

Fast-tracking the Continental Free Trade Area: Regional Economic Communities (RECs) as Building Blocks

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I. Introduction

1. A key feature of Africa's regional integration landscape is overlapping membership, which exists among the Regional Economic Communities (RECs). It is important to recall that one of the specific objectives of both the Continental Free Trade Area (CFTA) and Tripartite Free Trade Area (TFTA) was to resolve the challenges of overlapping memberships.
2. It is expected that the CFTA shall build on and improve upon the progress that has been made in the trade liberalization and integration programs of the RECs: the East African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA), the Southern African Development Community (SADC), The Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS), the Intergovernmental Authority on Development (IGAD), the Community of Sahel-Saharan States (CENSAD) and the Arab Maghreb Union (AMU). The CFTA negotiations are ongoing and they shall be guided by best practices in the Regional Economic Communities, bilateral agreements and international conventions binding AU Member States.

II. Africa at Glance

3. Despite the challenges facing the continent, Africa's future looks very positive. As the second largest-continent in the world it contains 1/8 of the world's population, characterized by a large and growing youth-bulge. Economically, this translates to a projected GDP of \$2.6 trillion, consumer spending of \$1.4 trillion and 128 households with discretionary income, by 2020. (McKinsey & Co., 2010). In addition, Africa accounts for: around 60% of the world's uncultivated arable land; over 50% of the world's production of platinum, cobalt, tantalum & diamonds; 11% of the world's oil, 6% of the world's natural gas and 4% of the world's coal, with more reserves being discovered at a rapidly increasing rate. (Mo Ibrahim Foundation, 2013).

III. The Role of Integration in Africa

3.1. Creating Regional Value Chains to better penetrate Global Value Chains

4. Between 1995 and 2010, Africa has faced significant difficulties participating effectively in international trade. As a result, during that same time period African trade was stuck at 2% of the world total. In addition, raw commodities account for over 50% of sub-Saharan Africa's exports and only less than 10% of Asian exports. Asia's success is largely accredited to regional integration that allowed it to create efficient regional value chains that strengthened its position and enabled it to become a key player in global value chains. As the world's most fragmented region, it takes almost twice as long to trade across borders in Africa (particularly sub-Saharan Africa) than it does in other regions such as Latin America and the Caribbean and South-East Asia. (Ko, 2013).

3.2. Implementing the New Global Frameworks

5. In addition, Integration will be vital to the successful implementation of both Agenda 2063 and Agenda 2030. Agenda 2063, which absorbs the Abuja Treaty, is not only designed to be implemented within the framework of integration-with its National/Member States, Regional/ REC, and Continental/AU levels of implementation-but it also aims to enhance and accelerate African integration efforts as evidenced by its 12 continental Flagship Programmes whose focus areas include regional plans and continental frameworks such as the CFTA.
6. Agenda 2030 also relies heavily on regional integration identifying "*regional and sub regional dimensions, regional economic integration and interconnectivity*" as important aspects of sustainable development, and stating that "*regional and sub regional frameworks can facilitate the effective translation of sustainable development policies into concrete actions at the national level.*" In addition, several SDGs are to be implemented explicitly through integration structures and frameworks.

IV. Background to Integration in Africa

4.1. Integration in Pan-Africanism

7. For hundreds of years, Africans have pursued integration-in various forms and contexts-as an extension of the Pan-African Agenda which promotes the unity and solidarity of African peoples in recognition of not only their common history, but also their shared destiny.

8. Integration efforts have been both reactive as an effective means of overcoming foreign interference and exploitation, and proactive, as a compelling strategy for the development of Africa and her people. Integration can be traced back to even before the 16th century when, in a social context, it facilitated the formation of strong bonds between Africans on slave ships, and ultimately helped them overcome slavery through protest, combat and outright revolution.

4.2. Integration for Political Liberation

9. Having gained freedom from slavery, Africans formally added a political dimension to integration in the 1900s, most notably through the formation and institutionalization of the Pan-African Congresses.

10. The Congresses played a defining role in the attainment of the independence of several African countries in the 1950s and 1960s and instilled in attendees, an unwavering commitment to integration; a commitment best articulated by Kwame Nkrumah in 1957 when he stated that *“the independence of Ghana is meaningless if it is not linked with the total liberation and continental union of the whole of Africa”*. (Campbell, 2015).

