WORKING PAPER

KFG The Transformative Power of Europe

# Regional Powers and Leadership in Regional Institutions:

## Nigeria in ECOWAS and South Africa in SADC

Merran Hulse

No. 76 | November 2016

Freie Universität Berlin

**KFG Working Paper Series**

**Edited by the *Kolleg-Forschergruppe* "The Transformative Power of Europe"**

The KFG Working Paper Series serves to disseminate the research results of the Kolleg-Forschergruppe by making them available to a broader public. It means to enhance academic exchange as well as to strengthen and broaden existing basic research on internal and external diffusion processes in Europe and the European Union.

All KFG Working Papers are available on the KFG website at www.transformeurope.eu or can be ordered in print via email to transform-europe@fu-berlin.de.

Copyright for this issue: Merran Hulse
Editorial assistance and production: Darya Kulinka, Jan Westerbarkei

Hulse, Merran 2016: Regional Powers and Leadership in Regional Institutions: Nigeria in ECOWAS and South Africa in SADC, KFG Working Paper Series, No. 76, November 2016, Kolleg-Forschergruppe (KFG) "The Transformative Power of Europe", Freie Universität Berlin.

ISSN 1868-6834 (Print)
ISSN 1868-7601 (Internet)

This publication has been funded by the German Research Foundation (DFG).

Freie Universität Berlin
Kolleg-Forschergruppe
"The Transformative Power of Europe:
The European Union and the Diffusion of Ideas"
Ihnestr. 26
14195 Berlin
Germany
Phone: +49 (0)30- 838 57033
Fax: +49 (0)30- 838 57096
transform-europe@fu-berlin.de
www.transformeurope.eu

Deutsche Forschungsgemeinschaft
DFG

# Regional Powers and Leadership in Regional Institutions:

## Nigeria in ECOWAS and South Africa in SADC

**Merran Hulse**

### Abstract

Regional powers are not always benevolent leaders when it comes to the building of regional institutions. While powerful states – particularly the "new" rising powers – may have a vested interest in regionalism as a means of projecting influence, regional powers may behave as coercive or benevolent leaders, or alternatively display an absence of leadership altogether. The drivers of varying regional power behavior can be attributed to their competing concerns regarding (economic) power, functional efficiency, international legitimacy, and neopatrimonial networks. This paper explores the varying behavior of Nigeria and South Africa in relation to the institutionalization of free trade areas and regional courts within their respective regions. Nigeria has displayed little leadership in ECOWAS trade integration due to domestic opposition; however, a newly-democratic Nigeria's search for international legitimacy drove the establishment of the ECOWAS Court of Justice. Likewise, South Africa's search for legitimacy drove its support for the SADC Tribunal, but the competing demands of different audiences led it to abandon this support. South Africa has also displayed leadership in relation to the SADC Free Trade Area; however, its neighbors perceive it as a self-interested, almost coercive actor. The findings suggest that the motivations for regional powers' behavior vary across time and policy sectors, and that inconsistent behavior is driven by a change in the priority granted to different drivers.

### The Author

**Merran Hulse** is a researcher at the Department of Governance, Statehood, and Security at the German Development Institute/Deutsches Institut für Entwicklungspolitik (DIE). Prior to joining the DIE, she held first a PhD Completion Fellowship, and later a Postdoctoral Fellowship, at the Free University of Berlin in the KFG "The Transformative Power of Europe." She received her PhD from Radboud University Nijmegen in 2016. Her research interests concern regional governance in Africa, EU-ACP relations, and Economic Partnership Agreements.

**Contents**

## List of Abbreviations

| | |
|---|---|
| ANC | African National Congress |
| CET | Common External Tariff |
| COMESA | Common Market of Southern and Eastern Africa |
| CU | Customs Union |
| EAC | East African Community |
| ECCJ | ECOWAS Court of Justice |
| ECOWAS | Economic Community of West African States |
| EPA | Economic Partnership Agreement |
| ETLS | ECOWAS Trade Liberalization Scheme |
| FTA | Free Trade Area |
| GDP | Gross Domestic Product |
| IMF | International Monetary Fund |
| MAN | Manufacturing Association of Nigeria |
| NANTS | National Association of Nigerian Traders |
| NMCI | National Material Capabilities Index |
| SACU | Southern African Customs Union |
| SADC | Southern African Development Community |
| UEMOA | Union Economique et Monétaire Ouest Africaine (West African Economic and Monetary Union) |

## 1. Introduction[1]

There is a growing body of literature on regional powers – emerging or rising states that clearly dominate their geographic sub-regions and are assumed to strongly influence the nature and contours of regional governance (cf. Pedersen 2002; Nolte 2010; Jordaan 2003). The majority of this literature assumes that these powerful states engage in leadership of their regions: that they take on more than their fair share of the costs of providing regional governance, and do the work of persuading and socializing other states into participating in regional governance structures (Nolte 2010; Schoeman 2003; Burges 2008). In short, they are often assumed to be states that take the lead, and moreover, that such regional power leadership is required for the successful establishment of regional institutions (Mattli 1999).

More recent research has noted that regional powers sometimes fail to live up to the expectations of regional leadership (Prys 2010; Destradi 2010; Schirm 2006). India proved disinterested in cooperating with international partners to resolve conflicts in Sri Lanka in 2000 and 2006 (Prys 2010). Both Brazil and South Africa failed to provide leadership in trade integration as a result of their preference for unilateral economic action (Krapohl et al. 2014). Yet at other times, regional powers have proved both willing and able to tackle political and economic challenges within their region. Nigeria was instrumental in putting together a regional peacekeeping force to end Sierra Leone's civil war in 1990, while Brazil contributed the heavy lifting in the creation of the South American Defense Council in 2008.

The existing literature offers little insight into explaining variation in the behavior of regional powers, and little insight into the apparent puzzle of why regional powers are sometimes benevolent leaders spearheading the establishment of mutually-beneficial regional institutions, at other times "selfish giants" that use institutions to benefit themselves at the expense of others, and in other cases abdicate any leadership role at all. Why would a regional power be a benevolent leader in one sector and a selfish, coercive dominator in another? And in cases in which the regional power displays neither leadership nor domination, how do regional institutions get off the ground, without the driving force of a powerful state? This paper addresses these interrelated questions by investigating the inconsistent behavior of Nigeria and South Africa within their regions. I observe variation between regions, across policy sectors, and over time. A brief empirical investigation of four cases suggests that Nigeria has abdicated any leading role in the Economic Community of West African States (ECOWAS) Trade Liberalization Scheme, and although it has displayed some benevolent leadership in relation to the ECOWAS Court of Justice, it is likely to have influenced the Court's unusual design features in order to protect domestic interests. South Africa's behavior in the establishment of Southern African Development Community's (SADC) free trade agreement verges on coercive and generates high levels of resistance from secondary states. On the other hand, it displayed benevolent leadership in relation to the establishment of the SADC Tribunal, but when the court was challenged by its regional rival Zimbabwe, South Africa failed to exercise leadership in preventing the dissolution of the court.

1 Many thanks to the participants of the weekly KFG Jour Fixe seminars, especially Brooke Coe, Tanja Börzel, Stephano Palestini, Kathleen Hancock, and Jeff Checkel, who all provided valuable criticism on earlier drafts. All remaining shortcomings and errors are my own.

The paper first explores the concept of a regional power and notes that regional powers are not always benevolent leaders invested in the provision of regional public goods. The following section discusses three ideal-types of regional power behavior within the context of regional institutionalization: benevolent leadership, coercive domination, and absence of leadership. The potential drivers of regional power behavior are then discussed in terms of the power, institutional efficiency, legitimacy, and rent-seeking concerns of regional powers. The empirical discussion asks to what extent Nigeria and South Africa fulfill the requirements of regional powerhood, or "power over resources," a precondition for regional leadership. The following section describes the behavior of the two countries in relation to the institutionalization of regional trade agreements and regional courts within their respective regions and explores the potential drivers underpinning their behavior. The findings highlight that regional powers often display highly inconsistent behavior, driven by competing demands originating at the domestic and international levels.

## 2. Regional Powers

At a minimum, a regional power is a state that belongs to a distinct geographic region, has superiority in power capabilities, and exercises some form of influence over the region (Destradi 2010: 908). Much of the literature on the new regional powers goes beyond this minimal definition to include aspects of leadership as part of the criteria states must meet in order to be considered a regional power. Detlef Nolte (2010) claims that a state must articulate a self-conception of having a leading position within the region, articulate a common regional identity, provide collective goods, and act as a representative of regional interests in international fora in order to be considered a regional power. All of these criteria imply a (benevolent) leadership function on behalf of the regional power.[2]

However, a regional power's capacity to lead (i.e., its material dominance) is not the same as its willingness to do so. As Hegemonic Stability theorists have shown, powerful states are sometimes unwilling to provide the leadership required to establish or maintain international institutions, despite having the capacity to do so (Kindleberger 1973; Mattli 1999). Furthermore, the type of leadership provided by powerful states may range from benevolent, self-enlightened forms of leadership to more coercive and exploitative forms (Kindleberger 1973; Lake 1993; Prys 2010; Destradi 2010). Several authors recognize the possibility of variance in the foreign policy behavior of regional powers, and that this is likely to have some effect on the ordering principles of regional orders and attendant institutions (Pedersen 2002; Lake 2007; Destradi 2010).

2 A brief note on the terms "power," "hegemony," and "leadership": Power is the ability of one actor to influence another to do something they would not otherwise do (Dahl 1957), and although power has different "faces," including power-over-resources, power-over-ideas, and agenda-setting power (Lukes 1974), this paper understands power in simple terms as power-over-resources. Following Antonio Gramsci, hegemony implies an ideological dimension; of power-over-ideas, in addition to material power. A hegemon is therefore a materially dominant state that is able to impose its normative vision of global or regional order on others (Lake 2012: 557). Leadership is here understood to involve a state spearheading an international initiative, and convincing others to join (whether via coercive or non-coercive means). Leading states are not necessarily materially powerful states – there are many examples of international initiatives that have been championed by small or middle powers exercising normative power rather than material power. However, materially powerful states often are leading states. Given their material dominance they have a greater potential to exercise leadership, by coercive or non-coercive means, whereas middle/small states do not have the material power to coerce others, only to persuade them.

