

What is a Comprehensive Continental FTA and how could it be achieved?

Why is Africa negotiating the CFTA?

The Continental FTA (CFTA) involves an ambitious project “*to achieve a comprehensive and mutually beneficial trade agreement among the Member States of the African Union..... within the broader framework of the Abuja Treaty...*”

The CFTA website lists more specific goals for the CFTA:

- *Create a single continental market for goods and services, with free movement of business persons and investments.*
- *Expand intra African trade through better harmonization and coordination of trade liberalization and facilitation regimes and instruments across RECs and across Africa*
- *Resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes.*
- *Enhance competitiveness at the industry and enterprise level through exploiting opportunities for scale production, continental market access and better reallocation of resources.*

(CFTA website: *Draft Objectives and Guiding Principles for Negotiating the Continental Free Trade Area (CFTA)* <http://pages.au.int/cfta/pages/objective>.)

What exactly does this mean in terms of outcomes and what are the implications for the negotiating process? The following seem to be necessary:

- The CFTA cannot be a traditional FTA about trade in goods only. It has to be “comprehensive”.
- It has to address existing obstacles and imperfections and bring about structural improvements to current trade arrangements.
- The CFTA must provide an appropriate enabling framework to



- attract investment, to spur competitiveness, and encourage reform.
- An effective CFTA requires a “rules-based” arrangement.
- The negotiations will be “member-driven” but cannot be open-ended and without pursuing specific results.

Negotiations about what?

Ultimately it is not important what we call the CFTA but what it deals with and how.¹ In terms of coverage and reach the CFTA must be “comprehensive”; like the “partnership agreements” being negotiated elsewhere. They are new generation trade agreements designed to promote growth and development for the parties in an all-inclusive manner. The Trans-Pacific Partnership Agreement (TPP) is an example. It contains 30 chapters covering many disciplines: from market access rules for goods, customs administration, NTBs, and standards; to trade in service, movement of business persons, financial services, electronic commerce, competition, investment, intellectual property, procurement, dispute settlement, state-owned enterprises, regulatory coherence, transparency etc.² These same disciplines (as well as industrialization) are listed or implied as CFTA outcomes.

The liberalization of trade in services in priority sectors is about a much needed aspect. Similar discussion about sequencing of those negotiations is important; prioritizing regulatory cooperation and harmonization would unlock barriers to services sector development and trade.

Good Governance

The CFTA should be effective and therefore strong on rules-based trade. The agreements should be implemented as binding legal instruments and should ensure transparency, predictability and certainty. The monitoring of compliance, dispute settlement, and effective remedies (for private parties too) must be possible.

What design and structure?

An overarching treaty can anchor the CFTA scheme and allow early entry into force. This Treaty should contain essential principles (e.g. non-discrimination), the necessary institutions, and provide for dispute settlement. Each substantive discipline (e.g. standards, trade remedies, trade facilitation etc) will appear in related legal instruments (protocols) entering into force once ratified by the required number of parties. This design will accommodate variable geometry needs since all AU members could become parties to the CFTA Treaty;³ while ratification of the various protocols depends on the readiness to implement specific obligations.

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1. However, Art XXIV GATT contains binding criteria for FTAs. Preferential trade arrangements formed by WTO members must be notified and must comply with rules on substantial liberalization within a reasonable period of time.
 2. The Trans-Pacific Partnership (TPP) is a trade agreement among twelve Pacific Rim countries signed on 4 February 2016 in Auckland, New Zealand, after seven years of negotiations. The TPP parties include countries at very different levels of economic development and are: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States, and Vietnam.
 3. Variable geometry is one of the Guidelines adopted as part of the CFTA negotiation Framework.