Key Issues in Regional Integration
Volume 2

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About the Authors

Sindiso Ngwenya is the Secretary-General of COMESA. For the past thirty years, he has provided dedicated service for the development of the region's infrastructure and industry; as well as a great commitment to regional, multilateral, public sector, private sector and quasi-government institutional development. He has contributed to a number of achievements including the COMESA FTA, the design of the COMESA External Tariff Structure, Common Tariff Nomenclature (CTN) and the institutional and administrative structure for the COMESA Customs Union, among others.

Arthur G.O. Mutambara, is a Deputy Prime Minister in the Republic of Zimbabwe. He holds a BSc Electric and Electronic Engineering, University of Zimbabwe; and a PhD Robotics and Mechatronics, Oxford University, UK. He has worked as an assistant professor, Florida State University College of Engineering, USA; a visiting research scientist, the National Aeronautics and Space Administration (NASA), 1996-97; visiting research scientist, Carnegie Mellon University; Associate Professor, Massachusetts Institute of Technology; Management Consultant, McKinsey and Company; Director Stanbic Bank, South Africa; CEO and Managing Director, African Technology and Business Institute; and is President, Movement for Democratic Change.

Francis Mangeni is the Director of Trade, Customs and Monetary Affairs at the COMESA Secretariat. He has over the years assisted in the formulation of policy and the implementation of programmes on regional integration through trade and investment and on trade and economic relations with the rest of the world. He has published various articles and books; and he holds a doctorate in International Economic Law and African Integration, from the London School of Economics and Political Science.

Caesar Cheelo is a Macroeconomic Adjustment Expert in the COMESA Aid for Trade Unit. He was previously a Trade and Investment Research Fellow at the Zambia Institute for Policy Analysis and Research, and before that a Lecturer and Researcher in the Department of Economics, University of Zambia. His main interests and experiences have been in international trade research, policy analysis and research training as well as applied research on regional integration, economic transformation, and private sector and industrial development.

Tasara Muzorori is a Senior Trade Officer at COMESA. He has assisted in coordinating regional negotiations in allocating tariff rates for the Common External Tariff for the COMESA Customs Union as well as the Programme on Trade in Services. He has worked as a Senior Research Fellow with the Zimbabwe Economic Policy Analysis and Research Unit (ZEPARU); and he was also a Treasury official in the Government of Zimbabwe. He holds a Masters Degree in International Affairs (Economic Policy Management) from Columbia University and a Bachelor of Economics Honours Degree from the University of Zimbabwe.

Wilson Chizebuka is a Data Programmer under the Division of Trade, Customs and Monetary Affairs of COMESA. He is one of the architects of the COMSTAT online database, which is widely used to access trade statistics and other macroeconomic indicators from COMESA Member States. He also provides technical support to non COMESA members such as the South African Revenue Authority (SARS) and the SACU Secretariat, under the framework of the ongoing Tripartite Free Trade Area negotiations.

Yusuf Atiku Abdalla is a Ugandan economist with extensive experience as a central banker, trade policy advisor and negotiator, economic analyst and researcher. He holds a degree in Economics from the University of Michigan, Ann Arbor. He has also completed advanced studies and training in trade policy, quantitative development economics, energy economics and management, and macroeconomic, monetary and financial programming and policy at the Harvard Kennedy School, the WTO Institute for

Training and Technical Cooperation (ITTC), the University of Warwick, the University of Pennsylvania and the IMF Institute, respectively. He is currently on posting by the Commonwealth Secretariat as Regional Trade Advisor at the COMESA Secretariat.

Mahmood Mansoor is the Executive Secretary, COMESA Clearing House. He was a Senior Lecturer at the University of Mauritius; and worked in the aviation industry; and also as an economic and management consultant. He has been directly involved in the restructuring of the COMESA Clearing House, which led to the offering of an African Guarantee Facility to cover political risk in transactions; connectivity to the SWIFT network through a bureau service for all commercial and merchant banks of the region; and a Regional Payment and Settlement System aimed at stimulating economic growth. The payment system enables importers and exporters to receive and send payment for goods and services through an efficient and cost effective platform of the local banks, through the Central Banks. He holds a degree from the University of Warwick and a Masters in Economics from the University of East Anglia.

Fred Kongongo is the head of the Science, Technology and Innovation Programme at COMESA Secretariat. An engineer by profession, he has experience in manufacturing, industrial production planning, merchandising, logistics management, product safety and production of outsourced manufacturing for USA based retailers in the Kenya export processing zone. He worked in the standards development and quality assurance departments of the Kenya Bureau of Standards. Through a USAID funded programme he helped found the African Cotton and Textile Industries Federation, before joining COMESA in 2010 to manage the EU-Inter-ACP Programme as a Senior Coordinator. He is an alumnus of Moi University, Kenya and the Harvard Kennedy School Executive Programme.

Anne W. Ndirangu is the Head, Monitoring and Evaluation Unit at COMESA Secretariat, which she joined in September 2007 after a long career in the public sector in Kenya. She holds a Bachelor of Sciences and a Postgraduate Diploma in Management and Implementation of Development Projects. The author of the: "Status of Transposition of COMESA Programmes by the Member States", Anne says, "The transposition exercise came at a time when I needed to engage myself fully in order to keep my mind from the loss of my son Mrash, to whom I dedicate this paper. I also wish to acknowledge the valuable inputs of the Secretariat staff, especially the Country Officers; as well as Ambassador Gervais Nkanagu of the Brussels Liaison Office."

Nicholas Mudungwe is the Cluster Development Expert at the COMESA Secretariat. He is an economist by profession, and an expert in project design and management; value chain and trade policy analysis. He has worked with rural and industry business communities in designing and implementing projects with an orientation towards improving the performance of commodity value chains. He has worked in Africa, Europe and Oceania; and has consulted for COMESA, SADC, EU, USAID, ITC, FAO and the Pacific Island Secretariat Forum. In 2013 he jointly published jointly a research paper on "The Impact of Commodity Development Projects on Smallholder's Market Access in Developing countries", which can be accessed at: http://www.fao.org/docrep/017/aq290e/aq290e.pdf

Peter Malinga is the Senior Customs Expert at the COMESA Secretariat. He provides technical support to the Secretariat and the Member States on customs issues. He has worked as a Customs Consultant at COMESA; as well as Commissioner for Customs, Uganda from 2005 to 2012. From 1999 to 2004, he was Assistant Commissioner, technical Matters at the Uganda Revenue Authority. Prior to that, he worked for the World Customs Organization for seven years as a Senior Classification Expert.

Zerezghi K. Kidane is the Senior Customs Affairs Officer at the COMESA Secretariat.

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Foreword

The first issue of "Key Issues in Regional Integration" was released in March 2011 and formally circulated at the Summit of the Authority that year in October in Lilongwe. Since then the publication has been widely distributed to stakeholders at COMESA meetings, workshops and trade fairs in the region and beyond. The feedback received indicated that the publication provided useful insight into the integration agenda, the progress made in addressing related issues, and served to assist shape the future of the COMESA integration agenda. In the foreword for that inaugural issue, I underscored the critical importance of knowledge generation and management as a midwife to regional integration. I am now happy to introduce this issue, the second in the series of "Key Issues in Regional Integration".

This publication covers topical contemporary issues in the regional integration agenda of COMESA, namely: trade facilitation, co-operation and trade arrangements with key partners, the tripartite, the customs union, implementation of the Treaty and Council Decisions, inclusive growth, and re-stating the case for Pan-Africanism now that the African Union is celebrating 50 years.

With regard to the core integration of the COMESA region, this issue sheds light on the concerns raised in the implementation of the Customs Union so far; the progress made in the implementation of COMESA decisions and programmes by the Member States; as well as developments in the Tripartite process.

There is focus as well on the required new approach to EPA Negotiations, not forgetting the urgency of focusing on the effective conclusion of the Tripartite FTA negotiations for the region and the requisite commitment by all Member States. This will offer insight into the constraints that tend to slow down the pace of integration within the COMESA region and some proposed solutions to address these constraints are put forward.

The paper on relations with China explores the possibility of a mutually beneficial engagement between Africa and China. China's global power and ambitions indicate that it is in Africa to pursue its own interests, on its own terms, rather than to give charity. However, its presence also presents an important opportunity in the history of the economic development of Africa, in terms of the potential for a marked contribution to the continent's development. Rather than dance to the criticism of China, Africa in general, and COMESA in particular, should clearly articulate their development interests that China's presence can support, including in terms of pursuing a natural resource based industrial development strategy and ensuring maximum value addition in the region.

The institutional and legal difficulties in implementing the COMESA integration programme are elucidated. There are some thoughts on inclusive growth, which is not only topical in the African context but will provide valuable reflections given that the splendid growth that some African countries have experienced so far has not created the much needed decent jobs to absorb the youth and various other unemployed groups.

The paper on Africa's fiftieth anniversary highlights the all-important priority of pan-africanism. It sets out how the de-colonisation of Africa was achieved at great human and economic sacrifice, marked by a unique solidarity at the continental level where the fate of one country was the concern of all the others. Wealth creation should benefit all countries and all people, and Africa should now be united in a solidarity that ensures that no country on the continent is left behind in the booming economic growth being registered over these years, which is projected to see Africa become the global growth pole.

All this will provide interesting reading to those who need to familiarize themselves with regional integration in COMESA and some of the constraints affecting the speed of integration. Let me end by re-iterating my firm belief that the COMESA regional integration program should be grounded in sound analysis and should be evidence-based. The importance of this series on key issues in regional integration, therefore, cannot be overemphasized. I appeal to all, including our academic and research institutions, scholars, think tanks, government officials, and stakeholders, within the region and beyond, to support this initiative through interesting themselves in these publications and contributing papers for all future issues.

Ngwenya

Sindiso Ngwenya

Secretary General, COMESA

Overview of the Common Market for Eastern and Southern Africa in 2013

By Sindiso Ngwenya

COMESA is a regional integration grouping of nineteen (19) Member States which have agreed to promote regional integration through trade development and to develop their natural and human resources for the mutual benefit of all their peoples.

The Member States of COMESA are: Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe.

To spur growth, COMESA's current strategy is economic prosperity through regional integration. With its 19 member states, a population of over 400 million, a combined GDP of US $525 billion, an annual import bill of around US $155 billion and an export bill of US $108 billion in 2012, COMESA forms a major market place for both internal and external traders. Its area is impressive, even in terms of the vast areas of Africa, as COMESA countries have a total combined area of about 12.6 million square kilometres.

The COMESA Treaty, which sets the agenda for COMESA, covers a large number of sectors and activities. However, the fulfillment of the complete COMESA mandate is regarded as a long-term objective and, for COMESA to become more effective as an institution; it has defined its priorities within its mandate, over the medium term as, "Promotion of Regional Integration through Trade and Investment".

The institutional structure of COMESA is as follows:

- Authority of Heads of State and Government
- Council of Ministers
- Committee of Governors of Central Banks
- Intergovernmental Committee
- Technical Committees
- The Secretariat
- The Consultative Committee of the Business Community and Other Interest Groups.

The role of the COMESA Secretariat is to take the lead in assisting its Member States to make the adjustments necessary for them to become part of the global economy within the framework of WTO regulations and other international agreements. This is to be done by promoting "outward-orientated" regional integration. The aims and objectives of COMESA as defined in the Treaty and its Protocols are, therefore, to facilitate the removal of the structural and institutional weaknesses of Member States so that they are able to attain collective and sustained development.

COMESA also has a number of specialised institutions that are separate from the Secretariat including:

- The COMESA Court of Justice;
- The COMESA Competition Commission;
- Trade and Development Bank For Eastern and Southern Africa (PTA Bank);
- COMESA Re-insurance Company (ZEP-RE);
- The Africa Trade Insurance Agency (ATI);
- COMESA Regional investment Agency (COMESA RIA);
- COMESA Clearing House;
- The Alliance for Commodity Trade in Eastern and Southern Africa (ACTESA); and
- Leather and Leather Products Institute (LLPI).

COMESA's focal areas of integration are:

- Trade in goods and services, including payments and settlement arrangements;
- Investment promotion and facilitation;
- Infrastructure development; and
- Peace and security.

COMESA offers its members and partners programmes that are expected to deliver the following benefits:

- A large, harmonised and more competitive market;
- Greater industrial productivity and competitiveness;
- Increased agricultural production and food security;
- A more rational exploitation of natural resources;
- More harmonised monetary, banking and financial policies; and
- More reliable transport and communications infrastructure.

COMESA seeks to become a fully integrated, internationally competitive regional economic community; a community within which there is economic prosperity demonstrated by high living standards of its people with political and social stability; a community within which goods, services, capital and labour move freely across national geographical borders.

Reflecting its origins, COMESA's flagship programmes probably still lie in the area of trade and the programmes spearheaded by the Trade, Customs and Monetary Affairs Division. These programmes are designed to move COMESA, as a regional bloc, to a fully integrated, internationally competitive and unified single economic space within which goods, services, capital and labour are able to move freely across national frontiers. Thus, the programme of cooperation aims to achieve the removal of all physical, technical, fiscal and monetary barriers to intra-regional trade and commercial exchanges.

To date 14 of the 19 Member States have signed up to the COMESA Free Trade Area where all goods that originate from the region are granted duty-free, quota-free market access to all other Members of the COMESA FTA. The next stage of integration is the COMESA Customs Union.

In recognition of the urgent need to improve trade facilitation measures in the Eastern and Southern Africa region if the region is to become globally and even regionally competitive, COMESA has a suite of trade facilitation programmes to improve customs, management of goods in transit and in transport facilitation. There is no opportunity to address these measures and programmes in detail in this paper but COMESA's intention is to use the trade facilitation measures, together with the trade policy measures and infrastructure development, to reduce the costs of doing business across borders and COMESA has had some notable successes in this area. It is also probably worth pointing out that COMESA countries are much further advanced in implementing trade facilitation measures than what may be inferred from the current negotiations on finalising the Trade Facilitation Agreement (TFA) under the World Trade Organisation's Doha Development Agenda.

COMESA also has programmes addressing improved efficiencies in agriculture, which are, in the main, in support of the Comprehensive Africa Agricultural Development Programme (CAADP) and, linked to this and the COMESA FTA programmes to address Sanitary and Phyto-Sanitary issues as well as identification and removal of Non-Tariff Barriers (NTBs). COMESA has other programmes that address beneficiation, value addition, industrialisation (which, in the main, supports the Africa Union programme as endorsed by the Committee of African Ministers of Industry (CAMI) and support to private sector institutions.

COMESA also has a number of very successful and innovative cross-cutting issues in particular in the areas of gender mainstreaming and climate change.

Turning our attention to the COMESA-EAC-SADC Tripartite, which we refer to simply as the Tripartite, the main reason why the three Regional Economic Communities of COMESA, EAC and SADC decided to launch the Tripartite Programme was to try to remove some of the inconsistencies and costs in regional integration brought about through overlapping memberships. There are, actually, some benefits which accrue from countries being members of more than one Regional Economic Community but these benefits are not in the area of trade policy or trade facilitation.

The three REC Secretariats of COMESA, EAC and SADC agreed to establish the Tripartite Task Force (TTF) in 2006. The TTF was to be, and remains as, a coordination mechanism to ensure RECs do not put Member States into contradictory or compromised positions as a result of implementing integration programmes. The Tripartite countries account for half (27) of the Membership of the African Union with a combined landmass of 17 million square kilometers, a population of 590 million people and a GDP of United States Dollars of 1.3 trillion.

The Tripartite is not a new legal structure and it is not a new REC. It is an attempt to merge the Regional Organisations into the African Economic Community in line with the aims and objects of the Lagos Plan of Action, Abuja Treaty and the Sirte Declaration as well as the Constitutive Act of the AU. The TTF operates as one in all continental and international fora. It established sub-committees in trade (policy and facilitation) and trade infrastructure along corridors, and, more recently, in industrial development to develop common programmes in these sectors and have common programmes in other areas (such as climate change and CAADP) which are common but administered by one REC.

The Tripartite has its own structure as the Heads of State and Government decided to establish the following Tripartite bodies/committees:

- Summit – to meet at least once every two years;
- Council of Ministers – to meet at least once every two years;
- Sectoral Ministerial Committee on Trade, Finance, Customs, Economic Matters & Home/Internal Affairs – to meet at least once a year;
- Sectoral Ministerial Committee on Infrastructure – to meet at least once a year;
- Sectoral Ministerial Committee on Legal Affairs – to meet at least once a year;
- Committees of Senior Officials and of Experts – to meet at least once a year; and
- Task Force of the Secretariats of the three RECs that will meet at least twice a year.

The Tripartite Strategy consists of:

- Design and implementation of the Tripartite FTA that involves the preparation of a draft FTA Agreement and the negotiation of the implementation modalities of the TFTA.
- The preparation of a Trade and Transport Facilitation Programme and the implementation of this Programme along transport corridors.
- Elaboration of a regional industrial development programme.
- The design and implementation of trade and transport infrastructure projects along corridors.
- Free movement of business persons across the RECs.

All of these programmes, implemented in sequence, should reduce the costs of cross-border trade, leading to higher economic growth, job creation and poverty alleviation.

The first Tripartite Summit held in Kampala, Uganda on 22 October 2008 approved the expeditious establishment of a Free Trade Area (FTA) encompassing the Member States of the three RECs with the ultimate goal of establishing a single Customs Union. They also directed that a study be prepared on a legal and institutional framework to underpin the FTA and measures to facilitate movement of business persons across the RECs.

The Tripartite FTA will build on the FTAs that are already in place in COMESA, EAC and SADC and cover all 27 Tripartite countries.

The Tripartite Task Force (TTF) prepared a FTA Roadmap and a Draft Agreement establishing the Tripartite FTA, including annexes as well as Negotiating Principles, Processes and Institutional Framework. These were endorsed by the Heads of State and Government at the second Summit on 12 June 2011.

The FTA roadmap presupposes that the 27 countries will need to engage in negotiations but also recognises that there are already in place PTA and FTA trading arrangements among the 27 countries. This means that not all 27 countries will need to negotiate with each other. The roadmap also presupposes that negotiations for the Tripartite FTA should be guided by the principles of acquis; incremental liberalisation; Most Favoured National Treatment; and National Treatment, among others.

Significant progress has been made in implementing the Tripartite FTA and negotiations are underway, although behind schedule. However, efforts are being made to catch up and complete negotiations by June 2014, that is, within the 36 months set in the roadmap.

Of the 27 countries in the Tripartite, 23 are already in a Free Trade Area, 2 (these being Ethiopia and Eritrea) are in a Preferential Trade Area and 3 (these being Angola, DR Congo and South Sudan) offer no trade preferences to their regional partners.

The proposal that has been adopted by the Tripartite Summit is that those countries that are in a FTA should extend the preferences they offer to members of the regional FTA to members of other regional FTAs:

- All COMESA members implement the COMESA FTA and offer the same preferences to non-COMESA FTA members on a reciprocal basis;
- EAC and SADC Member States do the same; and
- COMESA Non-SADC and EAC members offer SACU (as a customs union comprising of Botswana, Lesotho, Namibia, South Africa and Swaziland), Angola and Mozambique duty free, quota free market access for all originating goods on a reciprocal basis.

If this is done the TFTA will be arrived at for all 27 countries in the Tripartite in a relatively short period. It is also possible to implement the TFTA at variable speeds - some countries may achieve a tariff phase-down to zero tariffs on originating goods faster than other countries, subject to negotiations.

In conclusion, the Tripartite Free Trade Area is more of an opportunity than a threat. To realise that opportunity we need to reject the “crab in a bucket” mentality and work together for the common good. It is not a zero-sum game - what is good for our neighbour can be good for us. The challenge is to get this message across to the general public, civil servants and private sector. The counterfactual to the TFTA is more of the same – a steady spiral downward, another generation of missed opportunities and continuing to bump along the bottom.

There would appear to be little or no alternative to using regional integration to develop markets and to achieve internal economies of scale if Africa and producers in Africa are to compete globally.

PART I

TRADE FACILITATION IN REGIONAL INTEGRATION

Industrializing the Region - Progress and Prospects of the COMESA Cluster Programme

By Nicholas Mudungwe and Fred Kong'ong'o

Background

In response to the Treaty provisions and Council decisions, the Cluster Development Programme was initiated by the COMESA Secretariat in 2012. Small and Medium Enterprises (SMEs) hold a lot of potential for the expansion of intra-COMESA trade; the strengthening of regional value chains, employment creation; poverty eradication and wealth creation; and a strong alignment with national priorities. Despite the imperatives listed above, SMEs in the COMESA region face many challenges, including: inadequate technical and managerial skills, limited access to suitable finance, poor equipment and raw materials and small and erratic domestic market. This was confirmed by a profiling exercise of SMEs in the footwear, garments and cassava processing that was undertaken by the COMESA Secretariat. At least 65 percent of SMEs operating in the region are facing most of the highlighted constraints.

The implementation of the Cluster Development Programme in 2012 focused on profiling, mentoring, capacity building in skills and business management, and acquisition of equipment. In order to deepen and consolidate these results, it is recommended that the programme should continue to be coordinated from the regional level in the next five years.

Chapter 12 of the COMESA Treaty recognizes the importance of cooperation at regional level in the area of industrial development. This provision mandates the Secretariat to initiate programmes that are aimed at improving the competiveness of the industrial sector as a mechanism of enhancing the intra-regional trade in manufactured products. Furthermore, the Treaty encourages the formulation of industrial strategies that promote linkages among industries and which facilitate the development of SMEs.

Therefore, the COMESA Medium Term Strategic Plan 2011-2015 prioritizes six key strategic areas, which include removing barriers to factor mobility and building the productive capacity for global competiveness. It is in this regard that the COMESA Secretariat formulated strategies in the leather and leather products, cotton to clothing, agro-processing and cassava processing. The six priority sectors were adopted in 2006 by the Heads of State and Government Summit held in Djibouti.

The COMESA Summit of 2012, held in Uganda, reaffirmed the need for strengthening SMEs by adopting a pro-SME theme, namely, enhancing intra-COMESA trade through MSME Development. Further, in order to improve the SME access to finance, the COMESA Policy Organs in December 2012 in Kampala, Uganda recommended that the Secretariat should work on modalities of establishing a guarantee facility. The Secretariat has since initiated pilot cluster development programmes in the following sub-sectors: cassava, textile, clothing and footwear. Also, micro financing and gender empowerment were recognized as important cross cutting issues that should be addressed within this programme.

Economic Importance of SMEs

SMEs globally contribute significantly to employment creation and national incomes. This scenario is common in both developing and developed countries. It is fundamental to note that the SME strategy of development is more effective in growing value addition industries in developing countries. It is, therefore, no accident that SMEs are also pivotal in their contribution to employment and the GDPs of COMESA Member States as summarized in the Table 1 below. The average contribution by SMEs to GDP in the COMESA region is estimated at 20-25 percent, with a minimum and maximum contribution of 12 percent and 39 percent attributed to Sudan and Malawi respectively. The same sector contributes an average of 0.6 million jobs in Member States.

Rwanda has the lowest number of jobs attributed to SMEs at 0.03 million and Kenya has the highest number of jobs in the SME sector at 7.8 million.

The importance of SMEs with regard to employment creation and GDP expansion could be enhanced through minimal investments in cluster development. For example a capital injection of US $20,000 can create more than ten jobs in the garments and footwear sub-sectors. There is a good body of evidence that recognizes clusters as engines of economic growth and development, thus an intervention targeted at improving their performance would have a rapid and deep multiplier effect across the entire economy.

Table 1: Contribution of SMEs to GDP and Employment in Member States

Country	GDP (%)	Estimated Number	
		SMEs	Employment (millions)
Burundi	20	-	1,2
Kenya	38	74,000	7,8
Rwanda	17,9	72,000	0,03
Sudan	12	29,000	2,9
Uganda	19	84,153	1,5
Zambia	37	450,000	2,2
Zimbabwe	15	74,000	1,4

Despite the significant contribution of SMEs to GDP and employment creation in Africa, it has been observed that their contribution to the export of manufactured exports is very low. The situation is the same in economic powerhouses on the continent such as South Africa, Egypt, Nigeria and Kenya's where SMEs contribute 70 percent in employment and 30 to 40 percent to GDP but less than four percent to export earnings. The low export earnings is attributed to a number of factors, which include: inward looking policies with regard to SMEs at Member State level; lack of skills/management capacity; low product quality and low production capacity; poor market access and lack of exposure to regional and international markets. Thus the intervention at the regional level is aimed at enhancing the SMEs' participation in regional and global trade. However, the SMEs could well be indirect exporters by providing input into the large firms that are engaged in exporting.

The specific objectives of the Clusters Development Programme are as follows:

a. Build the competitive capacity of the SMEs in the sub-sectors of cassava, textile, clothing and footwear;

b. Increase the productivity of the SMEs by 25 percent;

c. Build the capacity of support institutions in the area of cluster management excellence;

d. Develop the capacity of SMEs to procure and market regionally; and

e. Build the capacity of Member States at regional level to transform technical institutions into incubation centres with the export trade oriented approach.

