Discussion Paper

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Regionalism in Africa

Contents

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Introduction

There has been a surge in regional trade agreements (RTAs) and regionalism is a heavily debated subject in the contemporary trade policy discourse. This is hardly surprising considering that well over 500 regional agreements with highly varied content and rich array of geographical configurations are in existence. Dozens more of these agreements are in the making. The Trans Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP), are among the innovative Free Trade Agreements (FTAs) being negotiated by the major industrial powers led by the US.

In Africa, the manifestation of regional agreement is also evident. Regional integration in the continent has its roots in the political forces determined by the colonial legacy that resulted in a configuration of geographically artificial states where arbitrary borders coupled with great ethno-linguistic diversity contributed to the continent's high number of conflicts and to its high trade and communication costs.[1]

The continent is sprinkled with varied regional groupings and they are operating at different levels. It is argued that any process that is anchored on a legal basis, whether binding or voluntary, has greater probability of success than those which are not. The Lagos Plan of Action adopted in 1980 by African Heads of States was the first step towards formally recognising the importance of regional integration on the African continent. This in 1991 manifested into the incorporation of express provisions in the Abuja Treaty with the purpose of amplifying and safeguarding the importance of regional integration.

The Abuja Treaty aims to establish the African Economic Community (AEC) gradually through harmonisation, coordination and effective integration of Africa's Regional Economic Communities (RECs).[2]

To emphasise the importance of these RECs in the establishment of the AEC, a Protocol was concluded in 1998 on the relations between the AU and RECs. This Protocol is said to be significant because it has potential to drive regional integration in Africa through the harmonisation of conflicting policies.[3]

This Protocol also demonstrates the extent to which the AU formalises its support for regional integration at continental level.[4] To reinforce the 1991 legal framework, the Constitutive Act of 2001 also made express provisions to buttress the importance regionalism in Africa.[5]

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[1] W. Easterly, S. Kurlat, and R Wacziarg (2003). 'Fractionalization', Journal of Economic Growth, 8(2): 155–94

[2] See: The official web site of the AU (www.au.int) Article 4 of the Treaty sets out key regional integration objectives among which include the promotion of economic, social and cultural development and the integration of African economies in order to increase economic self-reliance and indigenous and self-sustained development.

[3] See: Amos Saurombe – 2013: An analysis of economic integration in Africa with specific reference to the African Union and the African Economic Community

[4] See: Michael Rettig ent all: The African Union Can Do More to Support Regional Integration

[5] According to Mbeki, "the Constitutive Act is the supreme law of the continent which has been approved by all our parliaments, and it is for the parliaments of the people of Africa to meet the challenges facing Africa today"…..

The rationale behind the efforts around the CFTA is anchored on two factors – static and dynamic. The former refers to resource allocation resulting from changing relative prices associated with the changed pattern of tariffs.[6] The latter refers to the ability to exploit economies of scale and to achieve levels of investment and economic growth due to efficiency and size.[7] For both static and dynamic effects to ensue, which result in Africa-wide economic integration, gradual and comprehensive reduction of barriers to trade is required, albeit with safety nets.

To achieve this, AEC designated Economic Community of Central African States (CEMAC), Common Market for Eastern and Southern Africa (COMESA) and the East African Community (EAC), Economic Community of West African States (ECOWAS), Intergovernmental Authority on Development (IGAD), Southern African Development Community (SADC) and the Arab Magrab Union (AMU) as pillars to drive that effort. Some of these RECs have set up FTAs while others plan to become fully-fledged customs unions in the coming years.

In West Africa, there is a growing rapport between ECOWAS and West African Economic and Monetary Union (UEMOA), leading to their adoption of a common programme of action on a range of issues, including trade liberalisation and macro-economic policy convergence. Further, in Central Africa, it has been revealed that Economic Community of Central African States (ECCAS) and CEMAC are making efforts to increase their working relationships towards harmonising their programmes. EAC and COMESA have a memorandum of understanding to help harmonise their policies and programmes, while COMESA and SADC have set up a task force to deal with common issues and invite each other to their policy and technical meetings.

