2001 Global Coalition for Africa (GCA) report emphasizes this point: “Limitations on the efficiency and effectiveness of the integration institutions themselves [...] are due to inadequate financial resources and inappropriate recruitment systems.”⁷

Moreover, the Secretariat has been assigned a wide range of functions by the Agreement. If it is expected to effectively discharge the entire range of these functions, then the latter would determine its capacity needs, both internal and external. In turn, these capacity needs would determine the Secretariat’s budgetary needs and not vice versa. Otherwise, the functions and their respective outputs would need to be scaled down to where they would fit the budget.

5. Grouping the Functions into Departmental Units

The recommended organizational structure for the Secretariat consists of one department to manage the internal operations of the Secretariat and others to serve its clients (the other SACU organs) and to manage its responsibilities towards the implementation of the Agreement. The term department is used here generically. The term used by the Secretariat is “directorate.”

Secretariat Affairs

a. Corporate Department

As indicated above, this department will serve the internal needs of the Secretariat:

- Human resource management and development;
- Financial management;

⁷ Regional Integration in Sub-Saharan Africa, Toward Rationalization and Greater Effectiveness, GCA/EC/02/4/2001, page3.

- Communications management;
- Clerical;
- Secretarial;
- Custodial; and
- Other needs.

On the other hand, the following departments will serve to manage the Secretariat's functions as mandated by, and towards the implementation of, the Agreement.

SACU Affairs

b. SACU Administration Department

This department will group all the functions that are of an administrative nature, are specific to SACU-related matters, and mainly concern the non-policy logistical implementation aspects of the Agreement:

- The “day-to-day” administration of SACU (keeping in mind the observation made earlier regarding the ambiguity of this function);
- Coordinating and monitoring the implementation of the Council and Commission decisions;
- Secretarial (meetings, conferences, minutes);
- Record keeping (Secretariat as depository of all records of SACU); and
- Book Keeping/Accounting (Common Revenue Pool).

c. Policy Harmonization Department⁸

Of all the functions mandated upon the Secretariat, and assuming it to be one of substance involving policy research, formulation, and proposition, policy harmonization is the most demanding of capacity and expertise. It involves coordinating the convergence of five countries' economic systems.

Harmonizing different sets of policies and institutions is challenging enough where such instruments of economic governance share some affinity. However, where they diverge, to whatever extent, the challenge facing the Secretariat is rendered even more daunting.

Even if the requisite capacity is externally supplemented rather than internally instituted, this department must have a core expertise capable of assessing the quality of the externally commissioned assistance and the substance of its output. Otherwise, it will have to rely on one external source to design the terms of the needed work and to supervise their carrying them out by another external source.

d. Trade & Investment Relations Department

⁸ Or just “Policy Department.”

This department will handle the following functions:

- Trade negotiations;
- Trade facilitation; and
- Investment promotion.

Trade facilitation and trade negotiations are distinct functions, yet they are somewhat related. Trade facilitation involves policy and other measures to streamline the flow of goods along the supply chain in and between countries, SACU members in this case. As pointed out above, facilitation refers to managing a multitude of links that make up the supply chain. Essentially, however, it is aimed at minimizing the transactions costs of moving goods from a point of origin to a final destination. On the other hand, the function of trade negotiations basically refers to negotiating the terms of trade with, and liberalizing trade among, non-SACU countries.

Globalization has come to mean the liberalization of both trade and investment. It is with this in mind that the investment promotion function has been grouped with the trade-related functions. Moreover, often enough, bilateral or multilateral trade negotiations do include matters that govern foreign direct investment.