4.3. Integration for Economic Ownership

11. In the 1980s, integration took on a strong economic focus in response to economic crises and the failure of imposed western development policies (Sekgoma, 1994) growing foreign debts accompanied by declines in social development; and the increasing external political manipulation of Cold War politics. (NEPAD, 2012). The transition was also a necessary evolution as the majority of African countries had gained independence thus, through initiatives like the 1979 Monrovia Declaration and the 1980 Lagos Plan of Action and the Final Act of Lagos, Africans set out to refine the Pan-African Agenda within the context of their contemporary challenges and perspectives. They prioritized the achievement of collective self-reliance, the development of human resources through training and education, the control over Africa’s natural resources and the end of external dependence. (Sekgoma, 1994).

V. Continental Integration Agenda: The Treaty Establishing the African Economic Community (AEC)

12. The ‘Treaty Establishing the African Economic Community (AEC)’ (The Abuja Treaty) lays out a detailed time-bound schedule for African economic and political integration.

Article 6 of the Abuja Treaty has set modalities for achieving the continental integration. These modalities provide for a 6-steps process to achieved within 34 years, as follows:

- Step 1: Strengthening of existing regional economic communities (**within a period not exceeding 5 years**);
- Step 2: Harmonisation of intra-REC economic policies, notably through: stabilising tariff barriers and non-tariff barriers, customs duties and internal taxes; strengthening of sectoral integration; and, coordinating and harmonizing activities among the existing and future economic communities (**within a period not exceeding 8 years**);
- Step 3: Establishing REC FTAs and CUs (**within a period not exceeding 10 years**);
- Step 4: Coordination of continental level of the REC CET in order to establish a Continental CU (**within a period not exceeding 2 years**);
- Step 5 : Establishment of a Continental Common Market (**within a period not exceeding 4 years**); and
- Step 6: Establishment of a single domestic market and a Pan-African Economic and Monetary Union (**within a period not exceeding 5 years**).

13. Although, the CFTA is not specifically referred to under the modalities, this is a prerequisite for the establishment of a customs union. The CFTA is therefore an implicit pre-requirement prior to Phase 4.

VI. Measures to Strengthen the Abuja Treaty

6.1. The Protocols on Relations between the AU/AEC and the RECs

14. In 1998, the AU adopted the “Protocol on Relations between the AEC and the RECs” to provide an institutional structure to coordinate relations between the AEC and the RECs and to strengthen the RECs and promote closer cooperation between them, and to speed up their progress towards stage 5 of the Abuja Treaty, the establishment of an African Common Market.

15. In 2007 the AU adopted the “Protocol on Relations between the AU and the RECs” to replace 1998 Protocol. The 2007 Protocol committed the RECs to cooperating more closely with the AU and called for the consolidation of the RECs on the continent.

6.2. [The Sirte Declaration](#)

16. In 1999, the AU adopted the Sirte Declaration, which not only committed Heads of State and Government to creating the African Union to succeed the OAU, but also: shortening the implementation periods for the Abuja Treaty, strengthening and consolidating the RECs as the pillars of the AEC, and establishing the Institutions provided for in the Abuja Treaty including the African Central Bank, the African Monetary Union, the African Court of Justice and the Pan-African Parliament.

6.3. [The African Union \(AU\)](#)

17. The Constitutive Act of the African Union (AU), which supersedes the contrary provisions of the Abuja Treaty and replaces the OAU Charter, was adopted at the 2000 Lomé Summit and came into force on the 26th of May, 2001. The African Union was inaugurated in Durban, South Africa in July 2002. Its purpose is to accelerate and advance the objectives of both the OAU charter and the Abuja Treaty, particularly with respect to African economic integration. It also called for the establishment of the Financial Institutions: The African Central Bank (ACB), the African Monetary Fund (AMF), and The African Investment Bank (AIB).

6.4. [The New Partnership for Africa's Development \(NEPAD\)](#)

18. In July 2001, the AU Summit adopted the 'New Partnership for Africa's Development (NEPAD)' as an integrated economic development framework for Africa aimed at reducing poverty, putting Africa on a sustainable development path, halting the global marginalization of Africa, and empowering women. In February, 2010 the AU Assembly integrated NEPAD into the structures and processes of the AU, establishing the 'NEPAD Planning and Coordinating Agency (NPCA)', as a technical AU body to replace the NEPAD Secretariat. (NEPAD, 2012).