Yet theoretical and empirical investigations that compare and contrast the varying behavior of regional powers remain somewhat neglected (Prys 2010). We know comparatively little about the drivers of regional power behavior, and why regional powers may opt for leadership in some areas but not others, and what influences their decision to opt for benevolent versus coercive forms of leadership. This paper makes a first cut in addressing this gap.

Regional powerhood rests on having superior material capabilities in comparison to the rest of the region. The empirical fact of material dominance over a particular region does not include any assumption that powerful states ought to or actually do provide leadership within their regions. That said, the external world often perceives powerful states as having a special duty of care towards their sub-regions, and holding the expectation that the regional power should bear responsibility for maintaining peace and stability in its neighborhood (Schirm 2006). Likewise, regional powers often perceive themselves as having a special responsibility for the region and articulate conceptions of having a leading role to play. This may include references to the "special duties" and "responsibilities" of the state, and/or a general sense of exceptionalism (Prys 2010). Powerful states often articulate role conceptions of themselves as leaders of their regions and frequently claim to represent the interests of the region as a whole. Yet such states often fail to "put their money where their mouth is," generating something of an expectations-reality gap (Destradi 2010; Prys 2010).

On a scholarly level, some authors have suggested that the new regional powers (generally understood to include the BRICS and similar rising powers) have a vested interest in regional institutions. Rising powers tend to be revisionist states, favoring reform of existing international institutions so as to better reflect their interests (Jordaan 2003; Nel 2010). Although they are increasingly growing in confidence due to their strong economic growth over the past decade, rising powers are less stable and less assured of their global position than traditional middle powers. They are often beset by internal contradictions, such as unconsolidated democracy, inequality, and corruption, which have the potential to limit their unilateral projection of power (Bello 2014). Participation in regional cooperation can offer such states a means of overcoming their limitations and projecting power "on the cheap." If they can obtain the forced or willing followship of neighboring states, regional powers can "borrow" strength and enhance their international legitimacy with the status of leader of the region. Regionalism can also provide a number of other benefits, such as a ready export market for the regional power's goods; peace and stability effects; access to resources in neighboring states; and a forum for the diffusion of the regional power's ideas, particularly as regards the "locking-in" of specific rules and standards that have been largely determined by the regional power (Pedersen 2002). Regional powers may have an incentive to engage in leading behavior at the regional level, but it's not a given that they will do so, nor is it predetermined what type of leadership behavior they will engage in. The theoretical framework developed in this paper assumes that the behavior of regional powers within the context of regional institutionalization is driven by their varying concerns over the balance of (economic) power, functional efficiency, legitimacy, or – in the case of African powers – the maintenance or expansion of neopatrimonial rent-seeking networks. Different drivers dominate different policy sectors and may change within a policy sector due to domestic reform or external shock, resulting in inconsistent behavior over space and time. Inconsistent behavior may also be the result of competing and conflicting foreign policy goals, which result in a form of "organized hypocrisy" on the part of the regional power.

Regional powers are identified by their material dominance in comparison to other states in the region; by their share of the region's collective GDP, population, and military power (Prys 2010). Using these or similar variables, most authors agree that Brazil, China, Russia, India, South Africa, and Nigeria constitute contemporary regional powers, with Australia, Germany, and Iran also sometimes included (Prys 2010: 486). In this context, a "region" is identified and defined by the presence of a multi-purpose regional organization that consists of three or more states in close geographic proximity, which cooperate to pursue collective aims within the framework of legally codified regional institutions. In this case "Southern Africa" is synonymous with the current membership of SADC and "West Africa" is synonymous with the current membership of ECOWAS.

## 3. Conceptualizing Regional Power Behavior in Relation to Regional Institutionalization

Hegemonic Stability theorists have observed that leadership may be benevolent or coercive (Snidal 1985; Lake 1993). They distinguish between benevolent and coercive leadership in terms of how the costs and benefits of cooperation are distributed among member states, with benevolent leaders bearing a disproportionate share of the costs, and coercive leaders pushing the costs onto others (Lake 1993). Other Hegemonic Stability Theory (HST) inspired approaches have noted that powerful states may abdicate leadership – benevolent or coercive – altogether, becoming indifferent or "detached" powers uninterested in international cooperation (Kindleberger 1981; Prys 2010; Krapohl et al. 2014). Following the work of Sandra Destradi, Miriam Prys, and earlier HST theorists, three ideal-types of regional power behavior are discussed: benevolent leadership, coercive domination, and absence of leadership. In the context of institutionalized regional cooperation, benevolent leadership and coercive domination are a function of how transaction costs, the costs of institutional reproduction, and the benefits of cooperation are distributed among member states. Each type of behavior triggers a response from secondary states, which helps to identify the regional dynamics at play.[3] Benevolent leadership tends to enjoy a degree of legitimacy among secondary states, generating willing followership and low levels of contestation; coercive domination tends to inspire subjugation or resistance and high levels of contestation; while an absence of leadership from a regional power may empower secondary states in their range of foreign policy (if passive disinterest from the regional power), or generate hostile resistance (if active obstruction from the regional power). Therefore, secondary states' perceptions of the regional power are included as an indicator of its behavior (Schirm 2006).

3 "Secondary states" refer to the smaller, less powerful states within a regional power's sphere of influence. They may be genuine or coerced followers of the regional power, and often pose a degree of contestation and opposition to regional powers.

### *3.1 Benevolent Leadership*

According to HST, benevolent leadership involves a powerful state shouldering a disproportionate share of the costs of providing a public good, and therefore benefiting proportionately less than others. This occurs when/if the hegemon has a sufficient interest in the good to provide it unilaterally, without the contributions of others, and can therefore tolerate their free-riding (Snidal 1985). However, HST's understanding of benevolent leadership is confined to the realm of political economy, limits the understanding of a public good to institutions that promote free trade, and interprets the driver of powerful state behavior as pure economic self-interest. Here the concept of benevolent leadership is broadened to include carrying "most of the burdens in the region and [collecting] contributions from secondary states, which are used for the production of common goods" (Prys 2010: 489). Common goods may include regional peace, political and economic stability, environmental accords, regional infrastructure, the creation of a consensus regarding regional issues, even an identifiable regional identity (Prys 2010: 494). Benevolent leadership is characterized by a high degree of commitment and continuity in foreign policy, and the consideration and inclusion of secondary states' interests in regional institutions (Schirm 2006; Pedersen 2002), as well as the distribution of material costs and benefits that is either fair or skewered in favor of secondary states. A regional power exhibiting this type of behavior is largely accepted as a legitimate leader among secondary states, as indicated by freely-given followship (Schirm 2006, 2010). As all states benefit from the provision of the common good, the institutions set up under this style of leadership are considered legitimate and useful by member states, and compliance with its rules and standards should be relatively high, even in the absence of punitive enforcement mechanisms. Democratic regional powers are most likely to display benevolent leadership, as they are accustomed to internal processes of inclusiveness and accountability and are likely to externalize this culture in its regional foreign policy.

### *3.2 Coercive Domination*

Coercive domination involves a powerful state forcing secondary states to bear the majority of the costs in establishing regional institutions as well as commanding and extracting involuntary tributes from secondary states via coercive means such as threat of force and/or other punitive measures (Destradi 2010). The lion's share of the benefits of cooperation accrue primarily and disproportionately to the more powerful state, making coercive domination the hallmark of "selfish" or greedy hegemons. Regional powers who display coercive, dominating behavior are motivated by their own self-interest and give little consideration to the interests of secondary states. Consequently, institutions set up under this form of regional power behavior may resemble private goods more than common ones. Regional powers that opt for coercive domination lack legitimacy among secondary states. Dominance can only be sustained through coercion and imposition, making it, in the long-run, an expensive means of exercising influence over others, as "each application of coercion involves an expenditure of limited social capital and reduces the likelihood that the subject will comply without coercion in the future" (Hurd 1999: 385). Compliance is only grudgingly given, either out of fear or an analysis of the costs of non-compliance. Secondary states are quick to drop their compliance in the absence of effective enforcement mechanisms (Hurd 1999). Domination breeds dissatisfaction among secondary states, which leads to (verbal) resistance, or subjugation if secondary states are too weak to resist (Destradi 2010: 912). Authoritarian states are most likely to display coercive domination of their neighbors, as are states with poor relations with the rest of the region (e.g., Russia in the Eurasian Union, or Apartheid-era South Africa).

### *3.3 Absence of Leadership*

A lack of leadership involves a spectrum of possible behavior, from passive disinterest to active obstruction or undermining of regional institutions. Regional powers may be uninterested in providing the leadership required to establish and maintain regional institutions if they perceive them to be of little benefit. Yet they may nevertheless passively participate in regional cooperation schemes initiated by other actors, if the costs are minor. On the other hand, regional powers may refuse to shoulder any costs at all, however minor, in which case they may become impediments to regional cooperation. At the most extreme, regional powers may actively work to undermine existing regional institutions or obstruct the establishment of institutions proposed by other actors, if they perceive such cooperation initiatives to be a threat to their own interests. If institutions exist where regional powers do not provide leadership, leadership must then stem from elsewhere: either a coalition of willing secondary states, or from extra-regional actors, or perhaps a combination of both. This is where the openness of regional systems comes into play, and in the case of developing regions, external paymasters (donor agencies, external states, international organizations) may play a major role in explaining the existence of regional institutions in the absence of a powerful leading state. Regional powers that fail to display leadership in their regions have been described as detached powers that lack identification with the broader region, such as Israel in the Middle East (Prys 2010); or "Rambos" that defect from regional cooperation in favor of economic cooperation with extra-regional partners, thereby leaving the region without an internal engine to drive cooperation (Krapohl et al. 2014). HST would suggest that under such conditions (unwilling hegemon, willing secondary states) cooperative institutions are unlikely to emerge, as secondary states do not have the resources to provide institutions without the assistance of a powerful state. But where secondary states have outside assistance in bearing the costs of cooperation, it may be possible to have regional institutions without the active involvement of the regional power.

