



The Continental Free Trade Area (CFTA): Process and Political Significance

A Primer by Regions Refocus and
Third World Network-Africa
April 2016

BACKGROUND

The Continental Free Trade Agreement (CFTA) is a key African initiative aiming to urgently take forward the continent's long-standing integration and development agenda. To be finalized in 2017, the CFTA represents a significant opportunity to redress the vulnerabilities of Africa's economies within the global economic order that have been manifest in and deepened by the imbalances of the WTO as well as other multilateral and bilateral trade agreements.

The establishment of the CFTA aims to create a continental market for goods and services in Africa covering over a billion people and a GDP of over USD 3 trillion. The African Union Commission (AUC) estimates that if coupled with complementary trade facilitation measures to boost the speed and reduce the cost of customs procedures and port handling, the CFTA could more than double share of intra-African trade to 22 percent of total trade by 2022. This would be immensely significant for a continent whose intra-regional trade, at approximately 12%, is significantly lower than the intra-regional trade that takes place in Asia, Latin America, or Europe. It would also be a counter-balance of Africa's 4% share of global trade.

The decision of the African Union Summit of January 2012 to establish the CFTA is an attempt to fast-track the continent-wide free trade component of the African Economic Community (AEC) established by the [Abuja Treaty](#) of 1991. The AEC envisages six successive stages that involve the strengthening of sectoral cooperation

This CFTA primer includes:

Background
Timeline
Stated Objectives
Actors
Principles of
Negotiations
Scope: Phases 1 and 2
Issues at Stake

and establishment of regional free trade areas (FTAs), a continental customs union, a common market, and a Pan-African Economic and Monetary Union by 2028. Progress on these stages has so far been slow, however, and in some instances has failed to materialize. The decision to fast-track the free trade component of this project of regional integration through the CFTA will jump start the process.

As part of lead-up to the January 2012 decision on the CFTA, the African Union adopted an Action Plan, a document on the CFTA consisting of a matrix of activities and programmes seen as necessary complements to the CFTA. The so-called "Priority Action Clusters" included actions to address trade policy, trade finance, infrastructure, trade information and factor market integration. Since then, however, no discernible progress appears to have been made on operationalising these measures. The CFTA process has become focused on the narrower agenda of trade liberalisation, that is negotiation on elimination of tariffs on goods and the deregulation of services to be concluded by 2017.

TIMELINE

- **2012:** Endorsement of the Action Plan on Boosting Intra African Trade (BIAT) during the Summit of Heads of States and Government. Decision to establish a Continental Free Trade Area (CFTA).
- **2014:** Finalization of the EAC-COMESA-SADC Tripartite Free Trade Area.
- **2015:** Summit of the African Union that led to the launch of CFTA negotiations: adopted negotiation principles, institutional arrangements, terms of reference and indicative roadmap for the CFTA negotiations.
- **2015-2016:** Consolidation of the Tripartite and other regional FTAs into a CFTA (where possible).
- **2016-2017:** Meetings of the CFTA Task Force and Negotiation Forum. Agreement on Phase 1 of CFTA Scope (see below).
- **2017:** Establishment of the CFTA.
- **Post-2017:** Legal scrubbing, ratification, entry into force; agreement on Phase 2 of CFTA Scope.

STATED OBJECTIVES

- Create a single continental market for goods and services, with free movement of business persons and investments; thereby pave the way for accelerating the establishment of the Continental Customs Union.
- Expand intra-African trade through better harmonization and coordination of trade liberalization and facilitation regimes and instruments across Regional Economic Communities (RECs) and across Africa in general.
- Resolve the challenges of multiple and overlapping memberships [e.g. in recommendations and the Tripartite FTA] and expedite the regional and continental integration processes.
- Enhance competitiveness at the industry and enterprise level through exploiting opportunities for scale production, continental market access and better reallocation of resources.

ACTORS

- The **CFTA Negotiation Forum** (NF) is the primary group of government officials who will decide the parameters of the CFTA agreement. The NF was established at the AU 2012 Summit. **Technical Working Groups** (TWGs) under the NF address specific issues the CFTA will cover. The NF convenes a minimum of 4 times a year.
- **No official mechanisms for civil society** participation exist as yet; individual representatives of civil society can lobby their governments to be part of the delegations to the negotiations.
- The CFTA process also includes the **Continental Task Force**, made up of members from **Regional Economic Communities** (RECs). The Task Force manages negotiations and helps to prioritize, including since before the negotiations began.
- The CFTA intends to engage the **Pan-African Parliament**, as well as a range of stakeholders: civil society, parliamentarians, and the private sector. Colloquiums will be held to garner diverse perspectives during the CFTA process.
- Also relevant to the CFTA is the **High-Level African Trade Committee** (HATC), made up of Head of State Chairs of the RECs. HATC is intended to “provide facilitating role and unblock blockages,” as well as to review progress on CFTA, WTO, and other relevant frameworks for Africa such as AGOA.

