

Key Messages and Policy Recommendations

Chapter 2: Status of Regional Integration in Africa

Key messages

Rapid conclusion of the CFTA is important to keep on track for achieving the African Economic Community (AEC) as foreseen in the Treaty Establishing the African Economic Community (commonly known as the Abuja Treaty). While progress towards achieving the AEC has been made, some RECs are far from achieving regional customs unions as building blocks for continental integration. The CFTA can help bridge this gap.

The level of integration in Africa varies highly across RECs. REC members also differ highly in their degree of integration within their respective RECs, as can be seen from the Africa Regional Integration Index.

African countries cooperate significantly on the coordination of mining policies, peace and security and public health. However, there is further scope for beneficial coordination. They are also liberalizing their visa regimes for other Africans and aim to achieve a protocol on free movement of persons, although for some African countries visa requirements are still restrictive for nationals of other African countries.

A vast range of projects is under way to upgrade Africa's infrastructure, but for now infrastructure deficits are holding back the continent's development and the expansion of intra-regional trade (and will need to be addressed for the CFTA to reach its full potential).

A lot of existing intra-African trade takes place within established REC free trade areas (FTAs) or customs unions. The value of the CFTA will be in bringing all African countries to this level of integration across the continent.

Africa has progressed on eliminating non-tariff barriers (NTBs) and facilitating trade, but there is still more to do, including implementing the World Trade Organization (WTO) Trade Facilitation Agreement.

Chapter 3: Conceptual Issues in the Political Economy of Integration and the CFTA

Key messages

The structural and historical foundations of Africa's political economy need to be understood and appreciated, but are not deterministic. Deliberate policy choices and action can change the status quo and overcome barriers, including entrenched national interests or economic configurations. However, this requires political leadership to use the political economy windows of opportunity.

Trade negotiators conducting the CFTA negotiations are driven by their experiences, expertise and capacities, but may well bring more caution to the CFTA than the ambitions expressed by their heads of state.

Historically, trade agreements in Africa have shown high levels of ambition and lower levels of implementation, mainly because they receive less political support as they relate to medium- to long-term gains, rather than short-term visible results.

Policy recommendations

As the CFTA faces the complexity of aligning interests across 55 very different African countries, flexibilities and variable geometry are needed, and compromise will be required. The CFTA should be designed (and supported with measures) to ensure that it benefits the interests of its wide range of stakeholders.

The CFTA institutions must be designed such that they serve their intended functions, rather than imitate unachievable or idealistic best practice examples.

The CFTA must be constructed to carefully balance the national interests of influential states and coalitions of smaller states, because if the gains are perceived as being captured by only a few countries, trade agreements are more likely to unravel. Effective implementation can be supported if influential states champion the CFTA through the application of their diplomatic, financial and technocratic resources.

The interests of private sector actors and civil society organizations engaging in the CFTA process must also be considered. Mechanisms for consultation must be

attuned to small private sector and civil society actors, and to vulnerable groups.

Development assistance can be better used for narrowing the implementation gap if it avoids overemphasizing institutional forms or incentivizing empty “signalling.”

Although the political economy of integration in Africa helps to explain “why things are the way they are,” moving forward from there requires dedicated actions of developmental states, led by political leadership that is committed to national developmental goals and empowered by competent and professional bureaucracies.

Chapter 4: Revisiting the Case for the CFTA

Key messages

Studies imply positive gains for the CFTA with intra-African trade expanding by an estimated 50–200 per cent over the long run. Additional benefits include facilitating trade in food security products, improving the stability of fragile countries, enhancing firms’ access to inputs and intermediate goods, and reducing the costs of innovation.

Since 2000, intra-African trade has contributed to a large share of the growth in Africa’s industrial export sectors, and is therefore especially valuable for Africa’s industrialization. By reducing the tariff and non-tariff barriers that constrain this trade, the CFTA seeks to contribute to Africa’s industrialization and structural transformation.