Types of regional power behavior have already been explored on a conceptual level by several authors, but even these authors note that the factors underpinning regional powers' decision-making processes about what type of strategy to pursue remains underexplored (Destradi 2010: 930). The following section makes a first cut at exploring potential drivers of regional power behavior, organized according to their concerns about (economic) power, institutional efficiency, international and domestic legitimacy, and – relevant for the African context – the maintenance and/or expansion of patronage networks.

## 4. Drivers of Regional Power Behavior

### *4.1 Power Concerns*

Drawn from neorealist and HST approaches, this first perspective understands regional power behavior as driven by insecurity in their global or regional position. Regional powers seek to establish regional institutions that reflect their self-interest in maintaining or increasing their share of world power (Rosato 2011). Powerful states may be motivated to build regional institutions in response to a perceived security threat from beyond the region (Walt 1987). The EU's origins in the post-War period can be interpreted as a Franco-German initiative to balance the Soviet Union (Wallace 1995; Rosato 2011), while Mercosur has been understood as a Brazilian initiative to counter US influence in South America (Gomez Mera 2005). Regionalism may also be driven by the perception of economic threat or uncertainty and the regional power's subsequent efforts to maintain or improve its position in the global economy. Walter Mattli (1999) argued that national elites are only willing to cede sovereignty to regional institutions during times of economic uncertainty. This fits with the oft-noted "domino-effect" in regionalism, in which advances in integration in one region causes negative externalities for external states, thereby triggering an integrative response in other regions. Power concerns are likely to drive regional power behavior under conditions of economic or political uncertainty, and where there is a perception among national-decision makers that uncertainty could have negative effects on state interests. In such circumstances, we should expect national decision-makers to articulate a perception that there is an external threat to be addressed, and that regional cooperation is an appropriate solution to the identified threat. Policy-makers are perhaps more likely to adopt a "zero-sum" worldview under conditions of uncertainty (particularly in relation to security threats), making coercive forms of regional leadership more likely.

### *4.2 Functional Efficiency Concerns*

Regional power behavior in relation to regional institutionalization may also be driven by a functional demand from society. In this perspective, the drivers of regional power behavior are located on the domestic level rather than the systemic level. It assumes that states are rational and self-interested actors, but they recognize complex interdependencies with neighboring states and act collectively to solve collective problems. Regional institutions are assumed to satisfy a rational, functional demand, and to be designed accordingly.[4] Understanding state behavior in terms of their concern with institutional efficiency presupposes that processes of globalization and regionalization beyond the control of the state generate a functional demand for regionalism among domestic interest groups. Interest groups then lobby the government, which aggregates

4 Neofunctionalists and neoliberal intergovernmentalists understand state behavior in similar ways; however, they differ somewhat on how regional institutions are designed. Neofunctionalists assume regional powers are not necessarily in control of the design of institutions, and that design is driven by spill-over effects and technocratic authority. The chosen design of institutions reflects the demands of regulatory complexity; therefore, regional powers may adopt designs that do not necessarily reflect their interests, in the name of functional efficiency. On the other hand, intergovernmentalists assume institutional design reflects the interests of those states with the most bargaining power, which typically are those states with a "best alternative to a negotiated agreement" (not necessarily the regional power).

competing societal interests into "the national interest" and acts accordingly, taking into account existing institutional constraints (Moravcsik 1993; Putnam 1988). Interest groups may form transnational alliances to try to bypass national governments, and may form alliances with actors on the regional level in order to pressure national governments into ceding more authority to regional institutions, but ultimately the state remains the primary gatekeeper of integration. In some cases, there may be competing domestic demands, and the balance of winners versus losers is unclear, resulting in inconsistent state behavior. There is perhaps a liberal/Western bias in thinking about states' motivations to participate in regionalism as driven by a functional demand for institutional efficiency. (Semi-)authoritarian regimes with low levels of socio-economic development are less likely to facilitate the mobilization of domestic groups and represent their interests to the same degree as liberal, democratic regimes, and – where neopatrimonialism is prevalent – they are more likely to privilege unrepresentative niche interests over broader societal interests.

### *4.3 Legitimacy and Signaling Concerns*

Legitimacy-based explanations understand the drivers of state behavior as being grounded in actors' subjective beliefs about what is appropriate or morally correct (Mahoney 2000: 523). This perspective understands regional power behavior as driven by their desire to be perceived as legitimate and credible in the eyes of others, to "do the right thing," and enhance their legitimacy by making credible commitments to international norms and standards via regional institutionalization. On the economic side, states may signal their commitment to trade liberalization by setting up a regional dispute settlement mechanism, even if it is rarely used (Korte 2012). The establishment of such institutions can increase a region's legitimacy as a destination for foreign direct investment, thereby encouraging development (Krapohl/Fink 2013). On the political side, newly democratized states may use regional institutions as a means to boost the fragile legitimacy of a new regime and signal commitment to ongoing democratic reform (Pevehouse 2005), thereby reassuring both domestic and international audiences. Legitimacy concerns may explain the establishment of regional institutions in the absence of functional demand or security concerns, and may also explain why authoritarian states sign up for democracy-promoting institutions as an exercise in "regime-boosting" (Söderbaum 2004). The behavior of regional powers is most likely to be driven by legitimacy concerns in the immediate aftermath of processes of domestic reform, either economic or political, and benevolent leadership is the most likely strategy, as it comes with the most legitimacy among secondary states. However, one should keep in mind that the audience for legitimacy can be domestic, regional, or international, and what plays well with one audience may not necessarily play well with another. Inconsistent behavior may therefore be the result of the competing demands of different audiences.

### *4.4 Neopatrimonial Concerns*

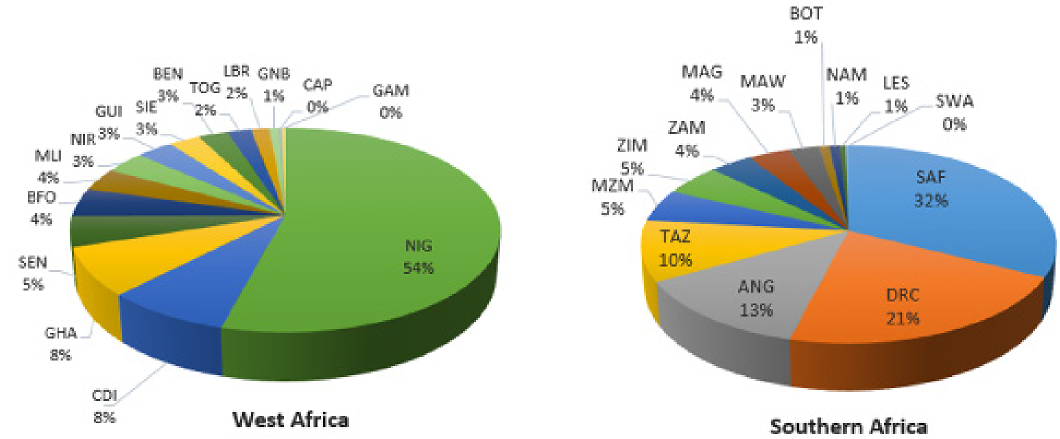
In the African context, state behavior may also be driven by neopatrimonialism and rent-seeking. Neopatrimonialism facilitates the emergence of a "shadow state": informal, commercially-orientated networks that operate parallel to, and often at odds with, government bureaucracies (Reno 1995). The shadow state is controlled by a personalistic leader and does not conform to codified rules, its main aim being to ensure a supply of resources that can be distributed via patron-client networks in order to maintain the office-holder's position of authority. Fulfillment of the obligations of public office is often subordinate to individual office-holders' private interests, and public office is frequently used as a means of accumulating private wealth. The New Regionalisms Approach (NRA) has pointed out that formal regionalism can contribute to the regionalization of the shadow state, creating a shadow region that echoes the shadow state. This occurs when open regionalism encourages liberalization, reducing government revenue and rent-seeking opportunities, and therefore reducing the resources available for patronage. Under such conditions, office-holders are incentivized to use regional frameworks to search for new rent-seeking opportunities in neighboring countries (Söderbaum 2004; Fanta 2008). Regionalism then – like the state – consists of formal, codified institutions, and the accompanying informal networks that constitute the "dark side of regionalism" and which may be detrimental to formal efforts at cooperation. In West Africa, unofficial support to insurgents in neighboring countries has undermined formal efforts to establish regional peace (Fanta 2008), while the decision to include the Democratic Republic of Congo (DRC) as a member of SADC had more to do with opening up new "networks of plunder" for Zimbabwean elites than advancing SADC's formal integration agenda (Maclean 2003). Critical examination of the "national interest" is therefore of the utmost importance, since what is presented as the national interest is often the interests of a niche rentier class or the personalistic interests of relevant decision-makers (Söderbaum 2004). Neopatrimonialism and rent-seeking may be a factor in accounting for the sometimes puzzling or "irrational" aspects of regionalism in Africa and elsewhere. Unusual design features or a lack of implementation may be intended to protect existing patronage networks, while decisions about membership might be motivated more by the search for new rent-seeking opportunities than cultural, political, or geographic affinity.

