tralac Workshop on Africa's Industrialisation and the AfCFTA

September 2023

Report

Trade law and policy experts came together on the 12th and 13th of September 2023 in Cape Town to discuss a variety of topics pertaining to the theme: 'Africa's Industrialisation and the AfCFTA: What can we learn from trade-investment-industrial policy linkages and experiences in Southern Africa?' (South Africa, Malawi, Namibia, Botswana, and Zimbabwe). The workshop covered the broad themes of value chain development, investment, infrastructure, Rules of Origin, and case-specific industrial policy strategies.

Discussions highlighted recurring themes, including the importance of good governance, the elimination of non-tariff barriers, and the influence of external parties and regional economic communities on value chains and industrialisation. Infrastructure emerged as a vital determinant of development and foreign investment attraction, with a focus on transforming transport corridors into SMART corridors. Phase II AfCFTA negotiations on investment and intellectual property rights were addressed, emphasising the significance of transparent investment frameworks and IP customisation for innovation. Country-specific cases showcased successful public-private partnerships, sector-specific strategies, and the need for a cohesive approach. These insights offer valuable guidance for policymakers working towards sustainable industrialisation and AfCFTA integration in the region.

In the **First Session**, Trudi Hartzenberg, the Executive Director of tralac, launched the workshop with a presentation contextualising the aims of the workshop, giving an overview of why value-chain analysis and case studies are important for understanding the role the AfCFTA might play in Africa's industrialisation. She defined industrialisation as 'expanding, diversifying and deepening productive capacity' and discussed how technology has changed the roles governments need to play in industrialisation. Finally, she warned of the challenges of integrating unequal partners, and spoke of the failed attempt at regional industrialisation in the East African Community (EAC), consisting of Kenya, Tanzania, and Uganda during the 1970s.

Professor Gerhard Erasmus continued this conversation, stating that the problem with free trade areas such as the AfCFTA is that there will be winners and losers, and that without addressing this, members will have no will to maintain the FTA. He also warned against viewing the agreement as a fix-all solution, and that it should be seen as a free trade area, nothing more. Ultimately, it will be up to the private sector to 'fill the space' created by the AfCFTA, and national governments should concern themselves with non-tariff barriers such as border inefficiencies and making their economies welcoming environments for investment through responsible governance.

In **Session 2**, African value chains, regional industrial policy (in Southern Africa), and rules of origin negotiations at the AfCFTA were discussed, contextualising Africa's position in the Global Value Chain (GVC) and opening discussion on regional and continental attempts at improving African value-chain positions. John Stuart explained the development of the tralac database on value chains and recounted the findings drawn from this data. Khutsafalo Sekolokwane presented an update on the industrialisation agendas of the Southern African Customs Union (SACU) and the Southern African Development Community (SADC), where she discussed prioritised sectors and value chains in both agendas. Finally, the AfCFTA Rules of Origin (RoO) negotiations and how they might relate to industrial policy and value chain development was touched on by Eckart Naumann.

John Stuart explained that understanding cross-border value chain flows is crucial for comprehending trade and production dynamics in Africa. Despite its resource abundance, the continent lags behind in manufacturing industrialisation. Learning from South-East Asia's experience, Africa has the potential to embark on a modern path to industrialisation by actively upgrading its value chain participation through initiatives like the AfCFTA. The tralac value chain database, based on UNCTAD's data, highlights the continent's need to enhance value chain development, given the significant gap between intra-African and global trade values in various product groups.

Khutsafalo Sekolokwane provided insights into SACU and SADC's industrialisation agendas. SACU, encompassing five nations, prioritises balanced industrial development as a core economic pillar. It prioritises six sectors, namely the agro-processing; textiles and clothing; pharmaceuticals; cosmetics and essential oils; automotives; and mineral beneficiation sectors. To achieve these goals, SACU employs a three-pillar approach involving export promotion, investment promotion, and financing for industrialisation.

