



**This Year's Theme**

The AfCFTA: Revitalizing Pan  
Africanism for Sustainable Peace  
and Development in Africa

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Policy Briefs

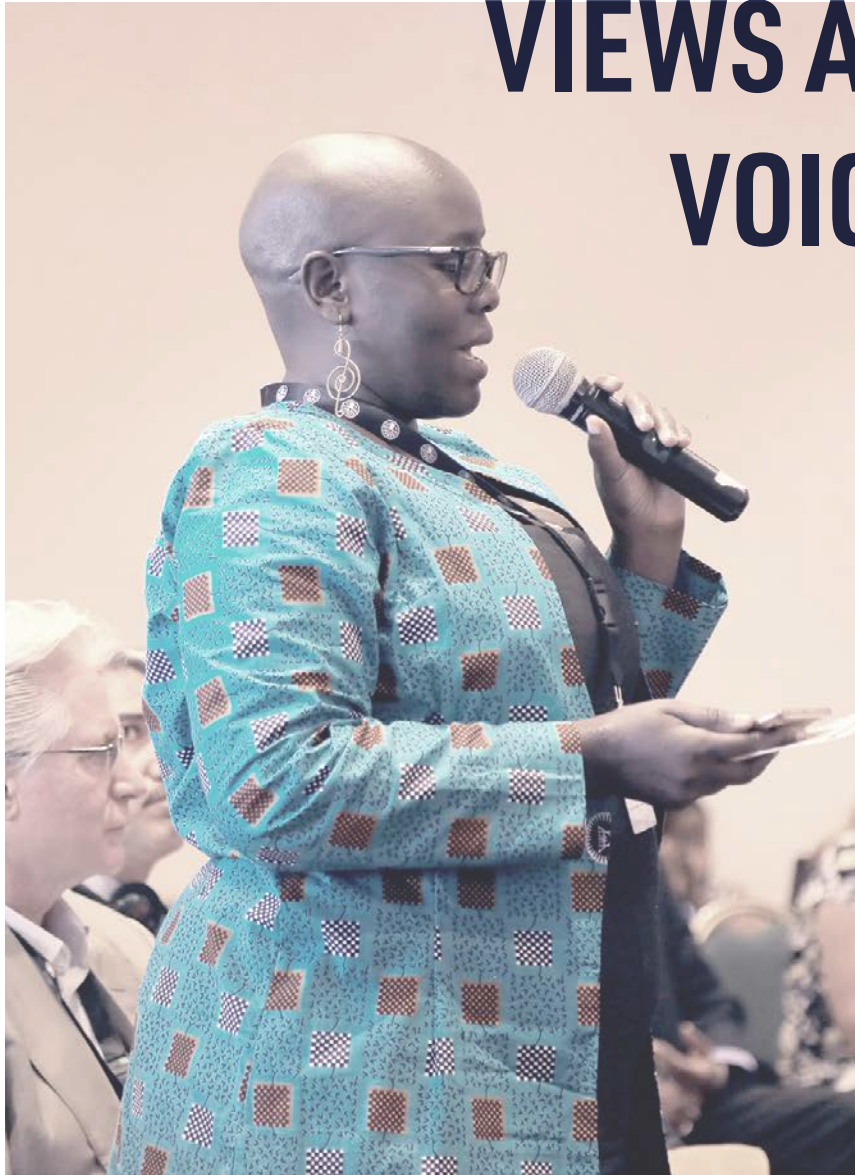


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# Preface

The Institute for Peace and Security Studies (IPSS) of the Addis Ababa University (AAU) has been serving as the Secretariat of the Tana High-Level Forum on Security in Africa (Tana Forum for short) with deep interest and commitment since its establishment. As part of delivering on our promise, we are delighted to present a set of policy briefs, which is intended to inform the upcoming discussions at the 9th Tana Forum. This year's theme is "The AfCFTA: Revitalizing Pan Africanism for Sustainable Peace and Development in Africa." At the heart of the initiative is a broader, bolder and ambitious quest to reclaim, re-invent and re-energise the ideals of Pan-Africanism. The African Continental Free Trade Area (AfCFTA) is born out of growing consensus around the urgent needs to reboot and deploy the ideals of Pan-Africanism as the first step towards continental integration, sustainable development and peace and security. It offers harmonized strategies at the national, sub-regional and continental levels. Of paramount significance in this process is the willingness of individual Member States and their leaders to take action to implement the agreement.

We hope the collection ignites imagination, stimulates animated discussions and sparks insights on the actual and potential opportunities of the AfCFTA. Such discussions, we believe, will provide policy recommendations to address a number of challenges which will likely undermine AfCFTA's effective implementation. We are confident that this publication will contribute to knowledge generation on the theme and serve as a useful reference for researchers, policymakers and other relevant stakeholders on the continent and beyond.

Finally, I would like personally to take this opportunity to thank the authors of these policy briefs. I would also like to express my deepest gratitude and appreciation to our partners and friends for enabling IPSS to continue to serve as the Secretariat of the Tana Forum with more vitality and vigour and for making this year's Tana Forum a resounding success once again. Last but not least, I am indebted to the IPSS editorial team for making possible the timely and successful publication of this collection.

Stay safe and well in this strange time of COVID-19.

**Yonas Adaye Adeto, PhD**

Director  
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# Introduction

The African Continental Free Trade Area (AfCFTA), in the vein of Pan-Africanism, puts a value on Africa's integrated development and the collective identity of the continent. It echoes the Pan-African call for the unity of people across the continent and a celebration of a shared history and values. The AfCFTA is believed to be an unprecedented initiative to generate vast economies of scale on an intra-continental basis. Analysts point out that the agreement has the potential to boost intra-African trade by eliminating import duties and reducing non-tariff barriers. Through the coordination and facilitation of trade policies and instruments across RECs and Africa in general, the agreement seeks to promote socio-economic development, regional integration and peace. As a result, some scholars hypothesize that its effective implementation will help create favorable conditions for unleashing Africa's potential for economic growth and sustainable development. The agreement is also believed to be a tool to "silence the guns" and mitigate the effects of conflicts on the continent.

According to this year's policy brief contributors, the AfCFTA has created opportunities towards realising Pan-African economic integration. First, the AfCFTA creates an opportunity for High-Impact Entrepreneurship (HIE) to improve complementarity and deepen integration of member countries of the AfCFTA. Moreover, HIE will help member countries to source differentiated products and services from one another at a relatively cheaper cost. This will, in turn, improve the interdependence among members of the AfCFTA. Second, the AfCFTA provides an opportunity to scale E-commerce on the continent exponentially from domestic markets to intra-regional trade. Leveraging the capacity of previous African (national and sub-regional) progress on E-commerce, as well as the experiences of regional blocs such as the European Union towards an E-commerce framework, will contribute to fully harnessing the potentials of online businesses on the continent. Third, the agreement presents an opportunity for a more human-centered approach to trade through the effective integration of human rights into the AfCFTA. It also offers an opportunity for a more integrated approach to continental peace and security. It will foster cooperation on security among African institutions and facilitate a more cooperative security regime to spur development.

The contributors noted some challenges related to the implementation of the AfCFTA. While the AfCFTA is very promising, constrained state capacity in the context of a 'free trade' arrangement can lead to a non-existent or minimal room for transformative industrial and social policies. Non-uniformity of digital regulations arising from different sub-regional trade blocs can also be challenging when considering implementing an E-commerce framework within the AfCFTA. The AfCFTA could also be exploited by actors engaged in organised crime and cross-border criminality. The AfCFTA further faces a number of challenges that can undermine its effective implementation such as Africa's fundamental development challenges and the homogeneity of demand and supply hampering the intra-Africa trade. It also runs the risk of increasing distributional inequality and political marginalisation that tend to accompany trade liberalisation. Moreover, Covid-19 places severe strain on economies across the AfCFTA, with member countries experiencing unforeseen threats to peace and security due to the pandemic.

Hence, to sustain the optimism that the AfCFTA has created, additional institutional efforts are required. Meticulously formulated and coordinated growth and development strategies at the national, sub-regional and continental levels should dictate and shape the implementation of AfCFTA. A harmonized continental E-commerce protocol also needs to be negotiated within the AfCFTA and human rights needs to be integrated more firmly within the AfCFTA agreement. It is equally important to leverage on the effective implementation of the AfCFTA to fight the COVID-19 pandemic and ensure economic sustainability. Finally, the scope of APSA mechanisms like CISSA and AFRIPOL should be broadened to deal with the likely security challenges from organised crime and cross-border criminality as the AfCFTA takes effect.

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# Strengthening the Potential of the African Continental Free Trade Area by Integrating Human Rights

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Dr. Brenda K. Kombo is a postdoctoral fellow at the Free State Centre for Human Rights at the University of the Free State. For the first half of 2020, she was a research fellow at New York University's Center for the Study of Africa and the African Diaspora. These fellowships follow several years of work with non-governmental organizations in the human rights field, primarily at the African continental level, including at the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, Cyrus R. Vance Center for International Justice, and Equality Now. Brenda also held research fellowships at the United Nations Economic Commission for Africa's African Centre for Gender and Social Development and the Institut d'Études Politiques de Paris through the Yale Fox International Fellow Program. Broadly, her research interests are in legal anthropology, human rights, and international law. Brenda holds a PhD in anthropology from Yale University, an MPhil also in anthropology from Yale, a Juris Doctor from Northeastern University School of Law, and a Bachelor of Arts from Hampshire College.

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# Executive Summary

The African Continental Free Trade Area (AfCFTA) seeks to promote socio-economic development, regional integration, and peace. However, it is being developed in a context where free trade seemingly exacerbates inequality and hinders democracy. Although the agreement establishing the AfCFTA makes little reference to human rights, this policy brief suggests that situating human rights more firmly within it may render it more human-centered and, thereby, address some of the concerns that a narrow focus on international economic law tends to ignore. Although human rights are not a panacea, they reflect African states' commitments and present an alternative to a technocratic approach that may result in the AfCFTA's failure to realise its aspirations. Human rights can be integrated into the AfCFTA by developing participatory processes, conducting robust human rights assessments, and embedding human rights into the dispute settlement process.

## Key Points

- ▶ Reflecting the historical isolation of international economic law and international human rights law, the AfCFTA is fairly silent on human rights.
- ▶ Not only do African states have obligations under international human rights law, but embracing human rights can facilitate a more human-centered approach to trade that can address distributional and representational concerns.
- ▶ Human rights can be more firmly integrated into the AfCFTA by developing participatory processes, conducting robust human rights assessments, and embedding human rights in the dispute settlement process.

## Introduction

Scepticism towards multilateral trade agreements as exemplified by the Trump Administration and Brexit has at least partially resulted from popular perception of free trade's failure to equitably distribute economic benefits and its contribution to the delocalisation of governance. Critics of free trade bemoan its tendency to pursue its goals at the expense of social welfare. In the African context, this critique was often situated in a broader critique of the neoliberal policies imposed by international financial institutions and Western countries which championed free trade within what came to be known as the Washington Consensus, a set of policy prescriptions that failed to jump-start African economies as intended in the 1980s and 1990s (Mkandawire and Soludo, 1998, pp. 52-75). Despite this criticism, the Agreement establishing the African Continental Free Trade Area (AfCFTA) entered into force on 30 May 2019 and the African Union (AU) launched its operational phase in July 2019 (Ligami, 2019).

The AfCFTA aims to promote socio-economic development, integrate Africa, and foster peace. However, like other free trade agreements, it runs the risk of increasing inequality and political marginalisation. To mitigate this risk, this policy brief proposes situating human rights more firmly within the AfCFTA Agreement. A more synergistic relationship between international economic law and international human rights law can be formed within the AfCFTA by developing participatory processes, conducting robust human rights assessments, and embedding human rights in the dispute settlement process.

# Human Rights and the AfCFTA

The lack of a clear relationship between the AfCFTA and human rights is not surprising. After all, this dynamic reflects the broader connections between international human rights law and international economic law, which have developed in “splendid isolation” (Mutua and Howse, 2000, p. 54) despite their common emergence in the context of post-World War II efforts to promote peace and stability. A creature of the Bretton Woods system, international economic law regulates the economic relations and cross-border activities of states, international organisations, and private actors (Herdegen, 2014; Charnovitz, 2011). More specifically, it governs “cross-border transactions in goods, services and capital, monetary relations, and the international protection of intellectual property” (Herdegen, 2014). Thus, international trade law is regarded as a subset of international economic law. International human rights law is rooted in the Universal Declaration of Human Rights (UDHR) adopted in 1948. As stated in the UDHR’s Preamble, it recognises the inherent dignity of human beings and seeks to respect, promote, protect, and fulfil their “equal and inalienable rights”. Like international economic law, international human rights law governs the conduct of states, international organisations, and private actors. However, it goes further through its focus on individuals and communities.

Reflecting this generally accepted dichotomy, the Agreement establishing the AfCFTA is widely regarded as an instrument of international economic law. Unfortunately, the text of the Agreement itself and its Protocols do little to dispel this notion as they are fairly silent on human rights issues. In fact, the only reference to human rights is in the Agreement’s Preamble which “recognises the importance of international security, democracy, human rights, gender equality and the rule of law, for the development of international trade and economic cooperation.” Ironically, the Agreement and its Protocols do not reflect this significance. Rather, Article 26 of the Protocol on Trade in Goods, which allows members to prioritise other values and interests over trade liberalisation under certain circumstances, recognises the importance of public morals; human, animal, and plant life and health; and limiting prison labour, among others, but without explicit mention of human rights. Most of the provisions of this article are almost identical to Article XX, the general exceptions clause of the world’s first international trade agreement, namely, the General Agreement on Tariffs and Trade (GATT) of 1947. Although GATT’s adoption preceded that of the UDHR, the AfCFTA seemingly ignores the well-developed human rights regime at both the international and regional levels.