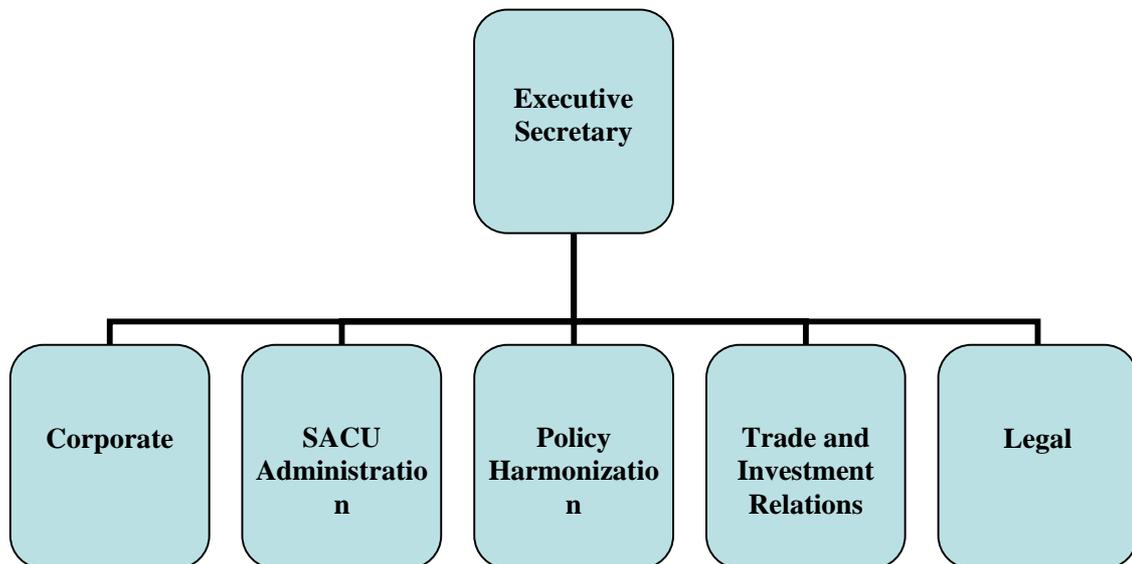
e. Legal Department

It is recommended that this department group all law-related functions and to include the following:

- Competition law;
- International trade law; and
- Legal advice to the Secretariat and other SACU organs.

The administration department will handle what might be called the “logistical” function of the Secretariat, whereas the policy, trade, and legal departments its “transformational” function.

Figure 2 RECOMMENDED INSTITUTIONAL STRUCTURE



6. Staffing Needs Assessment

Discharging functions requires commensurate capacity that reflects the nature and complexity of the functions. A review of the functional responsibilities of the Secretariat provides a capacity needs assessment. Except for the Corporate Department, which is to manage the Secretariat's internal affairs, the personnel listed below are what the functions require, regardless of whether they all should be in-house or partially externally supplemented.

Accordingly, upon further review, the Secretariat may choose to establish a core professional capacity in each of the Departments (except of course the Corporate Department) and supplement it from a variety of external sources, such as local and regional research institutes and think tanks, consulting companies, academia, etc.

a. Corporate Department

- Human resource manager;
- Financial manager/accountant;
- Internal auditor;
- Communications Director;
 - Public relations
 - Private sector relations
 - Donor relations
- ICT specialist;
- Executive assistant to Executive Secretary;

- Secretarial/clerical;
- Custodial; and
- Other.

b. SACU Administration Department

- Coordination/monitoring specialist(s) – (Agreement implementation);
- Financial accountant;
- Data bank specialist(s); and
- Electronic and hard copy filing specialist(s).

c. Policy Harmonization Department

Policy harmonization involves all manners of policy, from health and environment to agriculture and industry, from labor markets to the small business sector, etc. Accordingly, the capacity needs are very extensive.

- Macro economist(s);
- Industrial economist(s);
- Agricultural economist(s);
- Environmental economist(s);
- SME specialist(s);
- Econometrician/economic modeling specialist;
- Statistician; and
- Researchers and other support staff.

d. Trade & Investment Relations Department:

- International trade economist(s);
- International trade law specialist(s); and
- Investment promotion specialist(s).

For ease of reference, Table 1 below links the capacity needs to the departmental functions.

Table 1.

Functional Units	Capacity
Corporate Department	
HR management & development	HR manager
Financial management	Financial manager/accountant; auditor
Communications management	Communications director
Clerical	
Secretarial	Executive assistant to the Executive Secretary
Custodial	
Administration Department	
Day-to-day administration of SACU	? ⁹
Coordinate/monitor implementation of Council & Commission	Coordination/monitoring specialist(s)
Secretarial (meetings, conferences, etc.)	Can be handled by Corporate Department
Record keeping	Database specialist(s)
Book keeping	Electronic & hard copy filing specialist(s)
Policy Department	
Policy harmonization	Macroeconomist(s)
	Industrial economist(s)
	Agricultural economist(s)
	Environmental economist(s)
	SME specialist(s)
	Statistician
	Econometrician/economic modeling specialist
	Researchers & other support staff
Trade & Investment Relations Dept.	
Trade negotiations	International trade economist(s)
Trade facilitation	Specialists in various facilitation aspects
Investment promotion	Investment promotion specialist(s)
Legal Department	
Competition law	Competition law specialist
General law	General law specialist
International trade law	International trade law specialist

⁹ The Agreement does not provide a definition of this function. Obviously, clarification will need to be sought by the Secretariat.

7. Capacity Building Needs Assessment

Once the Secretariat has decided on the size and type of core professional capacity in all its departments, a capacity building assessment will need to be prepared. This assessment can then be used as the basis for preparing a capacity building plan, together with prioritized activities. This plan may serve to solicit support from SACU's cooperating partners and other donors. Alternatively, such donor support may be relied upon to actually conduct the survey and prepare the plan¹⁰.

