



MOTIVATION SPEECH BY HONOURABLE LIDWINA SHAPWA, DEPUTY  
MINISTER OF JUSTICE

ON THE OCCASION OF THE RATIFICATION OF THE 2014

PROTOCOL ON THE TRIBUNAL IN THE SOUTHERN AFRICA DEVELOPMENT

COMMUNITY

NATIONAL ASSEMBLY

11 NOVEMBER 2015

I rise to motivate the ratification of the Protocol of the SADC Tribunal, in accordance with article 63 (2) (e) of the Namibian Constitution read together with Article 32(3) (e) of the same Constitution.

The SADC Tribunal was created to ensure adherence to, and proper interpretation of the provisions of the SADC Treaty and subsidiary instruments. It also adjudicated upon disputes referred to it. It was established by the Protocol on the Tribunal, which was signed in Windhoek, Namibia during the 2000 Ordinary SADC Summit. The inauguration of the Tribunal and the swearing in of members took place on 18 November, 2005 in Windhoek, Namibia where it was based. In addition to the administrative staff, it also consist of judges appointed from Member States.

The Tribunal was *de facto* suspended at the 2010 SADC Summit. As a general principle of public international law, parties to international treaties are member states or international organizations. In respect of the former Tribunal, individuals and private institutions were granted access to it, a move which did not go well with a number of Member States. On 17 August 2012 in Maputo, Mozambique, the SADC Summit addressed the issue of the suspended Tribunal. The SADC Summit resolved that a new Protocol for the Tribunal for the Southern African Development Community should be negotiated. The Summit further resolved that its mandate should be confined to interpretation of the SADC Treaty and Protocols relating to disputes between Member States, as well as to give advisory opinions on matters referred to it by the Summit.

During the period of suspension of the Tribunal, the Republic of Namibia participated in the negotiations to develop a new instrument which will govern the operations of the new Tribunal. A number of meetings on the suspension and development of the Tribunal were held during the tenure of Namibia's chairmanship of SADC.

On the 18<sup>th</sup> of August during the year 2014, SADC member states signed a new Protocol on the Tribunal in the Southern Africa Development Community at

Victoria Falls, Zimbabwe, on the 18<sup>th</sup> August 2015. On that day, Namibia joined other countries to sign the new 2014 Protocol on the Tribunal.

The budget of the SADC Tribunal shall be funded from the annual budget of SADC.

The new Protocol will enter into force thirty (30) days after the deposit of the instruments of Ratification by two thirds of the SADC member states.

In conclusion, the agreement of SADC member states, to amend the Protocol on the Tribunal to exclude natural and juristic persons from the jurisdiction of the Tribunal is highly commended. In this regard, I would like to acknowledge the contribution made by my predecessors, Honourable Meme Pendukeni Iivula-Ithana and Honourable Utoni Nujoma in this regard. It is testimony of brotherhood and comradeship which exists in the SADC region. Allow me, therefore, Honourable Speaker to request this august house to ratify the Protocol on the SADC Tribunal.

I thank you.