CAN AFRICA'S REGIONAL ECONOMIC COMMUNITIES PRODUCE A CONTINENTAL MARKET? PART 1

ARTICLE SERIES

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At its 18th Ordinary Session of the Assembly of the Heads of State and Government, the African Union ("AU") took the final decision to establish a single continental market for goods and services. The Extraordinary Summit on the African Continental Free Trade Area ("AfCFTA") in 2018 in Kigali, Rwanda, saw the signing of an Agreement to establish what is billed to be the biggest Free Trade Area ("FTA") in the world.

THE AFCTFA

The AfCFTA is set to create a single continental market for goods and services for more than one billion, two hundred million people on the African Continent. In addition to the creation of a single African market, will free movement of business, persons and investments across the continent ultimately lead to the emergence of a customs union?

The World Trade Organisation ("WTO") sanctions and recognises that trade associations formed along regional lines can be instrumental as units of development suitable for both advanced and developing economies.

Comparative studies and statistics emanating from diverse sources show differing score cards on the performance of regional trade arrangements to date.

Though Africa embraced the model, it has not made a spectacular success of it. Accepting this verdict, the AU came to the conclusion after long deliberations, that unless Africa trades and does business with itself, it is unlikely to make the kind of progress other regions of the world are enjoying, from regional aggregations. This led to the birth of the AfCFTA.

The strides already made by African FTAs, dating as far back as 1975, with the establishment of the Economic Community of West African States ("ECOWAS") and followed by the institution of seven other regional trade areas, has been heavily factored into the AfCFTA.

Firstly, the cohesion forged with already established structures, provides a head start for the continental organisation.

Secondly, modelled as they are, along the WTO governance and rule structures, they represent best international practices in trade.

Trade agreements are inherently long and tedious to negotiate. Issues of sovereignty, internal politics and the dynamic global economic factors usually get in the way of business-like outcomes. In this regard, the existence of Regional Economic Communities ("RECs") which had drawn rules of trade to govern their respective communities was identified as a instrumental to the implementation of the AfCFTA, thus, accelerating the record-breaking signing event of Kigali in 2018.

The Agreement establishing the AfCFTA ("the Agreement") specifically preserves RECs and provides that it does not nullify, modify or revoke rights and obligations set under pre-existing trade arrangements.

As a follow up, the AU recognised eight RECs as building blocks of the framework necessary to kick-start its implementation, namely –

- the Arab Maghreb Union ("AMU"),
- the Common Market for Eastern and Southern Africa ("COMESA"),
- the Community of Sahel-Saharan States ("CEN-SAD"),
- East African Community ("EAC"),
- Economic Community of Central African States ("ECCAS"),
- Economic Community of West African States ("ECOWAS"),
- Inter-governmental Authority on Development ("IGAD"), and
- the Southern African Development Community ("SADC").

THE REGIONAL ECONOMIC COMMUNITIES

The antecedence of the formation of RECs, usually lends colour to the peculiarities which they manifest and the paths they embrace in their growth. The clear lines of colonialism and the lopsided pattern of early global trade clearly impacted the ability of Africa to forge unions or operate them. For Africa, awaking from a colonial past - which dictated its trading partners and commodities, what it was able to export or import- clearly discouraged substantial regional trade. Thus, being predominantly a producer of primary products, the produce of Africa found markets in the colonial and industrial power centres of the world and the absence of regional transportation and communication infrastructure, did little to help the trade trajectory and aspirations of most African nations, even after they attained full sovereignty over their own affairs.

What then is the inheritance which existing economic communities of Africa have bestowed on their putative successor, the AfCFTA? The picture is painted on the canvass of selected communities which appear to depict the general state of play and we consider them here briefly.

THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

ECOWAS has 15 member states, comprising of English, French, Arabic and Spanish speaking people. The legal and commercial systems of the member states derive from the English Common Law, French Civil Law and Dutch Law.

In 2016, its Gross Domestic Product (GDP) amounted to US$716.7 Billion.

The agricultural and extractive industries are the fulcrum of the external trade of ECOWAS, with petroleum, tobacco and vegetables constituting the bulk of its exports estimated to be about US$190 Billion per annum.

As of 2016 only 10% of the volume of its trade was with Africa with Nigeria, Cote d' Ivoire, Ghana and Senegal accounting for the bulk of the trade.