Rationale for the Cluster Approach

The COMESA Secretariat has selected the cluster approach in dealing with a plethora of challenges that SMEs are facing in the region. Empirical evidence has shown that firms located in clusters are more likely be innovative, pay higher wages, and achieve greater productivity than firms that are geographically isolated. The importance of SMEs and clusters has been recognized in several regions. When firms and related organizations are situated in physical proximity to each other, they have more (and more varied) interaction than geographically dispersed firms. This leads to increased efficiency and quality through:

a. Competition - Local rivalry can spur companies to better performance. When similar companies are located near each other, differences become more noticeable.

b. Relationships - Personal relationships facilitate the flow of information. In clusters, there tend to be strong informal networks where specialized knowledge is dispersed quickly through business transactions, social activities and other casual interactions.

c. Reinforcing growth - Once a critical mass of cluster activity develops, the attractiveness of locating in the cluster increases rapidly, which accelerates the cluster's growth. Clustered enterprises can achieve levels of competitiveness that reach beyond the potential of individual enterprises because firms within clusters benefit from collective efficiency gains, i.e. "the competitive advantage derived from local external economies and joint action".

d. An individual MSME by being in relative isolation and smaller in size is not in a position to address the issues affecting its competitiveness on its own. Neither is it feasible for any support service institution to address the issues at firm level in view of large numbers of SMEs. The clusters offer critical mass for the customization of SMEs services. The clusters also enable information and knowledge networks in the areas related to markets, technology and input providers. Therefore, a strategy and approach aimed at the cluster as a whole encompassing the individual requirements of the SMEs and involving all development institutions is the right strategy to address the developmental challenges in Africa today.

Strategic Alignment with National Priorities

COMESA Member States have invested in the SME development sub-sector by establishing dedicated ministries or departments, technical support institutions and finance houses.

However, most interventions at Member State level are inward looking thereby undermining the ability of SMEs to procure and market externally. The COMESA regional cluster programme, therefore, seeks to compliment Member States' interventions by undertaking activities that stimulate value chains.

Socio-economic Imperative

The Cluster Development Programme contributes towards the attainment of the Millennium Development Goals (MDGs) that call for halving poverty by 2015. The SME cluster based development initiatives have been identified as an effective strategy towards the promotion of the pro-poor agenda, since thriving small scale private business can alleviate poverty by contributing to economic growth, job creation and poor people's incomes. It can also empower poor people, women, youths and other underprivileged groups by providing a broad range of products and services at lower prices.

Constraints Facing the SMEs in the Region

The majority of the SMEs that were interviewed during the profiling exercise that was undertaken by the Secretariat considered the shortage of suitable finance and use of old and rudimentary equipment as a major constraint that has hampered the production of quality products and productivity. Eighty-five percent regarded the poor state and lack of necessary machinery as a major factor that was undermining the manufacturing of quality products. The absence of a common working facility impacted negatively on SME's visibility as some of them were operating in their backyards and in vegetable markets.

Most of the enterprises are of the view that a centralized working space would help to solve a lot of their challenges through collaboration and sharing of the equipment, knowledge and skills. Furthermore, this would improve on the visibility of these enterprises that would in turn boost their turnover, capacity utilization and competitiveness. The overall impact to the economy would be employment creation and enhancement of the livelihoods of the owners and workers. The findings of the profiling exercise are summarized in Table 2 below:

Table 2: Constraints Faced by SME Growth

Constraints	SME Responses (%)
Finance	86
Shortage of raw materials	85
Poor equipment and machines	85
Unsuitable working space	70
Inadequate of technical support	80
Small a& Erratic market	65

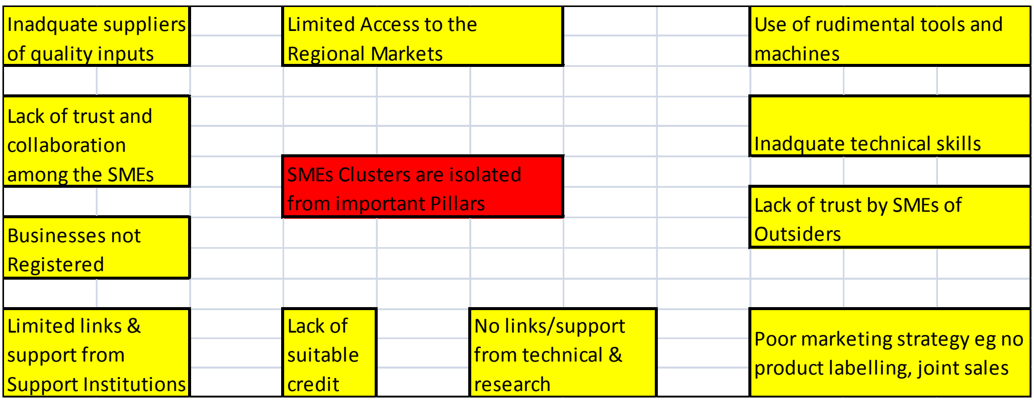
Source: COMESA Secretariat

The SMEs pointed out that they face immense challenges, when they try to source quality inputs from other COMESA countries. The main challenge is that they do not have enough money to purchase economic order quantities; hence they are forced to procure through middlemen. The given challenge has been further aggravated by the fact that one of the countries that is producing quality finished leather is not yet in the FTA, hence SMEs importing leather from Ethiopia have to pay duty. The cluster programme is thus engaging the leather association in

Ethiopia, as a mechanism to lobby their government to join the FTA, as their industry is losing valuable business in the region. Leather and related products are Ethiopia's premier foreign currency earners. However, the year 2012 was bad for the Ethiopia leather sector, as the industry failed to meet its export target, despite the fact that there is a huge market in the COMESA region for footwear and finished leather. The COMESA footwear market is estimated at 365 million pairs, which requires 1 billion square feet of leather.

The SMEs in the region are also isolated and lack essential support pillars, as illustrated in Figure 1 below. The cluster intervention is developing regional approaches that are aimed at catalyzing a process to create linkages for SMEs, with all the important pillars. Most Member States are supporting SMEs. However, their support has been spread over SMEs that are geographically spread and which are not collaborating in the areas of procurement, production and marketing. This scenario raises the cost of intervention and at the same time minimizes on impact. The regional cluster approach is aiming at complementing Member States by introducing approaches that encourage collaboration in areas of procurement, production and marketing. This would reduce the cost of intervention and at the same time raise the magnitude of impact. Similar approaches have been used in India, China and Japan with marked success.

Figure 1: Lack of or inadequate Linkages with SMEs



Source: COMESA Secretariat Profiling Exercise

In spite the above challenges, some of the SMEs are making products of respectable quality. School uniforms and shoes produced by SMEs are competing favorably with imported new and second hand products. It is in this context that SMEs are pivotal in containing competition from China as they have low overheads. In addition, it was found out that if the SMEs are clustered together provided with business management and technical training, their performance would be greatly enhanced.

It was also observed that in many Member States there was limited interaction between SMEs and responsible government departments. This has significantly undermined the growth potential of these clusters, which are operational in many cities and peri-urban areas across the COMESA region.

Implementation Summary: 2012

The summary of the implementation of the Clusters Development Programme, since its inception in April 2012, is illustrated below. It is fundamental to note that the programme has managed to take off at a faster pace because Member States already have mechanisms of working with SMEs, which is being strengthened and complemented by the COMESA regional dimension.

Summary of Project Implementation

Country	Training			Equipment Procurement			Implementing Partners
	Agro pro-cessing	Footwear	Textile & Garments	Agro pro-cessing	Footwear	Textile & Garments	
Burundi	50	n/a	n/a	0	n/a	n/a	Ministry of Trade, Ministry of Agriculture, CAPAD, Farm Concern International, Bureau of Standards
Congo DR	0	n/a	n/a	0	n/a	n/a	Direction Régionale du Développement Rural de Haute Matsiatra (DRDR- HM , FOFIFA Centre Research, Ministry of Agriculture, Ministry of Trade
Eritrea	n/a	0	0	n/a	n/a	n/a	
Ethiopia	0	-	50	0	n/a	n/a	COMESA/LLPI, Ethiopia Leather Industries Association (ELIA),Women Entrepreneur's Association, Konimix Company, Textile Industry development Institute, Maa Garment, Ethiopia Textile and Garment Manufacturers Association, Ministry of Economic Development
Kenya	50	35	50	P	0	n/a	COMESA/LLPI, Kenya Leather Development Council; Kabete Technical College, Farm Concern International (KARI), World Vision Kenya, Ministry of Industrialization, Ministry of Agriculture
Uganda	50	25	50	P	0	P	COMESA/LLPI, Ministry of Trade and Industry, Ministry of Agriculture, Cranes Training Centre and Common Facility, Footwear & Leather goods Association, Food Technology and Nutrition, Makerere University , Uganda Small Scale Entrepreneurs Association, Textile development Agency

Country	Training			Equipment Procurement			Implementing Partners
	Agro processing	Footwear	Textile & Garments	Agro processing	Footwear	Textile & Garments	
Malawi	0	0	65	0	0	0	COMESA/LLPI, Malawi Chamber of Commerce and Industry, World Vision – Malawi, Ministry of Trade and Industry, Malawi SME Association
Rwanda	50	0	n/a	P	n/a	P	COMESA/LLPI, Ministry of Trade, Rwanda Development Agency (Masaka Incubation Centre), Farm Concern International
Sudan	n/a	0	n/a	n/a	n/a	n/a	COMESA/LLPI, Technical College (omunduman), Leather Association
Zambia	150	40	60	0	0	n/a	COMESA/LLPI, ZDA, National Service Training Centre Kitwe, Afri- Care Zambia Lusaka Technical School, Evelyn Colleague
Zimbabwe	0	0	25	0	0	0	COMESA/LLPI, Ministry of SMEs / Ministry of Trade and Industry, Ministry of Agriculture, Afri-Care Zimbabwe, Leather Institute of Zimbabwe
Madagascar	0	n/a	n/a	0	n/a	n/a	Direction Régionale du Développement Rural de Haute Matsiatra (DRDR- HM, FOFIFA Centre Research, Ministry of Agriculture, Ministry of Trade
Total	350	85	300				

Key: n/a – not a target country 0 – Activity in progress P – Equipment procured

In addition to the above, the Cluster Programme has supported the participation of 23 SMEs in the All Africa Leather trade fair on a cost sharing basis. This initiative has helped SMEs to create regional linkages. During the Fair they held 100 matching business meetings with potential suppliers of leather, shoe lasts and other accessories from Ethiopia.

Preliminary Assessment of the Impact of the Intervention

The Cluster Development Programme, like any intervention displays a logical progression of impact. It starts with physical changes such as improved capacity, which leads to the production of quality products, which in turn raises the demand of the products, subsequently leading to economic impacts. For example, the capacity building impact, which is a change in the knowledge and skills of individuals, has occurred as, trained artisans are now armed with both business management and technical skills to enhance productivity and quality of products. There is evidence that the training has also enhanced their attitude and confidence. For some artisans, the attendance certificate issued by COMESA was the first certificate they have ever received, thus a boost to the self esteem that will positively impact their work and life.

Garments and shoe making SMEs are active in all the 19 Member States while cassava growing and processing clusters are active in ten Member States. The prevalence of the SMEs in these sub-sectors implies that their improved performance would strengthen the regional value chains and improve intra-COMESA trade, because there are few countries that produce leather and fabric that are used by SMEs to produce garments and footwear.

Most of the SMEs surveyed reported that they are sourcing fabric, leather and other raw materials from the region through cross border traders. Some of them also sell their products in the region through these cross border traders. This is due to the fact that their production and input requirements as individual SMEs do not position them to import or export directly. However, the implementation of the cluster programme will enable them to work in groups thus making it possible to import and export directly thereby contributing to increased intra-COMESA trade and the strengthening of regional value chains. This is what has been proposed in the second phase of the SME programme that is to incubate SMEs with great potential for production and trade to enhance their competencies through provision of common services and support. There is already evidence on the ground that SMEs are participating in intra-COMESA trade, examples are elaborated below:

a. Malawi SMEs are importing finished fabric, leather, soles and other accessories from Kenya, Zambia and Zimbabwe;

b. Rwandese footwear SMEs are importing leather, soles, lasts and other accessories from Kenya.

c. Uganda SMEs are importing fabric, leather, soles, shoe lasts and other accessories from Kenya and Ethiopia.

d. Some of the products that were show- cased by footwear and leather goods: SMEs which were drawn from eight COMESA Member States during the 2013 All Africa Leather Fair have caught international attention. To this end the Hong Kong Fair organizers of Market Access Fair, have requested a group of SMEs that will be supported to show case their products in international fair. This is a good example for the cluster initiative being leveraged by other sources of funds.

e. Two women SMEs in Malawi supported under this programme are working together to export Africa print Fabric bags to the USA under AGOA. They are seeking for support to enter the European market.

So, any effort geared towards improving the productivity capacity of the footwear, garments and agro processing SMEs, would definitely strengthen the regional value chain and at the same time promote increased intra-COMESA trade.

The initial outcomes of the intervention indicate that there has been improved co-operation among the cluster members, especially working together to service orders, participating in exhibitions and the sharing of equipment and expertise. Generally, the incidence of co-operation such as joint purchases of inputs and job sharing in the cases where orders go beyond individual capacity has increased among cluster members.

The cluster project has attracted the attention of the government, NGOs, private sector associations, companies and some donor agencies to the SME business. The programme also makes it possible for the ministry/government officials and agencies to interact directly with the SMEs thus improving information flow and feedback mechanisms. Below are some of the examples of Government support for the programme:

a. Rwanda, Kenya, Ethiopia, Uganda, Zambia and Zimbabwe have designated Ministries or departments that support the development of SMEs. In addition to this, private sector Associations and Chambers of Commerce and Industry are coming up with proposals on how to incubate the SMEs as a means to expand their membership base. The Secretariat is working with Malawi Chamber of Commerce and Industry, The Malawi National SME Association and Zambia Association of Manufacturers to explore the potential collaboration to establish an incubation programme.

b. Zambian and Ugandan Governments have allocated space for an incubation facility and other Member States have pledged to do the same in due course. The programme has trained over 700 artisans. The programme is targeting 1000 SMEs in 10 Member States. The 1000 SMEs are projected to create 5000 jobs in the next three years. The success of these would then influence the uptake of the cluster initiative by other development partners.

c. The Kenyan Government introduced the Women and Youth Enterprise Funds, SME Fund and Agri-Business to provide affordable credit accessible to women, youth and other small business enterprises and expand employment. The total amount of funds allocated under the 2012/13 budget is US$ 23,255,814. The Zimbabwe Government has allocated US $500,000 to support the development of SMEs clusters.

d. The Zambia Government has set aside US $1 million to support potential local investors to set up cassava processing plants for quality cassava flour and starch in selected districts. The funds will be disbursed through the Citizens Economic Empowerment Fund.

One of the cluster members said this about participation in the initiative: *"Not only have our business relations improved, but also our social life. It was not common for me to talk to some of the cluster members, not even to exchange greetings; but now we are buddies, and I feel free to confront them with whatever problem I have, whether social or business".*

There are also noted improved linkages between cluster implementing NGOs, government and the SMEs. For example, Farm Concern International is currently implementing the Cassava Village Processing Project (CVPP) and is keen to replicate the cassava cluster trainings in partnership with COMESA secretariat in the rest of the areas. A key pillar for the success and sustainability of the intervention was the partnership with the government through the Ministry of Agriculture and Provincial administration which will continue even for future engagements.

The cluster has led to an increased diversification in products as one SME can take orders even for styles he/she may not be able to make and use the expertise of a cluster member to produce. For example the knitters are taking orders for school cardigans, shoes, shirts and trousers then sub-contracting to cluster members to service the orders. Cassava farmers are now able diversify from cassava flour processing to animal feed and cassava starch for industrial use in wood, paper, food, glue and textile industries.

The NGOs have also been engaged from two ends; firstly as potential capacity building partners and secondly as buyers of the goods and services produced by the cluster. Examples of this kind of collaboration are illustrated below:

a. World Vision in Kenya and Malawi are working with COMESA in their urban economic programme. The joint pilot activities in the clothing sub-sector have been launched in Kenya; this will provide a framework for regional cooperation in all sectors and countries where both Institutions operate. It is worth noting that the World Vision is co-financing the programme.

b. In Kitwe, Zambian NGOs have been approached to work with SMEs as buyers of their products especially footwear. There are a number of NGOs, which are supporting school going children with uniforms and school shoes. Most of their procurement is currently done with established companies. However they have welcomed the idea of purchasing schools from SMEs clusters. This would help the NGOs to address poverty from two angles, that is boosting the sales of the SMEs and also support the welfare of vulnerable children. Similarly private processors or companies in all the 10 pilot countries have agreed to procure raw materials from cluster farmers.

c. Banks have expressed interest to support the SMEs if they have clustered as it reduces default risk.

Way Forward

Since the programme has built networks with Governments, NGOs and the private sector, these are expected to provide a framework for sustainability. Many of the Member States and development partners have embraced the Cluster Development Programme, and they see it as an important intervention to enhance competiveness. Additionally, COMESA partnering with NGOs and other agencies is providing technical support to the enterprises.

COMESA's institutions such as the Leather and Leather Products Institute (LLPI), and Federation of National Associations of Women in Business in Eastern and Southern Africa (FEMCOM) are working tirelessly to support the development of SMEs in various sectors.

The next phase of the programme will focus on working with stakeholders at national level to establish model SME business incubation centres that can act as learning centres for up-coming SMEs. This will require selection of MSMEs with great potential for incubation, the setting up of industrial shades, identification of technical and business/marketing training service providers, private sector MSME coaching and mentors, and the provision of common machinery, and the training of trainers and cross learning for officers to manage the programme. This of course has to be underpinned by the necessity of all Member States to allocate funds for MSME support; as well as the channeling of donor support to the sustainability of the Cluster Development Programme.

Facilitating Payments in Trade - Operationalisation of REPSS

By Mahmoud Mansoor

Introduction

The COMESA Clearing House was established for the facilitation of the settlement of trade and services payments amongst Member States. The Governors of Central Banks soon realised the need for the Clearing House to restructure its services following the liberalisation of current accounts and the repeal of exchange control restrictions that swept the region in the early 1990s. The Clearing House was thus mandated by the Central Bank Governors, the Ministers of Finance, the Council of Ministers and COMESA Heads of State and Government, to design and implement, among other facilities, a payments system that would reduce the cost of regional transactions in a liberalised foreign exchange regime.

The Clearing House thus introduced the Regional Payment and Settlement System (REPSS), which allows Member States to transfer funds with speed and efficiency and at reduced costs within COMESA. REPSS is built on open standards and is also accessible to Non-Member States.

COMESA has the vision of making REPSS the single gateway for Central Banks within the region, to effect payments. Whilst Article 73 of the COMESA Treaty spells out that Member States undertake (until a common Central Bank is established) to settle all payments in respect of all transactions in goods and services within the Common Market through the Clearing House, Article 14 of the Clearing House Charter specifies that all transactions among Member States, including contributions and subscriptions to COMESA Institutions, shall be settled through the Clearing House.

REPSS Background

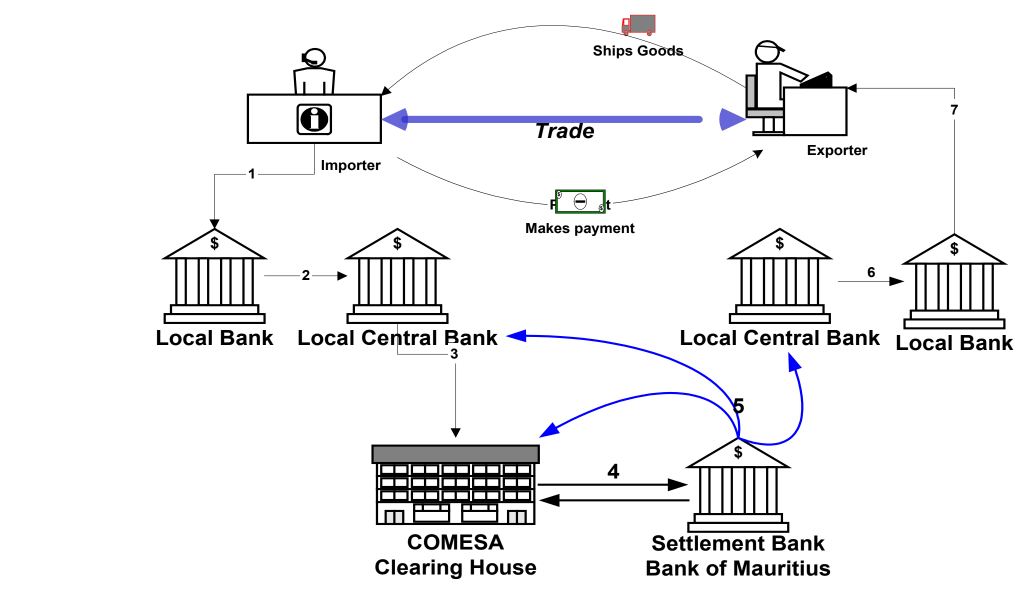
REPSS was designed by COMESA Central Banks payments experts, with inputs from the IMF, commercial banks and other financial institutions of the region and with financial support from the EU under the Regional Integration Support Programme (RISP). REPSS is a Multilateral Netting System with End-of-Day settlement in a single currency (US $ or Euro) with the system allowing for settlement in a multicurrency environment (US $, Euro or any other specified currency).

The main aim of REPSS is to stimulate economic growth through an increase in intra-regional trade by enabling importers and exporters to pay and receive payment for goods and services through an efficient and cost effective platform. Local banks access the payment system through their respective Central Banks. Any participating bank is, therefore, able to make payments to, and receive payments from, any other participating bank. The linkages through Central Banks avoid the complex payment chains that may sometimes occur in correspondent bank arrangements. The system operates through Member States Central Banks and their corresponding banking systems.

The REPSS Process

Under REPSS, importers and exporters deal with their local commercial banks for trade documentation. The importer's payment to the exporter is channelled through the Central Bank of the importer to the Central Bank of the exporter using the REPSS platform. Central Banks send payment messages to REPSS and at the end of the particular day, REPSS nets the payments and settlements to the respective Central Bank's account. The Central Banks credit the commercial bank's account, and the commercial bank then credits the exporters' account accordingly. The credibility of the Central Bank and pre-funding of account by the commercial banks provides guarantee of payment.

REPSS Process Model



1. Request from importer to local bank to effect payment through REPSS
2. Local bank send payment to local central bank
3. Payment instruction is sent to the COMESA Clearing House (CCH) by local central bank
4. Settlement exchanges between Bank of Mauritius and CCH
5. Notification of settlement by settlement bank to CCH and participating central banks
6. Account of local bank in the books of central bank is credited
7. Beneficiary of funds is notified of funds receipt

Key Benefits of REPSS

The main benefits of REPSS include:

i. It guarantees prompt payment for exports as well as other transfers. This is because T+0 Settlement is possible with the Settlement Bank being within the operating times of all other participants. The settlement period is, therefore, greatly reduced;

ii. It eliminates mistrust among traders because of Central Bank involvement. This in turn increases trade within the region;

iii. It reduces the number of transactions as all transactions are credited on a net basis and volumes are high. This in turn reduces transaction costs;

iv. It reduces the use of foreign currency as the amount to be paid at the end of the day by a participant is on a net basis;

v. It reduces foreign counterparty exposures – the participants are able to send payment instructions through REPSS to the Settlement Bank, thus reducing transactions and exposures via correspondent banks;

vi. It reduces foreign correspondent banking charges as payments are channelled through REPSS which has lower charges and the Settlement Bank is a member of REPSS;

vii. It ensures settlement finality – all payments are guaranteed as instructions, once cleared are final and irrevocable;

viii. It reduces collateral requirements as Central Banks are directly involved in the System and trade is mainly amongst members; and

ix. It eliminates the need for confirmation of Letters of Credit and opens up avenues for trading on Open Account.

Letter of Credit (LC) Process under REPSS

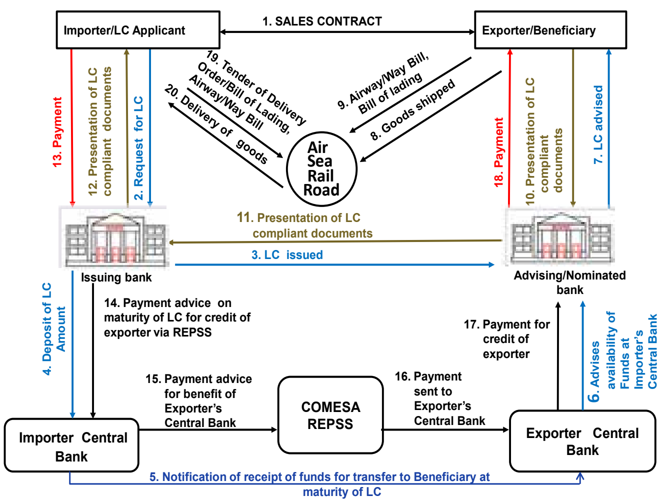
The Letter of Credit (LC) process taking place outside of COMESA's Regional Payment and Settlement System (REPSS), the type of LC to be set up, required documentation, terms and conditions applicable etc. would still be decided at the Customer – Bank level.