IV. CONTRASTING THE TWO DESIGNS

The existing organizational structure does not seem to have been based on any specific design criteria. Policy and non-policy functions are grouped together under one departmental unit, such as revenue accounting and trade (Trade Facilitation and Revenue Management Directorate). Capacity needs are underestimated and not commensurate to the mandated functions. The design recommended in this report is based on a systems approach. It starts out with the output of the Secretariat (as indicated by the functions assigned to it), departmentalizes these functions according to a set of criteria, and then assesses the capacity needs to carry out these functions.

V. THE SACU SYSTEM – A WORK IN PROGRESS

1. Operational Infrastructure

It was proposed in the BP that SACU be viewed as an integrated system consisting of three parts: an institutional infrastructure, an operational infrastructure, and a policy framework.

The institutional infrastructure consists of various organs called for in the Agreement, some of which are already in place, such as the Council, the Commission, the Secretariat (albeit in a very limited form), and others under establishment, such as the National Bodies and the Tribunal.

The operational infrastructure consists of procedural guidelines that govern the internal workings of the individual organs (by-laws for example) and the external interaction among these organs (for example the Secretariat vis a vis the Tribunal, the Tariff Board, and the National Bodies). Work on this infrastructure is in progress, albeit so far strictly on the internal guidelines (none yet for the Council and the Commission), and apparently without discernible plans to draw up external operational guidelines.

This missing link may pose difficulties for the Secretariat and impact its effectiveness as a SACU coordinating hub and as it moves to carry out its mandate to monitor and facilitate the implementation of the Agreement.

¹⁰ This plan may, but not necessarily, form a part of a comprehensive capacity building plan for the various SACU organs and member states that was discussed in the 2005-2006 BP.

The 2005-2006 BP raised the point that both the Council and the Commission may want to consider having their own operational guidelines drawn up to facilitate their work. In the absence of such guidelines, inconsistency in decision making may unavoidably result. A case in point is the recent directive to the Secretariat to reconsider the salary structure of its professional staff as provided in the 2005-2006 budget, when this budget had already been approved, thus probably rescinding that previous approval.

2. Policy Framework

It was pointed out in the 2005-2006 Business Plan that the purpose of the institutional and operational infrastructures is to mainly facilitate the development of the policy framework. This section draws on the respective part of the Plan.

For the sake of clarity of exposition and coherent characterization, the objectives as listed in Article 2 of the SACU Agreement are differentiated into two groups: long-term goals and enabling policy objectives. The goals are those for which SACU was indeed established and above all of which is that of economic development, 2(e). The policy objectives, such as facilitating the cross-border movement of goods 2(a) and to create effective, transparent and democratic institutions 2(b), are the enabling means, whose implementation will ultimately help to attain those long-term goals.

SACU's Long-Term Goals

- Economic development;
- Industrialization;
- Economic diversification;
- Competitiveness;
- Regional integration through increased trade and investment; and
- Integration of SACU into the global economy through enhanced trade and investment.

SACU's Enabling Policy Objectives

The attainment of the above goals rests on sustained progress in the development of the following enabling policy objectives:

- Create effective, transparent and democratic institutions to ensure equitable trade benefits to Member States;
- Facilitate the development of common policies and strategies;
- Substantially increase investment opportunities in the Common Customs area; and
- Promote conditions of fair competition in the Common Customs area.

Obviously, the Secretariat's work in developing, and helping to implement, the policy framework, its most demanding and challenging mission, can only begin after the

completion of the institutional and operational infrastructures. Hence, the importance of moving reasonably rapidly on consolidating the latter infrastructures.

Nonetheless, pending the completion of that consolidation, the Secretariat may constructively wish to draw the outline of an operational plan to carry out this transformational function. However, such preparatory work can not proceed until the Secretariat has acquired its full complement of core professional capacity, to be adequately and timely supplemented externally, hence the need for fast-tracking the approval of its professional capacity requirements.

3. Lack of National Focal Points

In the absence of relevant operational guidelines and of a formal protocol to govern the interaction between the Secretariat and the SACU member states, it appears consequential that the Secretariat will have to network with various bodies and agencies within the respective states. This state of affairs can be illustrated with the use of a diagram (Figure 1) that shows the extent of the resulting network and, implicitly, the extent of the commensurate resources utilized.

By contrast, if a national focal point in charge of SACU affairs were to be made available in each member state (Figure 2), with which the Secretariat will directly interact and which will act as national hub for SACU-related matters, a rationalized network will emerge. This would result in more efficient interaction and reduced transactional activity and resources for the Secretariat.