Seeking to bring human rights concerns to the fore within the AfCFTA, the United Nations Economic Commission for Africa (UNECA), Friedrich-Ebert-Stiftung (FES) Geneva Office, and the Office of the UN High Commissioner for Human Rights (OHCHR) commissioned a human rights impact assessment of the AfCFTA (UNECA and FES, 2017). This was an *ex ante* assessment, meaning that it was conducted prior to the implementation of the AfCFTA Agreement. It advocates for a human rights approach and makes policy recommendations with a view to ensuring that the AfCFTA yields better human rights outcomes. Although the AU did not initiate this assessment, it provided its approval (UNECA and FES, 2017, p. 40). Perhaps this approval can be taken as further recognition by the AU of the importance of human rights.

## Why Integrate Human Rights?

It is useful to at least briefly consider why the AfCFTA should engage with human rights, which are taken to include labour rights. Two main reasons are proposed. The first has to do with the obligations of African states under international law. The second concerns the way in which a human rights approach can facilitate a more “inclusive and cohesive AfCFTA” (UNECA and FES, 2017, p. 12).

### Human Rights Obligations of African States

Richard Wilson (1997, p. 1) characterises human rights as “one of the most globalized values of our time”. Indeed, human rights have gained considerable salience around the world, even as their origins, meaning, universality, and impact remain contested (Mutua, 2002; Merry, 2001; Hopgood et al, 2017). Through ratification, African states have largely recognised obligations within what is often called the International Bill of Rights, namely, the UDHR; International Covenant on Economic, Social and Cultural Rights; and International Covenant on Civil and Political Rights.

Within the African human rights system, Morocco is the only state yet to ratify the African Charter on Human and Peoples' Rights (African Charter) in which states commit to respect and take measures to fulfil a range of civil, cultural, economic, political, and social rights and duties. On this basis, integration of human rights into the AfCFTA can be regarded as an obligation since human rights must be protected in all contexts. There are debates about the extent to which international human rights have binding force as customary international law (Mutua and Howse, 2001; D'Amato, 1996). Nevertheless, it is clear that at least some obligations are recognised as *jus cogens*, or peremptory norms that states cannot violate. These include the right to self-determination and prohibitions of genocide, slavery, racial discrimination, torture, crimes against humanity and the use of force by states (Brownlie, 2003, p. 489). In the African context, the African Commission on Human and Peoples' Rights (African Commission) has held that states cannot derogate from human rights obligations even in public emergencies (see, for example, *Commission Nationale des Droits de l'Homme et des Libertés v. Chad*, para. 21 and *Media Rights Agenda v. Nigeria*, para. 73).

### **A Human-Centered Approach to International Trade**

As the Human Rights Impact Assessment of the AfCFTA (UNECA and FES, 2017, p. 33) recognises, Africans, like others around the globe, are sceptical toward trade liberalisation (Cohen, 2019). Such liberalisation has created camps of winners and losers, with transnational corporations often coming out on top (Hernández-Truyol and Powell, 2009, pp. 284-5). Over time, the international trade law regime has developed into a largely technocratic field that prioritises adherence to anti-protectionist rules rather than social welfare issues (Cohen, 2019, pp. 328-331). This technocratic approach has meant that key policy decisions are increasingly removed from the domestic level (Cohen, 2019, pp. 333-334; Rodrik, 2018, pp. 75-76). Free trade's failure to equitably distribute economic benefits and its delocalisation of governance suggest that a new approach is necessary.

By placing human dignity at its core, international human rights law addresses a range of relevant issues that the utilitarianism of international economic law tends to deprioritise. Although these issues are too broad to fully delineate here, a few examples include state accountability, dissemination of information about the liberalisation process, the role of citizens in the development and monitoring of the AfCFTA, and environmental concerns. These are elaborated, at least in part, in the African Charter through rights to judicial recourse for violation of fundamental rights (Article 7); to access information (Article 9); to political participation (Article 13); and to a "general satisfactory environment" (Article 24). Moreover, because of the concern of international human rights law with equality and non-discrimination, it emphasises the rights of marginalised groups including women and indigenous people, who may well be the losers in international trade. Relatedly, the African Commission has recognised states' duty to protect citizens from violations of their rights by private actors like the transnational corporations that will play a key role in the AfCFTA (*SERAC v. Nigeria*). More broadly, human rights and development are "mutually reinforcing" (Alston and Robinson, 2005, p. 3) and this has particular relevance to Africa. The African Charter, in Article 22, uniquely recognises a right to "economic, social and cultural development with due regard to peoples' freedom and identity and in the equal enjoyment of the common heritage of mankind". Within the context of the AfCFTA, this suggests that economic development should not be prioritised at the expense of freedom and the more holistic understanding of development elaborated in the Charter (Ngang, 2017; Mahalu, 1988). Africans must be free to shape their development and avoid the failures associated with previous neoliberal efforts (Ngang, 2017; Cheru, 2016).

### **A Realistic Appreciation of Human Rights**

Nevertheless, this does not mean that the contestations around human rights raised above should be ignored. As Makau Mutua (2002, p. 150) contends, human rights are "not a panacea". Ongoing debates highlight some of the problems human rights discourse and practice struggles to resolve. These include but are not limited to debates about the following: the significance of human rights' Western origins; the continued tendency to privilege political over social, economic, and cultural rights; the perpetual tension between universalism and cultural relativism; the possibility that human rights crowd out potentially more effective social justice projects; the focus on the state more so than non-state actors like transnational corporations; and increasing

threats to the effectiveness of African regional human rights institutions (Adjolohoun, 2020; Hopgood et al, 2017; Mutua, 2002; Shivji, 1989; Ssenyonjo, 2018; Wilson, 1997). Even as the continent engages with human rights, it must remain cognizant of its limits and flaws.

### **How Human Rights Can Be More Effectively Integrated into the AfCFTA**

Emerging at a time when both international human rights law and international economic law have been significantly developed, the AfCFTA presents an opportunity to end their "isolation" and, thereby, improve citizen's welfare. The following three considerations are considered critical to this complex but worthwhile endeavour.

#### **Participatory Processes**

One of the criticisms of trade liberalisation is that it delocalises governance and undermines democracy by facilitating the transfer of decision-making from the local or domestic level to trade governance institutions (like the WTO) as well as other external actors and processes (such as transnational corporations and their profit maximisation activities) (Cohen, 2019, p. 331; Guzman, 2004, pp. 336-348; Rodrik, 2018, pp. 75-76). Building on the African Charter's guarantee of the right to political participation, Article 3(7) of the African Charter on Democracy, Elections and Governance guarantees "effective participation of citizens in democratic and development processes and in government of public affairs". Such popular participation is not only a human right but also renders trade policy more responsive to citizens' needs (OHCHR, 2003, p. 5).

The AU's Draft Strategic Framework for the Implementation of the Action Plan for Boosting Intra-Africa Trade and for Establishing the Continental Free Trade Area provides that "implementation of the AfCFTA initiative must be an inclusive process that involves not only governments and Regional Economic Communities (RECs) but also other stakeholders such as the private sector, civil society, media, parliament and development partners" (AU, 2012, para. 33). However, this participation should apply to implementation of the agreement as well as to relevant aspects of its negotiation.

National, sub-regional, and regional mechanisms can facilitate such effective participation. These mechanisms should develop initiatives to ensure participation of women, youth, small-scale traders, rural communities, people with disabilities, and other marginalised or disadvantaged groups (UNECA and FES, 2017, p. 157). At the same time, to be effective, stakeholders must be provided with all the relevant information (UNECA and FES, 2017, p. 157). As such, the mechanisms should disseminate information about the AfCFTA and the modalities for citizens' engagement through diverse channels and in local languages (UNECA and FES, 2017, p. 157).

#### **Human Rights Impact Assessments**

The authors of the Human Rights Impact Assessment articulate some of the challenges they faced, including the impossibility of considering all human rights and all trade measures and the difficulty of establishing a causal relationship between a trade measure and human rights outcome (UNECA and FES, 2017, pp. 40-44). Zerk (2019) identifies additional methodological, processual, and political challenges. Nevertheless, when complemented by ex post assessments, developed with awareness of their limitations and followed by regular monitoring, ex ante assessments have the potential to provide critical baseline data and facilitate the engagement of diverse stakeholders in the process (Zerk, 2019, p. 39).

Additional human rights impact assessments of the AfCFTA conducted along the lines described above can only strengthen its compliance with human rights. These assessments can be carried out by a special authority, independent government agencies, or consulting firms, all with the engagement of key stakeholders (Zerk, 2019, p. 25). Alternatively, as Gathii (2016, pp. 38-40) suggests, the mandate of the African Peer Review Mechanism (APRM) could be expanded to include assessments as well as monitoring. Civil Society Organisations (CSOs) and research institutions with the requisite expertise and other resources can also conduct assessments. At the same time, once implementation of the AfCFTA Agreement begins, developments should be monitored and *ex post* assessments should examine its actual impact on human rights. All these processes must be inclusive, and the AU should provide clarity on the roles of National

Human Rights Institutions (NHRIs), the African Commission, RECs, APRM, CSOs, trade unions, and other stakeholders.

### **Dispute Settlement**

The Protocol to the AfCFTA Agreement on Rules and Procedures on the Settlement of Disputes provides for the establishment of a Dispute Settlement Body (DSB). However, this body as constituted in the Protocol, seems much like the WTO, a “self-contained system” (Hernández-Truyol and Powell, 2009, p. 69) with no links to the existing judicial and quasi-judicial regional human rights system. Moreover, the mechanism solely seeks to resolve disputes among state parties and does not allow for individuals and CSOs to participate. Such dynamics do not bode well for the AfCFTA’s engagement with human rights issues and, consequently, in addressing the broader distributional and governance issues that characterise free trade.

Dispute settlement must interpret the AfCFTA provisions and other norms in accordance with international human rights law. The WTO Appellate Body (*United States – Gasoline*, p. 17) confirmed in its first decision that GATT “is not to be read in clinical isolation from public international law”, which includes international human rights law. Likewise, the AfCFTA Agreement must be interpreted within this broader context.

The right to a fair trial mentioned above includes the right of access to a remedy. Such remedies must not only be afforded to states but also to individuals and communities whose rights have been violated and the CSOs that act on their behalf.

## **Conclusion**

Since GATT’s adoption preceded that of the UDHR, it is not entirely surprising that the former does not mention human rights. However, it is strange that the AfCFTA Agreement echoes GATT as if the 70-year evolution of international human rights law had not occurred. Integrating human rights into the AfCFTA presents a viable, even if imperfect, alternative to a technocratic approach to trade. Such integration, which can be advanced through participatory processes, human rights impact assessments, and dispute settlement mechanism, can mitigate some of the risks of distributional inequity and political marginalisation that tend to accompany trade liberalisation. In so doing, it can bolster AfCFTA’s effectiveness and ultimately improve the lives of Africa’s people.

## **Recommendations**

### **Participatory Processes**

- ▶ **Member states**, the **RECs**, and **AU** should establish mechanisms for popular participation at the national, sub-regional, and regional levels.
- ▶ Through these mechanisms, information about the AfCFTA and its participatory processes should be widely disseminated.
- ▶ The mechanisms should initiate efforts to ensure participation by marginalised and disadvantaged groups.

## Human Rights Impact Assessments

- ▶ The **AU** should support the development of multi- and inter-disciplinary expertise on trade and human rights for assessment and monitoring processes.
- ▶ The **AU** should establish an inclusive institutional framework for human rights impact assessments and monitoring.
- ▶ Additional human rights impact assessments of the AfCFTA should be conducted at the regional, sub-regional, and national levels by the **AU and other qualified stakeholders**.

## Dispute Settlement Mechanism

- ▶ Clear linkages should be established between the dispute settlement mechanism and the African Court on Human and Peoples' Rights, African Commission, African Committee of Experts on the Rights and Welfare of the Child, and RECs, courts and tribunals.
- ▶ **AU Member States** should amend the Protocol to allow access to the dispute settlement mechanism by individuals and CSOs.
- ▶ The **dispute settlement mechanism** should interpret international trade law in conjunction with international human rights law.

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# High-Impact Entrepreneurship As Enabler For A Stronger Intra- Africa Trade

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**Binyam Zewde Alemayehu**

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# Executive Summary

The success of free trade areas is considerably dependent on the depth and breadth of trade among member states. Although many emphasize on volume of the trade, diversification and sophistication are other important indicators of trade performance.

Reports on Africa's trade performance shows that the continent struggles in both fronts: volume as well as diversification and sophistication. Most countries in the continent rely on the export of primary and agricultural commodities and are highly dependent on the global market to fulfil their demand for high-value goods and services (Addison, 2017; Page, 2010), implying similarity of factor endowments, a factor that significantly determines the intra-industry trade (IIT) between countries. As can be observed from the small intra-Africa trade, the similarity pushed countries further apart and made intra-trade less attractive. Besides, since similarity in relative factor endowments tends to encourage a higher horizontal intra-industry trade (HIIT) instead of vertical intra-industry trade (VIIT) (Botrić, 2013), it allowed other countries and/or blocks (with differentiated factor endowments) to take advantage of the weak VIIT and create and sustain economic dependence.

To make the AfCFTA a success story, Africa needs to address this. This policy brief outlines some of the major issues that demand the attention of Regional, Continental and International Organisations (RCIOs) to help countries work towards improving their capacity in producing and exporting high-value products. It calls for a shift in the focus of entrepreneurship policies towards High-Impact Entrepreneurship (HIE) to take advantage of its inherent capacity in facilitating the production and trade of differentiated, high quality products.