When a bank issues the Letter of Credit via a SWIFT MT700, all conditions and requirements will be as per the normal LC. However, the LC must state that the payment has to be made through REPSS. This is part of the 'additional conditions of the LC, in field 47A. Without this clause, the payment will go through the correspondent banking route.

The LC processed for payment through REPSS does not require confirmation as the involvement of the Central Banks acts as a guarantee of payment. For confirmation instructions under Field 49 of the MT700, the Issuing Bank, therefore, states 'without'.

The LC and REPSS payment process, which gets triggered at the time of maturity of the LC for both sight and issuance tenors is as follows:

The LC Process under REPSS



Impact of REPSS in the Mitigation of the Cost of Confirmation of LCs

There has been tremendous progress noted in the area of trade within COMESA, with Intra-COMESA trade increasing from US$ 3.1 billion at the time of the launch of the Free Trade Area in 2000 to US $18.4 billion in 2011.

Intra-COMESA Trade 2000 - 2011, (USD Millions)

Flow	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Total Exports	1,697	1,719	2,149	2,145	2,335	3,208	2,970	4,520	6,772	6,621	9,040	9,935
Total Imports	1,419	1,718	2,218	2,173	2,223	3,046	3,757	4,554	6,932	6,110	8,337	8,886
Total Trade	**3,116**	**3,437**	**4,367**	**4,318**	**4,558**	**6,254**	**6,727**	**9,074**	**13,704**	**12,731**	**17,377**	**18,821**

REPSS provides a smooth flow of payments for such trade, and with cross border payments costing around US$ 600 million per year, the platform allows reduction in such costs with the resulting savings channeled to other economically beneficial projects within COMESA. Such cost savings would induce all users to make REPSS the preferred payment option going forward.

Estimates have shown that the region could have saved an amount of US$ 41.5 million in 2011, if transactions for intra-COMESA imports were channelled through the Regional Payment and Settlement System (REPSS), where no confirmation of Letters of Credit is required.

Estimates show that the region would save at least US $97 million in 2014 if intra-COMESA import transactions were to be channelled through the Regional Payment and Settlement System (REPSS), where no confirmation of Letters of Credit is required. And as the REPSS builds confidence amongst traders and commercial banks in the region, this would save the region an estimated US $363.6 million in 2014 – an amount that would otherwise be spent on documentary collections/open account trading.

With an increase in intra-COMESA imports from US $8.3 billion in 2011 to a projected amount of US $13 billion in 2019, our region would make an estimated savings of US $454 million in 2019 if the totality of the payment for that trade is channeled through REPSS, as shown below:

MEMBER STATES SAVINGS ON ADDITIONAL TRADE WHEN CHANNELLING PAYMENTS THROUGH REPSS 2012-2019

COUNTRY	Total Imports (Actual)	Projected Imports (2019)	Estimated Transaction Costs Including LC confirmation costs (5%)		REPSS Charges Total 2012 - 2013 (0%)	2014-2015 (0.25%)	2016-2019 (0.5%) 0.25% (CCH 0.2%, Central Bank 0.05%)		Funding of Regional Integration Projects 0.25%		Savings by Member States through REPSS (where LC Confirmation is not required)		Estimated Transaction costs when trading through Open Account (1%)		Savings by Member States through REPSS by Trading through Documentary Collection & ultimately on Open Account	
	US$ M		US$ M		US$ M		US$ M		US$ M		US$ M		US$ M		US$ M	
	2011	2019	2011	2019	2013	2015	2016	2019	2016	2019	2014	2019	2014	2019	2014	2019
BURUNDI	158.0	246.6	7.9	12.3	NIL	0.5	0.5	0.6	0.5	0.6	1.8	2.5	1.8	2.5	6.9	9
COMOROS	8.0	11.7	0.4	0.6	NIL	0.02	0.02	0.03	0.0	0.03	0.1	0.1	0.1	0.1	0.3	0.41
CONGO DR	1,172.0	1,833.0	58.6	91.6	NIL	3.6	3.8	4.6	3.8	4.6	13.7	18.3	13.7	18.3	51.4	64
DJIBOUTI	115.0	179.9	5.8	9.0	NIL	0.4	0.4	0.4	0.4	0.4	1.3	1.8	1.3	1.8	5.0	6
EGYPT	835.0	1,305.5	41.8	65.3	NIL	2.6	2.7	3.3	2.7	3.3	9.8	13.1	9.8	13.1	36.6	46
ERITREA	95.0	148.0	4.8	7.4	NIL	0.3	0.3	0.4	0.3	0.4	1.1	1.5	1.1	1.5	4.1	5
ETHIOPIA	289.0	452.6	14.5	22.6	NIL	0.9	1.0	1.1	1.0	1.1	3.4	4.5	3.4	4.5	12.7	16
KENYA	617.0	965.7	30.9	48.3	NIL	1.9	2.0	2.4	2.0	2.4	7.2	9.7	7.2	9.7	27.1	34
LIBYA	610.0	953.9	30.5	47.7	NIL	1.9	2.0	2.4	2.0	2.4	7.1	9.5	7.1	9.5	26.7	33
MADAGASC	174.0	272.5	8.7	13.6	NIL	0.5	0.6	0.7	0.6	0.7	2.0	2.7	2.0	2.7	7.6	10
MALAWI	226.0	352.8	11.3	17.6	NIL	0.7	0.7	0.9	0.7	0.9	2.6	3.5	2.6	3.5	9.9	12
MAURITIUS	153.0	239.2	7.7	12.0	NIL	0.5	0.5	0.6	0.5	0.6	1.8	2.4	1.8	2.4	6.7	8
RWANDA	368.0	575.6	18.4	28.8	NIL	1.1	1.2	1.4	1.2	1.4	4.3	5.8	4.3	5.8	16.1	20
SEYCHELLE	51.0	80.1	2.6	4.0	NIL	0.2	0.2	0.2	0.2	0.2	0.6	0.8	0.6	0.8	2.2	3
SUDAN	661.0	1,034.0	33.1	51.7	NIL	2.0	2.2	2.6	2.2	2.6	7.7	10.3	7.7	10.3	29.0	36
SWAZILANI	7.0	11.0	0.4	0.6	NIL	0.02	0.02	0.03	0.0	0.03	0.1	0.1	0.1	0.1	0.3	0.39
UGANDA	659.0	1,031.3	33.0	51.6	NIL	2.0	2.2	2.6	2.2	2.6	7.7	10.3	7.7	10.3	28.9	36
ZAMBIA	1,637.0	2,559.4	81.9	128.0	NIL	5.1	5.4	6.4	5.4	6.4	19.1	25.6	19.1	25.6	71.7	90
ZIMBABWE	462.0	722.5	4.6	36.1	NIL	1.4	1.5	1.8	1.5	1.8	5.4	7.2	5.4	7.2	20.2	25
TOTAL	**8,297.0**	**12,975.5**	**396.4**	**648.8**	**-**	**25.7**	**27.2**	**32.4**	**27.2**	**32.4**	**97.0**	**129.8**	**97.0**	**129.8**	**363.6**	**454**

Notes

Imports will grow by 5% between 2011-2013 and by 6% between 2014-2019

REPSS charges from 2012-2013 are nil, 0.25% in 2014 & 2105 and 0.5% from 2016-2019 (of import value)

Savings by Member States through REPSS (where LC Confirmation is not required) are 1% of the import value

Account is total transaction cost (5%) less the total of the REPSS cost (0.5%) and the cost of trading through open account (1%)

COMESA Certificate of Origin and REPSS

As a way to ensure that REPSS is used as intended by the traders, the COMESA Certificate of Origin may be made to specify that payment will be made through REPSS. This means that in addition to goods enjoying preferential tariff treatment at borders, the traders also enjoy seamless payment movement, and reduced costs. It is, therefore, proposed that an additional section be included in the Certificate of Origin to read as follows: *"Particulars of Payment: Payment for goods to be made through COMESA's Regional Payment and Settlement System (REPSS)."*

This will be as captured in the Letter of Credit with the MT700 Field 47A stating that payment for goods will be made through REPSS.

REPSS Operations so far

REPSS started live operations on 03 October 2012 and registered its first transaction between Bramer Bank of Mauritius and Fina Bank of Rwanda, through their respective Central Banks. This is indeed a great milestone in COMESA's quest to achieve regional economic integration. The 18th Meeting of the COMESA Committee of Governors of Central Banks, held in Kigali on 11-12 December 2012, extended the period of transacting on REPSS free of charge (except for SWIFT messaging and other related charges) to 30 September 2013, as a promotion incentive for utilisation of the system by all stakeholders in Member States.

While the Central Banks of Mauritius and Rwanda are already transacting on the live system, the Central Banks of Egypt, Kenya, Malawi, Sudan, Swaziland, Uganda, Zambia and Zimbabwe are expected to go live during the second half of 2013.

A REPSS User Group has been set up with the aim of, among other things, attending to operational and policy issues arising out of REPSS operations. Current membership of the group comprises of the Central Banks of Egypt, Kenya, Mauritius, Sudan and Zambia and its first meeting was held from 10-12 June 2012 and hosted by the Central Bank of Egypt at its Headquarters in Cairo. The Second Meeting of the User Group is scheduled to take place during the first week of July 2013 and the following four Central Banks will join the group: Malawi, Rwanda, Swaziland and Uganda.

Conclusion

The REPSS is on course to facilitate regional payment for goods and services in COMESA and its capabilities and benefits should be widely disseminated to commercial banks, exporters and importers in the COMESA region so as to get increased utilization of the facility.

Regional Integration Adjustment Support

By Caesar Cheelo

Introduction

As a regional community that has been in existence since December 1994, COMESA is compliant with the rules, disciplines and legal provisions of the Multilateral Trading System of the World Trade Organization (WTO).

Any country that signs up to the WTO rules must offer the same trading treatment to all WTO members as it grants to the countries getting its most favorable trading terms – this is known as the "Most Favoured Nation (MFN)" principle. It is non-discrimination trade commitment, which incorporates a series of conditional exceptions that members can draw on when they enter into regional agreements that cause them to depart from the MFN commitment. In general, regional integration is permissible under WTO and in view of the conditional exceptions, bears no direct inconsistency with MFN treatment rules.

Notably, the WTO and other development partners are keen to use regional integration as a springboard for enhancing freer global trade and integration. Accordingly they are willing to offer financial and technical support to countries to address various trade constraints. In this regard, a WTO-led aid-for-trade initiative was launched in 2005, seeking to mobilize resources to address the trade-related constraints identified by developing and least developed countries.

Aid-for-trade is meant to remove production and competitiveness constraints through the provision of support to: a) trade policy and regulation; b) trade development (trade facilitation, investment promotion and trade financing); c) building productive capacity; d) trade related (economic) infrastructure; and e) trade related adjustment. The component on trade related adjustment recognizes that as changes occur to national, regional and international structures of trade, the public custodial systems (regulatory, coordination and monitoring) and institutions for trade as well as the public financial systems face possible transient or lingering shocks. These shocks could include structural and institutional adjustment trade-offs and direct costs as systems learn the new order of conducting trade.

In anticipation of some of the above mentioned challenges or adjustment costs, COMESA, in 2002, established a COMESA Adjustment Facility (CAF). The CAF is specifically meant to address special challenges of under-developed areas and disadvantages arising from the process of regional integration. The CAF is currently operationalized with funding from the Regional Integration Support Mechanism (RISM) a programme under the European Development Fund (EDF). This paper seeks to provide an overview of the experiences of implementing RISM, a notable adjustment programme that has been instrumental in supporting integration in the COMESA region. It specifically seeks to achieve the following:

(i) To present the preliminary observations about the experiences of COMESA in the implementation of RISM, the main adjustment support facility in COMESA; and

(ii) To draw lessons for the various observations about adjustment support experiences, successes and challenges, and to make policy recommendations.

This paper also offers critical insight into the workings, successes and challenges of an applied adjustment support aid-for-trade mechanism. Presented here, therefore, is a brief background of COMESA's diversities and commonalities in trade, economic, demographic and geographic characteristics; the summary assessment of COMESA's adjustment experiences; as well as concluding remarks and recommendations.

COMESA: A Diverse Region with a Common Agenda

COMESA is a huge regional market in Africa, accounting for 35 percent of the 54 countries on the African continent; and the second largest REC in Africa after the Community of Sahel-Saharan States (CEN-SAD; French: Communauté des Etats Sahélo-Sahariens), which currently has 28 members. COMESA's total geographic area of 11.6 million square km covers 38 percent of the African continent; and its population of 444 million inhabitants (in 2011) accounts for 43 percent of Africa's total population. The region has a population density of 38 persons per square kilometer (km2) compared to 34 persons per km2 for Africa as a whole. COMESA is committed to using trade, regional integration and economic cooperation to consolidate its fragmented national markets into a single regional market.

Economic growth and trade are of great importance to COMESA in the pursuit of its regional integration, economic cooperation, growth and human development aspirations. The region's GDP was estimated at US $519 billion in 2011, with a regional annual average real GDP growth rate of 4.2 percent. Total trade was US $232 billion and intra-COMESA trade amounting to US $18.3 billion in the same year.

The COMESA region's size and geographical expanse are fully reflected in the REC's social, economic and demographic diversity. In 2011, the annual average real growth rate ranged from -5.0% in the lowest performing Member State to 8.5 percent to the highest performing country (Table 1).

Table 1: Selected COMESA Summary Statistics (2011)

Indicator	Minimum	Average	Maximum	Units/description
Real GDP Growth Rate	-5	4.2	8.5	Annual average change (%)
GDP per capita	231	1,169	11,189	US $, current
Population Density	4	38	632	Inhabitants per square km
Life expectancy (2010)	48	59	75	Number of life years expected at birth
Total trade balance	-71.5	-10.2	13.8	Percentage (%) of GDP (applicable to all)
Total trade openness	25.2	44.8	297.7	
Intra-COMESA trade openness	1.1	3.5	109.8	
Total Exports	3.9	17.3	146.0	
Total Imports	9.8	27.5	159.5	
Intra-COMESA Exports	0.1	1.9	98.9	
Intra-COMESA Imports	0.2	1.6	11.0	

Source: constructed from COMSTATS and World Bank WDI data

Similarly, per capita incomes vary widely amongst the Member States, from US $231 per person in the country with the lowest per capita GDP to US $11,189 per person in the country with the highest. The average per capita income is skewed upwards by the presence of a few very high income low population countries in the REC, particularly the island States.

The region's trade profile reflects similar regional diversity. Across the COMESA countries, total trade deficits in 2011 ranged from -71.5 percent to 13.8 percent of GDP with a regional average of -10.2 percent of GDP; and total intra-COMESA trade ranged from 1.1 percent to 109.8 percent of GDP with an average of 3.5 percent of GDP. Trade openness, both in aggregate and in relation to intra-COMESA, was skewed towards imports, supporting the observation of marked trade deficit positions.

In spite of the diversity, COMESA has a clear, common and well-articulated agenda for trade, economic cooperation and regional development. This is founded in the COMESA Treaty and also variously noted in other official COMESA documents. The institution seeks to take advantage of a larger market size, to share the region's common heritage and destiny, and to allow greater social and economic co-operation, with the ultimate goal of being part of the African Economic Community. COMESA's principal focus is promoting regional integration through trade development, investment promotion and sustainable utilization of natural resources for the mutual benefit of all the citizens of the region. The REC follows the classical gradual approach to regional integration, having moved from a PTA to Free Trade Area (FTA) and now in transition towards a Customs Union, with intentions to establish a Common Market and eventually a Monetary Union.

The expectation is that by 2025, COMESA will have transformed into a single trade and investment area where tariffs, non-tariffs and other impediments to the movement of goods, services, capital and people will not exist and where common external positions on trade, investment and economic cooperation will prevail. Ultimately, trade in goods and services from the region will achieve global competitiveness, contributing to inclusive economic growth, poverty reduction and regional human development.

As the region continues on its path of deepening regional integration, it is important to continuously take stock of the progress that the REC is making in terms of achieving its mission and vision. Continuous adjustment support is thus justified as is the need to monitor and evaluate the amount and quality of the adjustment support. This paper provides a detailed consideration of some of COMESA's main regional integration adjustment experiences in the recent past in relation to the implementation of a selected adjustment support programme, the Regional Integration Support Mechanism.

Summary View of Adjustment Experiences

Under the COMESA Medium Term Strategic Plan (MTSP for 2011-2015), there are several cross-cutting and sector-specific programmes that were designed and are implemented to support the transposition, adjustment and implementation needs of Member States. These programmes play a significant role in contributing to the realization of regional integration.

Of course, providing an elaboration of any one of these programmes in detail would result in an extensive programmatic narrative that would be quite demanding for one to understand the content comprehensively. It is for this reason that this paper has selected only one adjustment mechanism, RISM as the main case study programme, for demonstrating the experiences and challenges of regional integration adjustment in COMESA. Because RISM does not exist in isolation, reference to other COMESA programmes and activities will be inevitable.

Background and Current Status of CAF/RISM

The COMESA Adjustment Facility (CAF) is an adjustment support mechanism that was established in recognition of the adjustment challenges associated with regional integration. In this regard, Article 60 of the COMESA Treaty makes provision for remedial steps with respect to a Member State that has suffered substantial loss of revenue from the elimination of import duties on intra-COMESA trade. Article 150 of the Treaty also gave impetus to the establishment of the Protocol for Cooperation, Compensation and Development (the COMESA Fund) in 2002. Therefore, CAF is one of the two windows of the COMESA Fund which aims at addressing the special problems of underdeveloped areas and disadvantages arising from the integration process.

In line with the provisions of CAF, the 9th EDF RISM was approved in November 2007 with a focus on revenue loss support. RISM was already previously successful in supporting two countries – Burundi (recipient of 12.7 million EUR under RISM) and Rwanda (recipient of Euro 22.6 million) – to cope with import duty revenue losses as they joined the EAC Customs Union.

The limitation of the initial programme was that the scope of support was narrow and did not benefit most of the Member States that were party to the CAF. Various reasons have been advanced for this limited initial scope the main one of which was to do with the timing of the mechanism. RISM was established at a time when the majority of countries had already undertaken the liberalization reform commitments under the COMESA FTA and except for the three EAC Members that were already party to the EAC Customs Union (Kenya, Tanzania and Uganda) all the countries eligible for RISM support save for Rwanda and Burundi were looking towards joining the COMESA Customs Union, which was still further up the road. Thus, they were not yet at a stage where they anticipated revenue losses and would therefore vie to benefit from RISM.

In view of the forgoing, in April 2012, a RISM rider was signed, with an improved alignment to the CAF objectives that was reflected in terms of an expanded scope of support to the countries of the COMESA and EAC regions contingent upon their implementation of agreed regional integration commitments. The rider broadened the scope of the programme to enable RISM serve as a mechanism for supporting Member States who make and honour commitments on transposition, adjustment and implementation of regional programmes. By partially financing the costs of adjustment, RISM therefore offers an additional incentive for countries to take on adjustment reforms. Disbursements are based on the formulation of Regional Integration Implementation Programme (RIIP), and progress in applying a Performance Assessment Framework (PAF) (see Table 2).

Table 2: RISM Performance Assessment Framework Indicators

	Abbreviated Indicator Name	Full Indicator Description
1	NIMCC	National Inter-Ministerial Coordination Committee adopts RISM TOR[3]
2	FTA	COMESA Free Trade Area Established.
3	NTBs	Non-Tariff Barriers, at least 30% reported eliminated.
4	Harmonized Standards	COMESA Harmonized Standards adopted.
5	CTN	COMESA Common Tariff Nomenclature adopted/gazetted.
6	CET	COMESA Common External Tariff adopted/applied.
7	SPL	Sensitive Products List (final) submitted.
8	CMR	Customs Management Regulation domesticated.
9	TIS – Schedule	Trade-in-Services Final Schedules (in 4 priority sectors) submitted.
10	Competition Guidelines	Enforcement guidelines & procedures of Competition regulations adopted.
11	CCIA sign	COMESA Common Investment Area signed and ratified.
12	CCIA domestication	COMESA Common Investment Area domesticated/gazetted.
13	HRTC	Harmonized Road Transport Charges (HRTC) implemented.
14	Axel Load	Axle Load Limits & Overload Control certificate implemented.
15	H. Vehicle	Harmonized Vehicle Dimensions implemented.
16	Carrier license	COMESA Carrier License implemented.
17	Yellow Card	Yellow card adopted and used where applicable.
18	Air Transport Lib	Adopt COMESA legal notice No.2 of 1999, which is the legal instrument providing for liberalization of air transport services.

Under the RISM rider, a balance of €42 million out of €78 million was available as regional integration support for the period 2012-2014. The bulk of this (84% or €35 million) was programmed for direct adjustment support to Member States, and an additional 5 million Euro (12%) programmed as ring-fenced funding for revenue compensation for the few countries that were eligible under the establishment of the FTA.

The 18 performance indicators seen above were drawn following a COMESA Council of Ministers decision in October 2011; and it is against these that Member States set targets over a three-year period.

As of end of July 2012, a total of 14 countries (as highlighted in Table 3 below) were fully eligible for RISM support. Based on the country contribution ratios to the COMESA Fund, indicative levels of financial adjustment support during 2012-2014 were estimated. Only the amount allocated to adjustment support to Member States is reflected in the table. An important point to note about Table 3 is that it was determined a priori that the actual disbursement amounts would depend on the mix of successful submission and implementation progress in the years of RISM Rider implementation. The CAF/RISM Guidelines were finalized in July 2012 to provide guidance to Member States in the process of applying for the RISM resources. These include a detailed PAF and a scoring methodology.

Table 3: **Indicative Allocation of Direct Adjustment Support during 2012-2014 (Euro)**

Member State	2012	2013	2014	3-Year Total
BURUNDI	823,601	979,559	285,984	2,089,144
COMOROS	618,152	738,965	215,742	1,572,859
DJIBOUTI	618,152	738,965	215,742	1,572,859
D R CONGO	1,223,688	1,448,082	422,771	3,094,541
ETHIOPIA	-	1,283,466	374,711	1,658,177
KENYA	1,764,345	2,081,223	607,617	4,453,186
MALAWI	910,107	1,080,861	315,560	2,306,527
MAURITIUS	1,288,567	1,524,059	444,952	3,257,579
RWANDA	823,601	979,559	285,984	2,089,144
SEYCHELLES	618,152	738,965	215,742	1,572,859
SUDAN	-	1,397,431	407,983	1,805,414
UGANDA	964,172	1,144,175	334,044	2,442,392
ZAMBIA	1,083,117	1,283,466	374,711	2,741,294
ZIMBABWE	1,764,345	2,081,223	607,617	4,453,186

On 09 August 2012, the first Call for Submissions under the RISM rider was made with a deadline of 09 November 2012 for submissions from Member States. In response to the Call for Submission, ten countries – Burundi, Comoros, Djibouti, Kenya, Mauritius, Rwanda, Seychelles, Uganda, Zambia and Zimbabwe – submitted RIIPs and PAFs for consideration by the RISM Advisory Committee. This reflects a response rate of 71 percent of the eligible Member States. The country submissions were in relation to the 2012 component of the three-year RISM rider. The total amount for 2012 was Euro 18,085,000, of which Euro 12,500,000 was for Adjustment Support to Member States and Euro 5,000,000 is Ring-fenced for compensating for revenue losses.

Out of the ten Member States, nine countries – Burundi, Comoros, Kenya, Mauritius, Rwanda, Seychelles, Zambia, Uganda and Zimbabwe – made submissions with sufficient details to enable an assessment of their COMESA regional commitments. Table 4 below provides a summary of the assessment that served as the basis for the decisions of the RISM Advisory Committee in the approvals of Member State RIIPs for implementation during 2012-2014.

Table 4: Assessment of RISM Rider Submissions 2012

	Burundi	Comoros	Kenya	Mauritius	Rwanda	Seychelles	Zambia	Zimbabwe	Uganda
Indicator outcomes not applicable (NA)	4	6	4	4	4	6	1	1	3
#. of indicators achieved a baseline (2011)	7	1	6	4	7	1	5	6	6
#. of 2012 targets	3	5	5	3	2	5	2	4	2
#. of 2013 targets	5	6	4	3	4	3	5	4	5
#. of 2014 targets	2	2	2	4	4	3	9	7	5
No target	1	2	1	4	1	4	0	0	1
Total indicator outcomes	22	22	22	22	22	22	22	22	22
Summary statistics:									
Total targets set (2012-2014)	10	13	11	10	10	11	16	15	12
Total applicable target outcomes	18	16	18	18	18	16	21	21	19
2012-2104 targets (% of total applicable)	56%	81%	61%	56%	56%	69%	76%	71%	63%
Achieved at baseline	39%	6%	33%	22%	39%	6%	24%	29%	32%
Total expected progress (achieved plus targets, % of total applicable)	94%	87%	94%	78%	94%	75%	100%	100%	95%
No target or 2015 onwards (% of total applicable)	6%	13%	6%	22%	6%	25%	0%	0%	5%

In assessing the PAFs, the approach took cognizance of the fact that indicators numbers 3 and 4 on NTB elimination and adoption of COMESA harmonized standards respectively, were continuous in nature in the sense that targets could be set on these indicators in all the programme years.