While the Abuja Treaty envisages the integration process as culminating in the AEC, attention must first focus on the CFTA, including designing and implementing it. Later stages of the Abuja Treaty should be addressed sequentially.

The CFTA has garnered considerable support at the highest policy-making levels within Africa. Designing the CFTA at the technical level, and ensuring its effective implementation, is now the critical task at hand.

Policy recommendations

The CFTA should include complementary policies to maximize its gains but also to ensure that its benefits are shared more equally to produce a win-win outcome for all countries. Such policies include measures to improve

trade facilitation and reduce transaction costs, and the Boosting Intra-African Trade (BIAT) Action Plan—the “sister” initiative to the CFTA that provides a basis for addressing the trade barriers faced by African countries.

The African Union Commission (AUC) should be mandated to undertake a thorough review of the Abuja Treaty with a view towards modernizing it so as to address the challenges of early 21st century African economic integration.

Chapter 5: A Win-Win Approach to the CFTA: Sharing the Benefits

Key messages

Sharing the benefits of the CFTA is important not only for reasons of equity, but also to ensure that the agreement actually works for countries at different levels of development. Trade agreements that are not win-win tend to remain unimplemented or unravel because partner countries have little interest in their application.

Africa’s countries span a diversity of economic configurations and are accordingly expected to be affected by the CFTA in divergent ways. Hence measures that support the particular needs of different types of country will be needed.

The CFTA will involve structural adjustment—indeed one of its goals is to contribute to Africa’s industrial transformation. Implicit in this will be structural adjustment costs in the short run as labour and capital are reallocated to respond to trade opportunities and threats. However, structural adjustment costs are likely to be modest—given the low level of intra-African trade and the fact that much of this trade already flows through existing REC FTAs

The CFTA provides a liberalized market to drive agricultural productivity and agro-industry. Those countries with strong agricultural production and potential will be particularly well placed to tap into new opportunities provided in the agro-industry and agro-processing sectors, helping to satisfy Africa’s food security requirements and reduce its food import bill to make the continent more food self-sufficient. The African market has already accounted for over 50 per cent of the growth in Africa’s processed food and beverage exports since 2000.

The liberalized market will also drive value addition to natural resources. The majority of African countries are classified as resource rich. Tariffs on raw materials are already low and so the CFTA will do little to further promote these exports. However, by lowering intra-African tariffs on intermediates and final goods, the CFTA will create additional opportunities for adding value to natural resources. Perhaps most important for these countries, the CFTA will offer opportunities for export diversification into other industrialized export sectors, but this will require investment and new productive capacities.

The CFTA can enhance the connectivity of land-locked countries, but they require additional accompanying measures to improve transit, trade-related infrastructure and trade facilitation.

In the long run, the CFTA will be beneficial to vulnerable groups—notably smallholder farmers, informal cross-border traders, women and youth—by expanding agricultural trade opportunities, improving trade facilitation and creating jobs.

Policy recommendations

Although the CFTA provides all African countries—irrespective of current levels of industrial development—with opportunities, certain countries may require further support in realizing these opportunities. The BIAT Action Plan provides the framework that member states can use to prioritize the policy reforms required to derive the full benefits of the CFTA.

Tariff revenue losses due to the CFTA will be modest and can be more equitably balanced across countries by allowing for flexibilities, such as exclusion lists, but these must not be so pervasive as to undermine the gains from the CFTA.

To help firms—predominantly small- and medium-sized enterprises—engage in intra-African trade, investments must be made in trade information and facilitating access to trade finance. Factor market integration, including the improved movement of persons and cross-border investments, would be especially valuable in fostering regional value chains.

Special measures are required for vulnerable groups that could be hurt by trade liberalization under the CFTA. The CFTA and its accompanying measures should ensure

that these groups share the gains of the CFTA and are protected where necessary. However, as a second-best option, exclusion list provisions and safeguards can also be used to protect such groups where necessary. Here it will be important to ensure that the mechanism for adopting safeguards is sufficiently accessible for less-developed CFTA member countries. These groups will also require close monitoring and evaluation to track the impact of these measures.