The paper identifies four priority areas for intervention. In addition, RCIOs are advised to work towards the adoption of HIE policies by all member states, coordinating and streamlining resource allocation, establishing special HIE-focused funding schemes, and promoting and strengthening the *Made-in-Africa* brand.

## Key Points

- ▶ Although the necessity of trade and economic integration for Africa is uncontested, the low or lack of complementarity among members is a concern for many (De Melo & Tsikata, 2014).
- ▶ A significant portion of Africa's exports is dominated by raw and unprocessed commodities (UNECA, 2015). This combined with the lack of capacity in producing high value products left the continent at the bottom of global competitiveness (UNCTAD, 2016) and impacted its development (UNECA, 2015).
- ▶ To improve complementarity and deepen integration of member countries of the AfCFTA, an HIE is recommended. RECs, AU and other RCIOs are encouraged to give disproportionate attention and resources to entrepreneurial endeavours that are growth-oriented and innovative as opposed to the traditional approach that tries to cater for everyone wishing to start a business.
- ▶ Exclusive support need to be given to High Growth Firms (HGFs), possible outcomes of effective HIE policy, to boost the continent's capacity to produce high value products and services, and diversify its offerings. This would help member countries to source differentiated products and services from one another at a relatively cheaper cost, and strengthen the interdependence among members of the AfCFTA.
- ▶ In light of the massive advantage that HIE would provide in the implementation and future performance of the AfCFTA, RCIOs are urged to work in collaboration with member states in the adoption and implementation of an HIE policy.

# Introduction

Africa's decision to form a continental free trade area is monumental in several ways. From those who view the AfCFTA as the realisation and revival of the pan-African dream to those who see it from the immense benefits it brings to Africans, the continental free trade agreement seen as a leap forward in the right direction. The move is perceived by many as a glimmer of hope for a more integrated, free and safer Africa.

Free trade agreements increase trade among member states and reduce conflict substantially by strengthening interdependence and raising the opportunity cost of wars (De Melo & Tsikata, 2014). Africans, cognizant of this fact, expect the AfCFTA to boost the intra-Africa trade, ease the movement of factors of production, deliver its security promises and pave the way for a more integrated and unified continent (Luke, 2019).

Yet the realisation of these ends is highly contingent upon what member countries and, regional and international institutions will do to fix some of the pressing macro and micro economic challenges hampering the intra-Africa trade. One of these challenges that continues to influence the trade between Africans is the homogeneity of demand and supply. Most countries rely on the global market for their high value product demands and their export is reliant on primary and agricultural outputs (Newman et al., 2016). As Tafirenyika (2014) put it eloquently, *"Africa produces what it doesn't consume and consumes what it doesn't produce,"* implying the significant similarity of factor endowment across Africa and failure of states to diversify their exports. As a result, the intra-regional trade is the lowest in the world. Although, the share of high-value, differentiated products and services in the small intra-regional trade has shown a sign of progress over the past few years, it is way below the world average (Songwe, 2019).

This paper proposes a High-Impact Entrepreneurship (HIE) as a way forward to addressing this structural challenge and helping the AfCFTA achieve a deeper integration among member states. HIE is a type of entrepreneurship that focuses on the formation of high quality, high growth entrepreneurial ventures (Shane, 2009). Contrary to the traditional approach that stresses the number of start-ups, HIE pursues a more focused approach that underlies quality and growth prospects of ventures (Acs & Correa, 2014). HIE policies aim to support and empower entrepreneurs with strong growth orientation and proliferate the number of high-growth firms (HGFs) in the economy.

HIE is a timely policy option for Africa. It can be argued that the adoption of the AfCFTA has made the need for HGFs so compelling. Economists expect the AfCFTA to expand the intra-trade volume by at least 40% (UNECA, 2018), yet it is clear that this is a tough ambition to achieve without a significant change on what majority of African states export. For this change to happen, Africa needs to support the emergence and growth of HGFs. HGFs play a paramount role in diversifying exports and making intra-trade feasible. Since HGFs are much more inclined to producing innovative and high value goods and services, their presence will help to overcome the big deficit in vertical intra-industry trade, reduce Africa's dependence on global markets for high value products, advance the continent's value creation capacity and create sustainable and quality jobs for the unemployed youth.

However, it should be noted that creating an environment that fosters and nurtures HIE is near impossible without an integrated and well-aligned effort by every concerned stakeholder. The transition from the traditional entrepreneurship policy, which promotes and encourages everyone to start a business, to an HIE policy that focuses on start-ups or existing business with strong growth aspirations and potential, requires a multi-sectoral and multi-agency approach. Thus, all concerned RCIOs should work hand in hand with member states in their efforts to build an entrepreneurial ecosystem that supports and encourages the emergence and growth of HGFs.

RCIOs can support the transition in various ways including availing expert support in crafting and implementing country specific HIE policies, mobilising financial and non-financial resources for HGFs, developing harmonised regional HIE strategies, and promoting the African brand.

# Possible Outcomes of a Shift to HIE

There is sound evidence on the effectiveness of policy interventions in creating an entrepreneurial ecosystem that fosters business growth and innovation (Wright, Roper, Hart, & Carter, 2015). Thus, the author suggests the shift in the policy focus would have multitudes of positive outcomes in facilitating the implementation of the AfCFTA, and informing the value and cementing the importance of the AfCFTA both for inside and for outside players. The following are some of the major possible outcomes:

## Higher Level of Integration

One of the reasons for Africa's weak trade performance is its lack of capacity in producing what it wants (Fabricius, 2020). The shift towards a higher level of HIE would play a consequential role in addressing this major structural problem and opens a door for more trade within the AfCFTA and with outside players. Products that are going to be produced and sold within the jurisdiction of the AfCFTA are expected to be cheaper and more convenient to transport compared to the costs of sourcing the same products from other markets. Therefore, due attention to HIE is expected to deepen the integration of African economies and facilitate and promote the Pan-Africanism that AfCFTA is mandated to uphold.

## Economic Benefits

Although the massive gap in the African trade is the result of many factors, it is mainly the reflection of the limited capacity of countries to produce high quality, high value products and services. A strong attention and comprehensive support to HGFs, however, would help to considerably reduce Africa's reliance on other markets and pave the way for self-sufficiency. It will significantly improve the intra-trade as exports become diverse and complex. The economic significance could extend to adjusting the highly skewed trade balance of Africa.

## Employment

HIEs account for a considerable share of employment creation (Audretsch, 2012). These firms, although relatively small in their size, can provide a significant number of quality and sustainable jobs for millions of Africans. Investment on HIE will pay off by absorbing many jobseekers and creating local industrialists (Acs,

Parsons, & Tracy, 2008).

## Security

One of the security concerns of Africa is its massive unemployed and underemployed youth (Adesina, 2013; Gupta, te Lintel, & Barnett, 2014). Any initiative that would facilitate job creation and entrepreneurial tendencies, therefore, can serve as key security measures. The change towards higher HIE would reduce Africa's political and social vulnerability by availing the highly needed jobs to its unemployed or underemployed youth.

The advantages of the shift will not be limited to job creation only; it will also contribute much to strengthening the national security of member states by reducing their dependence on the global market for advanced goods and services.

## Conclusion

Sustaining the optimism that the adoption of the AfCFTA has created requires hard work on a broad range of activities. Given the massive political support that the initiative managed to amass, many expect the AfCFTA to succeed. However, it is clear that political support and commitments alone cannot lead to fruition unless and otherwise accompanied by right economic policies and interventions. Without addressing the extant structural misalignments hampering the intra-trade and trade with other markets, the road to a more integrated, interdependent market is going to be rough.

One of the major challenges of Africa is its weak trade due to the underdeveloped manufacturing and service sectors. This has created homogeneity in the demand as well as supply side, which is reflected in what countries import and export. This homogeneity in demand and supply, and the resulting lack of complementarity forcing countries to prefer the global market instead of the African market.

To address this challenge, this brief paper proposes an HIE as a policy alternative. It calls for a shift from the traditional entrepreneurship policy that encourages everyone and anyone to become an entrepreneur to a policy that focuses on high-impact, high-growth oriented entrepreneurs. The shift would unleash the untapped massive innovative potentials of Africans and create future African industrialists.

However, a move from the traditional policy emphasis to the one that favours HIE is hard to realise without a concerted effort by all relevant stakeholders. RECs, AU, and other RCIOs have a great part to play. It is suggested that starting from encouraging signatories of the agreement to develop a full-fledged HIE policy, RCIOs can play a leading role by advising donors and countries to streamline resources, setting-up special funding schemes that exclusively targets HGFs, and promoting the *Made-in-Africa* brand.

These actions are expected to have a significant impact on deepening integration, enhancing economic competitiveness, creating employment and strengthening the security of the continent.

## Recommendations

One of the concerns for many, even for those who are avid supporters of the agreement, is the door that it would potentially open to foreign companies. They fear that the AfCFTA, if not managed properly, would become an easy gateway for big multinationals and would allow them to sell products and services with little African content.

Cyril Ramaphosa, the president of the Republic of South Africa, in his AU 2020 chairmanship acceptance speech highlighted this and made a call for all stakeholders to ensure that the AfCFTA is African in its content. He underscored that “... *the AfCFTA shouldn't become a conduit for products and [services] with minimal African content under the disguise of continental integration.*”

Keeping the AfCFTA African in its content and lowering the chance of trade deflection, demands taking a wide range of actions including strict rules for country-of-origin, and enhancing the continental value creation capacity through supporting African entrepreneurs to engage in major value creation and distribution activities. Africa might need to use a mixture of the American and European approaches, the low regulations route and the high support route (Van Stel, Storey, & Thurik, 2007), to help build the capacities of its HGFs and facilitate the production of goods and services that comfortably compete with products originating from other parts of the world. Yet, given the limited capacity of many African nations, building such a strong support infrastructure and frameworks would be hard without an active involvement of RCIOs. Therefore, RCIOs are advised to join hands on the following priority areas.

## Shifting the Focus of Entrepreneurship Policies

Africa's entrepreneurial environment is one of the least developed in the world. Innovation and creativity levels are far below the world average and still the overwhelming majority of African countries are factor driven economies (Schwab, 2018). Without a proper mechanism to transform this into an entrepreneurial environment that focuses on the actions of individuals that respond to market opportunities by bringing innovation to the market, the desire to see the AfCFTA becoming a broader opportunity where African businesses grow and thrive becomes a mere dream.

Therefore, Africa needs a shift in its policy focus. The entrepreneurship policy must be liberated from the game of numbers and emphasise on the quality of entrepreneurship. The support mechanisms should reflect this central belief; and rules, regulations, and entrepreneurship policy outcome measures need to be revised accordingly. For Africa, it is now the time to focus on a few vibrant, competitive, innovative and growth aspiring entrepreneurs and firms.

RCIOs can play an important role in this transition. Given their extensive reach, well-developed capacity and strong voice, they can play constructive roles in persuading countries and RECs to adopt a policy that supports the emergence, development and growth of HGFs.

Besides, international and regional best high impact entrepreneur awards play a crucial role in the promotion of HIE (Acs & Correa, 2014). RCIOs can also play an important role in enhancing the visibility and credibility of entrepreneurs across the continent by organising continental and regional recognition awards for high-impact entrepreneurs.

## Streamlining Resources

A change in focus necessitates a change in how resources are assigned and utilised. The change towards an entrepreneurship policy that favours HGFs, likewise, requires governments and RECs, AU, and other continental and international institutions to rethink and revise their resource allocation models.

If Africa had to produce high value products, at least for its own consumption and create jobs, HGFs involving in or planning to involve in commercialising innovations or creating disruptive breakthroughs, extracting substantial entrepreneurial rents, spur growth and employment, and shifting the production possibility frontier outwards deserve to get a disproportionately more resources from all stakeholders.

An integrated resource allocation and support frameworks are essential to avoid duplication and improve efficiency. RCIOs should work in concert with member countries in areas like identifying, screening and selecting high growth potential ventures, developing resource allocation models, and designing and implementing special support frameworks for HGFs.

## Setting-up special funding scheme

Availability of finance is one of the major challenges for many entrepreneurs in developing regions (Acs & Correa, 2014). In the context of HIE in particular, where quite reasonable amount of finance is needed to turn ideas into operation or run existing operations at the desired level, challenges associated with raising capital and access to affordable and adequate finance are prevalent.

RCIOs can play a catalytic role in this regard by establishing a special funding scheme - a scheme that targets African entrepreneurial projects with a reasonable prospect of success.

## **Promotion of the Made-in-Africa Brand**

RCIOs can play a pivotal role in promoting the made-in-Africa brand and instilling confidence in products and services produced within the AfCFTA. These organisations can leverage on their name recognition to encourage domestic and international buyers to have confidence in the goods and services originating from Africa. To this end, RCIOs can start with the African consumer ethnocentrism. Consumer ethnocentrism is an attitude held by consumers towards products based on their place of origin. It plays a dual role. On the one hand, it serves as a barrier that shields local producers from unfair competition by foreign producers and, on the other hand, it significantly improves sales and strengthens local brands. RCIOs can play a big role in this respect by informing the public the advantages of choosing an African brand over other competing brands and leading the long campaign by sourcing their purchases from African companies.

RCIOs can also play a key role in the implementation of the AfCFTA by facilitating business-to-business interactions, hosting and sponsoring trade fairs and tradeshows, establishing regional incubation centres and setting up information centres that furnish important information about common standards and opportunities across the continent.