6.5. [The Moratorium on the Recognition of RECs](#)

19. In July, 2006, the AU Assembly, as part of its efforts to accelerate African integration, adopted, a 'Moratorium on the Recognition of RECs' and has since only recognized 8 RECs: the East African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA), the Southern African Development Community (SADC), The Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS), the Intergovernmental Authority on Development (IGAD), the Community of Sahel-Saharan States (CENSAD) and the Arab Maghreb Union (AMU). This move paved the way for the rationalization of the relationship between the RECs and the AU.

6.6. [The Accra Declaration on the Union Government](#)

20. The 'Accra Declaration on the Union Government' was adopted in July 2007 by the AU Assembly, confirming the commitment of African Governments to accelerating the economic and political integration of African continent, with a view to creating a United States of Africa. A Ministerial Committee was thereafter established to examine the contents of the Union Government concept and its relations with national governments; domains of competence and the impact of the Union Government on the sovereignty of Member States; the relationship between the Union Government and the RECs; a roadmap and timeframe for establishing the Union Government; and the identification of additional sources of financing for the activities of the Union Government.

6.7. [The Minimum Integration Plan](#)

21. The 'Minimum Integration Plan and its Action Plan' was created in July 2009, in recognition of the varying progress of the RECs in implementing the Abuja Treaty, as a mechanism for converging and accelerating the progression of the RECs towards the establishment of the AEC. The approach adopted was different from that of the Abuja Treaty, it allowed for variable geometry in integration which enable RECs to continue implementing their respective programmes while working on agreed regional and continental priorities to strengthen inter-REC cooperation and accelerate and conclude continental integration.

VII. Status of Integration in Regional Economic Communities

7.1. [The East African Economic Community \(EAC\)](#)

22. EAC has established a Common Market and Monetary union, and is moving towards becoming a political federation. It comprises of 6 Member States: Burundi, Kenya, Rwanda, Tanzania, South Sudan and Uganda; and encompasses: 1.82 million square kilometers, 145.5 million people and a combined GDP of \$147.5 billion. (EAC, 2016).

7.2. [The Economic Community of West African States \(ECOWAS\)](#)

23. ECOWAS has established a Customs Union and is moving swiftly towards establishing a Common Market. It comprises of 15 Member States: Benin, Burkina Faso, Cabo Verde, Cote d'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sierra Leone, Senegal and Togo; and encompasses 5 million square kilometers, 304.11 million people and a combined GDP of \$1.07 trillion. (ECOWAS, 2016)

7.3. The Common Market for Eastern and Southern Africa

24. COMESA has established an FTA to which 17 of its 19 Member States have acceded and it is now concentrating efforts to overcome challenges to the domestication of its Customs Union. It comprises of 19 Member States: Burundi, Comoros, DRC, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe; and encompasses 12 million square kilometers, 470.26 million people, and a combined GDP of \$638.6 billion. (COMESA, 2016).

7.4. The Southern African Development Region

25. SADC has established an FTA that seven countries are yet to fully implement and it is facing significant challenges implementing its Customs Union. It comprises of 15 Member States: Angola, Botswana, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe; and encompasses 5.54 million square kilometers, 277 million people and a combined GDP of \$575.5 billion.

7.5. The Economic Community of Central African States (ECCAS)

26. ECCAS has established an FTA but on average, its Members have only reduced 34% of intra-ECCAS tariff lines to zero. It comprises of 11 Member States: Angola, Burundi, Cameroon, Central African Republic, Republic of Congo, Gabon, Equatorial Guinea, DRC, Sao Tome & Principe, Chad and Rwanda; encompassing 6.6 million square kilometers, 130 million people and a combined GDP of \$170 billion. (UNCTAD, 2013).

7.6. The Community of Sahel-Saharan States (CEN-SAD)

27. CEN-SAD has fallen behind schedule in the integration schedule of the Abuja Treaty and is on stage two, eliminating TBs and NTBs within the REC. It comprises of 21 Member States: Djibouti, Cote d'Ivoire, Egypt, Eritrea, Gambia, Burkina Faso, Comoros, Libya, Central African Republic, Guinea, Tunisia, Togo, Nigeria, Senegal, Mali, Benin, Niger, Sudan, Chad, Mauritania, and Somalia. (CEN-SAD, 2016). It encompasses 11.3 million square kilometres, 551 million people and a combined GDP of \$974 billion. (Mo Ibrahim Foundation, 2014).