Smallholder farmers (around 53 per cent of Africa's agricultural producers) can be supported by measures to promote their integration into larger value gains, simplified rules of origin requirements and help for them to meet sanitary and phyto-sanitary export standards. Such farmers may also require capital and reskilling to focus their production on export opportunities.

Tariffs will be reduced, helping to make it more affordable for informal cross-border traders to operate through formal channels. The CFTA can further support this group with trade facilitation and trade information measures, along the lines of the Simplified Trade Regime in the Common Market for Eastern and Southern Africa (COMESA), which simplifies clearing procedures and the requirements to qualify for the COMESA preferential duties for a common list of products.

Women can be supported by their explicit involvement in the design and processes of the CFTA, including through national consultations and by including more female negotiators. Women account for approximately 70 per cent of informal cross-border traders and can be supported here with improvements to storage facilities, illuminated border areas and hygiene facilities. Women can also benefit from initiatives to connect female agricultural workers to export food markets.

For youth, the CFTA will help to drive the structural transformation that is required to produce new jobs and absorb new entrants into the labour force and to move Africa from capital-intensive commodities towards labour-intensive sectors. Supporting Africa's youth will require improved access to credit and initiatives such as tech incubators and accelerators, as well as revamped policies in education and skills development.

Chapter 6: A Win-win Approach to the CFTA: Critical Policies

Key messages

The BIAT Action Plan is the framework for flanking policies to fully exploit the opportunities of the CFTA, targeting Africa's trade barriers in seven clusters: trade policy, trade facilitation, productive capacity, trade-related infrastructure, trade finance, trade information and factor market integration.

While improvements to physical infrastructure, such as roads and ports are important, these must be flanked by addressing the non-physical barriers to transport and trade. Strategic logistics management and the supply chain approach should be mainstreamed, not only in the continent's regional infrastructure initiatives, but also in management of trade corridors.

Facilitating intra-African investment is critical to allow the flow of much-needed resources for transforming Africa's agriculture and industry.

Services liberalization and regulation are increasingly important, both for facilitating trade in services and with services as an important component in traded goods. Services constitute roughly 70 per cent of global gross domestic product and 60 per cent of employment, and accounted for a quarter of world trade in 2014.

Policy recommendations

It is important to "get right" six key components of the CFTA—NTBs, rules of origin, investment and cross-border movement of persons, services liberalization and regulation, trade remedies, and monitoring and evaluation.

To get the NTBs right, a NTB mechanism should be included in the CFTA. Rather than duplicating the existing NTB mechanisms of the RECs this should build on their successes by expanding their operations across Africa to include trade between and within all RECs.

Getting rules of origin right will require balancing the desire of more-developed countries for product-specific rules with more accessible rules of origin favoured by less-developed countries. It is suggested to limit product-specific rules to only the most controversial or sensitive products and apply simple and liberal rules of origin as far as possible; to use simple rules of origin

over a transitional five-year period; and to include preferential rules of origin to help make it easier for Africa's less-developed countries to satisfy rules of origin requirements.

In the investment component of investment and cross-border movement of persons, a fully fledged, standalone investment chapter in the CFTA Agreement is recommended (rather than being part of the services component of the negotiations). It would necessarily mean that all aspects related to supply of services through establishment of commercial presence would be looked at. For cross-border movement of persons, negotiators should design an approach that does not take away from African entrepreneurs what they already have in their RECs, while creating new opportunities for inter-REC movement.

Getting services right requires an approach that is ambitious but realistic, flexible, credible and inclusive, building on the existing REC achievements and challenges in services liberalization and regulatory cooperation. For liberalization, flexibility would entail sticking with what Member States already know. For regulatory cooperation, this involves deploying the most appropriate mechanism—formal or informal—based on sector-specific variables. It may entail harmonization in certain sectors, Mutual Recognition Agreements in others, treaties or more informal approaches.