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# **Implementation of an E-commerce Framework within the AfCFTA: What Does It Take and What Lessons Can Be Learned from Europe's Digital Single Market?**

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**Dr. Sally Deffor**

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# Executive Summary

The African Continental Free Trade Area (AfCFTA) Agreement, which became effective in 2019, received glowing reports from across the globe as its ratification saw Africa emerging as the largest free trade area in the world. Yet, a lot more remains to be done to make the AfCFTA truly operational. Studies have established that e-commerce on the continent is growing and that it can significantly impact the achievement of the objectives laid out in the Agreement. Even more noteworthy, the African Union (AU) Assembly has decided that there will be negotiations towards an AfCFTA protocol on e-commerce. As such, this policy brief, drawing lessons from the European Commission's Digital Single Market (DSM) Strategy argues for a standalone, definitive continental-wide e-commerce framework to result from these negotiations. It outlines the stakeholders that need to be involved and why, and what the protocol could potentially address in order to achieve positive results for African businesses and consumers. Finally, it offers recommendations for how these stakeholders (organized businesses, civil society, and development partners) can provide input to the negotiation processes. The brief advances from the premise that leveraging the capacity of previous African (national and sub-regional) progress on e-commerce, as well as the experiences of regional blocs such as the European Union towards such a framework, is the best approach to fully harnessing the potentials of online businesses on the continent.

## Key Points

- ▶ An e-commerce protocol is to be negotiated within the AfCFTA, which presents an opportunity to give input on the process to ensure that it fully supports the growing online businesses on the African continent.
- ▶ Various national and sub-regional advancements have been made in Africa regarding e-commerce regulations, initiatives, and infrastructure which can be leveraged to scale up a continental e-commerce framework.
- ▶ The European Union is making quick progress towards harnessing the full potentials of e-commerce through the specific legislative measures proposed through its DSM, and this offers some useful lessons for the Africa region.
- ▶ A set of actions from stakeholder groups including organised businesses, civil society, and development partners is, therefore, proposed to ensure that the negotiations result in a truly comprehensive, single e-commerce framework for the entire African continent.

## Background

The African Continental Free Trade Area (AfCFTA) became effective in May 2019 when its ratification met the minimum threshold number of 22 member states of the African Union (AU). The AfCFTA is to be achieved through "successive rounds of negotiations towards the elimination of tariffs and non-tariff barriers to trade in goods, and progressive liberalization of trade in services."<sup>1</sup> These negotiations, launched in June 2015, are due to be completed in stages of Phase 1 in June 2020, Phase 2 in June 2021, and possibly another phase (an AfCFTA protocol on e-commerce) to follow thereafter. At present, the full terms of the protocol on Trade in Goods aimed primarily at the elimination of tariffs and non-tariff barriers, and the protocol on Trade in Services, aimed at a liberalized trade in services, are all still in the process of being negotiated. However, the policy frameworks that need to support the successful implementation of the AfCFTA such as the Protocol to the Abuja Treaty relating to Free Movement of Persons, Right of Residence and Right of Establishment, while adopted, are yet to be fully ratified. Also remaining outstanding under Phase 2<sup>2</sup> are the negotiations on the protocols on competition, intellectual property, and investment (which have just begun), and that of e-commerce (which has been scheduled to commence sometime after 2021).

According to statistics from Bramdeo (2018), the market size of the AfCFTA is projected to rise to 1.7 billion people by 2030 of which 600 million will be middle class.<sup>3</sup> Africa's middle class has been identified as a group that could potentially turn to online and digital trade and services. <sup>4</sup> Research, such as the African Trade Report 2019, which focused on digital trade provides the figure of 5.7 billion US dollars as the size of the African consumer e-commerce market in 2017.<sup>5</sup> It must be noted that as per the OECD's definition, e-commerce is "the sale or purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders."<sup>6</sup> While this interest in e-commerce in Africa is indicative of a general global shift to digitally-enabled forms of trade, there have been suggestions that national-level policy making may not have caught up with practice.<sup>7</sup> Nonetheless, there are noteworthy examples of some African countries or sub-regional blocs that have good examples to draw from, such as Egypt, Kenya, and Nigeria as discussed fully in the ensuing sub-sections. As such, it is argued here that the AfCFTA offers an opportunity to scale e-commerce on the continent exponentially from domestic markets to intra-regional trade through a continental framework that, among other things, benefits from pooling collective (internal) capacity. The aim here is to offer a joint solution to dealing with identified problems such as of non-uniformity of digital regulations arising from the different sub-regional trade blocs within it and the different international trade partners it engages with. <sup>8</sup> This policy paper, therefore, advances from the premise that a harmonized e-commerce framework – at the continental level – is of great value to Africa and should be a foremost consideration in the concluding of AfCFTA negotiations.

## **What Does the AfCFTA Offer?**

The Agreement that established the AfCFTA, signed on 21 March 2018 in Kigali, Rwanda, is currently offered in the four official languages of the AU (i.e. English, French, Portuguese, and Arabic) and has a total of 30 articles in the main text. Of these, none makes a specific reference to e-commerce (or any of its synonyms that denote trade on digital platforms). Within this Agreement, therefore, the use of digital and electronic means is limited to the extent to which it supports physical trade, such as through e-payments, electronic submission of goods, and e-databases, etc. as captured in three frameworks of:

1. An overarching Establishment of the AfCFTA;
2. A Protocol on Trade in Goods, comprising a framework of general obligations and nine (incomplete) Annexes, as well as provision for national schedules of tariff concessions yet to be negotiated; and
3. A Protocol on Trade in Services, also comprising a framework of general obligations.

It must be emphasized that this omission of a specific reference to e-commerce, while in itself is not a serious limitation, is nonetheless indicative of the limited importance that the AU places on e-commerce, as the decision to include negotiations on an e-commerce protocol was only recently made. Various provisions of the Agreement, for example, which state the support for diversification, innovation, and competitiveness can all be loosely interpreted in terms of e-commerce. However, as past experience with trade initiatives such as the 2012 Action Plan for Boosting Intra-Africa Trade (BIAT)<sup>9</sup> has shown, when there is no specific reference to an e-commerce agenda, then there is the less likelihood that it will be a priority in terms of the accompanying policy implementation. It is this concern that the negotiations will, therefore, fall short of a comprehensive proposal that drives the stance and focus adopted in this policy brief.

Prior to this announcement, stakeholders made a strong push for an e-commerce component within the AfCFTA, including through the E-commerce Roadmap for Action which makes a call on "Africa's policymakers to pursue e-commerce priorities at multiple levels, given its inherently borderless potential".<sup>10</sup> This brief, therefore, argues here, in agreement with the authors, that the best opportunity for such a continental level discussion lies in the AfCFTA negotiations.

# Lessons from Europe's DSM

**“We will need to have the courage to break down national silos in telecoms regulation, in copyright and data protection legislation, in the management of radio waves and in the application of competition law.”**

**Jean-Claude Juncker, former president of the EU Commission**

The AfCFTA joins a number of free trade agreements from different regional blocs of the world, including the European Union's, the Caribbean Community and Common Market's (CARICOM), and the Association of South East Asian Nations' (ASEAN). For the purposes of this paper's focus on e-commerce, however, attention will be put on the European Union, and the DSM Strategy born out of the vision of Commissioner Juncker, who saw the need to capitalize on the potentials of digital technologies specifically, in order to make the four freedoms a reality for the online world also.<sup>11</sup> As such, the DSM made a total of 30 proposals in areas ranging from connectivity, e-commerce, to copyright. However, it is important to note that technically, the DSM in itself is merely an initiative, and as such the specific terms of each of these proposals were debated and adopted one after the other with 28 agreed to date (including a couple that relate to e-commerce directly).<sup>12</sup> Under e-commerce, some of its highlights include harmonizing online sales, tax payments and contractual systems, and improved protection against online fraud and malpractice.<sup>13</sup> While it has been agreed that it is too early to determine actual impacts, the study report on *Contribution to Growth: The European Digital Single Market Delivering Economic Benefits for Citizens and Businesses*<sup>14</sup> attempts to detail some anticipated gains extrapolating from a number of data sources. The authors posited that some probable results include a 177 billion euros economic gain. Specifically for legislative measures on e-commerce (all put forward in 2018), the gains suggested total 14.6 billion euros, from “Regulation addressing unjustified geo-blocking - 10.3 billion euros; Council Regulation and Directive VAT for e-commerce - 2.3 billion euros; Regulation on cross-border parcel delivery services - 1.0 billion euros; and Directive on Audio-Visual and Media Services - 1.0 billion euros; as well as a further directive related to consumer protection (i.e. the directive on contracts for the supply of digital content) that is estimated to bring in a further 0.3 billion euros annually.”<sup>15</sup>

It must be noted that on the whole, the AfCFTA's objectives mirror that of the EU's in that it aims to deepen economic integration across the continent through creating a single continental market in order to boost intra-regional trade and investment. While the EU achieved this overall over the years since its FTA came into being in 1960<sup>16</sup>, the Commission rightly recognized the immense potentials in online trade and how the DSM could contribute to increasing greater competitiveness (especially for small and medium scale enterprises) and through job creation. As such, it stands to reason that the AfCFTA could benefit from a digital-specific initiative such as the DSM.

The AfCFTA on the whole draws on some notable conventions. For example, it is agreed that it aligns with World Trade Organisation (WTO) agreements, with all the relevant sections on trade in goods and services, and intellectual property rights, investment and competition policy and dispute settlement mechanisms all having similar principles to the WTO's.<sup>17</sup> As such, the argument again holds that there is indeed a scope here for it to draw on some other conventions and examples as far as e-commerce is concerned. The suggestion here is not for the adoption of the DSM's legislative proposals in totality, as the contexts of the EU and AU are vastly different with varying complexities and capabilities at play. However, and this notwithstanding, the measures enacted by the former can offer a guide as to what to include in the AfCFTA's protocol to ensure that it fully supports advancement of e-commerce across the region as a whole. As seen, limitations of capacity especially on IT skills and infrastructure are a challenge even for the EU<sup>18</sup>, which did not, however, curtail these proposals from being made and subsequently adopted.

# Benefits of an African E-commerce Framework within the AfCFTA

It has been suggested that the development of e-commerce on the continent is uneven, with some countries much more advanced, aided by a dedicated national e-commerce strategy (Egypt), high internet penetration (Morocco), and a large market size (Nigeria). As some literature noted, "there is also significant variation in the readiness of governments in terms of skills and data to adopt and enforce relevant policies, laws and regulations to harness e-commerce and the digital economy for development."<sup>19</sup> As such, some of these countries have developed their own e-commerce initiatives which offer different proposals such as those contained in the DSM. Examples include Nigeria's *Cashless Nigeria*, which is contributing to e-commerce growth, aided by a vibrant start-up culture<sup>20</sup>, and the *Smart Africa* initiative by Rwanda, Kenya, and Senegal.<sup>21</sup> Other examples include interoperability frameworks of e-payment, harmonization of regulation, and data roaming agreements in West African Economic and Monetary Union (WAEMU), while COMESA and Southern African Development Community (SADC) have an aspiration towards a Digital Free Area and Digital 2027 Agenda respectively.<sup>22</sup> This seems to suggest that there is, indeed, space and interest for continental solutions such as an African DSM. This is a fertile ground for sharing capacities and opening up the national markets to intra-regional competition. The question then becomes, what new benefits can such an African e-commerce framework offer to businesses and consumers, under the umbrella of the AfCFTA? Going by the arguments presented above, the following are suggested as reasons why an e-commerce framework could aid in realizing the AfCFTA objectives. The reasons are that it:

## Creates a momentum for collective action on problems hampering e-commerce

Having a standalone e-commerce specific framework within the AfCFTA could create a drive among states to seriously tackle identified issues including low e-skills, limited internet penetration and infrastructure, and fragmented e-payments systems within their respective borders. Another aspect of this is that several African countries are increasingly being confronted with similar issues as far as e-commerce is concerned. For example, many Francophone countries maintain trade relations with France, where there is the requirement to meet the standards of the EU's General Data Protection Regulation (GDPR). As such, a collective e-commerce proposal that is adopted at the continental level will save resources by way of harmonized solutions, as the countries impacted will all adopt one approach and need not start from scratch. As experience from the continent shows with regard to economic communities, an absence of a continental framework does lead to sub-regional communities that overlap, duplicate, and dissipate resources.<sup>23</sup>

## **Offers a platform for expert solutions to complex issues**

As the negotiations continue, complex issues such as intellectual property rights and e-commerce will continue to require specific technical expertise. The argument made here is that this expertise can be found with various stakeholders from within the continent (e.g. the countries that have advanced e-commerce policies), and from outside (e.g. development partners such as the EU). As the protocol works towards facilitating cross-border e-commerce among African countries, then those elements that will specifically support this venture need to be included. These are harmonizing and simplifying taxation (VAT) as well as payment mechanisms for online businesses; eliminating barriers to goods (parcel) delivery across borders (i.e. prices and customs); limiting discriminatory geo-blocking to the minimum to enable consumers access online services from across national borders; and instituting consumer protection mechanisms including privacy and data protection.

## **hastens progress towards other digital regulations (that support e-commerce)**

There are a number of digital policies and regulations on the continent that are at various stages of implementation in the various member states. These include the 2014 Malabo Convention (on Cyber Security and Personal Data Protection), and the 2018 Personal Data Protection Guidelines for Africa, which all have elements that support e-commerce. As the progress towards enacting the corresponding regulations at the state level varies, an e-commerce proposal which is made mandatory for all signatories to the AfCFTA could create the necessary push for the member countries lagging behind. The DSM's example shows that advancing the single market goes hand in hand with digitisation of the customs union. As such, the protocol should take a cue from EU's example and include measures on internet connectivity and e-government, for example, to further reinforce this push.