7.7. The Inter-Governmental Authority on Development (IGAD)

28. IGAD has fallen behind schedule in the integration schedule of the Abuja Treaty and is on stage two, eliminating TBs and NTBs within the REC. It comprises of 8 Member States: Djibouti, Somalia, Eritrea, Ethiopia, Kenya, South Sudan, Sudan and Uganda;

encompassing; 4.9 million square kilometers, 236 million people and a combined GDP of \$175 billion. (Mo Ibrahim Foundation, 2014).

7.8. The Arab Maghreb Union

29. AMU has fallen behind and is also at stage two of the Abuja Treaty, eliminating TBs and NTBs within the REC. It comprises of 5 Member States: Algeria, Libya, Morocco, Tunisia and Mauritania; encompassing 5.8 million square kilometers, 92 million people and a combined GDP of \$414 billion. (Mo Ibrahim Foundation, 2014).

7.9. The COMESA-EAC-SADCT Tripartite Free Trade Area (TFTA)

30. On 10 June, 2015, the TFTA was launched during the Third Tripartite Summit held in Sharm-el-Sheikh, Egypt. The TFTA will combine 3 RECs, 26 countries (over half of the AU Membership), about 632 million people and about \$1.3 trillion in combined GDP (COMESA-EAC-SADC, 2015). Moreover, in the three RECs, between 1994 and 2014: trade has increased from \$2.3 billion to \$36 billion, with intra-regional trade increasing from 7% to 25%. It is anticipated that the TFTA will significantly boost and strengthen the gains made thus far.

VIII. The Continental Free Trade Area (CFTA)

31. In January 2012, the 18th Ordinary Session of the Assembly of Heads of State and Government of the African Union (hereafter referred to as the Summit), held in Addis Ababa, Ethiopia, adopted a decision to establish a Continental Free Trade Area (CFTA) by an indicative date of 2017. The Summit also endorsed the Action Plan on Boosting Intra-Africa Trade (BIAT) which identifies seven clusters: Trade Policy; Trade Facilitation; Productive Capacity; Trade Related Infrastructure; Trade Finance; Trade Information; And Factor Market Integration.

32. Reaffirming its commitment to continental market integration as provided under the *Abuja Treaty*, the AU Assembly launched the CFTA negotiations at the 25th Ordinary Summit of Heads of State and Government on 15 June 2015 in Johannesburg, South Africa, a week after the launch of the TFTA. At the same time, it adopted a set of Objectives and Guiding Principles (GP) for negotiating the CFTA. The Summit also adopted the indicative roadmap for the CFTA negotiations that reiterated the indicative finalization date of 2017. The CFTA will bring together fifty-four African countries with a combined population of more than one billion people and a combined gross domestic product of more than USD 3.4 trillion.

33. UNCTAD (2015) estimated that the removal of tariffs alone would increase trade from 10.2% in 2010 to over 15% by 2022 and enhanced trade facilitation measures could more than double gains, causing an increase of 21.9%. Moreover, in addition to stimulating intra-African trade by more than \$35 billion per year, it could also decrease imports from outside Africa by \$10 billion, boosting agricultural exports by \$ 4 billion and industrial exports by \$21 billion by 2022 (Ajumbo & Briggs, 2015).
34. Since the June 2015 launch of the negotiations, much progress has been made to prepare the ground. In particular, four meetings of the CFTA Negotiating Forum (CFTA-NF) were held in February, May, October and November 2016 at the AU Headquarters in Addis Ababa, Ethiopia. The CFTA-NF adopted the Rules of Procedure for the CFTA Negotiating Institutions as well as definitions of the CFTA negotiations guiding principles that were subsequently approved by the African Ministers for Trade in May 2016. The CFTA NF also considered the Terms of Reference (ToR) for the Technical Working Groups (TWGs) as well as the work plan and schedules of negotiations for trade in goods and trade in services. Discussions on Modalities for tariff and Trade in Services negotiations are underway.
35. The 27th Ordinary Summit of the AU Heads of State and Government that took place in Kigali, July 2016, reaffirmed its earlier decisions to fast track the establishment of the CFTA by 2017.