## 5. Nigeria and South Africa as Regional Powers

Material dominance is a precondition for regional leadership. The material dominance of Nigeria and South Africa in relation to their regions is analyzed using the Correlates of War's National Material Capabilities Index (NMCI) and the IMF's data on Gross Domestic Product.[5] Taking a snapshot view of Nigeria and South Africa's material power in relation to their broader regions reveals that Nigeria is more powerful in West Africa than South Africa is in the southern African region (see Figures 1 and 2). The view over time (1980 to 2014) illustrates that South Africa's relative material power, in terms of both GDP and NMCI, has declined over time, whilst Nigeria's has either remained steady or actually increased in relation to the broader region (see Figure 3). As of 2014, when the Nigerian economy was rebased, Nigeria's share of regional GDP stands at 80 percent of the total, while South Africa's share has decreased steadily since it joined SADC in 1995.

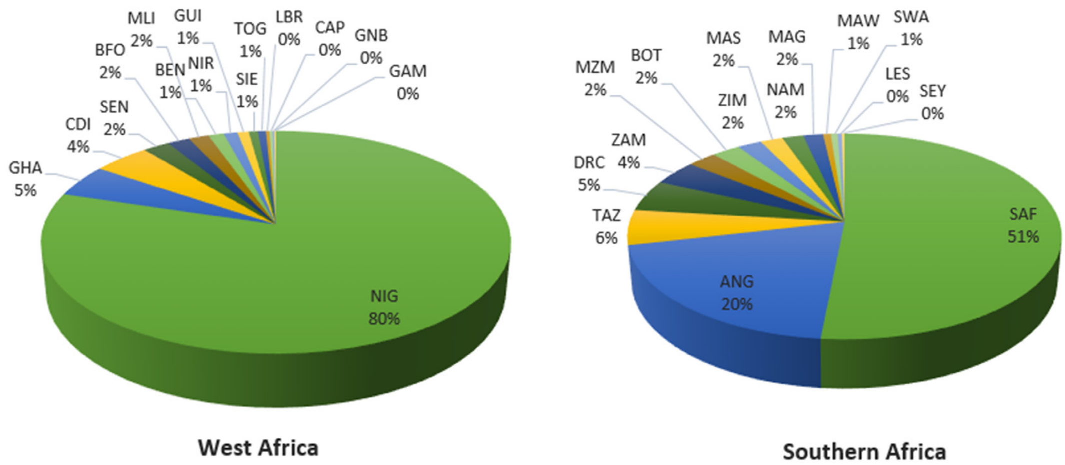
5 The National Material Capabilities Index amalgamates six indicators of material capability: military expenditure, military personnel, energy consumption, iron and steel production, urban population, and total population.

Figure 1: Relative Material Power of Nigeria and South Africa, 2007



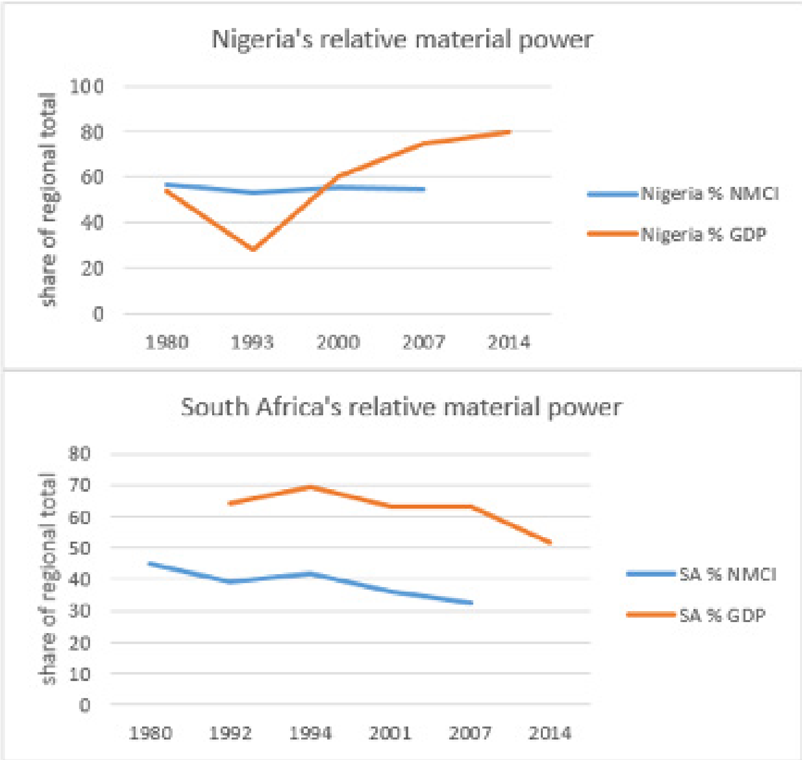

*Source*: Correlates of War Project 2010.

Figure 2: Nigeria's and South Africa's Share of Regional GDP, 2014




*Source*: IMF 2014.

Figure 3: Nigeria's and South Africa's Relative Power, 1980-2014.



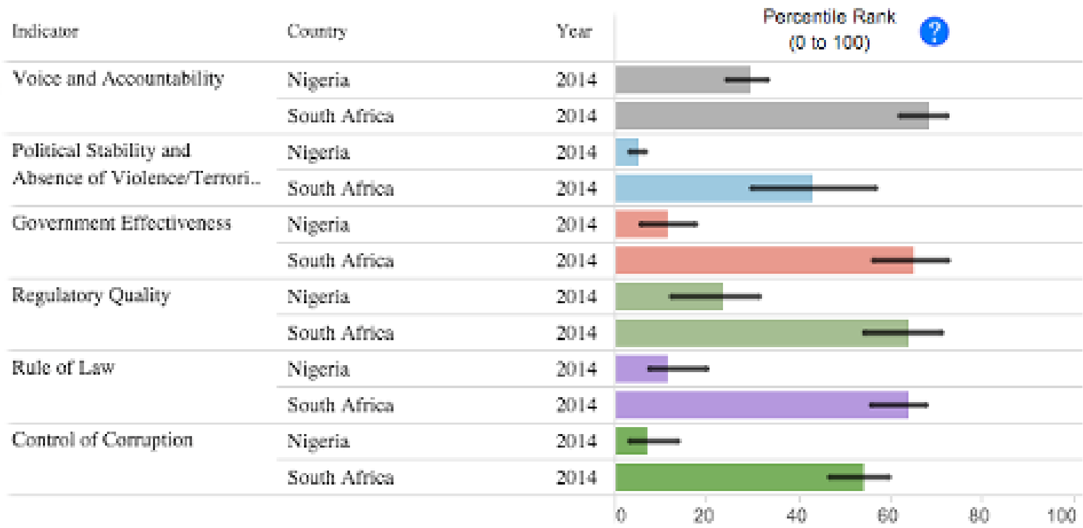

*Source*: Author's compilation based on data from Correlates of War Project (2010) and IMF (2014).

Clearly, both Nigeria and South Africa are materially dominant within their regions. Yet they have historically displayed very different patterns of leadership in their respective regions. Nigeria was uninterested in playing a leading role in West Africa in the immediate post-Independence period. It pursued a regionally-isolated and pro-Western foreign policy, perceiving its neighbors as too small or ideologically radical to be relevant to its own development (Ihonvbere 1991). However, neighboring countries' support to Biafran rebels during the Nigerian Civil War (1967–70) and the failure of Western allies to support the beleaguered government caused Nigerian policy-makers to adopt a more interventionist approach to regional affairs. In the 1970s, Nigerian scholars and policy-makers began to articulate a vision of Nigeria's "manifest destiny" to lead not only West Africa, but also Africa as a whole (Ihonvbere 1991; Adebajo 2000; Bach 2007). Under the leadership of General Yakubu Gowon, Nigerian policy-makers conceived of the idea of a regional economic organization that would encompass the region's Anglophone and Francophone states, would serve as a vehicle for Nigerian interests, and would counterbalance French influence in the region. Neighboring states were initially reluctant to sign up to ECOWAS, but Nigeria's newfound oil wealth was able to finance infrastructure projects, interest-free loans, political donations, and economic investments in neighboring countries, convincing skeptical states to join ECOWAS (Ihonvbere 1991: 519). As such, ECOWAS has always been an exercise in Nigerian hegemony, although the scale and ambition of the country's leadership has fluctuated with its periods of democratic transition and reversal, as well as its economic fortunes. The oil-fueled buoyancy of the 1970s, when ambitious protocols on trade liberalization and the free movement of people were signed, was followed by the economic stagnation and unstable military juntas of the 1980s, which coincided with a period of stagnation within ECOWAS. It was not until the 2000s, after transition to democratic rule under the stewardship of Olusegun Obasanjo, that Nigeria again began to articulate a strong leadership role for itself, both within ECOWAS and the African Union. Nigeria has subsequently played a strong leadership role in ECOWAS' security sector, but the ambition to lead does not extend to trade, where the country has proven to be a difficult and obstructionist actor. Nigeria remains hampered by the systemic corruption and low levels of government efficiency that characterize neopatrimonial regimes (Cilliers et al. 2015, see Figure 4), which may account for seemingly "irrational" or inefficient domestic and foreign policies (Henderson 2015: 131). Therefore, we might expect rent-seeking to be a significant factor in explaining Nigeria's behavior in relation to ECOWAS.

South Africa's leadership ambitions within southern Africa have followed a different trajectory. Apartheid-era South Africa engaged in coercive leadership through the Southern African Customs Union (SACU) and had ambitions to expand its domination of southern Africa through a planned Constellation of Southern African States. SADC itself was never a hegemonic project initiated and driven by a regional power; rather, it was a counter-hegemonic organization explicitly designed to oppose and undermine the dominance of a hostile regional power. As a result of this historical legacy, democratic South Africa avoids making explicit claims to regional or continental leadership, as South African elites are highly cognizant of abstaining from any behavior reminiscent of the Apartheid years (Flemes 2009). Yet clearly South Africa does have leadership ambitions, as evidenced by its promotion of "big ideas" such as the African Renaissance and the New Partnership for Africa's Development (NEPAD),[6] the fiercely fought election of South African diplomat Nkosazana Dlamini-Zuma to the position of chairperson of the African Union, and the recent establishment of the South African Development Partnership Agency. Yet its leadership ambitions are viewed with suspicion in African capitals, and Pretoria is often perceived as an aggressive and self-interested actor pursuing its regional trade agenda. As South Africa is a democratic regional power with a legitimacy-deficit on the African continent, it is perhaps more likely to engage in benevolent regional leadership driven by a legitimacy/signaling logic. As the country performs well on governance indicators (see Figure 4), rent-seeking is unlikely to play a significant role in its regional foreign policy, and it is also more likely to take the demands of domestic interest groups into account in foreign policy-making.