## **Conclusion**

As demonstrated, there is a lot to be gained from a regional (continental) policy on e-commerce, with a plethora of policy recommendations already advanced regarding how to implement various actions towards achieving the full potential e-commerce offers, both within and outside of the AfCFTA framework. The DSM offered a standalone document that sought to address all the challenges in the way of full digitisation including internet access, data protection, and inclusive of e-commerce. This policy brief calls for such a comprehensive framework to result from the negotiations on the e-commerce protocol. As seen, most issues in the African e-commerce space are cross jurisdictional and as such need a unified solution. The push for e-commerce has huge earning implications and as such is attractive to African states, but it could also lead to unintended benefits such as improved internet access. The AfCFTA, while celebrated, should be seen only as a useful start. The following are, therefore, proposed by way of recommendations for relevant stakeholder groups including the AU Commission (through the Assembly of Ministers and Head of States and Governments), citizens (represented by organized businesses and civil society), and the development (donor) community.

# Recommendations

## AU Commission

- ▶ The AU Commission should demonstrate a strong commitment to negotiating a protocol that effectively covers all the issues raised above, as pertains to advancing e-commerce on the continent. The framework need not start from scratch, and should as such consider and incorporate all the myriad of digital policy initiatives in place as discussed above, as they could complement these efforts. The constantly evolving nature of digital norms could delay the negotiations unnecessary, or worse render the protocols agreed redundant after just a few years. It is, therefore, recommended that the AU Commission consider the possibility of supplementing this agreement with “soft law” mechanisms including Code of Conduct, Memorandum of Understanding, and Guidelines for tackling the various measures, following the EU’s example.<sup>24</sup>
- 1. Given the complexity of these issues, it will not be out of place for the AU Commission to draw on as much external help as possible to ensure that all the named aspects above are covered in the negotiations in a timely manner. As such, it is recommended that as part of preparations for the negotiations, the Commission make a specific call for technical input from businesses and civil society representatives by way of discussion papers, and technical assistance from development partners (see below).

## Business Community and Civil Society

The African business community and citizens (consumers) stand to be significantly impacted by whatever measures are agreed in the negotiations on the e-commerce protocol. Therefore, it stands to reason that they be given the opportunity to make input into this process.

1. Groups such as the Pan-African Chamber of Commerce and Industry (PACCI), for example, could pair their voice and membership weight with the technical know-how of burgeoning online start-ups to respond to the Commission’s call by way of submitting white papers that detail the needs that they want to see met in this e-commerce framework. In addition to meeting the technical demands that may be lacking within policymakers at the AU Commission level, it also ensures a bottom up solution.
2. The civil society organizations on the continent that champion the digital rights of Africans are growing in number, capacity and influence. Some have already made policy recommendations on many of the measures that impact consumers including internet access and data protection. As such, it is proposed that they also respond to this call fully and emphatically.

## Development Partners

As has been demonstrated above, the EU has considerable experience in developing an all-inclusive continent-wide digital strategy that proposes the measures that advance e-commerce, as part of a single market agenda. Other development partners including the IMF, World Bank, and the WTO all have different expertise to offer in this regard. It is, therefore, recommended that these partners offer dedicated technical support and assistance (in response to the AU Commission’s call) not only in readiness for the negotiations to begin, but also throughout the entire process to ensure that progress is made in a timely manner and that substantive elements of the proposals are not left unaddressed.



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# The Effect of COVID-19 on the Implementation of the African Continental Free Trade Area (AfCFTA)

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# Executive Summary

The African Continental Free Trade Area (AfCFTA) is regarded as one of Africa's most ambitious projects on trade and economic integration. Unfortunately, its implementation has been momentarily disrupted as a result of the coronavirus (COVID-19) pandemic and the actions taken by the governments of African countries in imposing lockdowns and restrictions on the movement of persons, goods and services in an attempt to constrain the spread of the virus.

The disruption created by the COVID-19 pandemic has, however, presented Africa a unique opportunity to continue negotiations aimed at eliminating tariff and non-tariff barriers to trade and resolving issues around schedules on tariff concessions, rules of origin and liberalisation of services. African countries that are yet to ratify are also presented with the opportunity to do so to benefit from the AfCFTA when trade finally takes off in 2021.

## Key Points

- ▶ The AfCFTA is Africa's solution to a quick recovery from the economic downturn caused by the COVID-19 pandemic.
- ▶ The COVID-19 pandemic has given African member countries a unique opportunity to take advantage of the reduced trading activities with developed and emerging countries, including China, by increasing intra-regional trade and trading activities.
- ▶ The postponement of operationalization of the AfCFTA presents African countries the opportunity to continue negotiations aimed at the removal of tariff and non-tariff barriers to intra-African trade.
- ▶ The COVID-19 pandemic has not only presented several challenges to Africa and African trade but has also presented opportunities to speed up Africa's integration agenda and hasten the implementation of the AfCFTA.

## Introduction

The AfCFTA was a result of the decisions of the Heads of State and Government of the African Union (AU) during its Eighteenth and Twenty-fifth ordinary sessions held in January 2012 and June 2015 respectively in Addis Ababa and South Africa. It reflected the commitment of AU Member States to deepen economic integration and promote agricultural development, food security, industrialization and structural economic transformation by creating a continental market with the free movement of persons, goods and services<sup>25</sup>.

Since the formation of the World Trade Organisation (WTO) in 1995, the AfCFTA, when fully implemented, will be the world's largest free trade area in terms of number of participating countries and will cover a market of more than 1.2 billion people with a combined gross domestic product (GDP) of more than US\$3.4 trillion<sup>26</sup>. The AfCFTA was to be operationalized by an indicative date of 2017.<sup>27</sup> However, it was not until 21 March 2018 that the AfCFTA Agreement was initially signed by 44 member states of the African Union (AU) in Kigali, Rwanda. In May 2019, the AfCFTA agreement was enforced after 24 countries that had ratified the instrument had deposited same at the depositary<sup>28</sup> while the operational phase was slated to take effect on 1 July 2020.

Due to the global impact of the COVID-19 pandemic on trade and economic activities across the African continent, the commencement of trading under the AfCFTA was postponed.<sup>29</sup> In the wake of the pandemic, African countries took proactive steps to restrain the spread of the virus within their territories including introducing progressively tightened containment measures, screening at ports of entry, quarantining infected people, and closing public places for gatherings. Many development programmes and projects

have not been spared either as they were either postponed or cancelled. In addition, some African countries introduced countrywide lockdowns, restricting movements only to those deemed essential. This paper aims to analyse the effects of the COVID-19 pandemic on the implementation of the AfCFTA. It also examines the extent to which the current COVID-19 pandemic may rather represent an opportunity to accelerate the implementation of the AfCFTA.

## **The Effect of COVID-19 on the Implementation of the AfCFTA**

Transportation is a key element to the implementation of the AfCFTA as free movement of goods, services and businesspersons is at the core of the AfCFTA's objectives. However, the restrictions imposed by African countries within their territories in response to the COVID-19 pandemic brought the transportation sector to a standstill and adversely affected the implementation of the AfCFTA.

Africa's manufacturing sector is one of the sectors has adversely been affected by the pandemic as industrial machinery, manufacturing and transport equipment constitute over 50% of Africa's needs<sup>30</sup>. Since the first COVID-19 case on the African continent was recorded on 14 February 2020,<sup>31</sup> factories and manufacturing plants have been shut down except those involved in the manufacture of medical and other essential products. Restrictions on the movement of goods and services imposed by African governments have resulted in the over-prioritization of the manufacture of medical supplies and essential goods.

Industries that require public gatherings have also been adversely affected by the pandemic. Owners of offices, malls, schools, movie theatres, museums, gyms (and other places for public gatherings) have felt the impact of COVID-19 on their businesses as they have experienced varying degrees of restrictions as a result of the pandemic. There exists a possibility that across Africa, a protracted shutdown of factories and businesses due to the imposition of total or partial lockdowns could result in the termination of jobs, cross-border contracts (with poorly drafted force majeure provisions), and a decrease in the manufacture and supply of ostentatious goods and non-essential services.<sup>32</sup> Infrastructural development across the continent has also been brought to a standstill due to restriction of movement across the African continent.

The totality of these adverse impacts was responsible for the formal postponement of the commencement date of trading under the AfCFTA from the proposed date of 1<sup>st</sup> July 2020. Although the postponement may appear to be a minor setback to the implementation of the AfCFTA in the short term, the AfCFTA Secretariat has directed its efforts at two different objectives – continuing the flow of trade in essential goods as much as possible and starting the longer term planning of how the AfCFTA can help Africa become more resilient in the face of future crises.<sup>33</sup> Toward this end, the AfCFTA Secretariat building was commissioned in August 2020 in Accra, Ghana. The delay has also provided an opportunity for the African continent to put in place appropriate infrastructure development and digital transformation in readiness for commencement of the continental free trade agreement.

## **Opportunities for Implementing the AfCFTA during COVID-19**

As has been noted above, the COVID-19 pandemic has presented several challenges to Africa and African trade. However, it has also presented opportunities to speed up Africa's integration agenda and hasten the implementation of the AfCFTA.<sup>34</sup>

## Time for More Countries to Ratify the AfCFTA

As of May 2020, only 30 out of Africa's 55 countries had ratified the AfCFTA Agreement.<sup>35</sup> Postponement of the commencement of trading under the AfCFTA presents a unique opportunity for the member nations of the AU that are yet to ratify the Agreement and to sign same for Eritrea, the only country that has not done it yet. The provisions of the AfCFTA Agreement have only been enforced (i.e. have become legally binding) for those countries that have submitted their instruments of ratification with the depositary. Article 18(a) of the Vienna Convention on the Law of Treaties signed at Vienna on 23 May 1969 stipulates that countries that are yet to ratify the AfCFTA Agreement are only obliged to refrain from acts that would defeat or undermine the treaty's objective and purpose.

## Opportunity to Invest in Infrastructure Needed to Successfully Implement the AfCFTA

The postponement of the commencement of trading under the AfCFTA presents African nations with the opportunity to invest in or prioritize the completion of infrastructural development needed to successfully implement the AfCFTA. Investments in power, infrastructure, financial inclusion and technology are key elements to a successful implementation of the AfCFTA. They play a huge role in determining who wins and who loses when the AfCFTA eventually takes off in 2021.<sup>36</sup> In accordance with the classical theory of the international trade, the AfCFTA will indicate to African countries their sectoral comparative advantages. So, the African governments will benefit from competitive advantages in deciding which sectors of industry to invest in so as to ensure efficient expenditure on infrastructure.

## Opportunity to increase Intra-African Trade

China is Africa's largest trading partner but has had reduced interaction with the continent due to policies implemented by the Chinese government to contain the spread of the virus. According to figures from China's General Administration of Customs, trade between Africa and China fell by 14% in the first 3 months of 2020 compared to the same period in 2019.<sup>37</sup> The pandemic has, therefore, opened opportunities for increased intra-African trade. However, since the majority of Africa-China trade relations involves the export of unprocessed raw materials from Africa and the import of finished products/consumer goods from China, the increase in intra-African trade will require investment in manufacturing and other developmental infrastructures to meet the demand occasioned by reduced trade with China. It will be a real challenge (that merits to be met) for African countries to quickly put in place the necessary infrastructures and develop a manufacturing sector capable of representing an alternative to imports from China and other emerging countries. Furthermore, increasing intra-African trade will drive economic development post COVID-19. However, this will require African countries to address three major integration challenges affecting the implementation of the AfCFTA – schedules on tariff concessions, rules of origin and liberalization of services.<sup>38</sup> Resolving these challenges will facilitate the implementation of the AfCFTA and drive economic development post COVID-19 across the continent.

## Extended Time to Negotiate the Removal of Tariff and Non-Tariff Barriers<sup>39</sup>

The postponement of the commencement of trading under the AfCFTA affords African countries an extended period in which to continue negotiations aimed at the removal of tariff and other non-tariff barriers that impede intra-African trade such as custom clearance delays, restrictive licensing processes, certification challenges, uncoordinated transport related regulations, and corruption.<sup>40</sup>

## Opportunity to Develop Local Capacity in Essential Goods and Services

Africa lacks adequate manufacturing capabilities to meet its demand for ventilators, in quality and quantity.<sup>41</sup> The COVID-19 pandemic has created a market and an opportunity for Africa to reduce import dependency of essential goods and services. African countries will find it beneficial to invest in developing their capacity to manufacture personal protective equipment (PPEs), ventilators and other medical equipment to meet increasing local and continental demand.

## Leveraging on the Implementation of AfCFTA to fight COVID-19

Implementing the AfCFTA is key for Africa to successfully rebound from the economic effect of COVID-19 on the continent<sup>42</sup>. Indeed, the AfCFTA would improve the continent's access to products which are essential to respond to COVID-19. The AfCFTA Agreement contains annexes on trade facilitation, customs cooperation and transit that, if implemented, would require African nations to put in place infrastructures that facilitate cross-border trade. The AfCFTA, which is predicted to strengthen regional value chains, would encourage African countries to scale up their capacity to locally manufactured essential medical equipment which is currently in short supply across the continent. The AfCFTA would ensure that these products are available and easily accessible by African countries with no capacity to produce same through liberalising key inputs and service sectors essential to manufacturing critical medical equipment in addition to transport and telecommunications.

## Mitigating the Economic Impact of the Pandemic in Africa

African countries have developed many innovations in response to the economic impact of COVID-19 across the continent such as introduction of different economic stimulus, tax reliefs, provision of loan facilities with low interest rates to cushion the effect of the pandemic on businesses and households, introduction of loan facilities targeted at the health sector, in addition to developing prompt response processes and centres for the treatment and management of COVID-19 cases.