The SACU system calls for setting up a National Body in each member state. According to Article 14 of the Agreement (full text is provided in Appendix 4), the function of these bodies deals mainly with the tariff regime. Expanding the scope and the mandate of these bodies would convert them into national focal points and there would be no need for setting up a new bureaucracy in charge of coordinating SACU affairs in each member state.

With regard to this point, a 2001 Global Coalition for Africa (GCA) report emphasizes that “Many countries do not have a clear and authoritative focal point or ministry for regional integration, although a number of countries mostly in West Africa have recently created ministries responsible for regional integration [...] Where there is no focal point, responsibility is diffuse.”¹¹ The report goes on to recommend that “Governments must designate a single focal ministry/department for regional integration, and create clear mechanisms for the coordination of all departments dealing with integration-related issues.”

¹¹ GCA/EC/02/4/2001, Page 7.

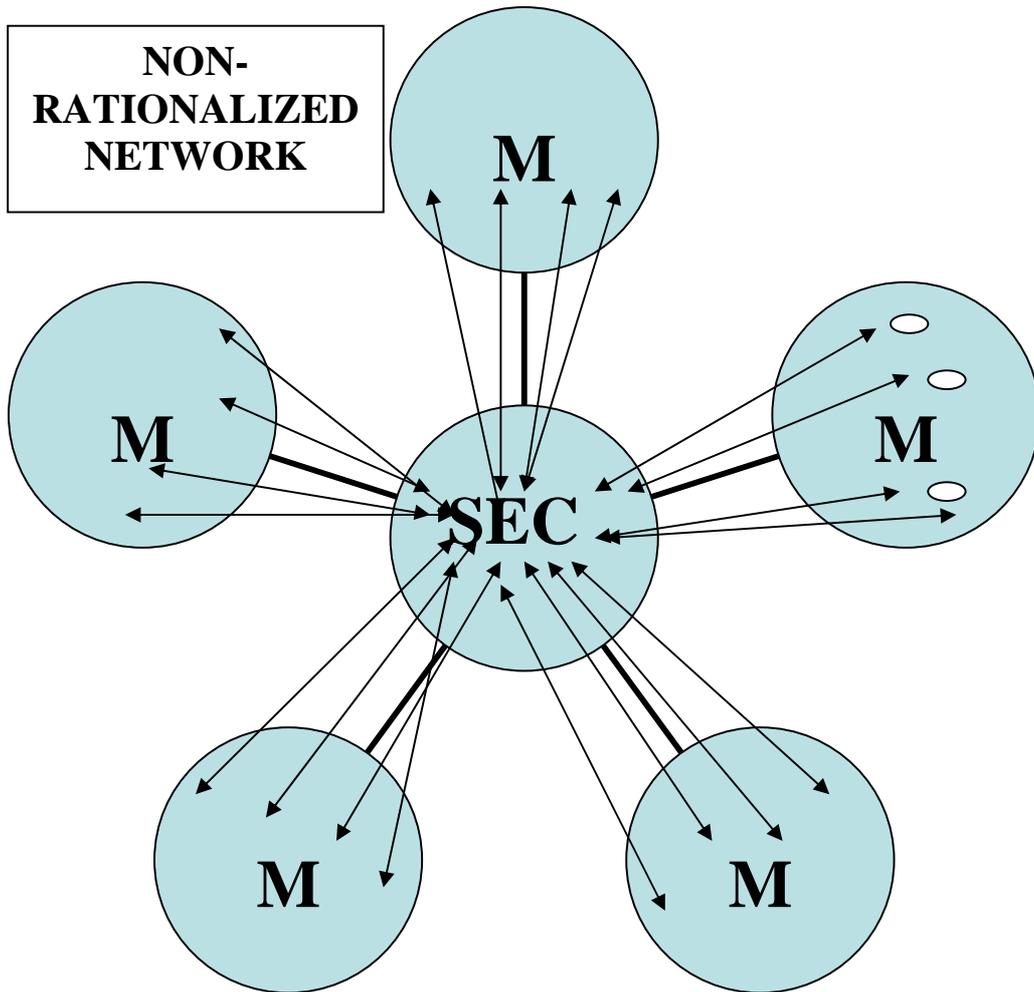


Figure 3 Secretariat networking with member states bodies under current conditions. **M** for member states, **SEC** for Secretariat, and **white ovals** for individual bodies within member states with which Secretariat may need to interact.