This meant that across the 18 indicators and over the three programme years there were 22 possible target outcomes.

Ultimately based on the full assessment and detailed peer review of the RISM Advisory Committee, the Committee approved the submissions for Burundi, Comoros, Kenya, Mauritius, Rwanda, Seychelles and Zambia. The Committee also approved the submissions of Uganda and Zimbabwe conditional upon the submission of complete project documents by 31 January 2013.

Assuming adherence and full achievement of the targets set by the above Member States, it is expected that by the end of 2014, there would be, on average within this pool of countries, a 65 percent increase in implementation of the 18 indicators and as such, of commitments among Member States. This expectation does not take into account any assumptions about the adherence and likely achievement of targets by those countries that have not yet made complete submissions for RISM support but that can be expected to do so in 2013 (e.g., Djibouti, DR Congo, Malawi and Swaziland).

Preliminary Lessons under the RISM Rider

In relation to administration and logistics, the RISM programme has contributed to improved internal coordination within the Secretariat. During formulation of country Regional Integration Implementation Programmes in response to the third call for submissions (of August 2012), the Divisions and Units responsible for the interventions in the 18 RISM Performance Assessment Framework indicators provided valuable input, checks, feedback and support to the Member States in a coordinated manner, through the COMAid Unit.

The process also helped to identify specific national level challenges in implementation of programmes, which allowed the formulation of targeted responses for the Member States. In some cases, these issues were resolved by putting the concerned Member States in direct contact with the responsible Divisions and Units. The final outcomes of the direct connection were however not always determined by COMAid as the unit that initiated the connection. Some Member States proposed that a lasting solution could be to post all final reports of Council meetings (and therefore all Council decisions) on the COMESA website and on national Government website on open, unrestricted platforms that allows full public access since the documents are understood, by the Member States, to be public documents.

Administratively, a challenge that was identified but could not be fully resolved related to the observations by some Member States that there seemed to be a lack of a standard approach amongst the different Divisions and Units of COMESA during the undertaking of missions, particularly in relation to the provision (and non-provision) of allowances such as transport allowance to workshop participants in some COMESA sponsored events and not in others.

Going forward, there will also be need to improve internal coordination and work both vertically as well as horizontally in recognition that some of the programmes have complementarities and need the involvement of various Divisions and Units; as well as coordination and information sharing with other institutions like TradeMark Southern Africa, and the EAC.

The Secretariat's monitoring and evaluation Unit will also have to fully familiarize itself with the specific time-bound targets set by Member States under RISM. This will provide timely assistance to Member States as well as facilitate timely planning and budgeting for monitoring missions in Divisional budgets outside the RISM programme.

Another key preliminary lesson is that because, *inter alia*, the programme has an inherent ability to induce a consultative national process of RIIP preparation, it becomes highly visible to implementation agents at the national level. It also offers flexibility and transparency in the determination of targets within the regional integration commitment areas of the 18 RISM indicators. This approach is already serving as a significant and reliable incentive for fostering implementers in the Member States to take an interest in the programme and participate in priority setting. In turn, this greatly increased the chances that RISM will support Member States to meet their regional integration commitments.

Furthermore, from the RISM Advisory Committee's assessment of the targeted commitment in the RIIP submissions, it is clear that the RISM mechanism has provided a significant push for Member States to address those commitments which remain outstanding or for which no clear commitments had previously been made. An example is the CCIA for which 7 out of the 9 countries provided a target for its signature, ratification and domestication.

The RISM rider has also contributed to improving the national coordination among the various institutions involved in the implementation of regional programmes amongst the nine countries whose submissions were approved in December 2012. This was supported through the programme's structured approach to the formulation and formalization of National Inter-Ministerial Coordinating Committees (NIMCC). It was expected that by December 2012, fully operational NIMCC or their national equivalents would be established in six countries – Burundi, Comoros, Kenya, Mauritius, Seychelles, and Zimbabwe–out of the nine whose RIIPs were approved.

The RISM rider is further expected to contribute to the improved mainstreaming of regional programmes at the national level. This is expected through the improved transposition of regional commitments into national legislation, inclusion of related activities into national plans and budgets and eventually into other national development strategies. The support under the RISM programme has also improved the resources available for the implementation of trade related programmes at the national level. This is in the context that social spending usually takes priority over trade programmes given the limited resources in most of the countries in the region.

Because the RISM process puts the Member States at the forefront of drafting their RIIPs, the programme fostered greater awareness and thinking at the country level about what the costs, constraints and challenges of adjustment are and how these affect the national implementation of regional programmes. This is crucial for the initiation of reviews of regional programmes and also for the provision of regional support to the Member States. At national level, this allows for stronger strategic planning, and motivates an improved allocation of resources to trade programmes.

Observations on the RISM Rider Indicators

As would be expected in any new and highly innovative programme, the Rider phase of RISM has not been without challenges and emerging issues. Some of the key emerging challenges have had to do with the adequacy and relevance of the 18 performance indicators on the RISM PAF. The 18 PAF indicators can be grouped into five categories as follows:

i. National institutional restructuring (establishment of NIMCC);

ii. Revenue loss compensation considerations (FTA establishment);

iii. Customs Union and other trade related reforms (domesticating CTN, CET and CMR, eliminating NTBs, submitting sensitive products list (SPL), and submitting trade in services (TIS) schedules);

iv. Private sector development (adopting COMESA harmonized standards, competition Guidelines, and signing, ratifying and domesticating COMESA Common Investment Area Agreement (CCIA); and

v. Land and air transport-related infrastructure provisions (harmonized road transit charges (HRTC), axel load and overload control certification, harmonized vehicle dimensions, carrier license, Yellow Card and air transport liberalization).

Two alternative approaches to gauging the adequacy and relevance of the 18 indicators could be:

a) To quantitatively observe the responses of the Member States as seen in the setting of targets in relation to each of the indicators; and

b) To obtain qualitative insights from the Member States about their unmet expectations in relation to the menu of RISM indicators.

The above two approaches are considered in turn in the ensuing presentation.

Quantitative Observations on Member States' Responses

These observations are based on the nine countries whose RIIP submissions were approved by the RISM Advisory Committee in December 2012. For each indicator, the possible target outcomes of a given Member State could be: the indicator not being applicable (NA) for implementation; the indicator having already been achieved at RISM programme baseline in 2011; the indicator being targeted for implementation during 2012-2014; or the indicator being deferred for implementation in 2015 and beyond. Table 5 below summarizes the target setting responses of the nine Member States across each of the 18 indicators:

Table 5: Summary of Country Target-Setting Responses

	Indicator	NA	2011	2012-2013	2014	No target
1	NIMCC	0	0	9	0	0
2	FTA	8	0	1	0	0
3	NTBs	0	0	9	0	0
4	Harmonized Standards	0	0	9	0	0
5	CTN	4	0	1	2	2
6	CET	4	0	0	2	3
7	SPL	0	4	1	2	2
8	CMR	4	0	2	2	1
9	TIS - Schedule	0	1	6	2	0
10	Competition Guidelines	0	0	5	3	1
11	CCIA sign/ratify	0	0	6	2	1
12	CCIA domestication	0	0	3	4	1
13	HRTC	3	6	0	0	0
14	Axel Load & Overload Control Cert	2	5	2	0	0
15	H. Vehicle Dimensions (HVD)	2	7	0	0	0
16	Carrier license	3	5	0	1	0
17	Yellow Card	3	6	0	0	0
18	Air Transport Lib	0	9	0	0	0

The following observations and suggested revisions apply to each of the indicators, in turn:

1. NIMCC: All nine countries indicated that they will be able to fully achieve this indicator in 2012-2013, including adopting the terms of reference on implementation and monitoring of the country's RIIP. The indicator is currently designed as a static, single-outcome indicator that a country achieves upon the establishment of the NIMCC. Going forward, the indicator could possibly be revised into a continuous one, capturing NIMCC functioning as part of continuous implementation of regional commitment.

2. FTA: The indicator was applicable only to Uganda. Only Eritrea, Ethiopia and DR Congo may be eligible under RISM II, depending on whether they will apply for compensation support under the remainder of the RISM rider. This is part of the rationale for merging revenue loss compensation under the adjustment support result area in RISM II.

3. NTBs: The indicator was structured as a continuous one, to capture ongoing implementation of NTB elimination. All nine countries indicated they will be able to achieve this indicator during 2012-2014. It is sufficiently robust to capture higher level ongoing implementation and could be maintained in its current formulation. However, in-house consultations at the COMESA Secretariat yielded a suggestion to include, at the level of RISM implementation (not at the Member State level), an additional indicator that will track and report on the proportion of persistently recurring NTB's that are resolved in each year.

4. Harmonized Standards: The indicator was structured as a continuous indicator to capture

on-going implementation of COMESA harmonized standards. All nine countries indicated they will be able to achieve this indicator during 2012-2014. As such this indicator, being sufficiently robust to capture higher level on-going implementation could be maintained in its current formulation. However, it has been noted that it does not currently distinguish between mandatory and optional harmonized standards, reducing its ability to track implementation of standards at the national level. In some of the discussions, the issue of mutual recognition and equivalence against adoption was raised and needs to be further interrogated in the process of reviewing the indicator. The in-house consultations at the COMESA Secretariat revealed that addressing these issues and sensitizing the Member States accordingly is part of the 2013 Work Programme of the relevant division.

5. CTN: The indicator on the domestication of the COMESA CTN at national level was not applicable for the four countries that are concurrent EAC Members, pending regional level harmonization. Three out of the remaining five countries were able to set implementation targets for 2012-2014, with one claim that implementation would only be possible upon the finalization of COMESA CTN at regional level emphasized. The Council Decision to extend the transition period to June 2014 provides an opportunity for reaching agreement by the Member States on whether the CTN has been finalized and can be adopted or requires more work before finalization.The in-house consultations revealed that the CTN has been migrated to 2012, and now needs to be adopted at a regional meeting in 2013. For RISM II, inclusion of the indicator could be deferred in tandem with the Decision of the Council or at least until such a time that there is consensus amongst all the Member States regarding the structure and version of the CTN.

6. CET: The indicator on implementation of the COMESA CET was not applicable for four countries that are concurrent EAC Members, pending regional level harmonization. It was targeted for implementation in 2014 by only two of remaining five countries. In tandem with the insights on the CTN, the in-house consultations revealed that the CET has been updated in line with the CTN 2012, and now needs to be adopted at a regional meeting in 2013. For RISM II, the CET indicator could be deferred in consonance with the deferment of the indicator on the CTN.

7. SPL: The four EAC Members had already achieved this indicator at baseline in 2011, given their participation in the EAC Customs Union. It was targeted for implementation in 2013-2014 by three out of remaining five countries. The indicator may require regional level harmonization to align the COMESA and EAC Customs Union lists of sensitive products (SPLs). A potential challenge of this indicator is that to be fulfilled it requires “final lists are approved by COMESA Secretariat and then gazetted by respective Member States”. In-house consultations clarified that the Secretariat will only review the final lists in accordance with the criteria approved by the COMESA Council of Ministers (but will not approve them, since the Secretariat does not have authority to make approvals). Member States will gazette them once the Secretariat informs them about the outcome of the review.

8. CMR: The indicator was not applicable for the four EAC countries, pending regional level harmonization. It was targeted for implementation during 2012-2014 by four of the remaining five countries. It might be worth exploring the possibility of revising the indicator into a continuous one, which captures the national level application of Customs Management Regulations and makes the indicator more relevant for continuous monitoring of on-going implementation progress.

9. TIS – Schedule: A total of eight out of the nine countries indicated that they will achieve this

indicator in 2013-2014; one country had already achieved the indicator at baseline in 2011. This indicator could be revised for RISM II to include the three additional priority sectors and also full adoption following finalization of offers and requests between Member States.

10. Competition Guidelines: Eight out of the nine countries indicated they will achieve this indicator in 2013-2014; one country did not target the indicator. As Member States implement this indicator, for RISM II it may require to be replaced with another competition indicator that will capture the implementation of competition programmes and activities in a more continuous manner.

11. CCIA signatory/ratification and 12 CCIA domestication: Eight out of 9 countries indicated they will achieve this indicator in 2013-2014; one country had not targeted the indicator. Member States requested for technical support to be sensitized about the implications at the national level of adopting and implementing the CCIA. The indicator may also need to be revised for RISM II to make it a continuous implementation indicator that tracks national level adherence to Common Investment Area rules and procedures or the results of such adherence.

13. HRTC: Six countries had already achieved this indicator at baseline (2011) and were implementing the related interventions; and it was not applicable to the three island States. For RISM II, it could be revised into a continuous implementation indicator that captures the actual application of harmonized road transport charges in the Member States; an additional indicator could be considered to accommodate the island States more readily.

14. Axel Load & Overload Control Certification: Five countries were already implementing the related interventions on this indicator at baseline; although certification was reported as a significant challenge for one of the Member States and two Member States planned to make revisions to conform to super-single tier aspect (noting that Secretariat has advised that it is against this, pending regional agreement on the aspect); it was not applicable to two of the island States. For RISM II, it could be revised into a continuous implementation indicator that captures the issuance of overload control certifications, for instance. An additional indicator could be considered to accommodate the island States more readily.

15. H. Vehicle Dimensions (HVD): Seven countries were already implementing activities in relation to this indicator at baseline; it was not applicable to two of the island States. For RISM II, it could be revised into a continuous implementation indicator. An additional indicator could be considered to accommodate the island States more readily.

16. Carrier license: Five countries had already achieved this indicator at baseline (2011). The indicator was not applicable to the three island States. For RISM II, it could be revised into a continuous implementation indicator, for instance, that takes into account the number of carrier licenses issued to carriers in the different Member States.

17. Yellow Card: Six countries were already achieving this indicator at baseline (2011); and it was not applicable to the three island States. For RISM II, it could be revised into a continuous/ implementation indicator that captures the number of yellow card insurance certificates issued to transporters in the different Member States.

18. Air Transport Liberalization: All nine countries had already achieved this indicator at baseline (2011). The challenge of implementing Legal Notice No.2 of 1999 wholesome, given its limited additional commercial advantages compared to bilateral agreements that follow the same principles as the Legal Notice, were pointed out. For RISM II, it could be revised into a

continuous/implementation indicator.

The foregoing is partly the basis of the recommendation (in the RISM II Action Fiche) to revise the list of PAF indicators by revising and reformulating some indicators, deferring others and perhaps most importantly, including additional indicators to the menu, particularly in relation to the infrastructure indicators.

Qualitative Insight from Member States

The qualitative insight gained from the RIIPs of some Member States as well as the country level consultations during the formulation of the submissions can be summarized as follows:

a. Additional indicators in infrastructure could include those related to maritime transport and information and communication technologies (ICT).

b. Additional indicators could also be drawn from the Ease of Doing Business framework.

c. Additional competitiveness indicators could also be explored.

d. The indicators related to the Customs Union should be finalized by the Secretariat and information on their final compositions effectively shared with the Member States.

e. Regarding the Customs Union, the missions undertaken under RISM and other consultations (including a review of some basic economic literature on the matter) revealed that Member States might face challenges to domesticate the COMESA Customs Union for broadly three technical reasons:

   - *Expectations of customs revenue losses under the Customs Union*: most observers agree that most countries in COMESA will face customs revenue disruptions and losses in the transition period as they establish the Customs Union. The magnitude of revenue loss cannot be fully determined *a priori* but many Member States anecdotally expect these to be significant. Empirical evidence on this will be important for informing Member States about the revenue implications of joining the Customs Union.

   - *Expectations of adverse consumer (cost of living) effects*: this mainly applied to highly import-dependent countries, particularly but not limited to the island States, which would have already significantly liberalized their import tariffs as they consider joining the Customs Union. These countries are likely to face higher domestic prices upon alignment to the CTN/CET as the new customs duties drive up prices. An example of a non-island state that could potential face adverse consumer effects is Djibouti, which does not apply duties. Reportedly the country has bottled water (a finished good) as a key import and a sensitive product on which it would not be able apply any duties on under CET/CTN given the social ramifications of doing so. Many of the island States face similar challenges.

   - *Infant industry arguments*: this is the notion that liberalizing certain goods through the Customs Union would cause severe competition that would kill off local industries and debase industrial development. The "quick-fix" solution for many national Governments is to offer tariff protection to the so-called infant industries.

The State of Play of the COMESA Customs Union Report to the Fourth Extra-Ordinary Meeting of the Senior Officials of 2-3 October 2012 (COMESA; CS/EXT/SO/IV/2 October, 2012) summarizes these and other concerns of Member States about the implications of the Customs Union. The indications from the continued deliberations about the Customs Union are that the Customs Union indicators will most likely be the most challenging RISM indicators to get consensus on and to get countries to commit to.

During the RISM Advisory Committee meeting of December 2012, it was observed that the process of approving the RIIPs lacks clarity in the CAF/RISM guidelines about what procedure to follow in the event that a country changes its financing modality status – from being eligible for untargeted financial assistance to being eligible for project support – at some point during the interim period between the launching of the Call for Submissions and the disbursement of funds against an approved submission. It was therefore noted that the guidelines should be adequately updated to include clear guidance on this issue.

Similarly, debates about the COMESA Fund contribution ratio and the use of COMESA Fund contributions continue to emerge. These debates could be more systematically structured and followed up with the end goal of establishing regional consensus about the adequacy of the design of the COMESA Fund. The RISM programme, given its natural intensive interactions with the COMESA Fund Member States is strategically placed to facilitate the debate and support structured and systematic process, including documentation of the debates.

A final aspect that CAF will have to think creatively about is sustainability. Institutional sustainability is likely to be achieved through the formal establishment of NIMCC and other national coordination and mainstreaming institutional arrangements. On the other hand, financial sustainability is likely to be a challenge. The programme will have to develop an innovative exit strategy that shifts adjustment support from being financially dependent on donors and development partners to being dependent on economic actors in the region. There is scope for thinking critically about how innovative new modes of financing could be explored and established to both support regional integration adjustment and the operational budgets of COMESA institutions. In a sense, this innovative financing would support economic actors, particularly the private sector, in COMESA and would at the same time reward the COMESA institutions for their facilitation role in championing competitiveness, industrial development, trade, economic growth and human developments. Crafting and maturing innovative financing ideas over the next few years should be an important preoccupation within COMESA's resource mobilization strategies and activities. For instance, all innovations and solutions orchestrated by COMESA institutions should inherently see direct financial benefits to the innovating and problem solving institutions. Over time, these applied notions could be financially commercialized.

Of course these ideas will have to be very carefully crafted, packaged and communicated if they are to receive political buy-in at the national and regional levels in COMESA. Indeed, some options of innovative financing have already been explored – such as the Common Market levy – and lessons can be drawn from the experiences with these explorations.

Moreover, innovative finance can only be relied upon as a medium- to long-term solution. In the short-term, adjustment support will most likely have to depend on the good-will of and good relations with the development partners, particularly the traditional ones. In this sense, the traditional development partners should be encouraged to continue supporting the CAF, particularly to safeguard the short-term incentives that RISM offers in terms of finance that is predictable, flexible and visible to Member States at the level of regional integration programme implementation. Thought will also have to be given about how to expand the pool of development partners supporting the CAF.

Conclusion

COMESA Member States have made important progress in implementing Decisions of the COMESA Council of Ministers and other regionally agreed instruments and protocols. From these successes, it is clear that deeper regional integration is being achieved as countries honour their commitments and more actively pursue the gains of regional freer trade, regional cooperation and common socio-economic and geo-political development. The path towards a structurally transformed, modernized and globally competitive region has been taken and is being achieved one step at a time.

As has been observed, the gains in regional integration have not been without challenges. The Member States have faced constraints that have hampered progress in the implementation of legal and programmatic commitments. As a result, progress with specific reference to the elimination of barriers to factor mobility has been limited.

The implementation of RISM under the expanded scope of the Rider has already given indications of key programme successes. It also provided some lessons for improved implementation. However, the benefits arising from the detailed lessons that could potentially be drawn from the programme have not yet been fully realized, given that the reformulated programme is still at its early stages. It is expected that the first review of progress against set targets will constitute another milestone as that will give a deeper indication of the real potential of the programme to contribute to an increased level of transposition.

Preliminary observations are that the programme is receiving significant interest among eligible countries and is likely to contribute positively to their implementation of regional integration programmes.

Going forward, the programme will have to continuously reinvent and redefine itself. For example, the indicators in the PAF as well as higher level impact indicators will have to be carefully and continuously revisited and revised. The list of indicators will also have to be periodically expanded or reduced in relation to some of its specific element.

Strategically, RISM also requires an exit strategy and a shift from complete donor dependency to dependency on a mix the commercialization of its facilitation roles in regional trade, investment and development and on donor support. That is, more sustainable models of resource mobilization should be development and established. However, the value of the relationship and contributions of the development partners should not be forgotten or underplayed. These aspects should be fostered and harnessed to the extent possible.

Recommendations

In view of all the observations, insights, lessons learned and conclusions, the following recommendations could be considered:

a. Based on the confirmation of overall positive experiences of adjustment support as an effective and reliable aid-for-trade tool, development partners should directly or indirectly support such arrangements, notably the WTO, and strengthen efforts to mobilize technical and financial resources for propping up adjustment support efforts.

b. Development partners championing aid-for-trade should also support COMESA's efforts to establish innovative financing arrangements and mechanisms of regional integration. The development partners can use their global positions, knowledge and influence through various networks and partnerships as well as their relatively higher endowment of financial and technical resources to provide this support.

c. Recognizing the high visibility of RISM to implementation agents at the national level, the flexibility and transparency that allows the Member States to set targets and priorities, and the value of the relationship and contributions of development partners, the traditional partners should be encouraged to sustain their funding to the programme and maintain predictable funding cycles in the short-term. Over the medium term, non-traditional aid-for-trade partners should be co-opted by the lead development partners, notably the WTO. Over the long-term, RISM should develop and apply strategies for migrating to a more commercial orientation in its facilitation roles in regional trade, investment and development, thus increasing its ability to raise resources for trade and regional integration support on a more sustainable, commercial basis.

d. The respective Divisions and Units at the Secretariat that are responsible for coordinating and spearheading the national implementation of regional programmes (particularly the monitoring and evaluation Unit) should be sensitized by COMAid, so that they become familiar with the specific time-bound targets being set by Member States under RISM.

e. In order to enhance operational harmony, COMESA Secretariat should ensure that a standardized approach for servicing national and regional meetings and workshops is established, which normalizes the principles and practices of providing honoraria, subsistence allowances, transport allowances, etc. COMESA staff should be periodically (re)oriented about these norms and systems.

f. For more reliable information sharing with the Member States, the Secretariat should establish dedicated systems or platforms for publishing all non-classified final documents such as reports of Council meetings, documents on Council decisions, notifications to the Secretariat, etc.

g. The COMESA Secretariat should initiate a review of selected policies and protocols as well as the RISM indicators specifically. The broad objective of the review should be to determine which policies, protocols, programmes and activities have been relatively easier to implement and which ones have been particularly difficult. It should aim to ensure that ill-formulated and/or difficult to implement arrangements such as perhaps the CCIA (which requires a lot of assistance and sensitization at the national level) and Air transport liberalization (where concerns of competitiveness erosion were raised) are reformulated and recast.

h. In order to improve the RISM programme's ability to measure its results, the COMAid Unit should initiate efforts to review and revise the RISM indicators, aiming to establish indicators that provide better measures of regional integration.

i. The COMESA Secretariat should intensify efforts to sensitize Member States about the COMESA agenda for regional integration and its rationale, including the anticipated benefits and costs. These efforts should be towards building high-level political will, institutional will at lower levels, appreciation within the implementing Government departments and agencies, and positive public opinions and deeper understanding.

j. Emerging discussions at the Member State level concerning the formulation of COMESA Fund contribution ratios and the use of COMESA Fund contributions should be more systematically structured and followed up by the COMESA Secretariat, with the end goal of establishing regional consensus about the adequacy of the design of the COMESA Fund. The RISM programme, given its natural intensive interactions with the COMESA Fund Member States, is strategically placed to facilitate the debate and support structured and systematic process, including documentation of the debates.

k. In the interest of fostering the financial sustainability of adjustment support in the short-medium to long-term, the COMESA Secretariat should continue to support Member States to identify and properly cost the key infrastructure, industrial and trade-related adjustment requirements that will facilitate regional integration. Based on these needs assessments, a proper sequencing of what should be supported first should be undertaken. This should be accompanied by vigorous and innovative domestic and external resource mobilization strategies to finance the identified programmes. With the current decline in donor funding, domestic alternatives of funding infrastructure projects should be explored.

l. Member States should be encouraged to intensify their pursuit of technical capacity building and skills development at the institutional and individual level in their Government departments and agencies, taking advantage of RISM. The efforts should extend to building capacity to engage with the private sector. Member States should consolidate the formulation and formal institutionalization of the NIMCCs as a permanent structure for mainstreaming regional integration and trade at the national level.