Currently, COMESA, EAC and SADC have launched the Tripartite Free Trade Area (TFTA). All these efforts, by will or default, are complimentary towards achieving the Continental Free Trade Area (CFTA).

CFTA and TFTA: Challenges and Opportunities

An ambitious plan to launch a TFTA covering half the countries on the African continent became a reality in June 2015. The TFTA is integrating the members of three African regional organisations, namely COMESA, SADC and EAC. Once completed, it will almost completely cover the Eastern and Southern parts of the continent. It will include 26 countries (almost half the continent's countries) with a combined population of 625.

The development of the TFTA is part of an overarching project to integrate all the countries on the African continent economically, and is seen as a major step towards the creation of a CFTA in 2017. This entails that integration should start shifting gear towards the continental level, with a view to the completion of the continental customs union by the indicative date of 2019 as indicated in the Abuja Treaty. Although launched

[6] UNECA – 2012: Chapter 3 - The Theory of Free Trade Areas: The Case for an African Continental Free Trade Area
[7] *Ibid*

independently by the member RECs, the TFTA has already been readily embraced by the AU, as a decisive step forward that could bridge the gap between regional and continental integration efforts, and encourage the establishment of a CFTA.

Opportunities

FTAs at continental level are expected to bring significant benefits in terms of increased market access. The direct positive effects refer to the potential to increase in trade among the countries involved. It is anticipated that the successful establishment of a CFTA in Africa would lead to intra-African trade rising to 22 percent of total African trade and would approximately add US$1tn to the global economy.[8]

The continental integration would generate far more benefits than just directly quantifiable ones. For instance, it would open new opportunities for businesses through an improved and harmonised trade regime that would bring down their operating costs, and through an inflow of foreign direct investment into the region. It is also anticipated that economic integration would speed up economic growth in African countries and permit them to implement a regional integration strategy that prioritises infrastructure development.

The gains would be moderated by the fact that the countries with greatest economic weight are already members of at least one regional free trade area in Africa. A study covering 16 countries and carried out in 2011 by the United Nations Economic Commission for Africa (UNECA), found that there would be general welfare gains as a result of the establishment of the TFTA, although they would be very unequally distributed, with a very small number of countries reaping almost all the gains (Egypt, South Africa, and Zimbabwe accounting for over 90 percent of the welfare gains). Another important benefit would be the increase in industrial production, as aggregate demand in the region rises and industrial production is realigned between countries.

Challenges

Despite the above mentioned potential gains of integration, it is important to note that both intra-Africa and external trade have been stubbornly low.[9] Intra Africa trade is presently about 12 percent compared to over 60 percent being recorded among Western European countries and 40 percent for intra-North American trade.[10] In 2009, it accounted for only 11 percent of the continents total trade, a meagre 1 percent increase from 9.7 percent in 2000.[11] These features entails that, in spite of the potential outlined above, economic integration and transformation remain limited.

Factors necessitating this situation are many. There are a range of chronic and well-documented challenges to deeper integration and effective transformation, and these are largely shared within the whole continent. These include undiversified markets with low value addition, overdependence on raw material exports, numerous trade and non-

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[8] See: *ECA Press Release 09/2013*: Stephen Karingi Director Regional Integration, Infrastructure and Trade Division UNECA: *http://www1.uneca.org/ArticleDetail/tabid/3018/ArticleId/2479/Intra-African-trade-and-infrastructure-development-key-to-economic-growth.aspx*

[9] Supra note 6

[10] See: Can Africa Trade with Africa? Yes, but…*http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/0,,contentMDK:22730595~pagePK:146736~piPK:226340~theSitePK:258644,00.html*

[11] Supra note 6

trade barriers that increase transaction costs, inadequate infrastructure networks, regional food insecurity, conflicts and political instability in some countries.