SADC, with 16 member states, follows the SADC Industrialisation Strategy and Roadmap (SISR), targeting 14 product-specific value chains: maize; wheat; rice; oilseeds, legumes and soyabean; sunflower; groundnuts; dried beans; cotton; beef; biomass; poultry, geese and ducks; chevron; sesame;

and cotton seed. While these regions have comprehensive strategies, success depends on collaborative efforts, private sector involvement, and policy coherence, forming a foundation for AfCFTA's industrialisation agenda.

Eckart Naumann highlighted the significance of Rules of Origin (RoO) in ensuring the integrity of preferential trade agreements by determining the economic nationality of products. The AfCFTA adopts product-specific RoO, distinguishing wholly originating and substantially transformed products. Various criteria and flexibility provisions, like the AfCFTA cumulation and value tolerance rules, can contribute to regional value chain development.

The Third Session focused on infrastructure as both a determining factor in value-chain development and as an attractor of foreign investment. First, Godwin Punungwe, Tripartite Transport and Transit Facilitation Programme (TTTFP) Transport Expert, gave a presentation titled, 'Trade facilitation and industrialisation: cross-border value chain development'. Terry Gale, chairman for the Exporters Club Western Cape and vice-chairman of the Port Liaison Forum, spoke about the importance of ports in trade facilitation and highlighted the challenges emanating from the current state of ports in South Africa and specifically the Western Cape.

Godwin Punungwe emphasised the need to transform transport corridors into SMART (Specific, Measurable, Achievable, Relevant, Time-bound) corridors. SMART corridors aim to provide real-time traffic data, reduce costs, enhance safety, simplify trade for landlocked nations, and improve competitiveness. Initiatives include Intelligent Transport Systems, WTO Trade Facilitation Tools, and aligning road transport policies. Harmonisation efforts, such as the Corridor Trip Monitoring System, facilitate border crossings. Upcoming projects, including TTTFP Follow-up, EU Gateway, and African Development Bank collaborations, will further streamline trade, reduce costs, and boost regional integration to support AfCFTA's success.

Terry Gale highlighted the pressing challenges faced by South African infrastructure, particularly in the realm of ports. The decline in port maintenance has redirected trade routes, impacting the nation's economic prospects. Furthermore, climate change-related issues underscore the need for collaboration between the public and private sectors. While challenges persist, there is optimism in the potential for innovative solutions to harness natural resources for energy generation and port improvements.

Session 4 centred on Phase II negotiations, namely the Protocol on Investment, presented by Professor Gerhard Erasmus, and intellectual property rights, presented by Abrie du Plessis. Professor Erasmus discussed why an investment protocol is important, the role of good governance in investment, and finally the contents of the protocol as it stands.

The continental investment protocol aims to enhance investment for sustainable development in African states by providing a transparent and secure legal framework, fostering cooperation, and promoting both intra-African and foreign direct investment (FDI). However, its success depends on fundamental elements of good governance. Key protocol provisions include dispute resolution, safeguards against expropriation, and obligations for states to facilitate dispute prevention and grievance management. Its impact will be influenced by its alignment with domestic laws and historical contexts, as currently under review.

The AfCFTA Protocol on IPR covers diverse areas such as plant variety protection, geographical indications, marks, copyrights, patents, utility models, and more. Abrie du Plessis warned that while there is potential for tailoring IP laws to Africa's unique context, there is concern that the annexes might inadvertently replicate existing agreements like TRIPS. He said that the challenge lies in customising IP to spur innovation and industrialisation. There was also some discussion of the need for cooperation with regional IP organisations, like ARIPO and OAPI, to avoid integration issues. A focus on utility models, cost-effective for supporting local inventors and innovation, over patents was suggested to promote technological advancement and economic growth.

The second day of the workshop reflected on five Southern African cases: Namibia, Zimbabwe, Botswana, South Africa, and Malawi. In the Fifth Session, the Namibian and Zimbabwean industrial policy cases took the spotlight with presentations from Maria Immanuel, Anton Faul, Daniel Ndlela and Obert Bore. Maria Immanuel provided an update on Namibian Industrial Policy, while Daniel Ndlela unpacked the phenomenon of 'de-industrialisation' in Zimbabwe, and Obert Bore presented his exposé of Chinese mining contracts in Zimbabwe.