PART II

CO-OPERATION AND TRADE ARRANGMENTS

The Future of the US Africa Growth and Opportunity Act (AGOA)

By Tasara Muzorori

Introduction

The African Growth and Opportunity Act (AGOA) is a US legislation that authorizes the President of the United States to designate countries as eligible to receive the benefits of AGOA if they are determined to have established, or are making continual progress toward establishing the following: market-based economies; the rule of law and political pluralism; elimination of barriers to U.S. trade and investment; protection of intellectual property; efforts to combat corruption; policies to reduce poverty; increasing availability of health care and educational opportunities; protection of human rights and worker rights; and elimination of certain child labour practices.

As of May 2013, thirty-nine (39) out of the 48 Sub-Saharan African countries and 12 of COMESA's 17 Sub-Saharan African countries were AGOA eligible. Of the 39 countries designated for benefits under AGOA, 27 countries are eligible for AGOA textile and apparel benefits, and eight of these are COMESA Member States. For the year 2012, Cote d'Ivoire, Niger, and Guinea were re-declared eligible for AGOA benefits by the US President while for 2013, Mali and Guinea-Bissau lost their AGOA eligibility. South Sudan was designated as eligible for AGOA effective January 2013.

The main objective of AGOA is for eligible Sub-Saharan African countries to be able to access the US market on a preferential basis and for the US firms to increase their investment and trade in the Sub-Saharan region. COMESA countries that lost their AGOA eligibility, that is Madagascar and D R Congo, had not yet regained their eligibility.

Overall trade performance under AGOA

US statistics for trade under AGOA indicate that imports from all AGOA eligible countries under the AGOA and GSP schemes declined by 35.2 percent from US $53.8 billion in 2011, to US $34.9 billion in 2012. The rise of the figure from US $44.3 billion in 2010 to US $53.8 billion in 2011 could not be sustained because the US economy is not yet on a firm growth path following the global financial crisis. The 2012 US imports from sub-Saharan AGOA eligible countries are still lower than the US $66.3 billion attained in 2008.

U.S. imports from AGOA eligible countries of the COMESA region under the AGOA and GSP schemes fell by 33.4 percent from US $932 million in 2010 to US $620 million in 2011 and by a further 1.85percent in 2012 to US $608 million. The fall in 2011 was largely due to the fact that D R Congo lost its AGOA eligibility. In addition, Swaziland's exports under AGOA fell from US $111 million in 2010 to US $77 million in 2011. The first three months of 2013 show a promising start with US $163 million worth of exports having been realised compared to US $143 million for the same period in 2012.

Individual Sub-Saharan COMESA countries trade performance with the U.S. is indicated in Table 1 below:

Table 1: COMESA Exports to the US under AGOA and GSP Schemes from 2009 to 2012 (COMESA AGOA eligible countries only – Unit: '000 US dollars)

Country	Total 2009	Total 2010	Total 2011	Total 2012	AGOA including GSP provisions 2009	AGOA including GSP provisions 2010	AGOA including GSP provisions 2011	AGOA including GSP provisions 2012
Kenya	280,423	311,127	380,463	389,750	207,859	225,491	292,595	292,828
Mauritius	168,863	196,055	250,483	261,412	103,063	128,927	169,191	175,227
Swaziland	109,603	114,914	83,290	66,647	101,043	111,073	77,192	62,707
Malawi	73,631	66,673	72,354	61,995	65,425	56,869	63,412	53,131
Ethiopia	112,875	127,329	144,404	183,040	11,596	10,378	13,896	21,875
Uganda	30,170	57,652	45,882	34,479	742	3,315	2,541	1,838
Rwanda	19,159	21,491	30,858	33,287	278	564	597	377
Zambia	8,548	29,607	47,321	63,020	121	1,443	221	222
Djibouti	2,902	3,041	4,053	11,850	71	192	58	0
Seychelles	6,323	4,700	6,265	4,646	26	0	0	0
Comoros	1,079	1,674	1,779	1,959	0	0	0	0
Congo DR	317,951	435,150	0	0	244,328	394,357	0	0
Madagascar	253,409	0	0	0	211,231	0	0	0
Burundi	4,082	3,352	9,558	4,809	0	0	0	18
TOTAL	**1,389,018**	**1,372,765**	**1,076,710**	**1,116,894**	**945,783**	**932,609**	**619,703**	**608,223**

Source: USITC

AGOA Trade by Sector

AGOA covers over 6,000 product items. However, after the extension of GSP preferences to a further 1,800 product lines (including food products, handbags, gloves, footwear, iron and steel items, automotive components and vehicles), the countries that meet the "Apparel Provisions" further qualify for duty-free access for apparel and textile.

An analysis of the trade data by product sector reveals the distribution of exports into the US under AGOA. It shows that there are three sectors, namely: energy-related products, textiles and apparel and transportation equipment that account for the vast bulk (over 90 percent) of exports currently qualifying for AGOA benefits as shown in Table 2 below.

Agricultural products, minerals and metals have also been successfully exported to the US under AGOA, while AGOA-eligible exports in the remaining product categories are still insignificant. Attention is drawn to the significant year-on-year increases of exports to the US under AGOA in the textiles and apparel and transportation equipment categories. The former relates to the increasing number of AGOA-eligible countries that have subsequently met the "wearing apparel" provisions, while the significant increase in exports of the latter (transportation equipment) is due to the success of South Africa's exports in this category.

Table 2:Total Exports to the US under GSP and AGOA by Product Sectors (COMESA AGOA eligible countries only – Unit: '000 US dollars)

	AGOA + GSP	AGOA + GSP	AGOA + GSP	AGOA + GSP	AGOA + GSP	AGOA + GSP
	2008	2009	2010	2011	2011 Jan-Sep	2012 Jan-Sep
Agricultural products	250 214	290 422	418602	718 180	539 223	767 182
Forest products	6 762	3 323	3337	6 471	4 689	6 923
Chemicals and related products	428 269	263 462	366822	943 305	666 572	635 794
Energy-related products	61 154 766	30 295 551	40225878	97 646 128	75 194 529	45 484 561
Textiles and apparel	1 138 837	918 240	730628	1 711 877	1 272 484	1 226 419
Footwear	712	494	445	1 605	1 091	9 524
Minerals and metals	1 263 964	413 129	799479	2 037 919	1 592 165	1 323 331
Machinery	23 189	23 618	13207	40 731	31 058	42 924
Transportation equipment	1 911 828	1 436 008	1651458	4 349 705	2 917 634	2 907 267
Electronic products	16 941	21 912	26673	52 852	41 912	32 694
Miscellaneous manufactures	63 346	43 141	33407	73 431	50 727	48 060
Total	66 258 828	33 709 298	44269935	107 582 202	82 312 084	52 484 680

Source: US International Trade Commission

AGOA-eligible exports as a percentage of total exports in each respective category reveal that in a number of the product categories, the percentage of exports qualifying for AGOA benefits is indeed very high. Table 3 below indicates the percentages. These product sectors include 'energy-related products', 'transportation equipment' and 'textiles and apparel'. Most of the other product sectors lag far behind, with only a very small proportion of total exports to the U.S. in those categories being AGOA-eligible.

Table3: Total Exports to the U.S. under GSP and AGOA by Product Sectors. (Unit: Percentage of total sectoral imports for AGOA eligible countries

	AGOA + GSP	AGOA + GSP	AGOA + GSP	AGOA + GSP	AGOA + GSP	AGOA + GSP
	2008	**2009**	**2010**	**2011**	**2011 Jan-Sep**	**2012 Jan-Sep**
Agricultural products	18.19	19.91	22.68	17.08	15.67	25.51
Forest products	4	4.2	3.84	2.97	2.91	4
Chemicals and related products	30.26	26.68	17.63	20.08	17.86	27.1
Energy-related products	85.26	80.42	78.46	83.01	82.62	82.37
Textiles and apparel	96.21	97.35	89.79	92.17	92.19	91.73
Footwear	36.88	38.63	30.06	33.93	29.62	77.21
Minerals and metals	17.38	10.83	14.02	15.63	15.62	15.74
Machinery	6.46	10.43	4.14	5.62	5.54	7.68
Transportation equipment	93.16	92.69	96.43	93.84	93.93	94.57
Electronic products	17.82	26.92	30.57	24.41	25.95	22.81
Miscellaneous manufactures	45.16	32.01	14.59	18.62	17.76	16.08
Total	76.97	71.48	68.79	72.67	71.99	70.03

Source: US International Trade Commission

Textile and Apparel Issues

The US Department of Commerce's statistics on textile and apparel imports from Africa during 2012 show a downward trend compared to 2011. In 2012, US imports recorded 224.830 million square meter equivalents compared to 237.636 square meter equivalents in 2011. This represented a decline of 5.39 percent. The decline was largely due to the delay by Congress to renew the Third Country Fabric provision under which most of the textile gain duty free access to the US market under AOGA. The provision, which was due to expire in September 2012, was only extended in August 2012.

Botswana, Ethiopia, Ghana, Kenya, Lesotho, Malawi, South Africa, and Swaziland all experienced declines in 2012, while Madagascar, Mauritius, and Tanzania witnessed growth. Curiously, apparel imports from Madagascar had staged a recovery during January-July 2012, increasing by 3.54 percent from January-July 2011. But the Madagascar rally seems to have stalled since August 2012.

The details of US imports of textile and apparel imports from individual African countries are indicated in Table 4 below:

U.S. Textile and Apparel Imports from Africa
(in million sme)

Country	2011	2012	% Change
Botswana	3.292	2.962	-10.00%
Ethiopia	6.246	5.368	-14.06%
Ghana	1.816	0.757	-58.29%
Kenya	75.152	72.654	-3.32%
Lesotho	67.698	67.134	-0.83%
Madagascar	11.470	14.508	26.49%
Malawi	4.691	2.037	-56.58%
Mauritius	23.544	23.969	1.81%
South Africa	13.086	11.067	-15.43%
Swaziland	20.120	14.476	-28.05%
Tanzania	7.057	8.929	26.52%
Sub-Sahara Africa	**237.636**	**224.830**	**-5.39%**

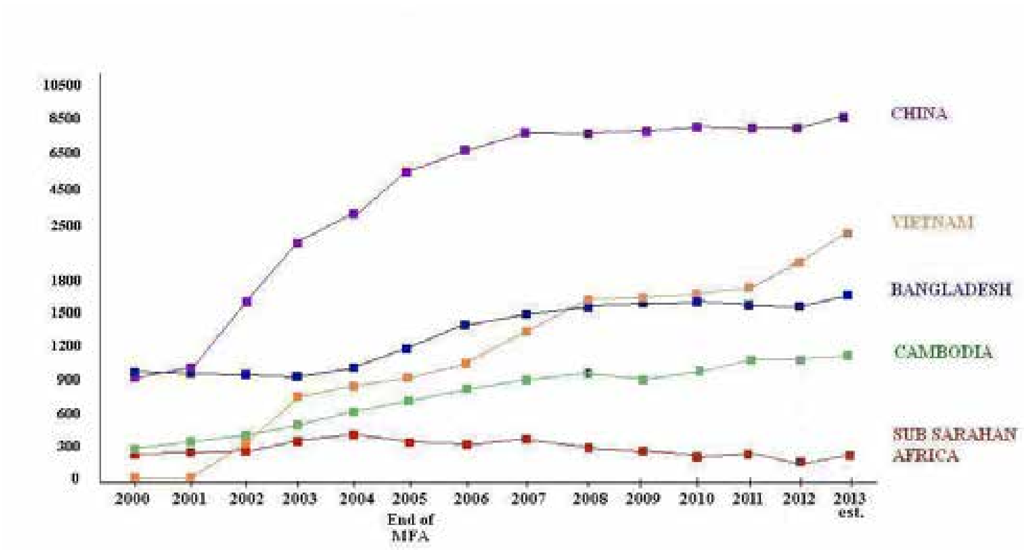
Source: US – Africa Trade Report, February 2013

Over the years, there has been an influx of apparel imports to the US from China. To make matters worse, through 2010 this growth in imports from China was concentrated in those products that matter most to Africa. However, China's exports in many of these key categories have started to level off and even decline, which seems to have contributed to the modest growth in imports from Africa during 2010-2011.

Also, while US imports of apparel from Africa declined during 2011 to 2012; US imports of apparel from many Asian countries were increasing suggesting that the Asian countries were competing away African countries in the US apparel market. Apparel imports from two Asian apparel "super producers," Cambodia and Vietnam, continued to grow in 2012 compared to 2011, up 0.17% and 7.34%, respectively. Vietnam is seeking duty-free/quota-free (DFQF) access for apparel in the Trans-Pacific Partnership (TPP) free trade agreement which, if granted, would further provide Vietnam with a competitive advantage over African textile exports to the US.

The reconfiguration of US apparel imports since the end of the MFA is illustrated in the following chart, which traces the concentration of orders initially in China and then in other competitive Asian origins, including Bangladesh, Cambodia and Vietnam in particular:

Chart 1: Reconfiguration of US apparel imports 2000-2013



Source: US - Africa Trade Report, April 2013

Policy and other Developments during 2012 and 2013

11th AGOA Forum held in the US

On 14-15 June 2012, the United States hosted the 11th annual US - Sub-Saharan Africa Trade and Economic Cooperation Forum commonly known as the AGOA Forum. The event is mandated by the AGOA Act and is the US Government's premier high-level, bilateral event with Sub-Saharan Africa. The 2012 theme was: "Enhancing Africa's Infrastructure for Trade." The ministerial part of the Forum focused on infrastructure development in Africa that supports and promotes trade around the following four objectives:

a. Developing transport, energy, telecommunications, and other hard infrastructure to improve African competitiveness and promote regional and US - Sub-Saharan Africa trade.

b. Improving the business climate and effective regulation of key infrastructure sectors that will promote investment, reduce the costs, and increase productivity in transport, energy, telecommunications and other soft infrastructure services that have the greatest impact on US - Sub-Saharan Africa trade and investment.

c. Advancing African regional economic integration efforts by promoting regulatory harmonization, trade facilitation, and strategic development of regional transportation corridors, regional power generation capacity, telecommunications and other infrastructure services that promote integrated/larger markets, cross-border production and regional value chains.

d. Highlighting trade opportunities for US businesses and benefits of US exports of infrastructure-related products and support for US investment and joint ventures (including public-private partnerships) in sub-Saharan African transport, energy, telecommunications, and other key infrastructure sectors.

The US Strategy towards Sub-Saharan Africa

The US Strategy towards Sub-Saharan Africa, released in June 2012, recognizes that looking into the future, Africa is more important than ever to the international community in general, and the United States in particular. Africa's economies are among the fastest growing in the world, with technological changes sweeping across the continent and offering tremendous opportunities in banking, medicine and business. At the same time, the burgeoning youth population in Africa is changing economies and political systems in profound ways. To that extent, the US will work with African partners to build strong institutions, remove constraints to trade and investment, and expand opportunities for African countries to effectively access each other's markets and global markets, to embrace sound economic governance, and diversify their economies beyond a narrow reliance on natural resources. Most importantly— the US seeks to create opportunities for Africa's people to prosper. In supporting these efforts, the US Government will encourage American companies to seize trade and investment opportunities in Africa, so that their skills, capital, and technology will further support the region's economic expansion.

It is in the interest of the United States to improve Africa's trade competitiveness, encourage the diversification of exports beyond natural resources, and ensure that the benefits from growth are broad-based. Consequently, the US will pursue the following actions as a contribution to accelerate inclusive economic growth, including through trade and investment:

a. **Promote Regional Integration.** Increased African regional integration would create larger markets, improve economies of scale, and reduce transaction costs for local, regional, and global trade. In particular, the US will promote trade facilitation, customs modernization, and standards harmonization; support regulatory coherence and transparency; improve infrastructure that strengthens regional trade and access to global markets; and explore ways to remove impediments to efficient operation of supply chains in the region.

b. **Expand African Capacity to Effectively Access and Benefit from Global Markets**. Notwithstanding the tariff advantages afforded by the United States to Sub-Saharan Africa, non-oil exports from Africa to the United States continue to grow slowly and have not reached their full potential. To increase Africa's capacity to produce goods for export that are diverse, competitive, and meet global standards, the US Government will work with the Congress to extend the unilateral preferences under the African Growth and Opportunity Act beyond 2015 and extend the Generalized System of Preferences beyond 2013, while also exploring ways to update these programmes and enhance African capacity to fully utilize and benefit from these programmes, including through the African Competitiveness and Trade Expansion Initiative. It will also increase co-operation and technical assistance on a range of issues, including building Africa's capacity to meet product standards, food safety and sanitary and phyto-sanitary requirements, product testing, and certification requirements; and take steps to increase productive capacity and improve the competitiveness of African exports, including by helping to address a range of supplyside constraints that raise costs and reduce the efficiency of exports.

c. **Encourage US Companies to Trade with and Invest in Africa.** Many US businesses – particularly small and medium-sized enterprises – are unaware of opportunities for trade with and investment in Africa or face challenges establishing business relationships in Sub-Saharan African countries. In this respect, the US will develop a "Doing Business in Africa Campaign" to harness the resources of the United States Government to assist US businesses in identifying and seizing opportunities in sub-Saharan Africa. The US will also engage with members of the sub-Saharan African Diaspora in the United States, who are showing an increasing level of interest in investing in their countries of origin.

The US Strategy towards Africa addresses most of the concerns that have been raised by African Ministers at successive AGOA fora to enable African countries to utilise the AGOA preferences. However, it does not address the issue of adding additional agricultural products such as tobacco and sugar on the list of AGOA eligible products. Nevertheless, Sub-Saharan African countries should take advantage of the policy intentions by the US and utilise this to the extent possible.

Possible Scenarios Beyond 2015

The current AGOA and the third country fabric provision have authorization up to 30 September 2015. It is therefore appropriate to explore possible scenarios for US-Africa trade and economic relations beyond the current AGOA authorization. In the US Strategy towards Africa, the US Government undertakes to work with Congress to extend AGOA beyond 2015.

According to the Brookings Institute, one possible scenario for US-Sub-Saharan Africa relations to 2015 and beyond could be to remove uncertainty associated with the impending lapse of AGOA. For this scenario, recommended elements include: renewal of the AGOA and extension of the third country fabric provisions; addressing supply side constraints; admission of items not currently on the AGOA eligible products and removal of quotas on some; designing a way of sanctioning errant countries without hurting the beneficiaries inside the countries and other economies; and designing incentives to spur US investments into Africa.

Another scenario concerns prospects beyond 2015. Building on the gains from AGOA, the guiding principles for the design of a new co-operation platform should include mutual benefits; consolidating the regional economic communities' agenda; and building synergies with other commercially inclined players. The critical areas for consideration under this scenario include:

a. Substantial investments in infrastructure and governance systems;

b. Support for socioeconomic transformation including promotion of manufacturing, services and value addition of agricultural products;

c. Removal of trade barriers for intra-African trade; and

d. Consideration of two way reciprocal trade which does not have the shortfalls associated with the Economic Partnership Agreements (EPAs) between Africa and the EU.

Already the US and the East African Community (EAC) have made some progress under the Trade and Investment Partnership, which was announced at the AGOA Forum in Washington, DC in 2012. This initiative supports the economic integration of the EAC and enhances the US-EAC investment relationship. The technical teams on both sides will be meeting to negotiate a proposed investment treaty and a trade facilitation agreement and agree on trade capacity building assistance, including identification and agreement of priority areas to support the Trade and Investment Partnership. There is a possibility that the partnership could serve as a building block towards a more comprehensive trade agreement over the long term.

The 12th AGOA Forum to be held in Ethiopia

The Trade Ministers from AGOA eligible countries have variously voiced the constraints that are being encountered in exporting to the US market under AGOA. While appreciating the role that AGOA had played in providing an opportunity for increased exports to the US and in creating employment especially for women in the textile sectors, the full potential of AGOA was not being realized due to a number of constraints faced by the beneficiary countries.

It is expected that at the 12th AGOA Forum to be held in Ethiopia in August 2013, the Ministers will raise the issues of concern. These include the following:

d. The extension of AGOA and the third country fabric provision beyond 2015. The third country fabric provision allows for global sourcing of fabrics by LDC AGOA beneficiary countries for the manufacture of clothing and apparel for duty free export to the US. The provision is of particular interest given that 95 percent of AGOA clothing and apparel exports to the US are made from fabric sourced on the basis of this provision, hence its importance.

a. While the US Government's strategy towards Africa enumerated above undertakes to work with Congress to extend AGOA beyond 2015, a timely achievement of this undertaking will be beneficial to the continuity of exports to the US under AGOA. Given that the bulk of the textile and clothing exports to the US take place pursuant to the third country fabric, it is also important that the third country provision be extended in tandem with the AGOA extension.

b. The second issue relates to the constraints faced by AGOA member states in meeting the sanitary and phyto-sanitary requirements of the US as well as the infrastructural constraints faced by the African countries. To this extent, the Ministers urged the US to prioritize capacity building especially in infrastructure development, sanitary and phyto-sanitary laboratories, and private sector support to enable African countries take advantage of the market access offered by AGOA.

c. The third issue relates to the AGOA rules of origin that are considered to be restrictive. In the case of the non-LDC countries, the fabric has to be made in Africa or in the US in order for the apparel and clothing to qualify for duty free access to the US market. The US is therefore urged to relax its restrictive rules of origin in order to promote diversification of exports into the US and also support regional integration through regional value chains.

d. The fourth issue pertains to the fact that some products of export interest to African countries such as groundnuts, sugar and tobacco are not on the AGOA eligible product list. The US is therefore urged to expand the AGOA product list in order to further help diversify non-oil exports from Africa.

e. The fifth issue concerns the proposal in the US to extend AGOA like preferences to LDCs in other regions including in Asia. This will erode the preference that the Sub-Saharan countries are experiencing under AGOA. For this reason, the US is urged to take into consideration the risk of eroding the AGOA preference margins in its future preference schemes with other LDC and developing countries.

f. Perhaps more critical is the promotion of investment into Africa, in order to boost production capacity for better utilization of AGOA. There is need for the US Government to upscale incentives and other initiatives to encourage US investment into Africa.

Conclusion

The US Strategy towards Sub-Saharan Africa, which includes the undertaking to extend AGOA beyond 2015 and the GSP beyond 2013, enhancing US investments in Africa, supporting regional integration in Africa, increasing AGOA eligible products to include products of export interest to Africa and enhancing the capacity of AGOA eligible countries to comply with the SPS, TBT and other standards, takes account of the issues of concern that the African Ministers of Trade in the AGOA eligible countries have been raising. It is these issues that should form the basis of a work programme between the US and Africa, and the way forward.

Africa’s Emerging China Strategy

How African States Need to Respond to China’s Shifting Growth Model

By Prof. Arthur G.O. Mutambara

It is important for us to understand what we mean by saying China’s Growth Model is shifting. Over the last couple of years the model has become less resource intensive as the economy moves into middle income status. As its economy grows and prosperity spreads, it has become more consumer and services driven. The growth trajectory has been slowing down and mid April 2013 reports show a growth rate of 7.7% down from the projected rate of 7.9%. The traditional above 10% growth rates are now history. All these changes require strategic positioning of Africa’s relations with China. What is Africa’s optimum response vis-à-vis this new reality? Furthermore there is a new government in China led by President Xi Jinping and Premier Li Keqiang with a particular emphasis on the social and personal aspects of economic success encapsulated in the notion of the China Dream which seeks to reimagine prosperity and reshape consumerism in China. The goal is to catalyze a new aspirational lifestyle that is innately sustainable for the emergent middle class in China. These new developments have implications for China’s commercial relations with Africa.

However, as we discuss how African States need to respond to China’s shifting growth model, it must be acknowledged that African countries have not effectively engaged the Chinese, even before the model started to change. Hence we need to pick up lessons on what has characterized the Africa-China relationships so far, and then use that as basis to explore future partnerships as the Chinese economy changes.

There have been two types or classes of critiques of the Africa-China economic relations. The first category is what can be termed Western inspired criticisms and the second set consists of genuine grievances leveled by the Africans themselves. Before we delve into a detailed assessment of these challenges, the key theme and central message in this treatise must be laid out up-front. African countries must NOT BLAME China or any other foreign power or institution for their problems. We must assume responsibility for our own circumstances, take charge of our economies and create sustainable solutions to impediments that confront us.

By getting heavily involved in Africa economically, the Chinese have broken the Western hold on Africa-World trade. Historically, Europe and the United States of America have always considered Africa their area of political and economic influence. However, the entry of China has meant competition for them, and they are not exactly amused. In fact they are getting clearly out-competed by the Chinese. This has led to baseless and self-serving Western inspired attacks on the Chinese in Africa. The United States policy makers have been in the forefront, feeding into, and abated by, naïve Africans. The charges include that the Chinese are; indifferent to governance issues, supporting dictators in Africa, plundering of Africa’s natural resources in a new colonialism, not adding value to African commodities, bringing labour from China, and are engaged in unfair and poor labour practices.