6 The African Renaissance is an intellectual concept advocating Africa's economic, political, and cultural potential, which was championed by Thabo Mbeki during his term in office. Connected to the idea of the African Renaissance, NEPAD is an ambitious plan for Africa's economic development, which formally became a part of the African Union agenda in 2001.

Figure 4: Governance Indicators, Nigeria and South Africa, 2014




*Source*: World Bank Worldwide Governance Indicators.

## 6. Preliminary Case Studies

### *6.1 Nigeria's Behavior in the ECOWAS Trade Integration Agenda: No Leadership*

Although ECOWAS was initiated by Nigeria and originally conceived as an economic integration project (Bach 1983), Nigeria has displayed an absence of leadership in relation to the ECOWAS Trade Liberalization Scheme (ETLS), at times even behaving in an obstructionist fashion. Nevertheless, ECOWAS currently has a free trade area in place and in January 2015 began implementing a customs union, as per the terms of the ETLS. The institutionalization of a Free Trade Area (FTA) and customs union could be considered somewhat surprising in the face of a reluctant regional power, but in this case it can be explained by the agenda-setting influence of the secondary states, in conjunction with external pressure from the EU.

Nigeria repeatedly delayed intra-regional negotiations towards the free trade area and customs union (Olayiwola et al. 2015: 33). The ETLS agenda was first set out in a protocol in 1979, but it was not until 1999 that any significant progress was made, when the ECOWAS Authority adopted a fast-track approach to economic integration. This could not have been adopted without Nigeria's consent, as its size and influence make it a veto-player at meetings of the ECOWAS executive. The Authority's newfound enthusiasm for trade integration seems to have been spurred by the West African Economic and Monetary Union's (UEMOA) progress on its own integration agenda: at that point it was close to finalizing its own external tariff, and Anglophone states, Nigeria included, would have been keen to play "catch-up" to avoid allowing the UEMOA states to determine the baseline for a future ECOWAS-wide external tariff. However, the fast-track initiative was unsuccessful, as UEMOA completed its external tariff in 2000, one year ahead of the ECOWAS timeline. Three years later, UEMOA and ECOWAS embarked on intra-regional negotiations for an

ECOWAS-wide external tariff. Negotiations again floundered for several years due to Nigeria's reluctance to adopt UEMOA's tariff bands as the baseline for the ECOWAS Common External Tariff (CET) (de Roquefeuil et al. 2014: 7; Ukaoha 2008; Udoh 2015). This situation might have continued indefinitely had it not been for parallel trade negotiations with the EU to conclude an Economic Partnership Agreement (EPA). It became obvious that ECOWAS required a CET in order to conclude an EPA that preserved ECOWAS' existing level of integration and official *raison d'être*. Unilateral ultimatums issued by the EU for the conclusion of EPAs by October 2014 forced the ECOWAS agenda. Nigeria had little choice but to agree to adopt the UEMOA tariffs as the basis for the ECOWAS CET in order to reach agreement on the ECOWAS customs union (in January 2014) and the EPA (in February 2014), or else risk the destruction of ECOWAS' trade mandate.

Nigeria may have been cornered into formally adopting regional trade institutions it was not particularly keen on, but that does not mean it has to effectively implement them. Nigeria has the lowest rate of implementation of the ETLS in West Africa. Major impediments to the functioning of the ETLS in Nigeria include:

- The lack of legal recourse for violations of trade and free movement protocols as the ECOWAS Court of Justice does not allow direct access in trade-related issues (more on this issue below);

- The prevalence of corrupt customs officials at border posts to which the Nigerian government either turns a blind eye or actively participates in. The lack of legal redress encourages customs officials to erect illegal roadblocks and demand informal payments from traders, contravening ECOWAS rules (ECOWAS Vanguard 2013). A Chatham House report notes that unofficial "taxation" on cross-border trade has become a "rich source of revenue for patronage networks" within Nigeria's state agencies (Hoffmann/Melly 2015: viii).

- The lack of information and transparency surrounding trader's rights under community law. It is difficult to locate information of national laws and procedures relating to the ETLS. Traders do not have access to information concerning their rights, and the lack of transparency and information contributes to delays and informal payments at control points.

This ambivalence and lack of implementation and enforcement has caused Nigeria's neighbors to become deeply frustrated and disillusioned with the idea of Nigerian leadership. Ghanaian President John Mahama has accused Nigeria of being a "protectionist bully," acting as a barrier to regional trade and development (quoted in Udoh 2015: 34). Likewise, the African Development Bank has called on the country "to play a more prominent role in moving forward the regional agenda with a view to accelerating regional trade" (African Development Bank Group 2013: 8), while European trade partners have also accused Nigeria of impeding the ECOWAS integration agenda, "sitting like an elephant in the middle of the road" of intra-regional and inter-regional negotiations (EU Trade Commissioner Peter Mandelson, quoted in Leadership Nigeria 2007).

Clearly Nigeria does not fulfil a leadership role in trade integration within ECOWAS. The reasons for this are rooted in Nigeria's domestic politics, involving a mix of legitimate opposition from interest groups, and rent-seeking interests. Regional trade liberalization would threaten Nigeria's nascent manufacturing sector, which focuses on producing goods for its large domestic market. Interest groups such as the National Association of Nigerian Traders (NANTS) and the Manufacturing Association of Nigeria (MAN) are well-organized, extremely vocal, and almost universally opposed to trade liberalization, both within the context of ECOWAS and the EPA with the EU (Ukaoha 2008). Furthermore, effective implementation of the ETLS would challenge the systemic corruption that takes place at Nigeria's borders. The beneficiaries of these corrupt practices have a vested interest in lobbying against the removal of trade barriers and in limiting traders' access to information and legal remedies. ECOWAS' integration agenda has instead been driven by the more integrated and liberally-orientated UEMOA states, who have successfully managed to "upload" their standards to ECOWAS. Nigeria cannot fully opt out of ECOWAS trade integration, as doing so would hollow out its own hegemonic project. Instead, it reluctantly participates while employing various formal and informal means to delay or impede the process of liberalization (lack of legal redress, turning a blind eye and/or active collusion in corruption at the border posts). It would appear that Nigeria's ambivalence towards trade integration has even spilled over into other sectors, influencing the design of the regional dispute settlement mechanism, the ECOWAS Court of Justice.

### *6.2 Nigeria's Behavior in Relation to the Court of Justice: (Qualified) Benevolent Leadership*

In many respects, the ECOWAS Court of Justice (ECCJ) is a very progressive and intrusive regional court. It acquired a human rights jurisdiction in 2005 and since then has issued several ground-breaking rulings against member states, including Nigeria, in human rights matters. The Court allows direct access for individuals and NGOs in human rights matters, and is somewhat unusual among other regional courts in that it does not require the exhaustion of domestic remedies (Alter et al. 2013). It is also unusual in another respect: unlike other regional courts that allow individual access, the ECCJ's jurisdiction does not cover economic or trade-related cases. Individual access to the court is restricted to cases concerning human rights only. This is an unusual design feature for a court originally set up as one of the institutions of a purely *economic* organization and one which allows individual access in human rights matters, traditionally a more sensitive and sovereignty-infringing area than trade. Here I argue that the newly-democratizing Nigeria of the late-1990s and early 2000s, in search of greater international legitimacy, drove the operationalization of the court and its expansion into human rights matters. Yet at the same time, Nigeria's ambivalence regarding trade integration resulted in the unusual design feature restricting individual access in trade and economic matters.

The 1975 Treaty creating ECOWAS called for the establishment of a regional court. At this point, ECOWAS was envisaged as a purely economic organization, and the proposed court was not intended to have any human rights jurisdiction. Even the economic rights and freedoms associated with the economic integration that ECOWAS aimed to achieve were not framed in terms of the rights of citizens, in order to avoid any link with human rights (Ebobrah 2010). It was not until 1991 that a protocol for the proposed court was drawn up. The protocol only allowed for inter-state disputes and disputes involving the institutions of ECOWAS and member states regarding the interpretation of community rules. In July 1993, the ECOWAS Authority signed a Revised Treaty, which officially introduced human rights into the ECOWAS mandate, in line with the African Charter. From this point on, there was no doubt that ECOWAS' mandate encompassed more than the initial economic mandate. Subsequent protocols make clear references to human right instruments and use unambiguous rights language (Ebobrah 2010: 4). This expansion of ECOWAS and the court's (future) mandate took place during one of Nigeria's short-lived attempts to transition from military rule to democratic government. After a wave of strikes and protests against military rule, General Babangida was forced to hand power to a transitional government in June 1993. The ECOWAS Revised Treaty was signed the following month, perhaps as part of a signaling exercise to the international community. However, the transitional government was overthrown by a *coup* a few months later, in November 1993, and there were no further developments in the operationalization of the ECCJ until the democratic transition to the Fourth Nigerian Republic in 1999, when Olusegun Obasanjo was sworn in as Head of State. Almost immediately Obasanjo sought to repair Nigeria's international reputation, damaged by years of military dictatorship, by reviving Nigeria's leadership of ECOWAS and getting the long-planned court off the ground (Iliffe 2011; Alter et al. 2013). It was only after this point that the ECCJ actually became operational. A building in Abuja was found, a budget assigned, and judges sworn in by January 2001.