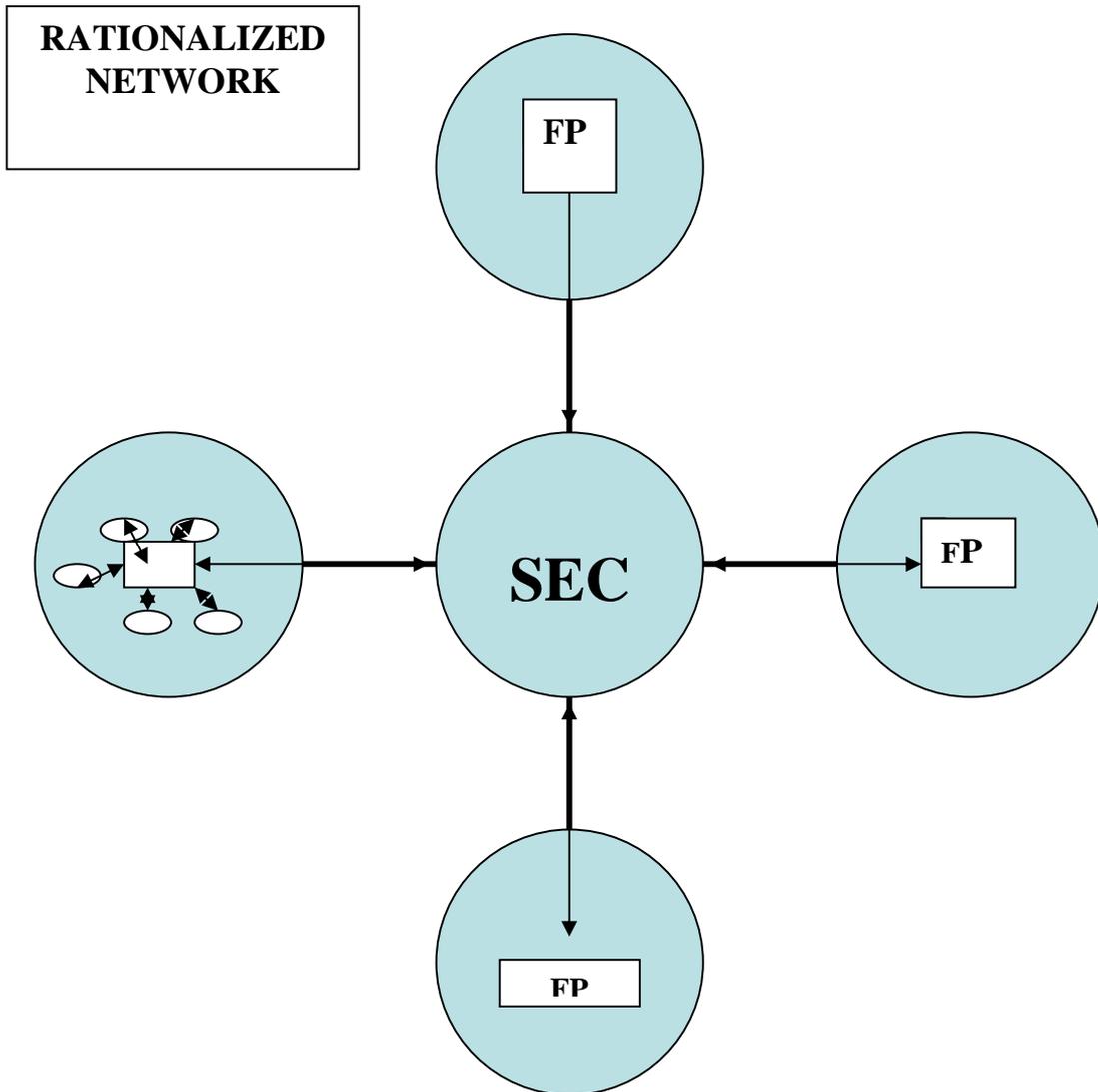


Figure 4 Secretariat networking directly with National Focal Points in charge of SACU affairs. **FP** is for national focal points.

4. The Secretariat in a Catch-22 Situation

In view of the capacity limitations under which it has been laboring, and of the demands placed upon it, in terms of the quantity and type of deliverables, the Secretariat finds itself in a catch-22 situation. It is expected to deliver a certain output, but lacks the commensurate capacity to meet this expectation.

5. Planning and Budgeting for the Secretariat

It presently appears that budgeting drives business planning for the Secretariat, whereas the reverse should actually be the case: planning determines budgeting. The purpose of a budget, admittedly streamlined and rationalized, is to finance activities that have been drawn up according to an approved plan. This latter approach needs to be emphasized through appropriate channels during deliberations on the Secretariat's budget. In this regards, the Secretariat may want to consider adopting the planning, programming, and budgeting (PPB) approach on a rolling basis in order to facilitate long term planning.