While some of these accusations merit attention, the motivation, history and current practices of their Western sponsors make them hollow. Western countries and their investors have never encouraged beneficiation or value addition in Africa. They brought slavery, colonialism, imperialism and now neo-colonialism to Africa. Furthermore, the hypocrisy on the governance matter is striking. When Western nations and their institutions go out to trade and invest they do not insist on democracy, good governance or human rights pre-conditions. Illustrative cases include investments and business ties with Kuwait, Saudi Arabia, Dubai, Saddam's Iraq (once upon a time), Mobutu's Zaire and Apartheid SA. Western countries trade with and invest in China, and yet China is certainly not a Western-type democracy. If the West does not put democracy or human rights pre-conditions to China before they deal with it why should China put such conditionalities to African regimes before engagement? In any case, how can an "undemocratic" one Party State China insist on human rights pre-requisites to African nations? Will they be credible demanding multi-party free and fair elections which they themselves do not conduct? Really? It is safe to say most of the arguments against Chinese activities in Africa, inspired and driven by Western Governments and their corporates are hypocritical and meaningless. They are views of competitors who have been out-gunned. Africans are best advised not to attack China on behalf of these outsmarted Americans and Europeans.

We should not be misunderstood on the importance and efficacy of democracy, respect of human rights and good governance in African countries. These concepts are foundational in our agenda to build sustainable and viable African economies and societies. However, it is our submission that these ideals are not what influence, drive or determine the inflow of Western investment and its corresponding trade frameworks. History and current practices bear this assertion out. National economic interest, corporate and business ambitions, and geo-political-military considerations alone determine the direction of Western trade and investment. Africans must embrace democracy on their own without depending on pressure from external powers. In doing so we must fully engage in and learn from the democracy vs. economic development debate.

The doctrine that says "Seek first the Kingdom of Democracy" and the rest will follow, is not only flawed but is also not backed by history. For example; Singapore, China, Saudi Arabia, Taiwan, Malaysia, and Dubai do not exactly fit into the Western definition of democratic States, but they are quite economically prosperous. Malawi, Zambia, and South Africa fairly satisfy the Western democratic prescriptions, but the majority of their citizens are crippled by poverty, inequality and unemployment. There are no simple cut and paste solutions. A nation can be prosperous without following the Western democracy model, while embracing such a model does not guarantee economic success.

The contrived and tenuous links between democracy and economic development should be rejected with the contempt that they deserve. Democracy must be embraced as a public good in itself, not as a precondition for something else. A democratic tradition, respect for human rights, and a good governance disposition allow our people to express themselves and determine their destiny as fully empowered citizens. African States must internally, without depending on the benevolence or conditionalities of external players, strive to creatively and simultaneously achieve both democracy and economic prosperity.

The second type of critique levelled against the Chinese in Africa comes from the Africans themselves. These are genuine concerns coming from African policy makers and business leaders, who want a win – win arrangement between Africa and China. They speak on behalf of

African interests and hold no brief for Western nations. Given the history of collaboration and partnership, between Africa and China, in the struggle against colonialism and imperialism, there are high expectations from the economic ties between the two blocks. These high expectations are rooted in a history of solidarity and shared aspirations. So when criticism is levelled by the sincere African it must be considered as constructive dialogue among members of one family. The Chinese must not be defensive to these genuine African concerns; extractive trade in raw materials without value addition, understating the value of un-mined natural resources, bringing labour from China with low employment of locals, no skills or technology transfer, buying primary goods and selling Africa manufactured goods, unfair local labour practices, cheaper Chinese goods (sometimes low quality) undercutting African products. All these activities, the Africans contend, have contributed to the de-industrialization and underdevelopment of Africa. In particular the African textile industry has been decimated by cheap Chinese imports. While China's trade with Africa has surged from US $10 billion in 2000 to US $166 billion in 2011, this has mainly been in exchange of African minerals for Chinese manufactured goods. Chinese imports are undermining Africa's own manufacturing businesses. For example, in South Africa manufacturing only contributes 15% of GDP, while in Kenya and Nigeria it is 11% and 10%, respectively.

Given all these challenges what should be the African strategic response? First and foremost African countries MUST NOT blame China. We must take responsibility for our problems and solve them. In fact, we must blame ourselves for the current plight of Africa, including these Chinese excesses. Most of the African countries attained political independence more than 50 years ago. As illustration, Ghana has been free for almost two generations (56 years); Zimbabwe, 33 years; and South Africa, 19 years. For sure there are problems whose roots you can trace back to slavery, colonialism, neo-colonialism or apartheid. However, we cannot use this problematic African history to justify incompetence, corruption, lack of economic vision, inept economic planning, poor execution, and now clumsy negotiation capacity. The time for excuses is gone. Africans must wake up and take charge of their lives.

With respect to China, a different approach is required. Africans must not have a romantic and sentimental view of China as an ally in the fight against imperialism. China is no longer a fellow poor or developing country. Neither is it still a "comrade in poverty solidarity." They are now a global business and economic giant which is now the second biggest economy in the world. The Chinese are coming to Africa as shrewd business players who are very discerning about their national and commercial interests. They are no longer comrades in the Chairman Mao sense. In some cases they are shrewder and tougher business negotiators than the Westerners. Nonetheless, the African is not without bargaining power. Yes Africa needs China but China also needs Africa. What is imperative is to create an equitable relationship where both China and Africa benefit.

To do this Africans must define the terms of reference and engagement with the Chinese. The Africans must leverage their strengths, negotiate better, box clever, and deploy innovative hard-nosed strategic and economic thinking. We have the natural resources, the arable land, the climate, the human capital, and markets that China needs. Why can't we use these assets to set the favourable terms for our economies; that will allow the Chinese to make money while effectively and sustainably developing the continent? This is the win-win framework we must strive for. We must put in place policies, incentives, guidelines and directives which will encourage and compel the Chinese to set up processing and manufacturing plants on African soil, ensure employment of Africans, ensure transfer of skills, technology and knowledge to Africa. In terms of quality of Chinese products, quality control, education of the traders, consumers and producers coupled with bilateral quality agreements can assist. All these policy interventions must be effectively and consistently implemented, while there is comprehensive monitoring and evaluation, leading to corrective actions.

In all these initiatives, African states must start measuring different metrics. The traditional parameters such as GDP and GDP growth rate are highly inadequate. We must clearly track per capita income, gini coefficient (measure of income inequality), economic productivity, productivity growth, nature of economic growth, per capita power, social and political issues, national values, and spirituality. We must measure the size of the middle class as a percentage of population, ICT penetration, bandwidth, connectivity, ICT infrastructure, ICT cost and pricing, and ICT competition. These are the key measures to judge success or failure of African economies. That which is monitored and evaluated, is what influences policy and strategy.

As the Chinese growth model shifts to a middle income economy driven by consumers and services, China is losing its low cost advantage. Africa must seize the moment and take advantage of this and becoming the low cost producer. African people can then shift from consuming Chinese-made goods to making and consuming their own. As Africans we must add value to our own agricultural products.

We need to refine crude and build petrochemical industries in Uganda, Ghana, Algeria, and Nigeria. We must use and refine our gas and coal reserves. We need to refine, process and add value to our minerals; platinum, gold, diamond, copper, chrome, and iron. Foundational to all this is the building of world-class regional and continental infrastructure. In all these activities Chinese financial resources, technology and human capital can be deployed in a win-win framework. African nations will not develop by selling commodities. We must have a huge domestic market for our value added products. China then must be understood as a competitor in our domestic markets. We should not wait for skills and technology transfer from China, rather we must also foster and invest in technical and vocational education, technology development, knowledge creation, all underpinned by innovation and entrepreneurship. We must seek to enhance productivity, but more importantly productivity growth.

In all these efforts we must collaborate and work with the Chinese. However, Africa must recognize that China; like the US, Russia, Britain, Brazil, and India; is in Africa not for altruism or charity. It is strictly business and not comradeship. These are commercial and business transactions. China is not helping Africa in exchange for nothing. They have vested interests. However, the Chinese have also brought advantages to Africa. They have brought more investment options to Africa, beyond the traditional Western possibilities. China has improved Africa's international status by offering it a powerful alternative market collaborator. Chinese strength in low-cost, large-volume manufacturing has helped some local industries, in particular the mobile telephony sector by driving prices down, and improving access.

Dragon-slayers emphasize China's selfish quest for African natural resources and how it sabotages international efforts to keep unpalatable African regimes in check. On the other hand PANDA-HUGGERS applaud China's contribution to Africa's economic development through infrastructure projects and revenue creation. A balance is required between these contrasting views in particular the African must be the one making the determination of the best terms of engagement between Africa and China. Beyond Africa's massive value proposition to China in terms of commodities, there has also been a resurgence of economic growth in Africa. Seven out of 10 of the fastest growing economies in the World for the period 2011 to 2015 are African; Ethiopia, Mozambique, Tanzania, Congo, Ghana, Zambia, and Nigeria. These countries are experiencing Asia type growth rates of around 10%, and present huge business opportunities for Chinese investors. Africa is now the second fastest growing region in the world after Asia and it will overtake Asia within a year's time. Furthermore Africa's middle class will overtake that of China's in 10 years' time. All these developments define Africa's bargaining power.

In fact the true nature of the African investment and trade possibilities are not fully understood. There are indications that the collective GDP of Africa in 2020 will be US $2.6 trillion and half of it, US $1.38 trillion, will come from consumer facing industries. Mining will contribute US $0.5 trillion and agriculture another US $0.5 trillion. This means that Africa's investment opportunity is more than a resource boom, where consumer facing industries such as retail, ICT, banking and services will be the key growth drivers. This scenario ties in neatly with the shift in the China's growth model. African States must creatively unlock value from this new economic alignment between the two growth trajectories. Furthermore, with a growing population of over a billion people Africa is on track for a demographic dividend, through training, education and re-skilling. Where young people constitute 60% of the African population, the continent is also poised for a youth dividend. These two dividends augment and add to the African value proposition to China. African states are not helpless. They indeed have bargaining power.

While African states are encouraged to negotiate better and more effectively as countries; the nation state is not the best platform of survival under globalization. Regional blocks; EAC, COMESA, SADC, AMU, ECOWAS are better frameworks to engage the Chinese from. Scale, market size, pooling of resources together and regional consensus improve bargaining power immensely. We need regional strategies and policies to effectively respond to China. A collective approach toward China will improve the benefits derived by African countries. African countries must be discouraged from bilateral deals and arrangements with China. For example, the individual population and GDP metrics of Botswana, Zimbabwe, and even that of South Africa are not strong enough to individually negotiate with China. These countries are bound to be short-changed. In fact, South Africa will only be a meaningful member of the BRICS if it is there representing SADC and Africa. South Africa's metrics; compared to those of Brazil, Russia, India, and China; do NOT qualify it as a legitimate member of the BRICS. The collective GDPs and populations of SADC, COMESA, the Tripartite FTA, and the AU will allow South Africa to have more leverage and clout in the BRICS, thus benefiting South Africa, the regions and the entire African continent.

In addition to the regional block approach to China, African countries must organize themselves into value addition industrial clusters, and engage the world through these. For example we can define a Diamond Cluster (Zimbabwe, South Africa, Botswana, Angola, DRC), a Platinum Cluster (Zimbabwe, South Africa), a Cocoa Cluster (Ghana, Ivory Coast, Guinea), and a Petroleum Cluster (Nigeria, Algeria, Senegal). With the scale, critical and consensus achieved in these clusters, value addition and beneficiation will be commercially viable on the African continent. The backward and forward linkages to drive beneficiation can then be developed in pursuit of resource-based industrialization. African economies can this way move up global value chains, yielding employment, incomes, and economic growth.

Beyond the regional block and the value addition cluster strategies, a continental approach must be pursued. There must be an Africa-wide strategy, an AU and NEPAD driven perspective on China. The collective GDP and overall population of Africa present an even stronger bargaining framework in the deals with China. Continental policies, strategies and terms of reference must be developed. We must aspire to have negotiations with China carried out at the level of the AU. That will be ultimate bargaining power derived from a holistic and complete African consensus rooted in the pooling together of all African economic assets and markets. To augment and operationalize this strategy, first class regional and continental infrastructure must be designed and constructed to facilitate integration, in particular, intra-Africa trade and investment. New funding models must be structured to finance these regional and continental projects.

One area that clearly requires Africa-wide consensus is reform of the continent's laws governing natural resources, in particular oil, gas and mineral laws. Most of these laws are colonial and apartheid provisions that do not ascribe any intrinsic value to the un-mined asset. Resource claims are given to the investor for free or for a nominal fee. The investors then go and list these assets on foreign stock exchanges and borrow billions against the claims. This is criminal. At independence African States changed political and social laws, NOT economic ones. Geological surveys and exploration must be carried out so that Africa's complete mineralization and quantification thereof are established. Fair value must be assigned to the un-mined resource, where this wealth belongs to ordinary citizens. Discovery of a natural resource in a country by an explorer or investor should not translate to ownership of the asset. The investor must pay up-front for this value of the resource still underground, leading to the establishment of sovereign wealth funds (SWF). Only this way can the generality of African people benefit from the continent's abundant natural resources. African consensus on these new natural resource laws will mitigate against the foreign investor, Eastern or Western, from playing one African country against the other. It is instructive to observe that Western countries such as Norway, Canada and Australia have actually implemented similar SWF based natural resource laws. What is good for the goose is good for the gander.

When all is said and done, a win-win modus operandi between China and Africa is possible. However, for the African States it cannot be business as usual. We have to think outside the box, in order to effectively respond to China's shifting growth model. Of course, foundational to all this, is the role of the African government. It has a duty and obligation to create a conducive and enabling economic environment and business climate. In particular, there is need for certainty, predictability, respect for the rule of law, and provision of an enabling policy framework that encourages and facilitates win-win trade and investment between China and Africa.

The COMESA India Trade and Economic Relations

By Francis Mangeni and Wilson Chizebuka[1]

Background

While engaging India in trade and economic relations, COMESA seeks to establish a preferential trade area, taking into account its long term regional integration programme. The Memorandum of Understanding (MoU) that was concluded between COMESA and India, on 10 February 2003, already sets out various areas of co-operation that can be improved upon and operationalised namely: pharmaceuticals, information technology, agriculture, biotechnology, human resource development, housing, tourism, industry, energy, regional infrastructure, human resource development in the transport sector, and skills enhancement in the telecommunications sector.

The Africa-India Framework for Enhanced Cooperation adopted on 25 May 2011 in Addis Ababa at the Second Africa-India Forum Summit, sets out the following areas for collaboration between Africa and India:

i. Economic cooperation in agriculture, trade industry and investment, SMEs, finance, and regional integration;

ii. Political cooperation in peace and security, civil society and governance;

iii. Co-operation in science, technology, research and development and ICT;

iv. Co-operation in social development and capacity building;

v. Co-operation in health, culture and sports;

vi. Co-operation in tourism;

vii. Co-operation in infrastructure, energy and environment; and

viii. Co-operation in the area of media and communications.

These new areas formulated at the continental level and leveraging political support together with the Joint Declaration from the COMESA Summit, show the increasing global importance of India.

At its Thirtieth Meeting in October 2011 in Lilongwe, the Council of Ministers constituted a Task Force of Member States, including its Bureau, assisted by the Secretariat, to engage India and to produce a report covering the following:

1 The very helpful comments of Professor Richard Manning of Oxford University, Francis Mangeni and Tasara Muzorori of COMESA Secretariat are gratefully acknowledged

a. Identification of strategic and economic benefits from an FTA/PTA with India;

b. Exploration of the feasibility of a comprehensive FTA/PTA covering goods, services, investment, intellectual property, health and technical standards, competition policy, and government procurement;

c. Review of the existing institutional framework and recommend measures to facilitate and optimize such cooperation;

d. Expedition of the expansion of trade through removal of tariffs and other barriers;

e. Expedition of the expansion of trade in services through liberalization consistently with WTO rules and covering movement of natural persons and mutual recognition agreements;

f. Development of an investment framework and modalities for increasing investment flows; and

g. Identification of areas and sectors for an early harvest such as agriculture, pharmaceuticals and capital goods.

At its Thirty-First Meeting held in Kampala in November 2012, the Council received the Report of the First Joint COMESA-India Meeting held in July 2012 in Lusaka, and underscored the need for caution in engaging India and a coherent approach to trade relations with all third countries. The Council decided that a comprehensive position paper for COMESA be prepared and a preparatory meeting of all Member States be convened in the first quarter of 2013. The Council decided that:

> "Caution should be exercised in the engagement with India, and COMESA should develop clear priorities and negotiation objectives based on a developmental approach and the promotion of the COMESA and the Tripartite integration initiatives".

The First Joint COMESA-India Meeting agreed upon a structure for the Report of the Joint COMESA-India Study Group, which is expected to be the basis for the negotiations. The structure had the following chapters:

i. Overview and Economic Relations;

ii. Trade Liberalisation in Goods;

iii. Trade in Services;

iv. Investment;

v. Other Areas of Economic Cooperation – intellectual property, ayurvedic products, competition policy, government procurement, labour and environment, taxation, trade policy consultations, science and technology, energy, agriculture, institutional provisions, dispute settlement, and any other sector;

vi. Economic modeling; and

vii. Recommendations and Conclusions.

It will be noted that the terms of reference of the COMESA Task Force cover all the chapters of the Report of the Joint Study Group. This paper closely follows the terms of reference of the Task Force.

The vision of COMESA is to be a fully integrated, internationally competitive and prosperous regional economic community that is part of the African Union. The Member States also envisage becoming prosperous middle income countries, with timeframes of 2020 to 2040. Various strategies are in place to achieve these visions; on the whole seeking pro-poor and inclusive social economic development through higher rates of economic growth and social justice under a developmental state. The overarching continental development strategy is to widen and deepen regional integration through the regional and continental common markets. These aspirations of the people of COMESA and Africa at large will inform any trade and economic relations with India as an important partner.

The vision of India, on the other hand, is to be the technology super power of the world and to become a developed country by 2030 in a multi-polar world. To this end, India is committed to strengthening its technological base in various key areas that are positioned to be core drivers of global progress and international development. These include: information and communication technology including GIS, mobile telephony, computing, networks and sensors; and nanotechnology, It also seeks to lead in precision, in accordance with the miniaturization of technology and the law that knowledge doubles every 12 months and there is new technology every 12 months, with most knowledge becoming obsolete after 45 years. Other focus areas for India are biotechnology, to ensure food and nutrition security and to feed the world; health, building on its strong pharmaceutical base and medical expertise accumulated from dedicated training institutions under policies implemented since the 1970s; and manufacturing technologies.

It should be noted that India has an engaged Diaspora across the world, which wields significant influence in various international organizations and various Governments, including the in the USA.

This means that India could assist the attainment of the COMESA vision through interventions in Science, Technology and Innovation; as well as through leveraging its influential Diaspora to create trilateral partnerships between COMESA, India, and organizations and Governments across the world.

There is, therefore, merit in involving the Indian side in the negotiations and any engagement to have representation from its Ministry of Human Resource Development, the Department of Science and Technology, and the Indian Advisory Innovation Council; so that the relevant expertise in the technology area from the Indian side facilitates commitment. The COMESA side too, should bring along this expertise from the Member States and the Secretariat. The African Union Panel on Science, Technology and Innovation, as well as NEPAD, should also be brought on board in this engagement between COMESA and India.

According to the Declaration of the Second Africa-India Summit of 25 May 2011, the shared vision of Africa and India is to achieve self-reliance and inclusive growth. The Declaration is an important reference document, which highlights the key objectives of India and Africa. The engagement has high ambitions, covering agreed areas of cooperation as well as setting out key international issues and forums where joint positions will be pursued, notably UN reforms, multilateral trade negotiations, climate change negotiations, reform of the international financial architecture, and peace and security.

Notably, the India Navy is assisting fight piracy on the waters of the Indian Ocean well into the neighborhood of coastal and island COMESA Member States. Since the fight against piracy is a high priority concern for COMESA, the Indian Navy may be welcome to assist but sight should not be lost of the other international, strategic areas in which India expects support from COMESA.

Caution Ahead

This is not to forget the short to medium term global priority of India to double its merchandise exports to the rest of the world, including COMESA within the short term of three years. To this end, India as the demander has approached COMESA seeking a trade agreement and proposed that the agreement should cover liberalization of trade in goods, services and investment regimes, as well as government procurement and intellectual property. These five areas constitute the core avenues of market access in international trade and economic relations.

So far, in the history of international trade relations, it is widely accepted that trade in goods can be considered; but the rest of the other core avenues have been controversial. Developing countries on the whole have had serious reservations about opening up government procurement, and have only agreed to services and intellectual property under carefully balanced agreements that ensure adequate policy space for them. Investment has been addressed under autonomous national regimes, but generally binding international rules have usually been rejected when proposed. It can be pointed out that at the WTO, India has led the opposition to bringing investment and government procurement under WTO rules.

Government procurement is used by many countries the world over, including COMESA countries, to advance important public policy objectives in supporting especially SMEs to get access to this important internal market, and on this basis COMESA may wish to exercise a degree of caution on this matter.

COMESA should not look at India as a donor, or a source of resource transfers, notwithstanding the figure of the US $6 billion touted by the Indian Prime Minister at the Second Africa-India Forum. India has immense domestic challenges, which include widespread poverty (37% of the population live below the poverty line, a total of over 410 million people; economic growth rates have fallen to around 6% down from 8% two years ago; climate change and energy shortfalls, among others). Naturally, therefore, India has its own domestic priorities, and reaching out to COMESA for a trade and economic agreement is purely in pursuit of India’s priorities, rather than a service to COMESA.

What COMESA should focus on in exploring the possibility of a formal agreement on trade and economic relations, is a mutually beneficial partnership, and such a partnership should tap into India’s strengths, such as promoting the exports of COMESA to India and a shared approach to technological development, as well as joint ventures in private sector development and investment.

In engaging India and any other third countries, COMESA should highlight its strengths within the overall positive picture of Africa. Recent scholarship (“The Fastest Billion”, for instance) shows that the development prospects for Africa are excellent, and that by 2050, Africa will have a GDP equivalent to the current combined GDP of the EU and the USA and will be growing faster than Asian countries. Already, the macro-economic conditions in Africa are better than in Europe. The good economic performance over the last decade should not be attributed only to exports of natural resources, as usually claimed.

The mining sector, for instance, has constituted only 14 percent of this growth while 53 percent has been from services especially telecommunications and banking. As the new growth pole of the global economic system, Africa including COMESA, now enjoys a degree of leverage that should be brought to bear in relations with the rest of the world.

Analytical Aspects of India's Bilateral Trade and Investment with the COMESA Region

The Indian Perspective

According to a study by the Export and Import Bank of India, India's total trade with the COMESA region rose more than threefold (from US $2.55 billion in 2004-05 to US $8.48 billion in 2009-10), accounting for 38.2 percent of India's total exports to Africa. The COMESA share of India's total imports stood at 13.1 percent. The implication of this outcome suggests that the COMESA region has been in substantial deficit in favour of India to the tune of US $1.8 billion in 2009-10 alone.

The study seems to indicate that the potential items that characterized India's exports to the COMESA region broadly include electrical and electronic goods, plastics, articles of iron and steel, automotive components, petroleum products, pharmaceutical products, machinery and instruments, and cotton fabrics.

On the other hand, India's imports from COMESA were broadly listed as aluminium, copper, mineral fuel, coffee, resins, nuts, spices, sugar, leather, organic and inorganic chemicals and marine products.

The study also recommended broad areas of further potential co-operation in agricultural and natural resource development, and energy, besides recommending the broadening of further linkages with trade and investment promotion institutions.

The COMESA Perspective

COMESA's top exports to India from 2007 have been dominated by fuels, followed by ores and minerals, agricultural raw materials and food items in that order. The pattern of the flow of exports from 2007 to 2011 also shows that of the region's exports of food items and ores, metal products have tended to grow faster relative to the other exports over the years. By simple inspection, it is evident that of the Member States of COMESA that have recorded exports to India in the recent past, the product mix of exports have varied from one country to another depending on their respective product endowments and competitiveness. For instance, the exports of Egypt and Libya to India have constituted mainly of fuels and ores and metals, while the exports of Madagascar, Malawi and Uganda are characterized mainly by food exports. The exports of Ethiopia, Kenya, Mauritius, Zambia and Zimbabwe are mainly manufactures. In all cases however, the countries altogether export ores and minerals as well as food items to India.

Table 1: COMESA's Exports to India by Sector (2007 to 2011) - Value US$ Millions

Reporter	Description	2007	2008	2009	2010	2011
COMESA	Agricultural Raw Materials	81.42	107.72	48.49	144.97	111.68
COMESA	Food	47.33	33.07	78.62	91.34	118.72
COMESA	Fuels	1,538.14	2,319.58	1,879.35	1,047.30	1,959.41
COMESA	Manufactures	111.81	150.54	251.06	217.94	207.39
COMESA	Ores and metals	59.09	88.45	125.01	96.79	158.44
COMESA	Other	0.21	0.18	0.06	0.22	0.28
	Total	**1,838.0**	**2,699.5**	**2,382.6**	**1,598.5**	**2,555.9**

Source: COMSTAT Database

Imports from India

The pattern of COMESA's imports from India demonstrates a concentration mainly on manufactures, followed by fuels and food items. Other imports are largely minimal in relative terms. COMESA's imports of products classified as manufactures and fuels increased steadily over the years between 2007 and 2011. A number of COMESA countries' imports from India constitute almost entirely of manufactures, and to a good extent fuels. For instance, the imports of Burundi, Ethiopia, Malawi, Rwanda, Sudan, Zambia, Zimbabwe and to a good extent Swaziland, are largely composed of manufactures, while the others have a mix of manufactures and food products except for Mauritius whose largest imports from India constitute fuel products. COMESA country specific imports are shown in Figure 2, while a detailed description of top COMESA wide imports from India by SITC description is shown in Table 2. Appendix 5 describes individual COMESA countries' top 20 imports from India by product category and respective applied MFN tariffs.