Trade remedies are a crucial fail-safe for countries wary that competition could damage certain domestic industries. Getting them right in the CFTA will require regional investigating authorities, which will help extend remedies to small and less-developed African countries as well as set up a system that would enable these countries to protect themselves from more advanced international competitors.

Monitoring and evaluation is needed to oversee the compliance of each country with its obligations under the CFTA, to track progress with the BIAT Action Plan, and to ensure that the CFTA is contributing to Africa's development goals. A self-assessment monitoring and evaluation "scorecard" is recommended, as is the collection of data by gender and vulnerable group.

Overall, securing the BIAT Action Plan's benefits will require an implementing institutional structure, possibly combined with that of the CFTA to avoid institutional

duplication; a continental framework for monitoring and evaluation, which can also be combined with the CFTA's; and resources for the BIAT initiatives.

Chapter 7: Financing for Bringing the CFTA About

Key messages

Financing is required to bring about the CFTA and meet its implementation costs. The private sector will require financing options to retrain labour and repurpose capital as structural adjustment takes place in response to new trade opportunities and challenges. In the public sector, support will be required to offset lower tariff revenues (though the impact of the CFTA is likely to be small); to finance the implementation of CFTA provisions and reforms; and to fund the BIAT Action Plan.

Financing in Africa has to be increasingly based on domestic public and private resources. This will help to overcome challenges with official development assistance (ODA), including risks with perpetuating donor-driven, rather than Africa-led initiatives, and fostering donor “signalling,” where actions are taken superficially to satisfy donor obligations rather than drive development. Self-financing will help to improve ownership and responsibility for projects, and in turn drive implementation.

Aid-for-Trade, an initiative launched in 2006, will remain important for bringing the CFTA about, particularly for Africa's poorest countries with little access to private finance and low levels of domestic resources. It may also remain important for Africa's lower-middle-income countries over the short run as they mobilize their own domestic resources. Aid-for-Trade—and especially regional Aid-for-Trade—is the particular vehicle of choice for leveraging ODA towards the CFTA. Aid-for-Trade disbursements to Africa have recently risen strongly to \$14 billion, more than twice the amount during the 2002–05 baseline period.

Policy recommendations

African governments must commit to enhancing domestic resource mobilization. Domestic revenue collection can be improved by making tax systems fairer, more transparent and effective, tackling corruption and weak institutional capacities, and addressing narrow tax bases and pervasive tax avoidance and evasion. Innovative approaches to self-financing are

also needed. Strategies include leveraging pension funds, insurance funds, private equity, the diaspora market, public–private partnerships, and stemming illicit financial flows. Even minor improvements in domestic resource mobilization can contribute to the costs associated with implementing the CFTA and its accompanying measures.

Self-financing can be pursued with the AU's proposed 0.2 per cent levy on imported goods into Africa. The proposed levy is an important tool for self-financing the AU's operations and projects of Agenda 2063, including the CFTA. WTO compatibility of the levy can be eased through the creation of the CFTA, which will allow African country members of the WTO to circumvent the normal WTO requirement of non-discrimination between WTO members.

Care should, however, be taken with sequencing—if the CFTA is not in place prior to the AU levy, there will be a period during which African countries would be breaking this rule. The levy could face further WTO compatibility challenges with WTO tariff binding schedules, though ad hoc measures could address the violation of the binding schedules. Against all these issues African countries may apply for a WTO waiver.

Care must also be taken with compatibility between the AU levy and Africa's other regional trade agreements (RTAs). Future agreements could be designed to allow for compatibility with the AU levy.

Regional Aid-for-Trade programmes should be improved in four ways: better mainstreaming regional initiatives within national planning; better aligning regional Aid-for-Trade projects with Africa policy frameworks, such as the BIAT; more closely involving the private sector in project design; and strengthening institutional mechanisms to ensure smooth in-country coordination for regional and subregional programmes.

Chapter 8: CFTA governance

Key messages

The current restructuring of the AU—as part of the AU reform—provides an opportunity to determine how the AU can be reformed so that flagship projects like the CFTA can be better institutionalized and implemented. However, designing an institutional framework for the CFTA will be challenging if the main aspects of the AU reform have not been finalized.