8.1. Exiting Trade Regimes amongst African Countries

36. Currently, African countries are trading under various trading arrangements in each regional economic community. RECs are at different stages of development in terms of the extent to which regional trade arrangements are being implemented. Some regions have achieved the level of a Common Market while others are yet to establish functional free trade areas. There are countries that have achieved a Customs Union and are enjoying free circulation of goods produced within the customs union. Examples of RECs that have functional Customs Union are EAC, ECOWAS, UEMOA and SACU. Some countries are already participating in Regional FTAs. Examples of regional FTAs that are functional include: SADC and COMESA FTAs.
37. Although the Tripartite FTA was launched in June 2015, work is still on going on tariff liberalisation schedules. There are also cases where some countries are trading under bilateral trade agreements that they have with each other including within the same region. Finally, there are countries that are currently not participating in any regional free trade arrangements. They are currently trading on the Most Favoured Nation

(MFN) basis with most African countries save for instances where bilateral trade agreements exist.

8.2. RECs as Building Blocks

38. The progress made with the regional integration programmes of each of the eight RECs, and progress to-date with the Tripartite negotiations, is an indication of how ready each of the regions are to facilitate progress towards the conclusion of the CFTA negotiations. This is in line with the recommendations of the Extraordinary Session of the AU Conference of Ministers of Trade in April, 2014 which emphasized that “*There is need for more coordination between AUC and RECs including the exchange of information on integration so that the regional processes will feed into continental processes ... [and for] consolidating regional free trade arrangements as a basis for building a strong CFTA.*”¹
39. The TFTA which negotiations under Phase I have not been completed² and which negotiations under Phase II are on-going was expected to consolidate the COMESA, SADC and EAC FTAs into a single market. However, the TFTA does not explicitly refer to the relationship between the FTAs of the COMESA, SADC and EAC and the TFTA itself. It can thus be considered that the TFTA does not preclude the existence of the pre-existing FTAs. In this context, ***the TFTA creates an additional layer of preferential scheme***. Therefore, – where FTAs overlap – depending on the most advantageous tariff, the producers will be able to cherry-pick the most beneficial tariff applicable to their products. In addition, – where FTAs overlap – should the preferences be the same, the producers will also be able to choose using one set of rules of origin rather than the other.

IX. Conclusion

40. As the CFTA aims at creating an economic community, stage 4 of Abuja Treaty explicitly provides for the “coordination and harmonisation of tariff and non-tariff systems among the various regional economic communities with a view to establishing a Customs Union”.

¹ Report Of Meeting Of Ministers Of Trade 27 – 28 April, 2014 P.7

² For memory, the TFTA Phase 1 outstanding issues are the annexes on: the schedules of commitments, the rules of origin and trade remedies (Cf. Art. 44 TFTA).

41. Since one of the aims of the CFTA is to resolve the challenges of multiple trade regimes and overlapping memberships and expedite the continental integration processes, a political decision is required for the CFTA negotiations to be prioritised over all other intra-African trade negotiations including the TFTA. Such a decision would be justified not only in view of rationalising the capacity but also financial resources.
42. Moreover, the 2012 AU Summit Decision was very clear that Tripartite and regional FTAs should be consolidated into the CFTA. It is therefore mandatory to prioritize the CFTA over all other all intra-African trade negotiations, with view of establishing a single economic space and common trade rules. In order to achieve a pan-African FTA, all pre-existing FTAs will be superseded by the CFTA once in place.
43. As the CFTA negotiations have started, the integration process of the different RECs has reached different levels of advancement. Therefore, there is a possibility for the CFTA to be established before the RECs have established their CUs. In this context, should the negotiation of the tariff offers be made on an individual basis, there is a risk that the reconciliation of the individual tariff structures and the tariff structures of the proposed CUs be divergent. It is to be noted that the Abuja Treaty provides that in no case, a preferential trade arrangement concluded with non-African parties will grant better terms to the latter than those granted to the African countries. For this purposes, transparency is to be observed when those arrangements with non-African States are concluded (*Cf. Art. 37 Abuja Treaty*). The terms provided for under the Economic Partnership Agreements should thus serve as benchmarks for intra-African liberalisation, together with REC FTAs.

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