Table 2: COMESA's Imports from India by Sector 2007 to 2011 value US$ Millions

Reporter	Description	2007	2008	2009	2010	2011
COMESA	Agric Raw materials	49.45	78.74	53.32	58.42	63.29
COMESA	Food	317.07	812.73	422.94	591.75	970.33
COMESA	Fuels	965.60	1,826.53	1,048.76	1,423.83	1,860.96
COMESA	Manufactures	2,183.25	3,703.51	3,692.99	4,067.97	4,653.69
COMESA	Ores and metals	49.34	84.39	83.38	54.61	85.76
COMESA	Other	0.30	12.33	66.25	0.26	0.64
COMESA	**Total**	**3,565.0**	**6,518.2**	**5,367.6**	**6,196.8**	**7,634.7**

Source: COMSTAT Database

India's outward FDI flows to COMESA

Africa has emerged as an important investment partner to India in recent years, with the bulk of Indian investments mostly directed to the services and manufacturing sectors as well as mineral resources and the oil sector. The synergy that exists between India and the COMESA region, and the potential thereof, can best be assessed in the context of robust trends in bilateral trade and investment relations observed in recent years. India today is the world's 21st largest outward investor. Severe Indian domestic competition and the growth of Indian corporations has also increasingly triggered larger strategic asset-seeking, cross-border mergers and acquisitions in several sectors including automotives, telecommunications and the metal sector.

Current indications suggest that India's outward flows of investment into the COMESA region grew substantially during the period 2000-2009, with much of the investments in value terms flowing to five or so Member States of COMESA namely: Mauritius, Sudan, Egypt, Kenya and Libya (see Table 3).

Direct investments in joint ventures and wholly owned subsidiaries in the COMESA region amounted to US $5.2 billion, accounting for over 10 percent of India's total global overseas investments. Among the major destinations in the COMESA region that attracted India's investments include Mauritius (the dominant receiver of Indian investments in the region), Egypt, Ethiopia, Kenya, Libya, Madagascar, Malawi, Rwanda, Sudan, Swaziland, Uganda and Zambia.

According to India's investment tracking system, the main sectors that have attracted investments from 2007 are shown in table below. It is also India's anticipation that investment projects initiated in 2012 will begin to be implemented within 2013 in the COMESA countries. Table 3 provides indications of India's projects implemented in the COMESA region so far.

Table 3: Indicators of India projects in the COMESA region, by outward investing firm: 2007-2012 (US$ million)

Year	Investing company	Sector	Host economy	Estimated value
2007	Reliance Industries	Chemicals	Egypt	1,000.0
2008	ERA Group	Coal, Oil and Natural Gas	Zambia	1,800.0
2009	Essar Group	Coal, Oil and Natural Gas	Kenya	1,701.0
2009	Warid Telecom (M&A)	Telecommunications	Uganda	2,000.0
	Sanghi	Coal, Oil and Natural Gas	Kenya	749.0
2012	Madras Institute of orthopedics (MIOT Hospital)	Health	Rwanda	40.0
2012	Premier Explosives	Chemicals	Zambia	-
2012	Madras Institute of orthopedics (MIOT Hospital)	Health	Sudan	-
2012	Tata Group	Renewable Energy	Zambia	375.0
2012	Prism informatics	IT Service	Seychelles	-
2012	Aanjaneya Lifecare	Pharmaceutical	Uganda	-
2012	Birla Corporation (MP Birla Group)	Cement	Ethiopia	-
2012	Airtel Madagascar (Bharti Group)	Telecommunication	Madagascar	-

Source: FDI Intelligence, Financial Times Ltd

Guidelines on Defining the Priorities of COMESA in Engaging Third Countries

Opportunities from relations with third parties are enormous. A more active involvement in global trade is important for COMESA. The market and investment opportunities are particularly important in relations with emerging economies, and the good news is that there is a great deal of global interest in Africa. Other attractions of relations with these countries are:

i. Diversification of export markets;

ii. Establishment of countervailing powers against monopolies;

iii. Access to new development finance;

iv. Access to FDI and through FDI to new trade; and

v. More active participation in international businesses and competition.

There are barriers against COMESA exports in third country markets. A detailed analysis of barriers to COMESA's exports will be necessary.

Based on the evidence provided by Member State officials and evidence from secondary sources, it is clear that COMESA is facing serious barriers to its exports. Even though raw materials and fuels exported by COMESA to the rest of the world are typically subject to zero or to very low tariffs, there are still plenty of market access restrictions faced by COMESA's exporters. These include:

i. Marketing arrangements differ greatly among importing countries;

ii. Lack of adequate information about foreign markets, which is sometimes a result of lack of transparency on the part of the importing country;

iii. Negotiations with foreign countries may be constrained by the refusal of the other Party to offer reciprocity to COMESA Member States;

iv. Products other than raw materials and fuels continue to be subject to import duties and even quotas;

v. In negotiating better market access for their products, COMESA Member States should target tariff escalation of importing countries;

vi. There are product-specific restrictions on some exports of COMESA Member States;

vii. Trade disciplines of importing countries may also be a major impediment to COMESA exports. Those disciplines involve, in particular, rules of origin, SPS and TBT standards;

viii. Specific barriers affect exports of services, and should be addressed from a different perspective to that of barriers to exports of merchandise; and

ix. Importing country/customs area-specific issues will typically have to be taken into account.

But there are also financial and other economic constraints and risks involved from greater engagements with third Parties. These include:

i. Fiscal revenue concerns and concerns about aid dependence;

ii. Effects of competition on the stability of domestic markets;

iii. Possibility of currency appreciation in commodity exporting countries due to strong demand for COMESA exports and strong inflows of FDI ("Dutch disease"), especially in oil and other mineral producing countries, and

iv. Change in government priorities.

These macro-economic risks can be mitigated through the application of macro-economic stabilization policies and strategies, including exchange rate management, diversification programmes, and adjustment compensation mechanisms.

Towards a Strategy of Trade with Third Countries

The economic analysis of COMESA's trade and an assessment of its trade policies lead to the following conclusions:

a. *New relations with third countries:* COMESA Member States should expand their relations with third countries if they wish to accelerate their domestic growth and increase the contribution of trade to growth.

b. *Choice of third countries:* COMESA should seek more involvement with "emerging markets" – in particular BRICs and Turkey. These countries are most dynamic at present, and are also becoming exporters of capital. Moreover, their demand for imports strongly matches COMESA's supply capabilities. The EU, Japan, Gulf States and the US are already important trade partners.

c. *Level of engagement:* Choice of the appropriate legal instrument (agreement) will have to be made with respect to each third Party according to their circumstances. There are various instruments available ranging from PTA and FTA to customs union or economic cooperation agreements. Given the strong interest of COMESA in attracting FDI, the level of engagement would most frequently require not only an agreement on trade but also on investment and possibly other elements of economic cooperation (e.g. SPS, TBT, and trade facilitation).

d. The choice should be determined by the nature of trade and investment interests of COMESA Member States. This could cover trade in goods, services, export of labor and investment. Agreements will be needed in order to promote diversification of exports, prevent anti-competitive practices, allow access to aid, and protect investors' rights as well as the rights of the host country.

e. *Level of economic development of negotiating parties and trade instruments applied:* the level of development of the COMESA region compared to India differs in many respects, and this disparity is also manifested among the COMESA membership itself. The proposed negotiations of cooperation with India should therefore bear this consideration in mind in order to enable the less developed membership of COMESA to take advantage of the development component of the proposed cooperation. In this regard, a re-examination of trade instruments (customs duties, tariff rate quotas, bans and prohibitions etc) being applied by both parties will have to be conducted with a view to harmonizing these instruments by both parties within the scope of their cooperation in order to cause a balanced outcome of negotiations.

f. *Level of commitment to other FTAs and wider interests of cooperating parties-* the negotiating parties' commitments to other FTAs they are negotiating or may have concluded could impact on the scope of negotiations with India because those commitments may entail offers of concessions that may bear on the conduct of negotiations. At any rate, the interests of negotiating parties may usually vary beyond trade matters alone to cover areas such as investment, tourism development, the harnessing and development of natural resources, infrastructure development and so on.

g. *Bilateral or pluri-lateral agreements:* Member States should be encouraged to seek their agreements with third parties on COMESA level rather than individually to strengthen their negotiation powers and to enhance the effectiveness of negotiations.

h. *Notifications:* The implementation of the COMESA Treaty and the requirement of compatibility between COMESA Treaty and BTAs will have to be supported by, and based on, a more effective system of notifications.

Elements of COMESA's Offensive Strategy

A: Barriers to Market Access for Exports of Merchandise

While access to COMESA's exports of raw materials may not be an issue, other exporters of COMESA's exports still face formidable barriers in third markets. COMESA should seek a full elimination of tariffs and quotas in third country markets.

B: Barriers to Market Access for COMESA's Exports of Services

COMESA Member States are encouraged to continue to identify service sectors with potential for exports - beyond tourism. There are several service sectors such as professional services (for example accounting, auditing and book keeping) with potential of providing back office support to TNCs or to meet foreign demand (for example engineering and architectural and legal services, mid-wives and nurses). These service providers are typically facing restrictions on entry into the foreign labor market based on highly restrictive qualification and/or visa requirements. COMESA should seek the delivery of some of those services through Modes 1, 3 and 4 (as defined in GATS of the WTO).

C: Barriers to Export of Labor Services

The export of labor services have been an extremely controversial issue in international negotiations. Nevertheless, COMESA Member States should continue pressing for better access of its labor service providers into third country markets. Many countries have severe shortages of particular skills, and should be open to regulated inflow of labor from COMESA. COMESA should seek quotas of labor intake based on well identified needs of developed and advanced developing countries, agreed principles of residence and social protection of labor.

D: Barriers to Access to Third Party FDI

Access to FDI is primarily determined by free competition in global markets and conditions in host countries. However, FDI may sometimes be constrained by various restrictions in FDI home countries. Examples include foreign currency restrictions, discrimination in the provision of financial guarantees, administrative restrictions and various policy restrictions such as insistence on the use of foreign labor in FDI funded projects. COMESA Member States are encouraged to identify those restrictions and seek their elimination. On the other hand, it is of course critical for COMESA Member States to create the necessary political and economic conditions to attract FDI.

E: Access to Project Financing

The poor state of physical infrastructure in the whole of Africa, not only COMESA, calls for massive investment, to the tune of $93 billion annually, with a great part of that investment most likely coming from abroad. Since project financing is extremely complex, often requiring a significant participation of governments either in the form of public-private partnerships or government guarantees, COMESA Member States should seek an active involvement of third parties' governments in such projects. It is imperative, however, that those projects be properly identified and preferably be multi-country projects.

F: Access to Foreign Aid

In dealing with third parties, COMESA should also seek foreign assistance as part of an arrangement with those countries. China and India already include aid in their trade and FDI agreement offers. While the priorities for aid allocation are determined by each COMESA Member State, it would be highly advisable to seek support in particular for the establishment of an effective SPS and TBT system of rules, inspections and testing, which are critical for an improvement in agricultural performance and exports, as well as assistance to meet market requirements in export countries.

G: Rules

COMESA should also negotiate the rules of engagement of third parties. There are three important issues to be negotiated and addressed by the COMESA Member States. These are: which activities should be regulated in relations with third parties; what rules should be applied; and how to ensure compatibility with COMESA's rules.

With regard to activities to be regulated, regulation of standards such as TBT and SPS as well as regulation of subsidies, safeguards (against dumping, subsidized exports and import surges), dispute resolution, competition are the very minimum to be covered. A special attention should be paid to the treatment of foreign investment which should be covered either by a separate investment treaty or by the actual trade agreement.

International standards should be embodied within agreements. In the absence of such rules, mutually agreed rules will be necessary. A special attention should also paid to the interests of COMESA as a whole by promoting rules favoring further integration among Member States (for example cumulative rules of origin). At the same time, there should be compatibility with COMESA rules.

Having indicated the broad visions that provide the overall framework for any possible engagement, and the guidelines on defining the priorities of COMESA, the next section of this paper now begins to examine specific priorities by providing a sketch of possible areas of shared interest.

Elements of the Proposed India-COMESA Co-operation

Many countries and regional economic communities are currently negotiating or have concluded FTAs to create market access for goods and services. The Indian proposal should therefore be looked at in perspective while a number of considerations are borne in mind as follows:

a. Each Member State of COMESA still operates separate trade instruments despite the stated declaration of COMESA as a Customs Union. The key question is about how tariff reductions will be achieved without compromising individual member's policy space.

b. Within COMESA, there exists asymmetry in development just as there is asymmetry in development within India itself. In this regard, the principle of asymmetry will need to be built into the framework of negotiations with India.

c. The COMESA region needs to build its productive capacities in various sectors such as in agriculture, mining, forestry, fisheries etc. The proposed cooperation should therefore take into account this consideration. This will require that the COMESA region should not be drawn into the formation of an FTA for the purpose of tracking away primary products. The focus should rather be on how value should be added to primary products in order to promote trade.

d. Currently, India's trade policy regime is such that it operates a number of production and trade enhancing instruments. Such instruments include a number of incentives, exim banks, direct or indirect subsidies etc. The proposed negotiations should therefore not ignore the existence of these instruments within the Indian trade regime.

e. Within the multilateral setting, India has offered duty free and quota free market access to LDCs. It is likely that no or indeed very few LDCs in the African region may have been able to access the Indian market under this multilateral arrangement. A careful analysis would therefore need to be undertaken on the merits of the proposed cooperation with India before negotiations should begin. In other words, the LDCs in COMESA that have been given duty free access by India should be able to see additional benefits out of the trade and economic relations with India.

Principles Governing the proposed Engagement with India

The Thirty-First Meeting of the Council of November 2012 set out a number of principles that should govern the engagement with India, when the Council considered the Report of the First COMESA-India Joint Meeting of July 2012, which also contained a number of proposed principles. The following key principles should be taken into consideration while engaging with India:

h. There is need for caution, to ensure that the arrangement is mutually beneficial in not covering areas that are detrimental to COMESA and focusing on those that will assist the region;

i. There is need for coherence across the range of agreements and relations with third countries in order to ensure that COMESA remains a solid and coherent bloc that effectively pursues its regional integration programmes;

j. The relation with India should be based on clearly identified priorities and benefits for COMESA, on the basis of comprehensive analytical work including a SWOT analysis;

k. All COMESA member states should participate in the preparations and the negotiations, which should be undertaken on the basis of common positions.

In the Report of the First Joint Meeting, the following principles were proposed, which Council endorsed:

l. The engagement should be a development cooperation arrangement, to assist COMESA towards meeting its development objectives in line with its integration programmes – it is to be noted that this has been the fundamental principle in engagements that African countries have entered with partners around the world;

m. In this regard, the engagement should be primarily based on the areas of cooperation set out in the current memorandum of understanding between COMESA and India;

n. The engagement should not disrupt the COMESA and the Tripartite regional integration agenda;

o. The engagement will be based on a joint report to be produced, which should analyze the feasibility of covering a number of areas and produce joint recommendations where possible;

p. However, COMESA should undertake preparations that are transparent and inclusive and involve all the member states; and engage India on the basis of informed common positions;

q. Other principles proposed were: the taking into consideration of the different levels of development of COMESA member states on the one hand and India on the other, substantial coverage in terms of covering all products of export interest to COMESA as a region with least developed and developing countries, special and differential treatment, variable geometry, sequencing on the basis of timeframes, transparency, reciprocity, MFN and national treatment, early harvest, priority investment areas, standards, safeguard measures, and impact on regional integration.

The Declaration of the Second Africa-India Summit set out a number of principles governing the Africa-India engagement as: independence, sovereignty and territorial integrity of States; commitment to deepen African integration and dialogue; recognition of diversity and different levels of development between and within the regions; collective action and collaboration for the common good of the people; nurturing of harmonious development. These principles too should govern the engagement between COMESA and India.

Together, these principles call for pre-eminence of the regional integration programmes of COMESA as the basis for engaging third countries, and ensuring that any such relations are considered on the basis of demonstrable and tangible benefits for COMESA.

Additional principles could include: predictability, sustainability, legal certainty, compatibility with international rules; and consistency with international trends. These principles basically require compatibility of the arrangement with rules of the World Trade Organisation Agreement governing regional trade agreements. Regarding goods, these rules include GATT Article 24 and the Enabling Clause. Article 24 requires elimination of duties and other restrictive regulations of commerce on about 90% of the tariff lines; whereas the Enabling Clause, which governs preferential trade arrangements among developing/least developed countries, is considered more flexible.

Interplay of the Priorities of COMESA and India

As a fledgling global power, India considers its international stature to be a priority. To this end, India treasures and seeks out partnerships in international organizations. The one critical offer and concession that COMESA can make to India, is partnership and support on major global issues of interest to both COMESA and India. These include trade and economic issues at the World Trade Organisation, the World Bank and the International Monetary Fund particularly given the current global economic crisis and the urgent need for reform of the international economic governance architecture in a manner to recognizes the new global dominance by the emerging powers, as well as the need for an important voice for Africa as a user in all these institutions.

However, such support should not be blanket supported. It should be issue-specific, based on a clear assessment of interests. There have been cases where the interests of India and African countries have not been the same; where in fact India has vigorously fought African positions, a clear example being the opposition by India at the World Trade Organization of some key African proposals on special and differential treatment and on access to medicine. Special and differential treatment, and access to life saving medicine, have always been non-negotiable priorities for Africa, yet India broke ranks with Africa when it mattered most, perhaps contributing to the much watered-down compromise regime on access to medicine eventually adopted and to little or no progress on special and differential treatment. Caution will therefore always be important in taking the specific decisions on supporting India.

Besides the trade and economic priorities, there are political priorities that India and other developing countries are pursuing in the framework of the UN, particularly to recognize the demographic size and importance of India and Africa, and to recognise Africa as the locus of major interventions to achieve global objectives such as the Millennium Development Goals and to address global challenges relating to climate change. Africa is now widely recognized as the key next growth pole of the world taking into account its natural resources, its demographics, new middle class, highest returns on investment, and consistently respectable economic growth rates of about 6%. This places COMESA in a respectable bargaining position, bearing in mind that India is one of the emerging powers hungry for markets and resources, and for recognition and for legitimating as a bona fide global power.

At the same time, the de facto economic power of India, especially in the information and technology sector, is a factor COMESA should bear in mind, as already indicated in the background to this paper. In terms of prioritization, partnerships between COMESA and India designed to support COMESA to develop its science, technology and innovation capacities should be ranked foremost and constitute the benchmark for estimating the worth of any arrangement to be considered. This is what COMESA could seek from India, in return for supporting India in international organizations and its quest for global power.

Turning to trade, a preferential agreement with India which is home to about 1.21 billion people, representing 17 percent of the earth's population, could have a significant favourable impact on COMESA region if India removed the existing trade, health and technical barriers to imports from COMESA, and complementary measures were in place to address adjustment in COMESA and, given the different development levels, it were ensured that the arrangement is asymmetrical in the form of India offering duty-free-quota-free treatment to imports from COMESA. But what would be decisively important, would be whether COMESA has meaningful capacity to produce and utilize the market access into India from the trade agreement. It is to be noted that a number of African countries hardly have a meaningful opportunity for increasing exports to most parts of the world such as the United States and Europe, which have offered preferential market access to imports from Africa, and which are considered to have substantial purchasing power, due to various factors but mainly the lack of an adequate productive capacity for products that meet the requirements of the export markets.

This means that market access alone, even to India under a trade arrangement, will not be adequate to produce a mutually beneficial arrangement between COMESA and India. In terms of prioritization, more focus should rather be on supporting COMESA to enhance its productive capacity and international competitiveness in order for COMESA to have the ability to benefit from market access opportunities. The interventions required to assist build the productive capacity of COMESA and its competitiveness, include areas where India is a global leader, such as promoting Science, Technology and Innovation in a wide range of critical sectors including infrastructure, manufacturing, agriculture, health and education.

India and COMESA have enjoyed good relations over the years, built on geographical proximity and history, and more recently on increasing trade and investment. In 2003, a memorandum of understanding was signed between India and COMESA covering the areas outlined in the first paragraph of this paper.

The India-COMESA Action Plan was developed in 2006 and aimed at achieving a double increase in the bilateral trade by 2010. By 2010, the results achieved were more than expected as trade more than doubled. These good relations have been compounded more recently by the fact that Europe and US are yet to recover from the recent global economic downturn that started with the 2008 financial crisis.

Therefore, the COMESA region has been an increasingly attractive location for Indian foreign investment, but the question lies in whether the producers are able to take advantage of economies of scale that could arise as a result of a large market size offered by India. This could be the major determinant as to whether or not the COMESA-India PTA would be a success or a failure. The large market size is mainly looked at in terms of the amount of expenditure as a large population in itself does not define the size of the market. But it is to be noted that India's economy has grown at an average growth rate of 8 percent in the recent past making it a potentially good market in terms of purchasing power.

The COMESA region can take advantage of the fact that over the coming decades, India will face two great challenges: mitigating climate change and securing a stable energy source. India's energy security has mainly centred on imported oil and because of its rapidly growing economy (to average 9-10 percent over the next four years) - a significant increase in energy demand is expected. This may force India to diversify to alternative sources of energy. As a result, COMESA will be presented with two opportunities: exporting more of its oil and copper ore which are abundant in quite a number of COMESA member states. Besides, coal though the most polluting fossil fuel is used in India for electricity generation and its demand is projected to increase steadily because of the Indian government's pro-poor policies for the rural poor where free electricity in some areas is provided. Approximately 44 percent of rural households have no access to electricity. However, because of its detrimental effects on the environment and health, most Indians may not tolerate the continued use of coal. India has exhibited an increasing trend of imports and those from the COMESA region include: aluminium, copper, mineral fuel, coffee, scrap metal, resins, nuts, spices, sugar, leather, organic and inorganic chemicals and marine products.

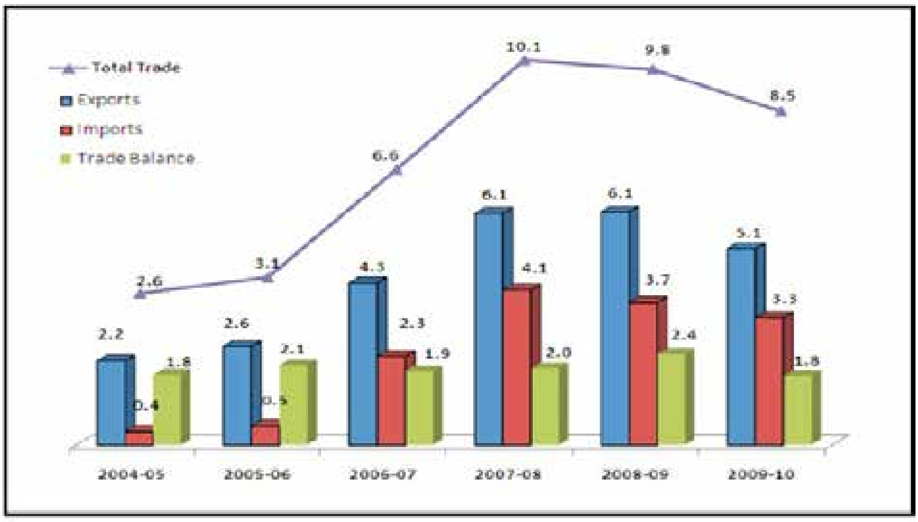
India has faced some economic challenges it is now addressing through an aggressive strategy to have preferential access to major markets in the world, including COMESA, and through interventions to boost its production base. India's trade with the rest of the world has been increasing. However, import growth has outstripped export growth resulting in persistent unfavourable trade balances.

In response to its persistent negative trade balances with the rest of the world, India has developed a strategy to double its exports over the next three years (beginning in 2011). Its major export growth driving commodities will be; electrical and engineering goods, plastic and linoleum products, articles of iron and steel, automotive components, petroleum products, pharmaceutical products, machinery and instruments, transport equipment, textiles and cotton fabrics, and rubber and rubber articles. Broadly speaking, the range of goods that the region can supply to India (which include: aluminium, copper, mineral fuel, metaliferrous ores and slag, coffee, resins, nuts, spices and sugar, leather, organic and inorganic chemicals and marine products) may be limited in scope because India is now pursuing import substitution to minimize its balance of trade deficits. This is the main explanation for the impetus from India to seek a Free Trade Area arrangement with COMESA.

India continues to import large amounts of agriculture goods such as pulses and edible oils which are consumed by the vast majority of its population. Pulses and most edible oils are relatively easy to grow and the climate in the COMESA region is favourable for the cultivation of these crops.