The OECD Policy Responses to Coronavirus sets out three policy options that African countries may employ in mitigating the economic impact of the pandemic in Africa.<sup>43</sup> First, African countries need to concentrate efforts on preventing the spread of the virus, invest in preparedness and early detection mechanisms and deploy emergency relief measures especially in highly informal sectors. Second, SMEs and informal workers play an important role in Africa's economy and are prone to be hardest hit by the economic impact occasioned by the COVID-19 pandemic. African countries should, therefore, channel liquidity to and reduce taxes imposed on SMEs, households and informal workers in order to cushion the effect of COVID-19 on Africa's economies. Third, African governments should increase efforts to strengthen their health systems while continuing to progress towards subsequent phases in the implementation of the AfCFTA.

African countries also need to extend stimulus packages provided to the manufacturers of health-related products during the lockdown to non-health product manufacturers whose businesses have suffered a huge impact during the lockdown in order to invariably mitigate the impact of the pandemic.

# Accelerating Economic Recovery in Africa

In order to accelerate post-COVID-19 economic recovery of the continent, African countries need to increase productivity and address obstacles to their business environment, revive their productive base and increase levels of industrialization, invest in human capital as well as infrastructure to bridge infrastructure deficit and advance Africa's industrial development. This is also the time for Africa to diversify its economy and institute policies that boost agricultural productivity and move labour from low-productivity to high-productivity as well as support competitive sectors such as agro-processing, digital technologies or information and communication technology-based services, which have proved critical during the pandemic.<sup>44</sup> The African Union and the various Regional Economic Communities (RECs) in the continent also have a role to play in accelerating the economic recovery of Member States.

## Conclusion and Policy Recommendations

COVID-19 has disrupted economic activities and growth across the continent because of restrictive measures on the movement of people and goods. Implementation of the AfCFTA has also been affected. However, the pandemic presents the best opportunity for African countries to collaborate on trade integration. Increased intra-African trade through the implementation of AfCFTA will drive post COVID-19 economic development.

Although African nations are gradually re-opening their economies, they will have to forge ahead with the implementation of the AfCFTA if the pandemic persists in the long-term. Delay in implementing the AfCFTA may result in further delays by African national governments to implement the AfCFTA Agreement due to rising nationalistic/protectionist sentiments resulting from the drop in economic growth/Gross Domestic Product (GDP). It may also result in African countries reverting to the old normal practices of reduced intra-African trade and increased Afro-Chinese trade due to China's head-start in curtailing the spread of the virus and kick-starting their economy and export capacity. Delay in implementation may result in increased apathy by African countries toward the goals espoused in the AfCFTA Agreement in favour of other bilateral trade agreements with other non-African countries.

African countries that have signed but not ratified the AfCFTA Agreement are encouraged to do so in order to reap the full benefits of liberalized trade. Increased ratification will also mean that the integrated African market will extend beyond the 30 countries that have ratified the AfCFTA Agreement to date. Countries should also continue negotiations around finalizing issues relating to schedules on tariff concessions, rules of origin and liberalization services which will aid the implementation of the AfCFTA. African countries also need to invest in the necessary infrastructure to boost their economies, aid intra-African trade and facilitate economic integration such as power infrastructure, financial inclusion and technology. African countries need to jettison policies of protectionism which goes against the spirit of the AfCFTA.

Funding received as aid from international organisations and countries should be judiciously applied towards improving the welfare of African citizens through the provision of adequate infrastructure necessary to facilitate intra-regional trade. In addition, the emergence of COVID-19 has placed Africa in a precarious economic position with its increasing debt profile. Thus, the implementation of the AfCFTA should not be further delayed. African leaders should be made aware that the AfCFTA is more of a process than an event. Intensive intra-regional trade unrestrained by tariff and non-tariff barriers is the key to spurring economic growth across the continent in the wake of COVID-19. In the meantime, African countries need to continue the agenda of testing, protecting, treating and curing their citizens of COVID-19.

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# African Continental Free Trade Area: Risks and Strategies

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# Executive Summary

African Continental Free Trade Area (AfCFTA) is a double-edged sword. In principle, it is a decisive step in the right direction towards realising Pan-African economic integration. However, realising the objectives of AfCFTA needs to occur within the context of a continental development framework that addresses the fundamental developmental challenges of the continent. Unless clearly defined and complementary developmental goals (at the continental, sub-regional and national level) preceded the implementation of AfCFTA, the current narrow focus on trade liberalisation could impose another layer of socio-economic and political predicaments on African citizens. This policy brief argues that one of the most imminent risks of AfCFTA is the potential restrictions on the African states from having a 'directional thrust' to shape the production, control, access and distribution of resources in their respective economies. Constrained state capacity in the context of a 'free trade' arrangement can lead to a non-existent or minimal room for transformative industrial and social policies. A viable strategy to avoid this risk is setting 'developmental regionalism' as one of the continental development goals to guide the implementation of AfCFTA.

Developmental regionalism goes beyond a narrow focus on tariff and non-tariff barriers and technical issues on quotas and standards. Developmental regionalism enables incorporating the trade-specific issues within broader development goals such as enhancing the domestic productive capacity of African states and addressing the structural and institutional bottlenecks of African economies. Developmental regionalism also requires capable and effective African states that can govern the market and ensure effective allocation of resources. A 'private sector-led development' might have already become a dominant model. However, Africa's fundamental development challenges can hardly be addressed by a profit maximising and efficiency-oriented private sector-led development strategy.

Africa's fundamental development challenges are diversifying the economy, building the infrastructure/physical capital of African economies, building human capital and addressing issues of vulnerability and inequality through transformative social policies. The underlying ideological orientation of free trade is incapable and inhibitive of addressing these fundamental challenges because of the narrow focus on borders, trade barriers and tariffs. AfCFTA will serve the development priorities of the continent only if it is effectively pursued within a broader developmental paradigm that aspires to address the above-mentioned fundamental development challenges.

## Key Points

- ▶ Industrialisation, diversification, building human and physical capital as well as transformative social policies, should define the commitment of African states rather than give over-emphasised focus to 'free trade'.
- ▶ A broader continental development agenda should set the ground for the implementation of AfCFTA. African leaders, policy and decision-makers should take one step back, if necessary, to define the developmental orientation of the continent rather than letting the free-trade/free-market principles determine the fate of African citizens.
- ▶ The transformation of the African state in shaping the dynamics of resource allocation is critical, and it should remain at the center of addressing Africa's multi-faceted and fundamental development challenges.
- ▶ Both historical and empirical evidence from other parts of the world show that free trade was hardly considered as a policy priority among countries that achieved industrialisation and transformation in their economies. African policy and decision-makers need to derive contextual lessons from East Asian economies both in diversifying and industrialising their respective economies as well as pursuing 'developmental regionalism'.

- ▶ Drafting social policy and establishing embedded institutions of welfare and equity should not be treated as residual components of the free trade regime in Africa.

## Background

Examining the pursuit of development in Africa and efforts of improving the livelihood of African citizens can hardly occur outside the shadow of the colonial legacy. The footprints of colonialism are quite visible in the structures and orientation of African economies, networks and density of infrastructure, spatial inequalities and relations with the external world. Without being too deterministic, it is imperative to recognise the role of colonial experiences while exploring the potential risks associated with AfCFTA and possible strategies of remedies. Some of the most restrictive colonial legacies include pervasiveness of small domestic markets, single commodity-focused export and an outward-oriented transport network (UNCTAD, 2013). As a result, African economies remained too narrow, internally disconnected, and extra-dependant on the economic stability of countries buying their primary commodities. Such a historically grounded approach helps to transcend orthodox perspectives about free trade and markets.

Over the past few decades, African political and economic elites introduced various types of initiatives to address the continent's developmental challenges. Every initiative has a unique orientation and success rate. For example, the Lagos Plan of Action (1980) and the Abuja Treaty (1991) complemented each other in their focus on continental integration. The African Alternative Framework for the Structural Adjustment (AAF-SAP) and the New Partnership for Africa's Development (NEPAD) also share similarities because of their effort to produce a continental development agenda.

However, the AAF-SAP and NEPAD vary substantively in their framing of the continent's developmental challenge and their proposed solutions. AAF-SAP defined Africa's developmental challenge by focusing on the limited production capacity of post-colonial economies (UNECA, 1989; Adedeji, 1990). The alternative diagnosis approached the negative balance of payment and trade deficit in African economies as symptoms of underlying structural problems. The identified bottlenecks of development include weak technological capacities and limited human and physical capital.

By contrast, NEPAD embraced the mainstream neoliberal approach to development. Advocates of NEPAD aspired to end 'the marginalisation of Africa' in the globalisation process (OAU, 2001). The architects of NEPAD dreamt about establishing 'new partnership' with the 'international community' based on the principles of liberalisation, free trade and 'sound macro-economic policy' (OAU, 2001). The World Bank and IMF imposed precisely the same set of policy prescriptions in the 1980s and 1990s, which contributed to the impoverishment of livelihoods and weakening of state capacity across Africa. Hence, NEPAD had an essential shortcoming in articulating Africa's developmental challenges and aspirations as it initially promised. In a nutshell, NEPAD was a neoliberal development agenda sponsored by African leaders (Adesina, et al., 2006; Naburdere, 2002).

Given the high-level sponsorship behind it, the AU promoted NEPAD as its economic development programme. During the same time, most African countries started the path to economic recovery and growth with some economies exhibiting signs of development (Mkandawire, 2014). However, the primary source of economic recovery and growth was primarily the favourable environment on the international market for Africa's primary commodities.

Both the Lagos Plan of Action and the Abuja Treaty set the aspirations of the African Continental Free Trade Area (AfCFTA). Nevertheless, it was the 2012 AU Summit on the theme of 'Boosting Intra-Africa Trade' that set the ball of establishing the Continental Free Trade Area rolling to a clearly defined goal (AU, 2012). The decision of the 2012 AU Summit was accepted with excitement but also with some degree of doubt. The most vital missing element of the decision was the absence of a broader guiding development framework within which the aspiration of the continental free trade arrangement can be pursued. NEPAD was losing its political traction and becoming obsolete, hence unable to make any substantive contribution. The earlier attempt by AAF-SAP could not bear a fruit because of the political pressure from a rival set of neoliberal ideas,

policies and practices sponsored by the World Bank and the IMF.

In 2013, Agenda 2063 appeared to provide the much-needed broader context to guide the developmental aspiration of the continent. The aspiration to achieve 'Africa's transformation' and the call for 'effective [African] developmental states' indicated that the neoliberal tone echoed by NEPAD is no longer at the centre of continental decision making (AU 2013). However, Agenda 2063 lacks the political power to dictate the developmental trajectory of the continent apart from setting an aspirational and desired goal in the future. There is no mechanism of monitoring and evaluating African states' adherence to the aspirational objectives of Agenda 2063 which is a vital shortcoming making Agenda 2063 politically weak. Hence, the implementation of AfCFTA is occurring within a vacuum of a politically binding continental developmental agenda.

Africa needs a binding continental development agenda that can provide a 'flexible, strategic and dynamic' (UNCTAD, 2013) framework to address the fundamental developmental challenges of the continent. The aspiration of regional integration towards which AfCFTA seeks to contribute needs to be pursued by setting 'developmental regionalism' as a paradigm within the continental developmental agenda. Developmental regionalism is an alternative to the market-oriented regional integration that specifically focuses on trade liberalisation to facilitate cross-border trade. It advocates 'gradual and sequenced trade liberalisation alongside conscious and planned policy actions aimed at building the productive capacities of member countries and promoting industrial restructuring' (UNCTAD, 2013:97). Further, it considers national governments as vital players with enhanced capabilities to pursue regional integration with a clearly defined commitment for sustainable development.

A developmental regionalism paradigm within a continental development framework would enable the formulation of transformative development goals that facilitate structural transformation, allocate resources effectively, coordinate actors (such as the state, civil society and the private sector) with a developmental purpose and build the capacity of states. Achieving these goals would enable tackling the fundamental developmental challenges of the continent. When such a broader development framework is missing, the focus will be on tackling the symptoms with general policy interventions focusing on rectifying market failures. Most of these policy options offer solutions focused on trade liberalisation, investment promotion and business climate improvement (Aryeetey and Moyo, 2012).

Pursuing regional developmentalism is a political agenda and implementing AfCFTA in its current orientation is no less political. The risks associated with an unabated free-trade oriented regional integration will also have political consequences. Hence, the strategies of redressing the dangers and reorienting the rationale of continental integration require political mobilisations at every level.

## **The Underlying Principles Informing the Free Trade Agenda**

Risks related to the implementation of AfCFTA also emanate from a complex interplay between ideology, historical relations and politics. Ideologically, the neoliberal worldview that actively promotes free trade and free-market agenda assumes markets operate similarly in every corner of the world (Toye, 1994). Policy prescriptions are developed based on 'universally applicable', 'unified set of principles' and 'standard economic theories' (Toye, 1994). However, markets do not only operate under universal principles. Context-specific socio-cultural institutions and historical relations do also play an essential role in determining the existence and functioning of markets. For example, we can see the historical role of African governments in pursuing state-led developmentalism in the first two decades of independence (the 1960s and 70s). The fundamental purpose of African states of the time was rectifying the underdevelopment and market failures caused by colonialism (Mkandawire and Soludo, 1999). Hence, instead of a free-market, it was a period of proactive government intervention. The period was not a moment of complete success and also not a complete failure. For example, between 1967 and 1980, at least 10 African countries achieved an average

economic growth rate of 6% (Mkandawire, 2001). However, the massive public investment, the modest achievement in the import substitution industrialisation strategy and the continued reliance on a single commodity made African economies weak and less resilient. Most African economies could not resist the shock created by the consecutive oil crises of the 1970s. As a result, neoliberal restructuring programmes were implemented as a remedy.