Further, fears have been voiced that despite the CFTA and TFTA being an African project meant to boost Africa's own production, the real big winners will be multinational corporations from outside the continent which have settled in big cities and would be provided with easy access to a multitude of markets. Another major problem is the potential loss of revenue for governments, as customs duties are a major source of government revenue. The governments of some countries, such as DRC, Lesotho, Malawi, Mozambique, Namibia, Swaziland, Uganda, Tanzania and Zambia, collect up to half or even more of their revenue from customs duties. The potential loss of revenue could have implications for the provision of essential public services.

What further exacerbates the challenge hinges on the legal framework governing the rules of trade. As mentioned earlier, any process that is anchored on a legal basis has greater probability of success. The lack of clarity in the WTO Articles (GATT specifically Article XXIV and the Enabling Clause) which are the basis on which RECs are developed is one such. Erudite arguments have ensued observing that GATT rules on regional integration are very elastic and vague.[12]

Most cited justification is the lack of clarity on the *substantially all trade* requirement[13] and others such as neutrality of trade restrictiveness. To date, economic and judicial writers have failed to agree on the proportion of trade which amounts to substantially all trade. The lack of clarity is manifesting into varied liberalisation timeframes amongst RECs.

Another challenge hinges on a weak vertical relationship between treaties governing RECs and continental treaties. This is worsened by lack of transposition**.** Gaps in the legal and institutional relations of the treaties governing RECs and the Abuja Treaty are among the examples. RECs are not bound by the Abuja treaty and it is only Member States that are signatories to the Abuja Treaty. The RECs have their own separate legal personalities that are separate from their Member States.

Thus, Member States cannot individually enter into international agreements with the intention of binding the RECs they represent. It is, therefore, clear that the interests of the RECs were not taken into consideration during the drafting of the Abuja treaty. The 1998 Protocol defining the relations between the AEC and RECs through the AU *(using the Constitutive Act)* was one step to create a balance. However, the Constitutive Act does not provide a model treaty which RECs can use.

Transposition is another challenge halting effective integration in Africa. Most trade treaties mandate countries to domesticate regional laws in their domestic legal frameworks.[14] Transposition is affected due to lack of political commitment at the

[12] Amos Saurombe – 2012: SADC Trade Legal Instruments' compliance with certain criteria of GATT Article XXIV

[13] Paragraph (8b)…….According to the provisions of this Article, all restrictive duties and regulations should be eliminated on substantially all trade between contacting parties and where the parties choose to adopt a common external tariff such should not be more restrictive than the tariffs of individual prior to the formation of the trading bloc…..

[14] See: E.G Article 173 of the COMESA Treaty

highest level.[15] This is worsened by, in some cases dysfunctional governments or civil service following years of economic survival and brutalisation that has drained whole populations of work ethic and reduced them to cynicism and apathy.[16] This ultimately affects the envisaged regional integration agenda. Greater national ownership is central to effective integration**.** Lack of transposition entails that the visibility of RECs to ordinary citizens in the in different regions is limited. There seem to be little clarity about what there is to gain or lose from integration.

Mega Regionals

The global trading landscape is rapidly changing, especially with the rise of mega trading blocs. This presents both opportunities and challenges for African countries. A major priority for African countries is to promote structural transformation to place the continent onto a more sustainable industrial development path. There is considerable potential to grow intra-African trade and investment through Regional Value Chains. African countries should also upgrade their industrial capacity, including technological capabilities, to participate more gainfully in Regional and Global Value Chains.

The advent of mega-trading blocs will have significant implications for the global trading system. Mega-regionals could fragment or weaken the multilateral trading system with adverse effects for the interests of the poorest and most vulnerable countries, including Africa. The priority should be to strengthen an inclusive multilateral trading system, conclude the Doha Development Agenda (DDA) Round, and build support for a more coherent and accountable international trade support mechanism. This will require transition from fragmenting trade regimes towards an inclusive multilateral trading system.