PRINCIPLES OF NEGOTIATIONS

1. Driven by AU Member States/RECs/ Customs Territories with the support of the AUC
2. RECs' FTAs will serve as building blocks for the CFTA
3. Reservation of *acquis* (building on existing levels of integration, tariffs must be lowered beyond what has already been agreed through multilateral system or EPAs)
4. Variable geometry (allowing for varying levels of progression and speed in integration)
5. Flexibility and Special and Differential Treatment
6. Transparency and disclosure of information
7. Substantial liberalization (tariff rates should be at zero)
8. Most Favored Nation (MFN) Treatment – trade between African countries must be on terms better than offers made to third parties (e.g. the EU)
9. National Treatment – forbids discrimination between domestic goods/services and those from other parties
10. Reciprocity
11. Decisions to be taken by consensus
12. Adoption of best practices

SCOPE

The CFTA is intended to encompass agreements on the following issue areas. Phase 1 (with a deadline of the be addressed by the CFTA Negotiation Forum during the official sessions. Phase 2 has no timeline for negotiations as of yet.

PHASE 1 (End Date 2017)

Trade in Goods

- Tariff liberalization
- Non-tariff barriers
- Rules of Origin
- Trade Facilitation
 - Customs cooperation
 - Harmonization of Documents
- Transit and Transit facilities
- Trade Remedies
- Safeguards
- Standards
- Technical Barriers to Trade
- Sanitary and phytosanitary
- Dispute settlement
- Institutional arrangements

Trade in Services

- Transportation
 - Air
 - Maritime
- Insurance
 - Tourism
 - Financial Services
- Banking

PHASE 2 (No End Date)

Other issues

- Competition policy
- Intellectual Property Rights
- Investment
- Movement of business persons (across borders)

WHAT IS AT STAKE IN THE CFTA?

The CFTA is beset by internal and external incoherence that threatens to undermine the realization of its ultimate vision. Internally, while there is sufficient clarity (even if lack of realism) in relation to tariff and other trade-related policy-issues, interconnections between this and policy in key sectoral pillars of economic development, including agriculture and manufacturing, remain to be fully elaborated. Externally, Africa's governments continue to make commitments in arenas like the WTO, the EPAs and bilateral treaties which are liable to undermine their ability to meet the continent's own agenda. **Addressing these challenges of internal and external coherence is critical to the ability of the CFTA to power a regional trade and investment framework that supports the imperatives for structural economic transformation in Africa.**

Beyond Trade Liberalization: How Can the CFTA Bolster Productive Capacity?

According to its current parameters, the CFTA is focused on the reduction or removal of tariffs non-tariff barriers, as well the deregulation of services trade across African borders. Based on an interpretation of the negotiating principle that African countries must give themselves the same level of liberalization and deregulation that they have given to non-African countries, this means for example that the level of tariff liberalization will be at least the 80% duty-free and quota free access that they have given to the European Union in the EPA negotiations.

Such tariff liberalization and deregulation of services trade will likely create the kind of market size and economies of scale that will promote and/or attract the investments needed to stimulate growth, create jobs, and develop Africa's economies.

This approach, however, places excessive faith in the aggregation of existing markets and their limitations. Further, this reduces the complex and inter-related challenges of production, infrastructure, and market, which comprise the agenda of Africa's economic integration into a single element of tariff liberalization. Even though they have a role, removal of tariffs and services deregulation will not create markets, especially in the many instances in African economies where

critical markets do not exist. Nor will they address the constraints in production and infrastructure that confront African producers. Without careful thought and sequencing that builds positive interfaces between the liberalization of trade and addressing such "supply-side" constraints, the CFTA will exacerbate pre-existing problems and destroy the already slender foundations of Africa's internal production capacity. Building such positive linkages requires dealing with such questions as to **how industrial and agricultural policy are related to trade, investment, and finance policy**, and how these linkages manifest themselves at national, regional, and continental level. This is the kind of step-by-step approach already envisaged in the Abuja Treaty, where the establishment even of regional Free Trade Areas was premised upon and closely co-related to concrete progress in areas such as industrial policy, investment, and other co-operation among the parties.