Nigeria contributes the lion share of ECOWAS trade in goods, which as of 2015, was valued at US$87.9 billion (0.53 per cent of the world total). Therefore, with Nigeria's exports earnings declining as a result of falling oil prices, almost half of ECOWAS' external volumes was lost.

The relationship between ECOWAS and CEN-SAD in which all members hold dual membership constitutes a significant percentage of the traded volumes among member states.

THE COMMON MARKET OF EASTERN AND SOUTHERN AFRICA (COMESA)

COMESA was established in 1994 and comprises of twenty-one member states, with a population of over 540 million who speak Arabic, Swahili, French and English.

The legal and commercial systems of its member states manifest features of English Common Law, French Civil Law, German Civil Code and Italian Law.

Global trade for COMESA member states has maintained a steady growth, recording an increase from US$44.5 billion in 2000 to US$301.1 billion in 2013.

In 2015, volumes declined and stood at US$259.9 billion. Specifically, exports have dropped from approximately US$131.6 billion by the end of 2013 to US$79.3 billion.

Even though the COMESA export portfolio has shrunk, the establishment of an FTA, has been salutary to its trading position with the rest of Africa. As of 2015, COMESAs intra-African trade was valued at US$19.3 billion.

The increase in total intra-COMESA trade can be tied to the economic growth of its key economies namely Egypt, Kenya, DR Congo, Sudan, Zambia and Uganda. In 2016, COMESAs GDP amounted to $657.4 billion.

COMESA mostly exports gold, copper, petroleum oils and tea. In 2017, COMESA recorded an increase in the export of mineral fuels ($1.6 billion), woven apparel ($789 million), coffee, tea & spice (mostly coffee) ($744 million), knit apparel ($641 million), and precious metal and stone (diamonds) ($142 million).

Virtually all COMESA members hold multiple memberships in other trade areas.

THE COMMUNITY OF SAHEL-SAHARAN STATES (CEN-SAD)

Africa's largest economic community comprising twenty-seven states, was established in 1998. All member states of CEN-SAD have more than one REC membership. A good number are in at least two economic communities, a few belong to three, while Kenya has the unique status of having four memberships.

For the reason of multiplicity of memberships, its performance vis-à-vis other RECs cannot be easily configured. It suffices to say that the unique composition is bound to be an interesting feature of the ensuing inter-REC negotiations.

THE EUROPEAN UNION (EU)

What Africa seeks to achieve in one fell swoop, took many decades for most other regions of the world, including the EU, to achieve and build on as a work –in-progress.

Since the early 1950s, the membership of the EU has increased, but it has also seen a major withdrawal. The EU pursues a phased regional integration model, producing a mix of the growing pains and gains in the process. The EU thrives on some paradigms which have proven very valuable, for both its internal governance and external relationships:

- Visionary leadership based on the supranational "community method" rather than the traditional balance-of-power model.
- The political will to share sovereignty and construct strong, law-based institutions to oversee the project.
- A concise approach to decision making.

This is the architecture on which its member states now rely, for the negotiation of trade agreements with other countries and regions around the world, creating a variety of relationship types and array of tools and instruments for global trade.

As dictated by specific circumstances of the counter-parties it engages, the EU resorts to any of the following:

- Customs Union;
- Association Agreements, Stabilization Agreements, Free Trade Agreements and Economic Partnership Agreements; and
- Other Partnership and Corporation Agreements.

ASSOCIATION OF SOUTH EAST ASIAN NATIONS (ASEAN)

Many authorities recommend the ASEAN model of an economic community to the nascent AfCFTA. The complex composition of the ten member ASEAN presents a cultural, religious and linguistic multiplicity, which ordinarily would have made a union difficult to form or operate.

ASEAN also houses a politically colourful array of government types and leadership.

Notwithstanding, ASEAN has welded together a union which has grown beyond resolving tariffs and other non-tariffs barriers, to setting intellectual property and competition rules, benchmarked against global best practices. Today, ASEAN is a strong pillar of the Trans-Pacific Partnership.

With enhanced convergence, ASEAN regional trade areas, has achieved trade facilitation by:

promoting customs and regulations alignment around regulatory and customs procedures,

- regional integration,
- promotion of trade facilitation, and
- enabled market access for less competitive member states

yielding a multiplier effect simultaneously with multilateral trade arrangements reducing barriers for more competitive exporters.

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