The court's first case, *Afrolabi vs Nigeria*, was lodged in 2003. It was brought by a private trader against the government of Nigeria, who alleged that Nigeria had violated ECOWAS rules on the free movement of goods and people by allowing the collection of illegal tolls by government officials at border posts. The Nigerian government challenged the court's jurisdiction in the matter, on the grounds that existing protocols did not allow for individual access to the court. According to legal experts, the judges could have made an expansive reading of the relevant protocols to expand their jurisdiction and rule on the matter (Ebobrah 2010); however, they opted for a cautious approach and strict reading of the existing provisions, eventually dismissing the case. Subsequently, the President of the court called for the court's jurisdiction to be expanded to enable individual access (Banjo 2007). Accordingly, in November 2004, the ECOWAS Authority considered draft amendments to the Court Protocol, and as a result, a Supplementary Protocol was adopted three months later. The Supplementary Protocol allowed for individual access and an explicit human rights mandate. Surprisingly, the 2005 reform of the court did not allow individual access for private traders. Alter et al. (2013) note that Nigeria raised no objection to the inclusion of a human rights jurisdiction for the court, but the fact that "states declined to extend private litigant access to economic cases […] suggests a careful choice about which types of suits private litigants would be permitted to file" (Alter et al. 2013: 776). The decision means that private traders have no legal recourse to challenge their government's failure to implement the ETLS, and that patronage networks that benefit from cross-border corruption remain intact.

It would appear that Nigeria displayed some benevolent leadership in relation to the court. The operationalization of the ECCJ preceded in fits and starts alongside Nigeria's uneven democratization process, most likely driven by the country's search for enhanced legitimacy as an African leader. Yet it is also likely that Nigeria influenced the design of the court so as to restrict access in areas that could threaten domestic rent-seeking interests, making for qualified benevolent leadership behavior.

### 6.3 South Africa's Behavior in SADC Trade Integration: Coercive(ish) Leadership

South Africa has undoubtedly been the driving force behind SADC's free trade area (Mansfield/Milner 2012; Krapohl et al. 2014). However, its leadership is perceived as self-interested and subject to a significant degree of resentment and resistance from neighboring states, which has manifested in overlap and conflict with the Common Market for Eastern and Southern Africa (COMESA), a rival trade integration project championed by Zimbabwe. SADC lacked a concrete integration agenda until South Africa joined the organization in 1994. Almost immediately after joining, South Africa tried to address the overlap problem by pressuring states that were members of both SADC and COMESA to "exercise their sovereign right to withdraw from COMESA," as COMESA was deemed "too politically, economically and culturally diverse, making it too complex and unwieldy to manage" (SADC 1994: 15). In September 1995, at South Africa's insistence, the SADC Summit declared dual membership of SADC and COMESA incompatible (Gibb 1998). Lesotho and Mozambique announced their intention to withdraw from COMESA starting 1997, while Tanzania (2000), Namibia (2004), and Angola (2007) withdrew from COMESA at a later date. However, Madagascar, Malawi, Mauritius, the Seychelles, Swaziland, Zambia, and Zimbabwe retained their membership of both SADC and COMESA.

In August 1996, the African National Congress (ANC) government adopted its very first foreign policy document, entitled "A Framework for Cooperation in Southern Africa." It envisaged a high degree of economic cooperation and joint planning to lead to the integration of southern Africa (Amos 2010). That same month, South Africa was elected Chair of SADC for a three-year term, and the SADC Trade Protocol was signed. The Protocol entered into force in January 2000, after ratification by eleven member states, and implementation began several months later. Progress, however, was slow, and in 2006, the SADC Summit convened in Johannesburg to review SADC's integration efforts. South Africa reportedly pushed for measures to accelerate the pace of integration, promoting a "fast-growth, big-push model" (Landesberg 2015: 127). The minimal condition of 85 percent liberalization was met in 2008, and the FTA was fully realized in 2012 after the phase-down period for sensitive goods was completed. Somewhat surprisingly, the FTA was achieved within the scheduled time frame, driven mainly by SACU and South Africa's offer of tariff-free access to the SACU market to other SADC members, while other SADC states retain tariffs on South African goods (Sandrey 2013). However, SADC's trade integration has not been able to progress past the FTA stage. Little progress has been made on the planned customs union, which was originally scheduled for completion in 2010.

South Africa's changing role within the SACU should also be considered part and parcel of SADC integration. The original organization was a colonial, and later Apartheid-era construct designed to benefit South Africa by providing a captive market for its uncompetitive manufactured goods. In the 1990s, a newly democratic South Africa agreed to democratize the SACU Agreement and compensate Botswana, Lesotho, Swaziland, and Namibia for SACU's deindustrializing effects by providing them with a disproportionate share of the revenue generated by SACU. This could be interpreted as a move from coercive to benevolent leadership, but South Africa is still perceived as a self-interested actor that blocks the implementation of policies and institutions (such as a tariff board and tribunal) intended to grant smaller states a voice in SACU policy. Furthermore, in 1999, South Africa unilaterally entered into trade negotiations with the EU without consulting the other members of SACU, which eventually allowed European goods to enter their markets "through the backdoor." As a result, whatever leadership South Africa does display in regional trade liberalization tends to be perceived as being more about capturing a greater market share for the competitive sectors of its economy, rather than promoting genuine economic development in the region. Many states are unwilling to follow South Africa into regional arrangements that they fear will create a greater economic reliance on South Africa (Draper et al. 2007). Many states were reluctant to sign up to the FTA, and when it did not result in immediate increases in intra-regional trade, many began to renege on the terms of the agreement and started to erect non-tariff barriers to trade (Wentworth n. d.).

So while South Africa has both the ability and willingness to lead the region on trade matters, neighboring states perceive South Africa as a self-interested actor that does not have their best interests at heart. Many SADC states fear a South African "takeover" of their domestic economies, and already South African companies have spread first to SACU and more recently to Angola, Malawi, Mozambique, Zambia, and Zimbabwe (Amos 2010). Furthermore, the liberalization and free-market principles of the SADC trade agenda present a threat of deindustrialization in some countries, especially Zimbabwe and Zambia. Unsurprisingly, it has often been Zimbabwe spearheading COMESA's rival integration agenda. Its competing customs union was launched in June 2009, under the chairmanship of Robert Mugabe, despite some COMESA member states expressing they were not adequately prepared for the customs union (Lusaka Times 2009).[7] This is indicative of the "hedging strategies" on the part of some member states to influence how the integration agendas of the various regional initiatives turn out, leading to "a regional race to consolidate customs unions in the region" (Draper et al. 2007: 17). South Africa is still trying to consolidate and harmonize the various overlapping integration agendas within southern Africa. It appears to be the driving force behind the SADC–COMESA–East African Community (EAC) Tripartite Alliance, which aims to harmonize the various initiatives with the eventual aim of constructing first an FTA, then a customs union, that stretches from Cape Town to Cairo. The priorities of the Tripartite Alliance mirror those of South Africa's own policy documents, including the New Growth Path, the National Development Plan, and the Industrial Policy Action Plans (Wentworth n. d.), but whether its leadership can prevail in the face of substantial resistance from secondary states remains to be seen.

### *6.4 South Africa's Behavior in Relation to the SADC Tribunal: First Benevolent Leadership, then no Leadership*

Provision for the SADC Tribunal was first made in the 1992 Treaty which transformed SADCC[8] into SADC. South Africa was not a member of SADC then, and therefore was likely not involved in this initial decision on dispute settlement. At the time, member states were concerned about the potential erosion of national sovereignties by the court, and the Summit agreed internally that the court would be one of "the central *intergovernmental* organs of the community" (SADC Council of Ministers 1992, quoted in Lenz 2012). At this point, the court was intended for inter-state disputes only. Eight years later, in August 2000,

7 The EAC countries dropped out of the COMESA customs union shortly afterwards in order to form their own customs union.

8 Southern African Development Coordination Conference (SADCC).

the Protocol on the SADC Tribunal was signed, and essentially copied the design of the European Court of Justice (Fanenbruck/Meissner 2015). By this point, the right of individual access was included as a central design feature, going well beyond the inter-state dispute settlement mechanism originally envisaged.

Available evidence suggests that the decision to adopt such a sovereignty-infringing design for the Tribunal was spurred by the desire to obtain greater legitimacy in the eyes of external donors and investors and to attract more donor funding (Lenz 2012). It is worth noting that the Tribunal Protocol entered into force in a manner that deviated from SADC's usual procedure. Observers felt that the Tribunal Protocol might never obtain the number of ratifications required to enter into force, so the decision was taken that the Tribunal Protocol would automatically enter into force alongside SADC's 2001 Revised Treaty. Although there is no concrete evidence confirming South Africa's particular involvement in these decisions, it should be pointed out that the early 2000s were a time at which South Africa was pursuing its big foreign policy ideas (the African Renaissance, NEPAD). A regional court with individual access and a potential mandate in human rights would have fit with the Mbeki government's stated support for good governance, the rule of law and promotion of human rights.