Incidentally, as per Article 10(6) of the Agreement, the Secretariat cannot even decide on staff hiring without the prior approval of the Commission: "The Secretariat shall have such other staff [other than the Executive Secretary] as may be determined by the Commission from time to time." In this regard, one corollary observation, although not necessarily logically pursuant, is soon to come to mind: if the Secretariat cannot even autonomously hire personnel according to studied needs, will it be allowed to initiate research and formulate substantive policy proposals

6. The Stakeholders as Advocates of SACU and the Secretariat

Clearly, the stakeholders of the SACU system are the member states. And the direct stakeholders of the Secretariat are the other organs in the SACU system. However, the true stakeholders are the ultimate beneficiaries of this regional integration endeavor, namely the region's population, as represented by various segments of the private sector, the printed and electronic media, and the civil society.

These stakeholder groups need to be reached out to and open lines of communication with them should be maintained. For, many among them (especially those whose constituents would stand to gain from supporting the policy reforms) would constitute natural advocacy groups for the aims of SACU. Equally importantly, they might quite likely act as informal but motivated special interest groups with the potential to provide "incentives" to encourage the relevant decision makers to vigorously pursue those aims¹².

The Secretariat is well positioned to undertake this outreach program. Operationally, the Secretariat's Communication Director (under the recommended Corporate Department) has at least two venues to carry out this program. First, where periodic briefing and dialogue meetings would be held with stakeholder groups in the respective member states. Another, through electronic means via a dedicated, well constructed, user-friendly, and interactive web site, meticulously and regularly updated.

Understandably, the maintenance of such an important form of electronic outreach would require specialized resources, both human and physical, as well as commensurate financial resources to sustain them. An allowance was made for an ICT specialist in the recommended capacity for the Corporate Department who will assist the Communications Director in this regard.

¹² Some may even decide to formally constitute themselves as such.

Also, should the National Bodies be transformed into national focal points, as proposed above, they too would be natural local venues for such an outreach program.

VI. CONCLUSIONS AND RECOMMENDATIONS

Conclusions

1. Institutional Infrastructure

The SACU system is a work in progress. An appreciable progress has been made in the institutional infrastructure. Several organs are in place. Others are in the process of being set up. The implementation of the institutional and operational guidelines infrastructures is proceeding along, albeit at a seemingly slow pace.

The Secretariat, the coordinating hub for all SACU related matters, is handicapped by severe capacity limitations. Understandably, it has so far been preoccupied with its SACU-related clerical and secretarial functions, as a lot of preparatory work needs to be done before the substantive policy work can begin. Such human resources constraints appear to be the major bottleneck towards consolidating its capacity to undertake badly needed planning.

2. Operational Infrastructure

On the operational guidelines front, some procedural guidelines for individual organs have been drawn up. Others are in the preparation stage. None, at this time, are planned for the Council and the Commission. On the other hand, guidelines that define the interaction between the various organs, except where provided for in the Agreement, do not seem to be subject to any sort of planning. This has implication for the coordinating and facilitating work of the Secretariat.

3. Policy Framework

According to the Agreement, the Secretariat is expected to play the important and challenging role of assisting in policy harmonization, trade negotiations, and trade facilitation.

Playing such a role requires a considerable policy analysis and formulation capacity that is beyond the means of the Secretariat, either currently or, it appears, in the near to not so near future. Currently, a considerable, yet understandable, emphasis is placed by the smaller member states on the issues of the revenue sharing formula and the trade data.

The Secretariat has a lot of administrative work ahead to consolidate the institutional and operational infrastructures of the SACU system. A heavy load of coordination and monitoring work will strain the Secretariat's constrained resources and monopolize its attention.

The administrative functions discussed earlier in this report are, relatively, self-explanatory. The policy framework, on the other hand, is fraught with ambiguities and may be subject to conflicting national interests.

Unless the Secretariat is provided with adequate resources and, more importantly, allowed to play (not just to logistically assist) an active and contributive role in policy matters, it may end up becoming a high profile central pool of secretarial and clerical capacity and a monitoring and reporting agent for SACU.

4. Need for Clarification in the Agreement

The smooth and orderly implementation of the Agreement is subject to the clarity of its provisions. Some of the latter would benefit from additional clarification. An example was provided earlier in this report. Other examples mainly concern the Secretariat's future work in the policy aspects of the Agreement.

The administrative role of the Secretariat is clear enough. The assisting/facilitating role is less so. The Agreement is silent on the subject of who is actually to be assisted, especially with regard to policy harmonization and trade facilitation. This may, in due course, be later clarified, and the form of assistance defined. However, until then, the Secretariat cannot see its way to long term planning in these areas.

Alternatively, once its professional capacity is in place, the Secretariat may take the initiative to research this matter and propose respective mechanisms.

5. Budgets Drive Planning at the Secretariat

It appears that, to some extent, the Secretariat has been constrained to tailor its own planning to budget limitations. This has slowed down its formative efforts and much strained its crisis-driven two-person professional staff, the Executive Secretary herself included. This inverted approach constrains planning efficiency and limits the ability of the Secretariat to engage in consistent long term planning.