One Free Trade Area, Different Starting Points

As is widely known, trade growth from a CFTA will likely develop unevenly, depending on factors such as countries' supply capacity, infrastructure, and competitiveness. According to UNCTAD, benefits from trade liberalization would likely create unequal gains and losses depending on a country's development, resource and production capacity. For example, tariff liberalization between the neighboring countries of Nigeria and Niger will likely benefit Nigeria (Africa's largest economy) more than Niger, which has relatively lower productive capacity, infrastructure, etc. **Tariff liberalization alone could aggravate the economic imbalances among African countries and result in certain countries suffering from fiscal revenue loss and the destruction of local industries.**

To avoid this, the approach to the CFTA negotiations of tariffs – including the levels of tariffs, the sequencing of reductions, and other issues – must be correlated with substantive measures and policies that address "supply-side" constraints and promote productivity and decent employment, all of this taking into account the differing economic starting points of the diversity of African countries.

External Threats

This concern is particularly urgent in light of commitments made by African governments through external agreements and their implications for domestic producers and investors. This is well illustrated by the Economic Partnership Agreements (EPAs) signed with the European Union. The EPAs that have already been concluded grant duty-free and quota-free access for up to 80% of European goods to Africa's regional markets. They also take away some essential space that allows the use of tariffs as policy tools for the development of domestic (that is national and regional) productive capabilities, especially in the areas of manufacturing industry. If the CFTA results in an African common market with no changes to the terms of existing EPAs, goods that enter African countries from Europe will travel throughout the region, to the detriment of goods produced in Africa. The CFTA will simply expand the market for cheaper goods produced abroad, rather than stimulate productive capacity by increasing demand for goods and services originating from the African continent.

Gender and other social imbalances

The threat of imbalanced outcomes of the CFTA is not simply among countries. Indeed such imbalances are translated into real life costs for ordinary people, feeding upon the imbalances among social groups. Most notable is gender inequality in access to and control of economic, human, and social resources, which remains pervasive in sub-Saharan Africa, and is a core dimension of poverty in the region. African women contribute to between 60% and 80% of labor for food production. Additionally, agriculture is dominated by the informal sector, where workers are majority female.

Trade agreements impact gender relations, and in turn gendered inequalities limit productivity and affect the implications of trade policy. Trade liberalization policies that reduce the price of domestic agricultural goods will negatively affect the income and livelihood of small-scale farmers as well as influence the informal sector, a primary source of employment for women.

UNCTAD has outlined the structural constraints faced by women in production and trade, which would be seriously impacted by increased trade liberalization: (a) segmentation in low-value added

or subsistence-oriented work; (b) unequal access to productive resources; (c) low access to training and skill-building due to gender segmentation in education and labour markets and lack of resources (time and income); and (d) the heavy burden of care and domestic work.

A gendered analysis of trade and of the CFTA is essential to enable African governments first to negotiate a trade agreement that benefits their workers and consumers, and failing that, to include safeguards to compensate losses experienced by African traders and producers, with particular attention to women.

Complications of Process

As evidenced by the overall process of regional integration in Africa, various Regional Economic Communities (RECs) are at different stages of integration. Initially the CFTA was intended to combine existing FTAs set up amongst the RECs, but because several regions will miss the deadline to establish FTAs, the CFTA has become a parallel process. The Tripartite FTA – encompassing COMESA, the EAC, and SADC, represents the integration of three of the largest RECs in Africa, but this agreement has not superseded the existing arrangements within the sub-regions. Will the CFTA succeed in harmonizing (i.e., replacing) existing arrangements of trade, movement of persons, etc., or will it mainly add a layer of complexity on top of existing agreements?

These challenges of substance and process have sparked the question of whether the CFTA's 2017 deadline is realistic, and what elements should be included in its process.

SOURCES

African Union, *CFTA*, <http://pages.au.int/cfta>, Accessed March 29 2016.

African Union, *Draft Framework, Road Map and Architecture for Fasttracking the Continental Free Trade Area (CFTA)*. 2011.

African Union, Objectives of the CFTA, <http://pages.au.int/cfta/pages/objective>, Accessed March 29 2016.

Erasmus, Gerhard. *The new Principles for Negotiating the Continental FTA*. tralac, Trade Brief, July 2015.

Randriamaro, Zo. Gender and Trade Overview Report. BRIDGE: IDS, 2006.

Sebahizi, Prudence, African Union Commission. *The CFTA: Elements, Expectations, Schedules and Challenges* [PowerPoint slides]. Retrieved on March 1, 2016.

United Nations Human Rights Office of the High Commissioner. Issue paper, *Potential Human Rights Impact Assessment (HIRA) of the continental Free Trade Area in Africa, 2015- 2017*. 9 April 2015.

United Nations Conference on Trade and Development. *Trade, Gender and the Post-2015 Development Agenda*. No. 3, 2014.

United Nations Conference on Trade and Development. *The Continental Free Trade Area: Making in Work for Africa*. No. 44, 2015.

United Nations Conference on Trade and Development and United Nations Development Programme. *Mainstreaming Gender into Trade and Development Strategies: The Case of East Africa*. Trade Negotiations and Africa Series: No. 5, 2008.