Marial Immanuel provided insights into Namibia's industrialisation efforts, emphasising the nation's development policies and challenges. Namibia's goals include diversifying sectors, boosting exports, improving infrastructure, and developing a skilled workforce. Vision 2030, NDP 6, and the 2015 Industrial Policy outline key strategies. However, challenges include pending legislation, SEZ policy development, a high cost of doing business, and rising income inequality. Energy generation, including recent oil discoveries, and water sustainability are also priorities. Anton Faul highlighted concerns about overregulation, masterplans, economic structure, and international climate commitments impacting Namibia's economy.

Daniel Ndlela's presentation highlighted Zimbabwe's history of de-industrialisation, marked by a significant decline in the contribution of manufacturing from 24% of GDP in the 1980s to 8% between 2010 and 2019. While some countries shift from industry to services in a positive qualitative de-industrialisation, Zimbabwe experienced a negative quantitative de-industrialisation, with manufacturing replaced by informal activities. Factors like infrastructure breakdown, governance issues, land redistribution, and external debt contributed to this decline. To reverse de-industrialisation, Zimbabwe needs consistent industrial policies and increased investment, especially in local processing and regional value chains. However, questions remain about the transparency and benefits of foreign contracts in such initiatives.

Zimbabwe's decision to ban the export of raw lithium ore and impose royalty rules aims to harness the global demand for lithium-ion batteries while combatting illegal mining. This policy has predominantly attracted Chinese investments, and the lack of transparency in contracts raises questions about their commitment to local development and community benefits. Furthermore, concerns over tax incentives, legislative ambiguities, environmental consequences, and displacement without compensation highlight the intricate challenges associated with China's role in Zimbabwe's lithium sector. Enhanced transparency and equitable agreements are imperative in addressing these complexities.

The **Final Session** concluded the workshop with three presentations on the industrial policies of three more southern African countries – Botswana, South Africa, and Malawi. Khutsafalo Sekolokwane launched the session with Botswana's policy, highlighting its successful public-private collaboration with De Beers diamond company, known as Debswana. This was juxtaposed against South Africa's Masterplans, the presentation by Michael Lawrence that followed, and Malawi's own 2063 agenda presented by Kahaki Jere.

Botswana's diamond industry, the world's second-largest, owes its success to the enduring partnership with De Beers. This collaboration has propelled Botswana's economy, with diamonds contributing 30% of public revenue and 70% of foreign exchange earnings. Debswana, a government-De Beers joint venture, dominates diamond extraction, along with Lucara Diamond Corp's Karowe mine. De Beers, a global diamond leader, and Botswana, jointly own Debswana, which supplies 75% of De Beers' rough diamonds. The partnership, cemented through agreements such as the 2011 Sales Agreement and its 2023 extension, has elevated Botswana's diamond industry, setting a model for African nations pursuing industrial success.

Michael Lawrence's presentation shed light on South Africa's complex Masterplan strategies and their implications in the SACU region. These plans, aimed at localisation and export growth, have often been influenced by South Africa's mercantilist approach, disadvantaging its regional partners. While these strategies face challenges such as a lack of skilled labour, dysfunctional labour-business relationships, and issues with illegal trade, they aim to foster coordination and sector-specific planning. However, success remains uncertain with short-sighted policymaking. South Africa's actions within SACU have sown distrust and strained relations, warranting careful consideration for the future.

As the final presentation of the workshop, Kahaki Jere highlighted Malawi's strategic shift towards developing its services sector to align with the AfCFTA Protocol on Trade in Services, aiming to drive industrialisation. However, Malawi faces challenges due to its underdeveloped and non-export-oriented services sector, with most of its economy concentrated on goods. The National Services Export Strategy (2021-2026) aims to change this by prioritising key service sectors, but challenges such as financing, operational costs, and governance issues remain. To fully harness the benefits of the AfCFTA, a more focused and cohesive approach, possibly through revising the National Industrial Policy, is essential for Malawi's economic development.