The links between the AU reform and the institutional framework for the CFTA might lead some Member States to consider establishing a totally independent institution for implementing the CFTA. This body could take several forms: a specialized agency of the AU or, in a more extreme approach, an “African WTO”—a new international and inter-governmental organization. Alternatively, CFTA institutions could be hosted within the AUC as a CFTA department, or even within the AUC Department of Trade and Industry.

The structure of the Abuja Treaty should be the platform on which to build an institutional framework for the implementation of the CFTA at the continental level. This ensures that the proposed CFTA institutional structure is consistent with the Treaty. Still, African continental integration should not “hide” behind the Treaty but reopen debate on how best to integrate the continent so as to achieve the principles and objectives elaborated in it, for today’s world. It may be that the pathway to continental integration envisaged in the Abuja Treaty can be amended to take stock of Africa’s achievements in the last 26 years and rerouted to bypass revealed challenges along this pathway. Whatever approach is adopted, the accumulated wide expertise in trade integration matters gained by the RECs must be incorporated into the CFTA institutional structure, especially as they are the building blocks of the CFTA.

The vision outlined in the Abuja Treaty suggests that as the CFTA is transformed into a continent-wide customs union and adopts “common policies,” the RECs will gradually cease their major role in forming trade policy. The main authority for trade policy will graduate to the continental level as the CFTA works to consolidate Africa’s overlapping “spaghetti bowl” of FTAs. Such consolidation will enable Africa to economize the resources now required to undertake these activities in each of the RECs. It is expected that the RECs will contribute to continental trade policy through their roles in the CFTA institutional architecture.

Policy recommendations

Five guiding principles are important in the formation of the CFTA’s institutions: Use the Abuja Treaty as the backbone to the CFTA institutional form; use and empower existing structures of African integration where available; ensure that the institutions of the CFTA are accessible to the African people; support the joint implementation of the BIAT Action Plan alongside the

CFTA; and develop practical institutional forms, rather than those which are idealistic.

But first things first: Interim steps towards an ideal institutional structure are required. The most important first step in approaching a CFTA institutional structure will be the requirement of each CFTA partner state to designate or create a ministerial level agency that will be responsible for implementing and communicating on CFTA issues. This follows the successful approach used in EAC, in which lead agencies for each country were charged with coordinating implementation and application of EAC commitments at the national level.

The CFTA architecture should be buttressed with regional and national institutions. These can be based on those envisaged in the BIAT Action Plan, but should use existing regional and national structures, including the RECs and national ministries responsible for trade or regional integration.

Finally, the CFTA should draw on the positive experiences of COMESA and use non-litigious dispute settlement mechanisms to address CFTA-related disputes where possible. Its dispute settlement arrangements should be inter-governmental. And to ensure that the individuals’ rights under the CFTA are fully implemented, national courts of the CFTA Member States will be important.

Chapter 9: CFTA in a Changing Trade Landscape

Key messages

Trade protectionism seems to be increasing in some developed countries while developing countries are increasingly applying trade defence measures against other developing countries.

Trade with the emerging market economies, including China, India, Brazil and Turkey, has diversified Africa’s trade from an overdependence on traditional markets. However, this trade is concentrated in extractive industry exports and will not in itself adequately support African industrialization, which must instead leverage the opportunities of intra-African trade. Intra-African trade accounts for a far larger share of growth in Africa’s value-added and industrialized exports than does Africa’s trade with any other market.

Policy recommendations

African countries should use the apparent slowdown in the build-up of mega-regional trade agreements as breathing space in which to establish a strong and unified CFTA with which to better tackle future trading issues.

The CFTA should present itself as a platform for solidifying Africa's position on the new trade issues, such as e-commerce; micro, small and medium-sized enterprises; domestic regulation of services; and investment facilitation.