Recommendations

Clarifying Some Provisions of the Agreement

1. Specify the intent of: "The Secretariat shall be responsible for the day-to-day administration of SACU;"
2. Specify the intent and mechanism of: "The Secretariat shall coordinate and assist in the negotiation of trade agreements with third parties."

3. Specify the intent and mechanism of: “The Secretariat shall assist in the harmonization of national policies and strategies of Member States in so far as they relate to SACU.”

Completing the Operational Guidelines

4. Complete internal operational guidelines for various SACU organs and external guidelines for the entire system.

Expanding the role of the National Bodies

5. Expand the scope and mandate of the National Bodies to where they would serve as national focal points in charge of coordinating all SACU related matters within their respective states.

Proposing an Operational Policy Harmonization Mechanism

6. The Secretariat to take the initiative into researching and proposing an operational mechanism for implementing its “transformational” function of policy harmonization.

Developing a Stakeholders Outreach Program

7. As soon as the means are available, the Secretariat to initiate work on developing the outlines of a physical and an electronic outreach program to its and SACU’s stakeholders.

Recommended Priorities

June/July 2005:

1. Commission a fast-track study on the professional salary structure; and
2. Issue contracts for the recruited directors and facilitate their speedy move to Windhoek.

August/ Septemebr 2005:

1. Advertise for the rest of the budgeted professional and support staffs;
2. Conduct orientation workshops for the incoming Directors into the SACU agreement and the institutional and operational dimensions of SACU, along the lines of the system defined in this report and in the Business Plan: the institutional and operational infrastructures and the policy framework;

3. Conduct discussion sessions on the functions assigned to the Secretariat in Articles 2 and 10 of the Agreement;
4. Familiarize the Directors with the Secretariat's Business Plan for the 2005-2006 financial year and the program of planned activities.
5. Conduct extended workshops on, and train the professional staff in, the mechanics of strategic planning, including SWOT analysis and the planning and monitoring tool of Logical Framework Analysis (Logframe); and

September/October 2005

1. Workshops on preparing a strategic plan for the Secretariat as a whole;
2. Workshops on preparing individual Directorate strategic plans that are integral to the Secretariat's strategic plan; and
2. Workshops on developing individual Directorate prioritized actions plans based on the respective strategic plans.

APPENDIX 1

SACU AGREEMENT

Article 10

The Secretariat

1. The Secretariat shall be responsible for the day-to-day administration of SACU.
2. The Secretariat shall coordinate and monitor the implementation of all decisions of the Council and the Commission.
3. The Secretariat shall arrange meetings, disseminate information and keep minutes of meetings of SACU institutions.
4. The Secretariat shall assist in the harmonization of national policies and strategies of Member States in so far as they relate to SACU.
5. The Secretariat shall be headed by an Executive Secretary who shall be a citizen of a Member State.
6. The Secretariat shall have such other staff as may be determined by the Commission from time to time.
7. The Secretariat shall be responsible for keeping a record of all transactions into and out of the Common Revenue Pool.
8. The Secretariat shall coordinate and assist in the negotiation of trade agreements with third parties.
9. The Secretariat shall perform such other duties as may be assigned to it from time to time by the Council and the Commission.
10. The Secretariat shall be the depository of all records of SACU.

APPENDIX 2

SACU AGREEMENT

Article 2

Objectives

The objectives of this Agreement are –

- a. to facilitate the cross-border movement of goods between the territories of the Member States;
- b. to create effective, transparent and democratic institutions which will ensure equitable trade benefits to Members States;
- c. to promote conditions of fair competition in the Common Customs Area;
- d. to substantially increase investment opportunities in the Common Customs Area;
- e. to enhance the economic development, diversification, industrialization and competitiveness of Member States;
- f. to promote the integration of Member States into the global economy through enhanced trade and investment;
- g. to facilitate the equitable sharing of revenue arising from customs, excise and additional duties levied by Member States; and
- h. to facilitate the development of common policies and strategies.

APPENDIX 3

Secretariat Organizational Structure under Implementation

Proposed Directorates Functions

Directorate: Corporate Services

- Responsible for all administrative functions for the Secretariat:
 - Manage financial resources;
 - Budgeting;
 - Develop and manage human resources;
 - Create and manage human resources strategy;
 - Identify performance competencies;
 - Manage compensation;
 - Plan and forecast workforce requirements;
 - Recruit, select and hire employees;
 - Develop and train employees;
 - Manage labour relationship;
 - Provide general services and procurement;
- Provide conference services
- Develop HIV/AIDS Policy for the SACU Secretariat
- Provides on an ongoing basis legal advice and legal services to the Executive Secretary, Council, Commission and other SACU institutions on the interpretation and implementation of the SACU Agreement; trade negotiations, treaties, protocols and other legal instruments;
- Serves the SACU Tribunal;
- Promotes legal assistance to the SACU institutions as may, from time to time, be required;
- Assists in developing legal capacities and expertise in specific legal areas of concern;
- Facilitates the development, within the Member States, of facilities to enhance information sharing, and to undertake and promote research on legal issues of common concern within the mandate of SACU; and
- Prepares reports to the Council and follow up the decisions of the Council relating to legal matters.