Since the 1980s, the dominance of neoliberalism in development thinking, policy and practice has given market-oriented strategies unprecedented power to shape every aspect of society. At the same time, particularly in Africa, the state has become the 'source of all evils' (Toye, 1994). Characterisation of the African state as a 'vampire state', 'neo-patrimonial state', 'crony state', 'overextended state' (Mkandawire, 2015) has become a widely shared knowledge. These labellings justified the retrenchment of the state to make it 'leaner' and 'fitter' and facilitator of an 'enabling environment to private sector-led development' (Olukoshi, 1999:238). Essentialising African politics as 'politics of the belly' (Bayat, 1993) further entrenched the anti-state sentiment in the African context. The implementation of the AfCFTA in its current orientation is not free from this ideological characterisation of the African state.

A continental development framework with 'developmental regionalism' at its core can contribute to redirecting the implementation of AfCFTA to a developmental path. A market-oriented regionalism process cannot adequately address Africa's historically bounded developmental challenges. There, indeed, are specific market-related bottlenecks that are hindering cross-border trading. However, a narrow focus on trade barriers without enhancing the productive capacity of African economies will severely compromise the contribution of regional integration to the broader objective of structural transformation. Furthermore, structural transformation requires a political set up created by the state for effective allocation and transfer of resources and capabilities to high-productive sectors.

## Conclusions

The agenda of establishing a continental free trade area has a Pan-African motive embedded within it. However, pursuing the objectives of AfCFTA without a broader continental development goal can severely compromise the potential for structural transformation. The neoliberal ideology that is actively promoting free trade areas and free markets puts markets as primary allocators of resources. African leaders should not shy away from doing what is necessary and be conscious of the ideological trap of taking the free trade/free-market as an ultimate goal. Historical and empirical evidence shows that both national and sub-regional economic transformation is possible through the active role of the state in 'governing the market' (Wade, 2004) and pursuing 'developmental regionalism' (UNCTAD, 2013). Expansion of trading opportunities and access to markets should not come at the expense of transformational development. Meticulously formulated and coordinated growth and development strategies at the national, sub-regional and continental levels should dictate and shape the implementation of AfCFTA.

## Recommendations

African leaders, policy and decision-makers can address risks associated with the implementation of AfCFTA by broadening their aspirations for Africa's development. In a context where continental developmental agenda is absent, sector-specific goals will remain less valuable to the much-needed objective of structural transformation. Africa's developmental challenges are too complex to be addressed by the removal of trade barriers and the liberalisation of trade tariffs. In fact, a narrow focus on trade liberalisation has the risk of stalling the transformation of African economies. Developmental regionalism can minimise the risks that emanate from the neoliberalisation of Africa's regional integration processes through AfCFTA and push the continent in the right direction of transformational development. Critical aspects of developmental regionalism that need proactive leadership are:

## Economic Diversification:

1. Economic diversification requires overhauling the colonially imposed single commodity-dependent economic structure of African states. African states should implement a proactive industrial policy that adopts vertical policy interventions. Vertical policy interventions essential for economic diversification include preferential or concessional financing, provision of subsidies, and using the capacity of African states to boost production capacity in selected sectors both at the national and sub-regional levels.
2. African states should diversify their economies by leveraging from economies of scale not only by eliminating trade barriers but also by coordinating and harmonising their national development priorities, mobilisation and allocation of resources.
3. African states should pull their resources, institutional and infrastructural capacities together to establish complementary specialised economic zones of manufacturing, mining and service provisions. Achieving this requires a developmental commitment that goes beyond removing trade barriers. Such kind of developmental regionalism can also address both the problem of youth unemployment and also capturing the gains of the high-value products produced within an industrial ecosystem.

## Building Human and Physical Capital

1. African states should change the tone of offering African young people as bargaining chip to lure foreign direct investment that can amass profit from cheap labour. The required broader development framework to guide and shape the free trade arrangement needs to have a contextual and dynamic human capital development strategy. This will enable recognising African young people both as the key drivers and beneficiaries of economic growth and development through education, skills development and appropriately rewarding job opportunities.
2. Africa is the least connected continent in terms of road and rail transport networks. The provision of reliable energy also plays an indispensable role in the industrialisation and diversification agenda. Enhancing the developmental role of infrastructures and transforming interconnectivity should take precedence over the removal of trade barriers at the border.
3. A practical policy option regarding infrastructure development is the establishment of a sub-regional development and investment banks to finance the construction of mega and trans boundary infrastructures (rail, road, energy), development corridors and regional industry-research hubs. This can also strengthen the harmonisation of the macroeconomic policy orientation of African states and the creation of skilled and adaptive labour force within a particular regional economic community.

## Transformative Social Policies

1. The inherently political nature of development creates winners and losers. Coordination and harmonisation of development priorities and socio-economic governance should go hand-in-hand with synergies in social policies. Vulnerable groups of society need to be protected through effective national and sub-regional social policies on welfare, employment, social protection, education, health, gender, and environment.
2. Addressing structural vulnerability through a transformative social policy agenda can contribute to reducing the risk of violence and conflict based on both horizontal and vertical inequalities as well as perceptions of exclusion.

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# **Security and AfCFTA: Opportunity for a More Integrated Approach to Continental Peace and Security.**

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# Executive Summary

The African Peace and Security Architecture (APSA) was set up to facilitate the African Union with a framework that solves security crises on the African continent. On the other hand, Regional Economic Communities (RECs) were set up to facilitate regional economic integration in line with the greater vision of African Economic Community as per the Abuja declaration<sup>45</sup> of 1991. Although recognised as part of APSA security framework by article 16 of the 2002 Peace and Security Council protocol<sup>46</sup>, these entities have also developed their own peace and security mechanism<sup>47</sup>. When put in the context of a wider African Continental Free Trade Area (AfCFTA) which is premised on freedom of movement of goods and services, coordination challenges between the AU and Regional Economic Communities (RECs)/Regional Mechanisms (RMs) and between the RECs/RMs themselves may arise especially in dealing with threats like human trafficking, drug trafficking, piracy, cybercrime due to the porous nature of African border. Already the continent is not performing well on resilience (3.86/10) against organised crime as per the Africa Organised Crime Index.<sup>48</sup> Although the level of criminality is not high on average (4.97/10), states going through conflicts are performing badly (Averaging 6.5/10) and when put into a regional context, there is a likelihood of this affecting neighbouring states when AfCFTA is fully operational.

Nevertheless, free trade and the subsequent integration among states, especially from a neoliberal perspective, has recorded success in ensuring a decline in inter-state conflicts as shown in the European Union. For example, Germany and France which were enemies in the past centuries have not waged a war against each other since the decision to form the European coal and steel community which has morphed into the European Union. In the same breath, the link between AfCFTA and security cannot be understated. Yet it needs to be appreciated that inter-state conflicts have been in the decline in the Post-Cold War era and states are struggling with internal challenges to the state brought on by globalisation thereby needing a bespoke solution.

Nevertheless, it is from a security-development nexus angle that AfCFTA will facilitate a more cooperative security regime to spur development. The key argument from the perspective of a security-development nexus is that security and development are mutually reinforcing. Without development, the propensity for conflict becomes more apparent. Also, without security, development stagnates. Paul Collier put it more succinctly when he said, 'War retards development but conversely development retards war.'<sup>49</sup> Since security and development are mutually re-enforcing, closer cooperation between regions within the African Peace and Security Architecture will lead to more intra-Africa trade, foreign direct investment between states, and protection of the informal sector through which more than 70% of trade in Africa is done.

Moreover, although the African Union (AU) has structures in place to aid collaboration with RECs/RMs, it is vertically arranged and does not cater for inter-RECs/RMs collaboration. This has led them to operate in silos with the AU, as the only link. The opening up of borders among the 54 African countries will present different challenges especially with the movement of people. As more parts of the continent become easily accessible, there will be a need for information exchange between RECs/RMs on threats posed by individuals and groups that may exist in different states. It should be noted that the Committee of intelligence and security services of Africa (CISSA) has been working with regions on addressing security threats, but it needs to expand its role to enhancing more cooperation between the RECs/RMs on intelligence sharing. Conversely there is a need to expand the mandate of AFRIPOL engagement with RECs/RMs to include sharing of biometric information, arrest warrants on top of dealing with organised crime and terrorism. Thus, overall, there is a need for lateral collaboration mechanism between the RMs with overarching supervision from the AU APSA mechanism.

However, it should be noted that other challenges relating to duplication of roles and competition in different sub-regions may arise from *other* sub-regional organisations that are not strictly within the geographical settings of the APSA. Although the AU recognises up to 8 RECs and 2 Regional Mechanisms, it has been difficult to cater for all of them equally. For example, the policy framework setting up the African Standby Force and the military staff committee<sup>50</sup> is silent about the role of sub-regional organisations that are not necessarily within the strict 5 regions for which the standby forces were to be established. Yet most of these organisations have a security and development policy and have played a big role in the resolution of conflicts in the regions. Moreover, they have worked with the African Union on several occasions on security issues.

Hence, the silence of APSA on the roles of *other* sub-regional bodies, presents an opportunity for the regional bodies within APSA to develop a linear working relationship on security and development issues. This will limit the level of duplication and competition on security and development. Rather, it will help foster collaboration. A bespoke solution for such institutions brings a wealth of expertise to the APSA but also helps ease the alienation felt by key players in these organisations.

Thus, this policy paper explores the possible impact AfCFTA will have on the security regimes in place at a regional and continental level to facilitate trade between countries. The paper argues that even with the current security challenges, AfCFTA could bring closer cooperation between regions and sub-regions and help strengthen the APSA thereby resolving the long-standing riddle of how to develop and operationalise this continental apparatus. Besides, the intra-Africa trade will spur development as it will provide employment and access to goods. The subsequent income generated will help states provide health care, education and security for the people.

## Key Points

Firstly, it is recommended that the APSA should provide more flexibility and roles for mechanisms like AFRIPOL to expand their scope to address not only organised crime and cross-border criminality but the sharing of biometric information. AFRIPOL should set up law enforcement unit to coordinate inter-regional collaboration in curbing transnational criminal activities. Although committees like CISSA have been sharing intelligence and are quite active in counter terrorism, it also needs to expand its role to enhancing more cooperation between the RECs/RMs on intelligence sharing. This is not to disregard the fact that CISSA has been involved with RECs/RMs.

Secondly, there should be more lateral coordination on security and trade between the RECs/RMs. This will reduce duplication of roles but also avail information, skills and resources to bolster trade and ensure security for the Africans. It will also help set up the framework through which standardisation of goods and other issues will be discussed when the customs union comes into effect.

Thirdly, there is a need for a broader consultative approach by governments with citizens to get the mandate and also map out a course of action in as far as AfCFTA is concerned. This is crucial to especially deal with later challenges that may emanate from freedom of movement like xenophobia.

## Introduction

The end of the Cold War saw Africa take centre stage from a security perspective as a spate of intra-state conflicts, for example, in Somalia, Liberia, Sierra Leone, Rwanda, Burundi, Angola, Democratic Republic of Congo and Central Africa Republic, among others. This put into question the existing regional body's ability to deal with these conflicts. Even though the Organisation of African Unity (OAU) established the conflict prevention mechanism, management and resolution in 1993, it registered minimal success in effectively dealing with conflicts.<sup>51</sup> The organisation was hindered by the changing nature of the conflicts. Although most were mainly internal, they quickly got internationalised. Even the United Nations had to remodel its peacekeeping apparatus to deal with the changing dynamics in the world. Therefore, the African Union which was launched at the beginning of the 21<sup>st</sup> century sought to address the malaise that plagued the OAU by developing a peace and security architecture known as the African peace and security architecture (APSA). The APSA has developed a number of initiatives like AFRIPOL which operates under the leadership of Specialised Technical Committee on defence safety and Security.<sup>52</sup> Others include Committee of intelligence and security services of Africa (CISSA) and Africa Standby Force among others.

However, since its inception, the African Union has not yet fully operationalised the Africa Standby force<sup>53</sup> and APSA is still grappling with trans-border challenges like terrorism and the transference of conflicts from one zone to another (Libya to Mali, Uganda to Rwanda then to the Democratic Republic of Congo) and activities

of terror groups like Boko Haram and Al-Shabaab across regions as witnessed in the Chad Basin and East Africa respectively have led to the need to have a strong mechanism in place to deal with these challenges regionally.

The situation is made more pertinent with the improvement in regional trade as the continent has seen a proliferation of Regional Economic Communities (RECs) with more advanced ones like Economic Community of West African State and East African community offering free movement across the borders. The growth of regional trade has led to a welcome boost in trade across the regions and apart from Al-Shabaab's and Boko Haram's activities, not many threats have existed to derail this venture. The need for more advanced regionalisation came to head with the formation of the African Continental Free Trade Area (AfCFTA) in Kigali in 2018. This is modelled on existing continental bodies like the European Union, and AfCFTA has reflected an inevitable change in the perception of regional cooperation. The African states are learning that sovereignty can be part exchanged for the greater good of economic prosperity and human development.