Africa should push for the UK's post-Brexit trade policy and trade-related development assistance to reinforce Africa's continental integration agenda, including the CFTA. Relatedly, it should consider using Brexit to reopen EPA discussions for better achieving the trade interests of Africa.

African leaders should heed the caution of integration presented by Brexit and ensure that integration projects in Africa, including the CFTA, are cognizant of the potential pitfalls of integration and responsive to their root causes, including people's perceptions of sovereignty loss.

They should also conclude the CFTA and press forward with continental integration so that Africa can address the post-AGOA agenda in the United States as a single entity. This will ensure that individual FTAs with "can-do" countries, as in the current United States strategy, do not pick apart the African integration agenda.

Chapter 10: Phase 2 Negotiations— Competition and Intellectual Property Rights and E-commerce

Key findings

Competition and intellectual property will be part of phase 2 of the CFTA negotiations and there is scope for also introducing issues of e-commerce and the digital economy. Negotiations in these policy areas are expected to be launched after the conclusion of the negotiations in goods and services.

As African countries are affected in different ways by anti-competitive practices, a regional approach is needed for dealing with cross-border cartels, mergers, acquisitions and abuse. National competition laws

operate on a "territorial" basis and are incapable of addressing cross-border anti-competitive practices. The CFTA can be used as a vehicle to address such cross-border competition issues. In doing so it can draw on the successes of COMESA approach to cross-border competition challenges.

Procedural and substantive failures around intellectual property (IP) issues have contributed to a backlash against trade agreements, notably the WTO's Agreement on Trade-related Aspects of Intellectual Property (TRIPS) and EAC's early experience.

Innovation in Africa is different, occurring mostly in the informal sector and in the absence of strong intellectual property institutions: an intellectual property framework in the CFTA must reflect this. Traditional, formal IP protections cannot exist in the absence of strong IP institutions and may be ill-suited to the African context in which industries operate successfully without IP.

E-commerce and the rise of the digital economy is causing a shift in traditional economic sectors and the emergence of new digital products and services. The scale of this process is considerable and this will alter Africa's trade and industrialization pathway.

Policy recommendations

A competition framework should be designed to implement any decision to develop competition law and policy in the CFTA negotiations. Existing competition policy and legislation at national and regional levels must be taken into account.

The CFTA provides an opportunity to close gaps and strengthen existing competition law frameworks both domestically and regionally. The CFTA should help countries with no competition laws to enact some in conformity to an agreed approach as envisaged in a continental competition framework.

CFTA Member States need to tackle the following specific and immediate priorities:

- Agree on a common objective for the CFTA competition framework.
- Identify and understand the provisions of the present competition law frameworks, identify gaps

in each of the approaches, and devise a means of rationalizing all systems within the framework of any CFTA competition law.

- Establish other parameters/areas of law that need to support implementation of the CFTA competition framework and formulate key features of these laws, synchronizing them with the preferred approach so as to allow for seamless implementation.
- Secure the cooperation of the various Member States and their agencies.
- Rationalize key public international law, regional law and domestic law issues that may impact on the legality of a CFTA competition framework.
- Pay attention to consumer protection issues, how to delineate them from competition and how to deal with diversity in legislative and institutional arrangements in this context.

A CFTA Enforcement Cooperation Protocol on Competition Law and Policy should be developed to help implement competition provisions.

An agreement regarding intellectual property in the CFTA must seek to overcome several hurdles. They include overlapping subregional IP organizations, the proliferation of IP matters in RECs, and misalignment with the continent's overall development goals. The agreement should also consider the backlash against the inclusion of IP in free trade agreements. This can be done by addressing the particular demands of African innovation with appropriate procedural and substantive principles.

On procedure, a CFTA intellectual property agreement should be negotiated, while on substance, a CFTA intellectual property agreement should address the particular challenges of the African context.

An African digital industrial strategy is recommended to address the opportunities and disruptive challenges entailed by the digital economy. The CFTA should provide a platform for consolidating a common stance on e-commerce rules and for establishing an integrated market for Africa's own digital businesses.