Directorate: Trade Facilitation and Revenue Management

- Promotes free movements of domestic products (free of customs duties and quantitative restrictions) thereby encouraging intra-SACU trade and sustainable market integration [Art. 18.1];

- Encourages cooperation amongst Member States in the application of import restrictions to ensure that economic objectives of any import control legislation are attained [Art. 25,5];
- Monitors the application of measures for the protection of infant industries in Botswana, Lesotho, Namibia and Swaziland [Art.26];
- Facilitates the harmonization and application of product standards and technical regulations within the Common Customs Area [Art. 28];
- Monitors cross-border movement of goods between the territories of Member States [Art. 2 (a)];
- Promotes the application of similar legislation with regard to customs and excise duties in Member States [Art. 22];
- Keeps up-to-dated rates of customs, anti-dumping, countervailing and safeguard duties, applicable on goods imported from outside the Common Customs Area, as approved by Council [Art. 20, 1];
- Monitors that Member States apply identical rebates, refunds or duty drawbacks of customs duties on goods imported within the Common Customs Area [Art. 20, 2];
- Facilitates equitable sharing of revenue arising from customs, excise and surcharge duties levied [Art. 2 (g)];
- Keeping a record of all transactions into and out of Common Revenue Pool [Art. 10, 7];
- Maintains database for trade statistics necessary for the calculation and sharing of the revenue from the Common Revenue Pool.

Directorate: Policy Development & Research

- Facilitates the development of common policies and strategies [Art. 2 (h)];
- Promotes conditions of fair competition in the Common Customs Area [Art. 2 (c)];
- Enhances economic development, diversification, industrialization and competitiveness of Member States [Art. 2 (e)];
- Manages and monitors the implementation of policies and instruments to address unfair trade practices in the Common Customs Area [Art. 41];
- Facilitates substantially increase of investment opportunities in the Common Area [Art. 2 (d)];
- Encourages cooperation amongst Member States in the application of investment incentives;
- Facilitates the simplification and harmonization of trade documentation and procedures, as necessary for customs cooperation;
- Facilitates the development of appropriate measures to ensure that the provisions related to the customs cooperation of the SACU Agreement are effectively and harmoniously applied.

- Serves as a research Directorate in developing competition, industrial, sectoral policies, etc.
- Monitors the impact of FTAs on the member countries economies and on specific economic sectors.

APPENDIX 4

Article 14 of the SACU Agreement

1. Member States shall establish specialized, independent and dedicated National Bodies or designate institutions which shall be entrusted with receiving requests for tariff changes and other related SACU issues. The National Bodies will carry out preliminary investigations and recommend any tariff changes necessary to the Tariff Board.
2. The National Bodies will study, investigate and determine the impact of tariffs within respective Member States and periodically propose such changes as may be deemed necessary and make recommendations to the Commission through the Secretariat. The National Bodies shall adhere to similar procedures in all Member States.
3. SACU will assist Member States with the Establishment of common procedures and technical capacity to ensure effective, efficient and transparent functioning of National Bodies.

Job profile for legal adviser

- 1.1. Research and draft legal opinions on the implementation of the SACU Agreement to ensure that the agreement is upheld.
- 1.2. Administers and manages the implementation of the SACU Agreement by regional trade partners to ensure that implementation does not deviate from the Agreement.
- 1.3. Administers and manages trade agreements with international trade partners to ensure that agreements are complied to.
- 1.4. Researches and drafts legal proposals on responsibilities of member states to ensure that member states comply with international trade obligations.
- 1.5. Administers and manages the certification of legal instruments by regional and international trade partners to ensure that legal aspects are correctly managed.
- 1.6. Provides legal advice on trade negotiations with regional and international trading partners and implementation of subsequent legal agreements to ensure that legal issues have been considered and effectively dealt with by the parties involved.
- 1.7. Monitors developments on national trade legislation of member states and provides recommendations, support and assistance for harmonisation with SACU Agreement.
- 1.8. Coordinates and services SACU Tribunals and SACU Secretariat litigations to ensure that SACU's legal responsibilities, obligations and mandates are effectively protected represented and upheld.