While the AfCFTA is a free trade area arrangement, the addition of freedom of movement of people and services across borders of states within the trade bloc has added a new impetus for collaboration between states. The propensity to boost trade especially in the informal sector is great. But this will also quicken the removal of tariff and non-tariff barriers to trade and move towards a customs union and standardised products.<sup>54</sup>

Yet, the fact that AfCFTA has been developed at the summit level has faced resistance in some countries especially from the trade unions and general business community. For example, the Nigerian Labour Congress (NLC), the Manufacturers' Association of Nigeria (MAN)<sup>55</sup> and the central government resisted the signing and ratifying of AfCFTA due to fear that small enterprises would be adversely affected. Moreover, President Buhari left the Kigali Summit that launched AfCFTA citing reasons like the need to consult the people. This betrayed a lack of proper consultation between the political leaders and the general population. The focus was put on the potential a trade deal could do for intra-Africa trade.

The lack of consultation with the African population betrays a danger of inability of the African people to have urgency concerning continental free trade. Although the potential for informal sector is immense, the lack of urgency may limit the ability of African people to fully benefit from the free trade area. Instead, big corporations and multinational enterprises may take the lion's share of the trade and this may in the end breed income inequality which will lead to insecurity within most African states.

Nevertheless, linking this to the security-development nexus,<sup>56</sup> it is important to note that African states have suffered from the threat of low human security and human development. This has been made more pertinent by the fact that most efforts on state-building have focussed on state security and state development. The belief has always been that the state is the key driver of security and development. Since the start of the 21<sup>st</sup> century, indexes like the Mo-Ibrahim index have highlighted an increase in national security in most African states though this has not translated into human/personal security.<sup>57</sup> Also, African countries have registered some of the highest growth in GDP over the past 10 years. However, the GDP has not translated into human development as they are some of the worst performers on the human development index.

Thus, it is crucial to the AfCFTA to foster development by also aligning to the UN Sustainable Development Goals as shown in Protocol 3, Objective b<sup>58</sup> of the AfCFTA agreement which notes that the African states are keen on promoting sustainable development in line with the United Nation's Sustainable Development Goals. This is an attempt to incorporate human development in the free trade agenda to bridge the large gap between GDP and human development in Africa. The African states hope to achieve this by progressively liberalising trade in goods and services with an emphasis on equity, balance and the mutual benefits accruing from the removal of barriers like tariff and non-tariff barriers.

Furthermore, premising of AfCFTA on improving intra-Africa trade is crucial in several ways. According to Akinwumi Adesina, the current president of the African Development Bank, 'The Continental Free Trade Area will stimulate intra-African trade by up to \$35 billion per year, creating a 52% increase in trade by 2022; and a vital \$10 billion decrease in imports from outside Africa.'<sup>59</sup> The United Nations Economic Commission for Africa noted that the African market is very dynamic with a projection of double the population from

1.2 billion to 2.5 billion by 2050 which will give it 26% of the working-age population. Coupled with that, it will have a quickly growing economy at twice the rate of the developed world.<sup>60</sup> Likewise, the Institute of Security Studies PSC report in November 2019 argued that continental peace would be bolstered due to the aforementioned likely impact of AfCFTA.<sup>61</sup>

The PSC report further notes that such a boost would lead to more employment of the largely young population. This is crucial as the African continent has the highest level of youth unemployment in the world. Moreover, with the estimated revenues, it is projected that African states will be able to provide much-needed health care for the population. This will be crucial for human security especially as it will improve life expectancy. Although one of the biggest positives on the continent is its young people, it is crucial to make sure that people live full lives.<sup>62</sup>

## **Trade as Incentive and Catalyst for Deeper Cooperation on Peace and Security**

Multilateral collaboration on trade is inextricably linked to the need to develop a cooperative security apparatus to combat criminal elements that may choose to disregard the rules. This has been the case in the European Union which has evolved from an economic association of fewer than 10 states in the 1950s to a 27 strong integrated supra-entity collaborating on economic, security and cultural issues to mention but a few.

The African Union as explored earlier has peace and security architecture which is tasked with promoting collaboration between states on security. Specialised Technical Committee on defence, safety and security (STCDSS) is crucial in forging a common policy among states on security matters. Yet although the STCDSS oversees mechanisms like AFRIPOL, the modus operandi of AU structures is concerned with a top down approach mainly focussing on states or regions and their relationship with the African Union. For example, AFRIPOL and CISSA engagements with regions is mainly geared towards addressing the particular needs of these regions<sup>63</sup> or their subsequent collaboration<sup>64</sup> with these mechanisms. This has inevitably culminated into sub-regional bodies working and continuing to operate in silos although they are overseen by the APSA.

Moreover, challenges are envisaged especially for sub-regional organisations that are not strictly within the geographical settings of the APSA. This is ascribed to the fact that Africa is crisscrossed by many sub-regional bodies such as the Inter-Governmental Authority on Development (IGAD) and Common Markets for Eastern and Southern Africa (COMESA) with overlapping memberships. A case in point is the policy framework that set up the African Standby Force and the military staff committee<sup>65</sup> does not say anything about the role of sub-regional organisations found possibly outside the strict 5 regions that formed the standby forces although most of these organisations have their own security and development policy and have played an important role in the resolution of conflicts in the regions. Moreover, they have worked with the African Union countless times on security issues. Berhe (2016) also notes the improved role of Sub-regional bodies and argues that:

**‘The current APSA needs to be expanded to APSA plus. One part of this is to include mechanisms for enhancement with the Regional economic communities and regional mechanisms that are**

## increasingly active in matters of peace and security in their respective regions.’<sup>66</sup>

Besides, it should be noted that the respect for states sovereignty permeates the AfCFTA Agreement as shown in Protocol 3 of the Agreement which gives the states autonomous rights to act to protect their security especially in relation to trafficking arms, declaring war and keeping their obligation to maintain international peace and security.<sup>67</sup> Yet, this will most likely change in the long run as the sub-regional bodies will have no option but to begin collaborating on many issues to make continent-wide trade a possibility. For instance, although African borders have been essentially porous, the allowing of freedom of movement is going to give organised criminal gangs unfettered access to people and resources in the 54 countries. A case in point relates to a likely surge in trafficking of contraband, people and narcotics. Additionally, it should be noted that by approaching the issue from a joint sub-regional level, states that are unable to deal with these issues will benefit from the joint action. This is supported by the fact that Africa is already not performing well on resilience (3.86/10) against organised crime as per the Africa Organised Crime Index.<sup>68</sup> Although the level of criminality is not high on average (4.97/10), states going through conflicts are performing badly (Averaging 6.5/10) and when put into a regional context, there is a likelihood of a contagion when AfCFTA is fully operational.

Further, the AfCFTA discusses the possibilities of a customs union to be put in place soon. The customs union, apart from helping the states to have joint external tariffs, will lead to a need for standardisation of products. Thus, quality control and issues around health and safety will come into focus. This process will lead to a need for an enforcement mechanism across the borders. In essence, the 54 member states will need to pool resources together. However, most of the sub-regional bodies have a customs union element. Therefore, it is easier to use these customs unions and enforcement methods than develop one from scratch, thus, the need for lateral collaboration between the RECs/RMs.

The aforementioned perspective is supported by the AfCFTA agreement which notes that

‘State parties agree where possible to mobilise resources in collaboration with development partners and implement measures in support of the domestic efforts of state parties with a view to, *inter alia*:

g. addressing quality and standard needs in those sectors where state parties have undertaken commitments under this protocol with a view to supporting the development and adoption of standards, and

h. developing and implementing regulatory regimes for specific service sector at continental, regional and national levels.<sup>69</sup>

What is more, as people, especially the youth, move from one country to the other in search of a better life, tensions within communities are going to be rife. The consensus is that people will be more inclined to move to places with better quality of life. Already as witnessed in South Africa, the economic competition will lead to violence. Thus, early warning system coordination, as will be discussed in detail below, between the RECs/RMs is crucial to stem the rise of violence.

# Integrated Peace and Security Approach

The aforementioned challenges are going to lead to the need for collaboration between sub-regional bodies. In the end, this will thrust the APSA back at the pinnacle of peace and security. This will require the use of an integrated approach to peace and security by not only encouraging vertical collaboration (AU and RECs/RMs)

RMs) but also inter-RECs/RMs collaboration with a supervisory role of the African Union. It should be noted that the inter-RECs/RMs collaboration may also help deal with the issue of overlapping memberships as the organisations will have no option but to find a working arrangement to cater for members that belong to multiple sub-regional bodies.

In the 2015 roadmap of African Peace and Security Architecture, there is an acknowledgement of the existence of the threats like terrorism, human trafficking and piracy to which the different Regional Economic Communities (RECs) or regional mechanisms (RMs) responded differently. For instance, it is noted that ECOWAS and CEMAC have developed their mechanisms in small light arms, while East African Community (EAC) has developed a counter-terrorism strategy.<sup>70</sup> It is clear that since intra-Africa movement and infrastructure thereof is less developed, it makes sense for RECs/RMs to develop capabilities according to needs. Yet with the coming into force of AfCFTA, there is a strong likelihood of these issues becoming more widespread and heavily transnational as the continent becomes more inter-connected and as different parts of the continent become more accessible to African.

Likewise, the APSA has operated on a more vertical basis as the African Union has sought to work closely with RECs/RMs. For example, it has developed memoranda of understanding with all of the RECs/RMs and they are integrated within the APSA. They do have regular meetings and have AU liaison officers working with them.<sup>71</sup> Even with the advantages that accrue with such an arrangement, there is no clear sign of inter-RECs/RMs collaboration. Yet with the AfCFTA it is going to become crucial for inter-RECs/RMs dialogue to foster trade but also collaborate on the new security challenges that plague the continent. It should be noted that informal contact may exist between RECs/RMs however, there is a need for a more pronounced framework for collaboration.

Furthermore, in dealing with gangs and organised criminal elements, there will be a need to create a database to monitor people moving between states. There will be a need to exchange information on outstanding arrest warrants and individuals with criminal records. Besides, there will be a need to create a database for sharing biometric information to monitor dangerous individuals. Mechanism like AFRIPOL will be handy in overseeing such processes.

AfCFTA will also open up for APSA collaborative avenues relating to law enforcement especially in monitoring criminals on top of safeguarding against negative elements like terror groups and rebel movements. Added to that is the view that early warning systems will also need to be coordinated to prevent spread of instability to other regions.

Henceforth, although the autonomy accorded to sub-regional bodies had seemed like a hindrance to a coherent APSA, the different operational structures in each of them will be useful to create a more harmonious peace and security architecture.

The need for linear collaboration can also become a factor in sub-regional bodies like COMESA and IGAD that are not strictly within the confines of a single region but yet have security and development apparatus. This can come into play since APSA, in its 2003 policy framework that established the Africa standby force, was silent on the roles of sub-regional bodies. It merely talked about establishing standby forces in the different regions. This presents an opportunity for the regional bodies within APSA to develop a linear working relationship on security and development issues. This will limit the level of duplication on security and development and instead harmonise collaboration. A bespoke solution for such institutions brings a wealth of expertise to the APSA and also helps ease the alienation felt by key players in these organisations.



## Conclusion

We can understand from the aforementioned that the AfCFTA, from the perspective of security-development nexus, has the potential to foster cooperation on security among the African institutions. This increasingly looks like an inevitable outcome if the AfCFTA is to survive. In the pursuit of progressive liberalisation, the AfCFTA Agreement gives the council of ministers the authority to establish other bodies as deemed fit.<sup>72</sup> Therefore, with the need for lateral collaboration between RECs/RMs, it is most likely that the AfCFTA council of ministers will explore possibilities of setting up mechanisms and memoranda of understanding between the RECs to improve collaboration on economic matters. Later this will also be necessary on the law enforcement and security side leading to a development of a lateral collaboration between the RMs with overarching supervision of the AU through APSA mechanism. Likewise, as a vehicle for development, AfCFTA can help deal with potential security issues by providing a lot of people a way out of poverty thereby ensuring the continent is in the position to maximise its economic potential which will help reduce the likelihood of violent contestations of state power and other threats to human and state security.

## Policy Recommendations

It is recommended that, first of all, the APSA mechanisms like AFRIPOL's scope should be broadened to not only deal with organised crime and terrorism but the setting up of a database to share biometric information to deal cross-border criminal activities. The porous nature of African borders if unchecked may provide a dangerous route for organised criminal activity. This is also attributed to the fact that some states are still in conflict and therefore unable to properly monitor their borders. For example, if one explores the Africa Organised Crime Index, it is countries in conflict that are scoring highly on criminality and low on resilience. For example, the Democratic Republic of Congo is at 7.29/10 on criminality and 1.96/10 on resilience, Central Africa Republic 6.87/10 on criminality and 1.5/10 on resilience, South Sudan 6.4/10 on criminality and 1.5/10 on resilience. The pattern is the same for Somalia, Libya and Mali.<sup>73</sup> Freedom of movement will increase the levels of criminality and without resilience insecurity will prevail. Thus, AFRIPOL can facilitate information sharing and biometric information relating to organised criminal gangs, pending arrest warrants and other security challenges as may be seen fit.

Secondly, there should be more lateral coordination between the sub-regional bodies without ignoring the top-down coordination with ASF. A lateral coordination is important for information sharing and facilitation of security as intra-Africa trade begins to take hold. Moreover, there is a need to include sub-regional bodies that do not necessarily fall within the 5 regions like IGAD, COMESA, to name but a few. This will reduce duplication of roles but also avail a wealth of information, skills and resources to bolster trade and ensure security for the Africans. The lateral collaboration will not only help in monitoring the security situation in different countries but also lay the foundation for a framework to explore the standardisation of products across regions once the customs union comes into effect.

Lastly, there is a need for a broader consultative approach by governments with citizens to map out a course of action and mandate of the state in as far as AfCFTA is concerned. For example, the formation of a customs union is most likely going to lead a spike in immigration to some countries. Without proper consultation between governments and stakeholders, freedom of movement may lead to xenophobic attacks and possible withdrawal of some states from AfCFTA.

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