No African countries are participating in the mega-regional negotiations that involve their major trading partners and they face trade diversion away from these markets. On the positive side, there may be a growth stimulus in these trading partners that enhances economic opportunities for Africa. On the adverse side, African countries could face greater competition in their export markets, while investment may be diverted when African countries cannot meet the stricter rules and standards introduced by these major new agreements.

The introduction of new and stricter public and private standards in the preferential markets created through mega-regionals will pose significant challenges for capacity-constrained African countries that already confront challenges with conforming to existing international standards. African countries will require Aid for Trade and development assistance to build their capacity for conformity assessment and standard compliance. As a starting point, African countries should proactively identify sectors that may be impacted by mega-regionals and start to invest in domestic capacity-building and upgrading, to ensure their continued trade in these product categories.

Relevant initiatives may include coordination with domestic and regional industry to identify priorities, developing data bases to address gaps in information, working with

[15] Anne Ndirangu (2013) Status of Transposition of COMESA Programmes by Member States
[16] Francis Mangani (2013) institutional and Legal Difficulties in Implementing the COMESA Integration Programme

international initiatives to better understand and improve policy coherence to address private standards and developing modular step-wise strategies to upgrade capacities.

To address Africa's development concerns, the drivers of mega regionals should consider establishing consultative mechanisms with non-members, including Africa. They should develop options that will ease participation of non-members and work with private sector lead firms in value chains to increase coherence of standards.

African countries should emphasise exploring policy responses to minimise any potential adverse spill-overs from mega-regionals and prepare to participate in this new global trading landscape. Domestically, African countries could unilaterally reform their national policy frameworks. African countries should also engage the major drivers of mega-regional agreements to develop more inclusive systems and rules of origin, help upgrade capacity and improve standards through a development package, including Aid for Trade, to assist non-members.

African countries need to strategically position themselves for this new global trading landscape. The major priority should be to advance an integration agenda in Africa that focuses on improving trade-related infrastructure, increasing productive capacity for trade, raising standards, and reducing the costs of trade. African countries should prioritise the CFTA. This will help to cushion any negative impact arising from mega-regionals. This will also provide step-wise progress towards meeting the evolving conditions in their largest markets and prepare the base for further integration into the world economy. The African Union Commission should be requested to undertake an assessment of the impact of mega-trading blocs on Africa and to disseminate the results to the Regional Economic Communities (RECs).

To achieve the vision of an integrated and prosperous Africa, the CFTA should be flexible and developmental, cover trade in goods and services, and address behind-the-border regulatory issues to improve Africa's competitiveness and capabilities.

Conclusion

Regional integration is a key vehicle for helping Africa to raise competitiveness, diversify its economic base. The key policy challenges in establishing closer regional integration include:

- ***Narrowing the competitiveness gap:*** Africa's competitiveness as a whole trails other emerging regions especially in quality of institutions, infrastructure, macroeconomic policies, education and technological adoption while big gaps persist between its highest and lowest ranked economies.

- ***Trade facilitation:*** Africa's exports remain too heavily focused on commodities and its share of world trade remains low, despite numerous regional economic communities and domestic market liberalisation. Intra-African trade is particularly limited. Cumbersome and non-transparent border administration, particularly import-export procedure, the limited use of information and communication technologies (ICT) and persistent infrastructure deficit are major barriers to higher levels of regional integration.

- ***Addressing infrastructure deficits:*** Africa's infrastructure deficit presents a serious impediment to regional integration, a problem that is more pronounced by growth in consumer markets and urbanisation. Developing adequate and efficient infrastructure will assist African economies to increase productivity in manufacturing and service delivery, contribute to improvements in health and education and help deliver more equitable distribution of national wealth.

- ***Investing in growth enhancing sector:*** Generally public-private investments aimed at accelerating export facing-industries and their supporting infrastructure, growth poles represent important ways of building productive capacity and boosting regional integration through the attraction of investment.