Perhaps more surprising is South Africa's role in the suspension of the Tribunal after it had made several rulings against Zimbabwe's land reform program. Incensed by the Tribunal's rulings, Mugabe went on the offensive to have the court disbanded, even in the face of two reviews confirming the legality of the court's establishment and the validity of its rulings against Zimbabwe (Hulse/van der Vleuten 2015). As the most powerful state in the region, and one which claims support for the rule of law and human rights as a cornerstone of its foreign policy, South Africa could have exercised its veto power to prevent the suspension of the Tribunal. South Africa's Deputy Justice Minister, Andries Nel, stated in April 2010 that

> *The South African Government is proud of, and unequivocal in our principled support for the SADC Tribunal as a legitimate constitutive institution of SADC and believe that it should be accorded all the support and respect needed to fulfill its functions. It is my contention that if we are to succeed in the various regional development matters, we must first and foremost ensure that justice is the bedrock of all our institutional frameworks [...] We must at all times safeguard jealously those institutions that we collectively have created (quoted in Fanenbruck/Meissner 2015: 14).*

However, the South African executive failed to exercise leadership in preventing the suspension of the Tribunal. South African President Jacob Zuma reportedly left the Summit meeting at which the decision to disband the Tribunal was taken, and raised no objection to its suspension and redesign. South Africa's refusal to defend the Tribunal can be explained partly by its difficulty in exercising regional leadership due to its past, and partly by South Africa's domestic politics, both of which relate back to the Tribunal's ruling on politically sensitive land reform issues. Mugabe is regarded as one of the heroes of the Liberation struggles, and South Africa's former position as a pariah state, whose current leadership owes a symbolic debt to neighboring countries due to the destabilization they suffered at the hands of the Apartheid government, makes it nigh impossible for South Africa to openly criticize Mugabe (Hulse 2012). Secondly, domestic support for land reform is high in South Africa, and break-away parties from the ANC have expressed frustration with the slow rate of South African land reform, and support a Zimbabwe-style "fast-track" appropriation of land. Condemning Mugabe's actions and supporting the Tribunal might have risked fueling domestic frustrations with land reform and undermining the ANC's popular support. South Africa's behavior in relation to the Tribunal can be understood in terms of the competing demands for legitimacy in the eyes of international, regional, and domestic audiences. What plays well with an international audience (enforcing the rulings of a regional human rights court) may not play well with domestic and regional audiences, and illustrates that regional powers at times have to strategically choose which audience to cater to.

## 7. Conclusion

This paper illustrates that regional powers display inconsistent behavior in relation to regional institutionalization (see Table 1). Contrary to the implicit assumptions of much of the literature on regional powers, regionally dominant states do not always play a benevolent leadership role in their regions. Nigeria displayed an absence of leadership in relation to the ECOWAS Trade Liberalization Scheme, by delaying negotiations, preventing the proper implementation of the agreement, and preventing access to legal remedies. Its reluctance to engage with the ETLS is driven by domestic opposition to regional trade integration, but nevertheless legitimacy concerns drove Nigeria to reluctantly sign up to both the FTA and the CET, the establishment of which was driven by secondary states and supported by the EU. Nigeria displayed more benevolent leadership in the establishment and operationalization of the ECOWAS Court of Justice, driven by the newly democratic regime's search for international legitimacy. However, the government may have influenced the court's unusual design features in order to protect networks of patronage within state agencies. South Africa has undoubtedly been a leader in relation to SADC's trade integration; however, it is perceived as a selfish and self-interested actor by secondary states. Its behavior in this realm is most likely driven by the country's strong business interests and a mercantilist approach to growing the South African economy. On the other hand, a newly democratic South Africa in search of international legitimacy may have facilitated the establishment and operationalization of a regional court with individual access and a potential human rights mandate.[9] However, it failed to protect the Tribunal when it was challenged by Zimbabwe, in order to retain legitimacy before regional and domestic audiences. The empirical findings in the four cases suggest that the behavior of regional powers in relation to regional courts seems to be motivated by regime change at the domestic level and the subsequent desire to signal a credible commitment to democracy, rule of law, and human rights, via the establishment of regional courts. However, as the case of the SADC Tribunal illustrates, different audiences may have different requirement for legitimacy, resulting in apparently inconsistent behavior when the demands of different audiences' clash. Regional power behavior in relation to trade integration is driven more by domestic interest groups and external (economic) pressures, both from secondary states within the region, and extra-regional actors.

9 More detailed investigation of the establishment and operationalization of the Tribunal is required in order to determine South Africa's exact role in the drafting of the protocol and the revised Treaty which brought the Tribunal to life without ratification by member states.

Table 1: Cases

| Case | Behavior of regional power | Most relevant driver(s) |
|---|---|---|
| ECOWAS Trade Liberalization Scheme | Absence of leadership | Functional efficiency<br><br>Rent-seeking |
| ECOWAS Court of Justice | Benevolent leadership (qualified) | Democratization of Nigeria and signaling/legitimacy<br><br>Rent-seeking |
| SADC Free Trade Area | Leadership, but unclear if benevolent or coercive | Functional efficiency<br><br>(Economic) power concerns |
| SADC Tribunal | Benevolent, then absent during anti-Tribunal campaign | Signaling/legitimacy (among different audiences) |

*Source*: Author.

The empirical analysis presented here is far from exhaustive, and more research into the financing and distribution of the costs and benefits of regional institutions is needed in order to more accurately categorize the behavior of regional powers, and the influence of the identified drivers in determining state behavior. Yet the findings illustrate that in both regions, the regional power faces challenges and resistance to its leadership attempts. Particularly in the realm of trade, secondary states fear domination by strong states, and in both cases have formed competing/overlapping regional initiatives intended to position them as "rule-makers" rather "rule-takers." In ECOWAS, this strategy on the part of Francophone states has been successful, as they have been able to upload their pre-existing common external tariff bands to the wider region, regional power included. One doubts this is possible in southern Africa, not least because South Africa is already part of SACU and is highly unlikely to agree to align SACU's tariffs to those of rival COMESA in order to create a SADC common external tariff. In any case, South Africa has proved itself unwilling to delegate authority to rule on SACU's tariffs to a supranational agency such as a tariff board. Both cases illustrate the relevance of rivalry and followship from secondary states in facilitating regional institutionalization, and suggest that secondary states play a stronger role than commonly assumed by realist understandings of regionalism.

## References


*Adebajo, Adekeye* 2000: Nigeria: Africa's New Gendarme? in: Security Dialogue 31/2, 185–199.

*African Development Bank Group* 2013: Federal Republic of Nigeria: Country Strategy Paper 2013-2017, in: https://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Nigeria%20-%202013-2017%20-%20Country%20Strategy%20Paper.pdf; 4 April 2016.

*Alter, Karen/Helfer, Laurence/McAllister, Jacqueline* 2013: A New International Human Rights Court for West Africa: The ECOWAS Community Court of Justice, in: American Journal of International Law 107/4, 737–779.

*Amos, Saurombe* 2010: The Role of South Africa in SADC Regional Integration: The Making or Braking of the Organization, in: Journal of International Commercial Law and Technology 5/3, 124–131.

*Bach, Daniel* 1983: The Politics of West African Economic Co-Operation: C.E.A.O. and E.C.O.W.A.S., in: The Journal of Modern African Studies 21/4, 605–623.

*Bach, Daniel* 2007: Nigeria's 'Manifest Destiny' in West Africa: Dominance without Power, in: Africa Spectrum 42/2, 301–321.

*Banjo, Adewale* 2007: The ECOWAS Court and the Politics of Access to Justice in West Africa, in: Africa Development XXXII/1, 69–87.

*Bello, Walden* 2014: The BRICS: Challengers to the Global Status Quo, in: Foreign Policy in Focus, http://fpif.org/brics-challengers-global-status-quo/; 29 November 2015.

*Burges, Sean* 2008: Consensual Hegemony: Theorizing Brazilian Foreign Policy After the Cold War, in: International Relations 22/1, 65–84.

*Cilliers, Jakkie/Schünemann, Julia/Moyer, Jonathan* 2015: Power and Influence in Africa: Algeria, Egypt, Ethiopia, Nigeria and South Africa, in: African Futures Paper No. 14, March 2014, Pretoria: Institute for Security Studies.

*Correlates of War Project* 2010: National Material Capabilities, in: http://cow.dss.ucdavis.edu/data-sets/national-material-capabilities/national-material-capabilities-v4-0; 25 October 2016.

*Dahl, Robert* 1957: The Concept of Power, in: Behavioral Science 2/3, 201–215.

*Destradi, Sandra* 2010: Regional Powers and Their Strategies: Empire, Hegemony, and Leadership, in: Review of International Studies 36/4, 903–930.

*Draper, Peter/Halleson, Durrel/Alves, Philip* 2007: SACU, Regional Integration and the Overlap Issue in Southern Africa: From Spaghetti to Cannelloni?, Johannesburg: South African Institute of International Affairs.

*Ebobrah, Solomon* 2010: Critical Issues in the Human Rights Mandate of the ECOWAS Court of Justice, in: Journal of African Law 54/1, 1–25.

*ECOWAS Vanguard* 2013: The ECOWAS Trade Liberalization Scheme: Genesis, Conditions and Appraisal, January 2013, Abuja: NANTS.

*Fanenbruck, Christina/Meißner, Lenya* 2015: Supranational Courts as Engines for Regional Integration? A Comparative Study of the Southern African Development Community Tribunal, the European Union Court of Justice, and the Andean Court of Justice, in: KFG Working Paper Series No. 66, November 2015, Kolleg-Forschergruppe (KFG) "The Transformative Power of Europe", Berlin: Freie Universität.

*Fanta, Emmanuel* 2008: Politics of (non)integration and Shadow Regionalism in Africa, in: British International Studies Association (BISA) Workshop: New directions in IR in Africa, 9 July 2008, Milton Keynes, UK.

*Flemes, Daniel* 2009: Regional Power South Africa: Co-Operative Hegemony Constrained by Historical Legacy, in: Journal of Contemporary African Studies 27/2, 135–157.

*Gibb, Richard* 1998: Southern Africa in Transition: Prospects and Problems Facing Regional Integration, in: The Journal of Modern African Studies 36/2, 287–306.

*Gomez Mera, Laura* 2005: Explaining Mercosur's Survival: Strategic Sources of Argentine-Brazilian Convergence, in: Journal for Latin American Studies 22/1, 85–98.

*Henderson, Errol A.* 2015: African Realism? International Relations Theory and Africa's Wars in the Postcolonial Era, Lanham, MD: Rowman & Littlefield.

*Hoffmann, Leena/Melly, Paul* 2015: Nigeria's Booming Borders: The Drivers and Consequences of Unrecorded Trade, in: Chatham House Report, December 2015, London: Chatham House.

*Hulse, Merran* 2012: Silencing a Supranational Court: The Rise and Fall of the SADC Tribunal, in: e-International Relations, 25 October.

*Hulse, Merran/van der Vleuten, Anna* 2015: Agent Run Amuck: The SADC Tribunal and Governance Transfer Tollback, in: Börzel, Tanja A./van Hüllen, Vera (eds): Governance Transfer by Regional Organizations: Patching Together a Global Script, Basingstoke, UK: Palgrave Macmillan, 84–103.

*Hurd, Ian* 1999: Legitimacy and Authority in International Politics, in: International Organization 53/2, 379–408.

*Ihonvbere, Julius* 1991: Nigeria as Africa's Great Power: Constraints and Prospects for the 1990s, in: International Journal 46/3, 510–535.

*Iliffe, John* 2011: Obasanjo, Nigeria and the World, Suffolk: Boydell & Brewer.

*International Monetary Fund (IMF)* 2014: World Economic Outlook Database, October 2014, in: https://www.imf.org/external/pubs/ft/weo/2014/02/weodata/index.aspx; 29 October 2016.

*Jordaan, Eduard* 2003: The Concept of a Middle Power in International Relations: Distinguishing between Emerging and Traditional Middle Powers, in: Politikon 30/1, 165–181.

*Kindleberger, Charles* 1973: The World in Depression, 1929-1939, Los Angeles: University of California Press.

*Kindleberger, Charles* 1981: Dominance and Leadership in the International Economy, in: International Studies Quarterly 25/2, 242–254.

*Korte, Annika* 2012: Why Did NAFTA and ASEAN Set up Dispute Settlement Procedures?, in: Tanja Börzel/Goltermann, Lukas/Lohaus, Mathis/Striebinger, Kai (eds): Roads to Regionalism: Genesis, Design and Effects of Regional Organizations, Aldershot: Ashgate, 101–116.

*Krapohl, Sebastian/Fink, Simon* 2013: Different Paths to Regional Integration: Trade Networks and Regional Institution-building in Europe, Southeast Asia and Southern Africa, in: Journal of Common Market Studies 51/3, 472–488.

*Krapohl, Sebastian/Meissner, Katharina/Muntschick, Johannes* 2014: Regional Powers as Leaders or Rambos? The Ambivalent Behaviour of Brazil and South Africa in Regional Economic Integration, in: Journal of Common Market Studies 52/4, 879–895.

*Lake, David* 1993: Leadership, Hegemony and the International Economy: Naked Emperor or Tattered Monarch with Potential?, in: International Studies Quarterly 37/4, 459–489.

*Lake, David* 2007: Escape from the State of Nature: Authority and Hierarchy in World Politics, in: International Security 32/1, 47–79.

*Lake, David* 2012: Great Power Hierarchies and Strategies in 21st Century World Politics, in: Carlnaes, Walter/Risse, Thomas/Simmons, Beth (eds): Handbook of International Relations, London: Sage, 555–580.

*Landesberg, Chris* 2015: Sub-continental Entente: Twenty Years of South Africa's SADC Strategy, in: Masters, Lesley/ Zondi, Siphamandla/van Wyk, Jo-Ansie/Landsberg, Chris (eds): South African Foreign Policy Review: Volume 2, Pretoria*:* Africa Institute of South Africa, 119–142.

*Leadership Nigeria* 2007: Nigeria: EPA – Reasons Why Nigeria Is a Sitting 'Elephant', 18 November, in: http://allafrica.com/stories/200711190348.html; 27 November 2015.

*Lenz, Tobias* 2012: Spurred Emulation: The EU and Regional Integration in Mercosur and SADC, in: West European Politics 35/1, 155–173.

*Lukes, Steven* 1974: Power: A Radical View, Basingstoke: Palgrave Macmillan.

*Lusaka Times* 2009: COMESA Customs Union Launched amid Controversy, in: Lusaka Times, 8 June, https://www.lusakatimes.com/2009/06/08/comesa-customs-union-launched-amid-controversy/; 29 November 2015.

*Maclean, Sandra* 2003: New Regionalism and Conflict in the Democratic Republic of Congo: Networks of Plunder and Networks for Peace, in: Grant, Andrew/Söderbaum, Frederick (eds): The New Regionalism in Africa, Farnham: Ashgate, 110–124.

*Mahoney, James* 2000: Path Dependence in Historical Sociology, in: Theory and Society 29/4, 507–548.

*Mansfield, Edward D./Milner, Helen V.* 2012: Votes, Vetoes, and the Political Economy of International Trade Agreements, Princeton, NJ: Princeton University Press.

*Mattli, Walter* 1999: The Logic of Regional Integration: Europe and Beyond, Cambridge: Cambridge University Press.

*Moravcsik, Andrew* 1993: Preference and Power in the European Community: A Liberal Intergovernmentalist Approach, in: Journal of Common Market Studies 31/4, 473–524.

*Nel, Philip* 2010: Redistribution and Recognition: What Emerging Regional Powers Want?, in: Review of International Studies 36/4, 951–974.

*Nolte, Detlef* 2010: How to Compare Regional Powers: Analytical Concepts and Research Topics, in: Review of International Studies 36/4, 881–901.

*Olayiwola, Wumi et al.* 2015: Economic Integration, Trade Facilitation and Agricultural Exports Performance in ECOWAS Sub-Region, in: Ncube, Mthuli/Faye, Issa/Verdier-Chouchane, Audrey/ lefebure, Molly (eds): Regional Integration and Trade in Africa, London: Palgrave Macmillan, 31–46.

*Pedersen, Thomas* 2002: Cooperative Hegemony: Power, Ideas and Institutions in Regional Integration, in: Review of International Studies 28/4, 677–696.

*Pevehouse, Jon* 2005: Democracy from Above: Regional Organizations and Democratization, Cambridge: Cambridge University Press.

*Prys, Miriam* 2010: Hegemony, Domination, Detachment: Differences in Regional Powerhood, in: International Studies Review 12/4, 479–504.

*Putnam, Robert* 1988: Diplomacy and Domestic Politics: The Logic of Two-level Games, in: International Organization 42, 427–460.

*Reno, William* 1995: Corruption and State Politics in Sierra Leone, Cambridge: Cambridge University Press.

*Rosato, Sebastian* 2011: Europe United: Power Politics and the Making of the European Community, New York, NY: Cornell University Press.

*de Roquefeuil, Quentin/Plunkett, Daniel/Ofei, Frank* 2014: The Impact of Closer Regional Economic Integration on Food Security in West Africa: Focus on the ECOWAS Common External Tariff, in: ECDPM Discussion Paper No. 154, January 2014, Maastricht: European Centre for Development Policy Management.

*Southern African Development Community (SADC)* 1994: Southern African Development Community Record of Summit Held in Gaborone, Republic of Botswana, 29 August 1994, Gaborone: SADC Secretariat.

*Sandrey, Ron* 2013: An Analysis of the SADC Free Trade Area, in: tralac Trade Brief, June 2013, Stellenbosch: tralac.

*Schirm, Stefan* 2006: Leadership in Regional and Global Politics: Why do Emerging Powers (Sometimes) Fail to Reach Their Goals?, in: German Institute for Global and Area Studies (GIGA) Workshop on The Rise of (New) Regional Powers in Global and Regional Politics, 11–12 December 2006, Hamburg, Germany.

*Schirm, Stefan* 2010: Leaders in Need of Followers: Emerging Powers in Global Governance, in: European Journal of International Relations 16/2, 197–221.

*Schoeman, Maxi* 2003: South Africa as an Emerging Middle Power, in: Daniel, John/Habib, Adam/Southall, Robert (eds): State of the Nation: South Africa 2003–2004, Pretoria: HSRC, 349–367.

*Snidal, Duncan* 1985: The Limits of Hegemonic Stability Theory, in: International Organization 39/4, 579–614.

*Söderbaum, Fredrick* 2004: Modes of Regional Governance in Africa: Neoliberalism, Sovereignty-boosting and Shadow Networks, in: Global Governance: A Review of Multilateralism and International Organizations 10/4, 419–436.

*Udoh, Etim O.* 2015: Integration and Politics among West African States: The Nigerian Experience, in: Humanities 1/1, 30–41.

*Ukaoha, Ken* 2008: ECOWAS CET: The Imperatives of Nigeria's Fifth Band, in: Trade Negotiations Insights 7/4, 11–12.

*Walt, Stephen M.* 1987: The Origins of Alliances, Ithaca, NY: Cornell University Press.

*Wentworth, Lesley* n. d.: South African and the Regional Economic Integration Agenda: Priorities and Perspectives, in: http://www.saiia.org.za/doc_view/604-saiia-80conf-pres-day-3-wentworth-regional-economic-integration; 1 December 2015.

**The Kolleg-Forschergruppe - Encouraging Academic Exchange and Intensive Research**

The Kolleg-Forschergruppe (KFG) is a funding program launched by the German Research Foundation (Deutsche Forschungsgemeinschaft - DFG) in 2008. As a Research College, it is intended to provide a scientifically stimulating environment for innovative research within a small group of senior and junior researchers.

The Kolleg-Forschergruppe „The Transformative Power of Europe“ investigates how ideas spread across time and space. During its first phase of research, from 2008-2012, the KFG studied the diffusion of policy ideas and institutions within the European Union (EU), its candidates and neighborhood. During the second phase, from 2012-2016, the KFG realigns its focus of interest on the diffusion of ideas, policies, and institutions beyond Europe (comparative regionalism) and the analysis of the EU at the receiving end of external influences. Its two main research areas are:

- The EU and Regional Institutions in Latin America, Africa, the Middle East and Asia
- Europe and the EU and Recipients of Diffusion

KFG The Transformative Power of Europe