Notwithstanding the deficits India has faced, it has consistently enjoyed a trade surplus with COMESA. A recent study by the Export-Import (Exim) Bank of India shows that the total trade between the COMESA region and India rose by about 30.1 percent. That is, from US$ 2.55 billion in the period 2004-2005 to US$ 8.48 billion in 2009-2010. The Asian nation exported merchandise worth US $5.1 billion while importing merchandise worth US $3.3 billion in the period 2009-10. Figure 1.3 below shows aggregate data on the total trade between India and the COMESA Member States since 2004. Of India's total exports to the African continent in 2010, the COMESA region had a 38.2 percent share while COMESA exports as a proportion of total India's imports were 13 percent.

Figure 3: India's Trade with COMESA (US$ billions)



Source: Export Import Bank of India 2010

The figure above shows that the balance of trade for the period under consideration has been in India's favour. The sharp increase in COMESA exports from 2006 onwards is due to the re-genesis of India importing oil from African countries (Between 1999 and 2005, India preferred to import oil from non-African suppliers). Oil is produced by three COMESA Member States: Egypt, Libya and Sudan and it accounts for more than 60% of total COMESA exports to India. The five major countries in the COMESA region that trade with India are Egypt, Libya, Kenya, Mauritius and Sudan.

The majority of COMESA Member States' economies are largely agrarian based and trade with India especially in engineering goods can provide the COMESA region with access to relatively cheaper inputs for agricultural purposes. In India's bid to expand domestic production of its export driving goods like tractors, combine harvesters and other agricultural machinery, the COMESA region may be interested in importing agricultural machinery. Having widespread mechanised agricultural practices in the COMESA region will enhance productivity and efficiency by taking advantage of the extensive arable land the region is endowed with.

Growth of the COMESA region's economies is dependent on the availability of infrastructure and technologies. These engineering goods can be used to improve the efficiency of most industries in the region as well as agriculture.

India's Duty Free Tariff Preference (DFTP) Scheme for Eligible LDCs in COMESA

Of the 33 African LDC's eligible for the Duty Free Tariff Preferential scheme of India (DFTP), 12 of them are COMESA member states. The countries not eligible for this preference scheme from the region are: Libya, Egypt, Kenya, Zimbabwe, Mauritius, Seychelles and Swaziland. The rationale of this scheme is to provide Duty Free Quota Free (DFQF) market access to Least Developing Countries on products comprising 92.5% of global exports of all LDCs. The product coverage of the scheme is; 85 percent of products are duty free, 9 percent of products have a margin of preference and 6% of the product lines have no tariff preference. Coincidentally, most of the countries excluded from the preferential tariff scheme are mainly those that are the major trading COMESA member states with India. In a sense, the scheme does not in its current format sufficiently cover the demands of COMESA countries for market access even though most of the products excluded would constitute COMESA's offensive list of products. Table 4 shows the scope of tariff reductions applicable to both LDCs and non-LDCs within COMESA under the Indian scheme.

Table 4: COMESA List of LDCS and Non-LDCS Countries, and the Scope of Tariff Reductions Applicable

No.	LDCs	Tariff Reductions	No.	Non LDCs	Tariff Reductions
1	Burundi	85% plus margin under any bilateral preference offer	1	Egypt	Full MFN plus margin under any bilateral preference offer
2	Comoros	85% plus margin under any bilateral preference offer	2	Kenya	Full MFN plus margin under any bilateral preference offer
3	Djibouti	85% plus margin under any bilateral preference offer	3	Libya	Full MFN plus margin under any bilateral preference offer
4	DR of Congo	85% plus margin under any bilateral preference offer	4	Mauritius	Full MFN plus margin under any bilateral preference offer
5	Eritrea	85% plus margin under any bilateral preference offer	5	Seychelles	Full MFN plus margin under any bilateral preference offer
6	Ethiopia	85% plus margin under any bilateral preference offer	6	Swaziland	Full MFN plus margin under any bilateral preference offer
7	Madagascar	85% plus margin under any bilateral preference offer	7	Zimbabwe	Full MFN plus margin under any bilateral preference offer
8	Malawi	85% plus margin under any bilateral preference offer			
9	Rwanda	85% plus margin under any bilateral preference offer			
10	Sudan	85% plus margin under any bilateral preference offer			
11	Uganda	85% plus margin under any bilateral preference offer			
12	Zambia	85% plus margin under any bilateral preference offer			

Roughly 50 percent of the goods on the tariff preference scheme are agriculture and fisheries related. This means that even the member states without much of an industrial base may be able to participate in trade. Except for Eritrea, Djibouti and Comoros, the remaining eligible COMESA member states have endowed land resources and climates suitable for supplying the agriculture goods stipulated in the scheme. However, much of the COMESA agriculture sector is highly susceptible to the challenges that climate change and global warming may pose. These countries can in the short to medium term, adapt their agriculture practices, to rely less on rain fed irrigation, and improving the productivity of the large masses of people employed in agriculture, by using modern farming methods, for which technical cooperation would be helpful. Djibouti, Comoros, Eritrea, Madagascar and Mauritius can be ready exporters of Marine related goods. The mineral goods catered for in the scheme can be supplied by DR Congo and Zambia. With regards to industry, most of these eligible COMESA countries are able to produce cotton and hence can create industries that process cotton for the export of clothing and textile products. This can lead to a reduction in the dependence on second hand goods and boost local production. There is great potential for increasing growth of the footwear industry in the region, owing to the fact that supply of hide and leather, are made abundant by the vast endowment of livestock in COMESA.

SWOT Analysis

A SWOT analysis shows that COMESA has certain strengths to build on, but suffers a number of weaknesses to watch and improve upon, if as a region it is to stand a good chance of securing a good deal from India.

SWOT on COMESA

Strengths	Weaknesses
• Huge population and market of 450 million • Good business environment, including incentives • Largest FTA in Africa • Endowed with immense natural resources • Political and macroeconomic stability • Programmes for improving competitiveness are ongoing • Has some of the world's fastest growing economies	• Divided as a region and narrow vision on the future, which undermines the potential for unity and strength in numbers • Nationalistic rather than regional focus • Rising trade deficits in trade with India • Weak negotiation skills as against India • Weak implementation of regional integration programmes, undermining the potential for a large seamless economic space and internal market • Fundamental differences in policies followed by some Member States, for instance free trade zone countries as against the others with duties on a significant number of tariff lines
• Opportunities • Export market • Partnerships with technology leaders • Joint ventures • Development of SMEs • Market for energy products • Market for natural resource products	• Threats • Trade diversion to India, undermining intra-COMESA trade • India's possible failure to keep its part of the bargain, e.g: on technical and financial cooperation • Revenue losses • Dependence • Competition from stronger operators • Dutch disease • India driving COMESA priorities • Emigration into COMESA • Pockets of conflict in some areas

SWOT ON INDIA

Strengths Huge population and market of 1.7 Billion people Technology leaders Successful investment policies in key areas Indian diaspora in COMESA and worldwide Strong technology, pharmaceutical and machinery sectors Emerging global power	Weaknesses Protectionist trade barriers Large poor population Trade deficits at global level Hard-line positions in negotiations Long running war with Pakistan
Opportunities Export market Partnerships with technology leaders Joint ventures Development of SMEs Market for energy products Market for natural resource products	Threats Revenue losses Dependence Competition from stronger operators Dutch disease India driving COMESA priorities Emigration

Drawing Linkages with the COMESA Customs Union

The COMESA Customs Union was launched in 2009, with a transition period of three years, now extended for two more years up to 2014. It is expected that by 2014, COMESA will have a common external trade policy that will apply to all imports from third countries. Under the principle of variable geometry, those Member States that will not be ready to implement the CET will be eligible to ask for more time for adjustment to the CET.

It is absolutely critical that any engagements with third parties do not set back the COMESA and continental agenda for regional integration. It has been shown that poorly designed agreements with third countries can unravel the integration programmes of the RECs of Africa, perhaps the best examples being the conclusion of trade agreements by some SACU countries in a manner that had adverse implications for the entire SACU and those Economic Partnership Agreements with the European Union that have not respected the existence and the architecture of the eight recognized regional economic communities of Africa. A best practice, however, was when the East African Community countries have insisted on acting as one bloc in engaging the European Union and the US, on the ground that they are a customs union. Likewise, COMESA should stand as a bloc, poised to integrate further into a common market in the medium term and a monetary union by 2018. Engagement with India should respect and support this integration agenda.

The Common External Tariff (CET) of COMESA has three bands: imports of raw materials and capital goods attract a 0% duty rate, imports of intermediate products attract a 10% duty rate, and imports of finished products a 25% duty rate.

These rates were determined after a very rigorous exercise based on the industrial development needs of the region. Raw materials and capital goods are important inputs for production, and their cost affects the competitiveness of products especially in terms of price. This is why a rate of 0% was set. Finished products attract a rate of 25% in order to provide a certain degree of protection to domestic industries that produce the products that would face still competition from imports. This doesn't mean that importation of finished products is prohibited; it is encouraged but with the important consideration that domestic industries should have the policy space to grow and become vibrant, so they can create jobs to provide employment and incomes and so they can provide a deep and wide taxable base for government revenue. Another important consideration is that such a rate can attract tariff-hopping foreign direct investment, which seeks to locate in the region in order to benefit from the regional market while enjoying the protection of the tariff from certain imports. Tariff-hopping investment into the European Union has been significant. The rate of 10% intermediate products reflects a balance of the fact that some of the products are largely imported though there is a degree of regional products and it is to be encouraged.

This CET structure allows India to trade with COMESA beneficially, for its capital exports to COMESA would face a 0% duty rate. As noted earlier, India plans to continuously upscale its production and exportation of machinery and equipment and other technologically sophisticated products. Indeed, the policy of COMESA is to welcome such products into the region on as massive a scale as possible. A wide range of intermediate products can also be competitively and beneficially traded.

Regarding the 25 percent rate for finished products, India can draw solace from the fact that this rate will afford Indian investment in COMESA a degree of protection from certain imports while providing the investor with the entire COMESA market. This should constitute an important consideration for COMESA in engaging India – the attraction of Indian investment into the region as well as any other appropriate investment from the rest of the world. Tariff-hopping has been recognized an important location factor that investors give weight in the scheme of elements taken into account in deciding investment locations around the world. This is crucially beneficial for COMESA, because regional integration is preserved and promoted, while benefitting India as well.

Although at the moment COMESA is not a functional Customs Union, the Member States can still negotiate collectively as a bloc in order to put to use their strength in numbers. However, after the negotiations, it will be up to each individual Member State to decide whether or not to sign the concluded instrument, and if a Member State signs it, then to decide whether to approve it in accordance with its domestic constitutional arrangements for concluding international agreements. COMESA Secretariat will not sign any instrument on behalf of the Member States.

Trade in Goods and Services

It is now common knowledge that trade is an engine of economic development, because it is through trade in goods and services that individuals earn incomes for living and pursuing their dreams. Trade in goods and services, requires a market in which to sell the goods and services, and the bigger the market the better due to the increased market size in terms of purchasing power. However, the market must be effectively available, through trade facilitation measures and absence of unnecessary obstacles and barriers. This has been the key argument for regional markets and for regional integration. It is also the key argument for global markets, and for seeking preferential market access.

However, opening up markets for goods have been comparably more straightforward and acceptable than opening up markets for services. International practice clearly shows this distinction in approaches on goods and on services. Opening up markets for goods has tended to take a negative list approach – all goods are covered except those that are excluded; while opening up markets for services has tended to take a positive list approach – all services sectors are excluded except those that are explicitly specified as opened up and are opened up on terms and conditions set out. The exception to this approach is NAFTA, and in the case of establishing common markets where free movement of services is one of the freedoms in common markets. The next section will deal with services.

In a trade arrangement with India, on goods, building the Indian DFTP regime that is already in place, the primary objective for COMESA should ensure effective market access to the Indian market through elimination of practically all trade barriers, including tariffs and non-tariff barriers. While India has a DFTP market access programme, it is limited to LDCs and excludes some key exports from COMESA member states. The DFTP programmes should be more comprehensive. Given that COMESA member states are far smaller economies that could not threaten India with an avalanche of exports, India could be invited to put in place a comprehensive DFTP regime covering all imports from COMESA.

As pointed out earlier, what COMESA can offer in return can include a regional COMESA market for Indian investment that can benefit from the protection of the COMESA Common External Tariff or similar tariff structures maintained by Member States, as well as support where appropriate in international organizations. India can be encouraged to export to COMESA capital goods and intermediate products, in line indeed with its export strategy that mentions machinery and equipment, and IT products.

It may be lamentable that on the whole, African countries have not sought to get concessions from partners in return for access to their regional markets and the generous support they provide in international organizations.

Services facilitate trade in goods. On the whole, services constitute up to 60 percent of a product and constitute significant proportions of value addition activities. In COMESA, services contribute on average from 50 to 60 percent of the GDP of member states. It is estimated that a job in the services sector creates three more jobs.

Recognizing this importance of services, COMESA initiated a regional services liberalization programme. It is important to highlight that the programme takes a positive list approach, and cover four sectors: communication, transport, financial and tourism services. It can only be politically appropriate that any services agreement with India should also be based on a positive list approach and that COMESA should not liberalise more sectors than the sectors COMESA has selected to start the regional liberalization programme. However, if India would open up more sectors to services exports from COMESA, that would be welcome, especially as India is a much stronger economy that can absorb exports in a range of sectors that can support its strong manufacturing base and has developed its services sectors. Professionals from COMESA, for instance, could through their services, support the manufacturing sector of India.

It can be expected that Indian investment in COMESA, which is welcome, will be both in the manufacturing and services sectors, as well as the extractive industries. Regarding investment in the services sectors, infrastructure services should be prioritized, particularly information and communication technologies, and networks and sensors, transport, and financial services, as well as tourism; and should take the form of establishment of commercial presence through joint ventures. The next section deals with investment.

Investment

The last section has highlighted the importance of trade in achieving the public objectives of wealth generation and poverty eradication through trade. However, to trade, the people and the companies must have goods, which have to be produced. To earn incomes, many will require jobs where they offer their services. In providing the goods to trade and the much needed jobs, investment becomes critical. The investment will be local, regional and foreign. All countries court investment, and do so through various interventions, especially improvement of the investment climate and the ease of doing business, and to some extent through incentives or facilitation of credit lines for investors possessing managerial and innovation skills as their only key assets. Regarding local and regional investment, it should be highlighted that COMESA is adopting the approach to producing job creators rather than job seekers from institutions of learning. Credit lines will therefore be important in ensuring the successful implementation of this initiative, together with the ready possibility of joint ventures.

In deciding where to locate, investors consider various factors. First of course, they must own certain assets to deploy for the investment. Second, the assets will be matched to location advantages that a given destination offers. Location advantages include: political stability, macroeconomic stability, personal safety, a labour force skilled in the specific area of investment activity envisaged, soft and physical infrastructure including affordable utilities and energy to support competitiveness, and access to a large market which could be a regional market or a developed-country market resulting from preferential access, among others. There are also investments especially into Africa that primarily seek natural resources and oil, which in fact constitute the bulk of inward flows of foreign direct investment.

COMESA offers all these location advantages through its programmes that have progressively improved the political, economic and social conditions in the region. The peace and security programme, in collaboration with the African Union and other RECs, has supported the improvement of democracy and good governance in the region. The macroeconomic convergence criteria have provided benchmarks for macroeconomic stability. Massive education programmes have generated a young skilled and ambitious workforce, professionals, entrepreneurs and innovators across the region. Infrastructure development has been appropriately prioritized by all the member states and various tripartite programmes on corridor development are ongoing. The road and rail network, water transport, and air travel have improved over the years. Interventions to improve competitiveness have resulted in stronger banking sectors, tax reforms, energy reforms, and wider availability of internet and telephony services. Important partners such as the EU, USA, Japan, Canada, and China have put in place preferential market access regimes that most COMESA Member States benefit from. But above all, COMESA programmes have produced a vibrant Free Trade Area in which intra-COMESA trade continues to boom notwithstanding the global recession. Formal intra-COMESA trade has reached US $18.4 billion in 2011, and there is still enormous potential for growth in light of the large import bill.

This should be music for India, which can be encouraged to invest in COMESA. However, COMESA will need to develop an investment regime that maximizes benefits accruing to the region, including employment generation, skills transfer, environment protection, welfare and decent treatment of workers, and corporate social responsibility. The Global Compact and the OECD Guidelines on Investment, as well as the work of the International Institute for Sustainable Development, will provide the overarching framework for developing an investment agreement between COMESA and India.

Models of Investment

Homegrown (Kenya) Ltd

This company exports fresh vegetables, produced by farmers that receive training and coaching, and receive crop varieties and husbandry. The contracts with farmers specify the quality of produce and time of supply. The company's strategy has been the production and packaging of products at source so that they are exported straight to the shelves of retail outlets without further processing. This means that the products meet the market requirements, which are the basis for the entire production process.

This approach provides a case study of dealing with a variety of trade barriers in export markets, including those from regulatory and market requirements. Through twinning and production and marketing partnerships with retailing outlets in export markets, COMESA companies can be facilitated to get better market access for their products.

Models of Cooperation for Best Practices and Lessons Learnt

COMESA and Africa at large now have quite some experience in different types of development partnerships they can have, and which can be the basis for sorting out best practices to take forward, including in partnerships with advanced developing countries.

TICAD and FOCAC

The partnerships with Japan, Tokyo International Conference on African Development (TICAD) and China under the Forum for China-Africa Cooperation (FOCAC) contain strong elements and clear programmes for directly assisting the economic development of Africa, especially in critical sectors of infrastructure development and capacity building. The partnership is based on clear work programmes and commitments, with resource allocations, and periodic reviews to monitor and evaluation implementation and to re-invigoration. Apart from the significant resources from the EU and from some EU countries for the Tripartite and climate change, these two partnerships are probably among the best practices there are for COMESA and Africa at large. The last declarations from the TICAD and FOCAC meetings have been paid glowing tribute to these partnerships, stating that the partners had honoured their commitments and performed beyond expectations, notwithstanding and in light of the current global recession and financial squeeze.

Africa Growth and Opportunity Act (AGOA)

On the other hand, the partnership with the USA is based on a domestic law of the US (the Africa Growth and Opportunity Act), is unilateral and focuses on granting preferential market access into the US on a list of selected products, on the basis of criteria that a country has to pass every year. All these are limitations on which improvement is required, but the rules of origin for textile products require a single transformation, which has been considered a best practice. The US has provided some support to producers and exporters in Africa to assist meet the regulatory requirements in the US and through its COMPETE programme undertakes various capacity building activities in the EAC and COMESA regions mainly in the agricultural sector. Another best practice is that African countries hold preparatory meetings and develop common positions before engaging the US at the AGOA forums, and African diplomatic missions on the USA regularly engage the US Government on AGOA issues.

Economic Partnership Agreements (EPAs)

The partnership with the EU was originally based on a system of unilateral preferences granted EU regulations to former colonies in the African, Caribbean and Pacific regions, but has now changed to reciprocal arrangements under economic partnership agreements, which have been widely criticized as lacking in meaningful development content in terms of resource support and imbalanced obligations. Substantive provisions in the agreements take away what is considered important policy space, for instance by prohibiting export taxes, requiring non-discrimination between the EU and other developed and advanced developing countries, requiring substantial coverage of liberalization by LDCs, and so on. A best practice, though, is that the negotiations were undertaken by groups of countries collectively and that the EU remains an important development partner in terms of funding COMESA integration programmes and the peace and security programmes of the African Union, among others.

Generalised System of Preferences (GSP)

A number of developed and advanced developing countries have implemented the GSP by unilaterally granting duty-free-quote-free market access to imports from LDCs. These initiatives have on the whole been welcome and received support from LDCs. However, there have been some concerns about excluding some vital exports from LDCs, and about trade barriers including regulatory and market requirements that exports can hardly meet. Proposals for better utilization have been made, such as better rules of origin, more trade information, partnerships with exporting firms, promotion of investment in the exporting countries, and capacity building; as well as proposals for comprehensive coverage of exports from LDCs. These proposals provide ideas COMESA may carry into the negotiations with India. The Indian GSP covers only 85 percent of its tariff lines.

Africa-India Forum

The India-Africa Forum comes close to TICAD and FOCAC. Two forums have so far been held at summit level, in April 2008 in Delhi and in May 2011 in Addis Ababa, attended by 15 presidents from Africa. The Second Forum adopted the Africa-India Framework for Enhanced Cooperation, setting out the following areas: economic cooperation (agriculture, trade industry and investment, SMEs, finance, regional integration); political cooperation (peace and security, civil society and governance); co-operation in science, technology, research and development (science and technology, ICT); co-operation in social development and capacity building; cooperation in health, culture and sports; cooperation in tourism; cooperation in infrastructure, energy and environment; and cooperation in the area of media and communications. An Africa-

India Business Council and a Joint Conference of Trade Ministers have been established to provide an institutional framework for the collaboration, together with the forums. The Indian Prime Minister announced a package of US $5 billion to put into lines of credit for Africa, as well as the establishment of various joint capacity building institutions across the continent. It will be important to review the implementation of these commitments. COMESA will build on this foundation, as one of the RECs.

The Trade and Investment Framework Agreement (TIFA)

The TIFA is another kind of partnership that is increasingly used in economic relations. Both COMESA and EAC have a TIFA with the USA. Given the current areas of collaboration, a TIFA would seem appropriate as the legal instrument to provide the institutional framework for the engagement. This instrument would avoid excruciating legalistic international obligations that are in fact unlikely to be implemented by India in favour of COMESA, or vice-versa, and in this regard is realistic and provides a platform for growing engagement. It avoids the deleterious impact of a possible FTA that is not supported by adequate adjustment funds and industrial development to acquire the capacity to beneficially utilize the market access.

The developmental approach in regional integration

The COMESA-EAC-SADC Tripartite Arrangement has provided a developmental approach to regional integration. The approach covers three pillars, namely, market integration, industrial development and infrastructure development. The market integration provides the much needed larger market to support higher levels of production and investment. The industrial development pillar ensures that the countries have the capacity and the products to trade on the market in order to benefit from the market opened up through taking up market access opportunities. The infrastructure development pillar assists to inter-connect the region in order to deliver a tangible regional market. Together, the three pillars promote competitiveness of the region and the products. Engagement with partners should respect this approach, which partners should be expected to support, including India. An instrument to cover the engagement should include these three pillars.

Infrastructure covers surface and air transport, energy and ICT; while market integration covers trade liberalization together with complementary measures to facilitate trade and remove non-tariff barriers. Industrial development should cover: Joint ventures, MSMEs, regional value chains, special economic zones, private sector business and investment forums, investment agencies forums, among others.

Natural Resources

It is noteworthy that India has joined the scramble for the natural resources of Africa. The engagement should therefore address this matter of access to and exploitation of Africa's natural resources. In this regard, three key instruments can assist in elaborating an appropriate regime:

a. The Initiative on Transparency in the Extractive Industry;

b. The Africa Mining Vision; and

c. FAO Guidelines on Investment in Agriculture.

These instruments underline the importance of equitable benefits to the local communities and the host or African countries from their natural resources. Recent work on structural transformation in Africa, by UNCTAD for instance, emphasise the need to ensure a sustainable use of exhaustible natural resources (the Economic Development in Africa Report of 2012).

Summary of Positions

Having established that there are potential benefits, in light of India's rising leadership in the world, interest in Africa, and strengths such as a large market and technological advancement, and taking into account that COMESA and Africa at large have proved to be a much valuable partner for India in its quest for global influence, as well the good economic performance and excellent prospects for Africa's development, this paper recommends that a trade and economic engagement with India can be pursued along the following lines:

a. On trade in goods, the engagement should take the form of India extending the DFQF market access to all COMESA Member States and to all products of export interest to COMESA, and eliminating non-tariff barriers such as quota restrictions, tariff rate quotas and complex licensing procedures; bearing in mind that the COMESA Common External Tariff and the structures of the Tariffs of Member States reflect an industrial policy that gives preferential market access to imports of raw materials and capital goods as well as a number of intermediate goods; COMESA should in addition seek flexible rules of origin;

b. On trade in services, the engagement should cover communications, transport, financial and tourism services, in terms of promoting India investment into these sectors through establishment of commercial presence, but bearing in mind that the COMESA negotiations on services liberalization in these areas are still ongoing;

c. On investment, India should put in place tangible measures that increase India's investment into COMESA, bearing in mind that COMESA offers vast opportunities and the Member States have ongoing programmes to generate and attract investment; and joint ventures should be the preferred form of investment, which should take into account the priority sectors identified by Member States, particularly health and infrastructure, agro-food products, textiles, and leather products;

d. Cooperation should be pursued in a range of areas set out the MoU and the Africa-India Framework of Cooperation, in a manner that recognizes the valuable contribution of COMESA and Africa at large towards India's quest for global influence, and that taps into India's leadership in areas such as technology and innovation through appropriate partnerships with India in both the public and private sector; and

e. On the institutional framework, a Preferential Trade Arrangement, coupled with an investment agreement that covers double taxation, and rights and obligations of investors, can be concluded, covering the various areas as a basis for cooperation on which to progressively build.

Way Forward

In negotiations with India, COMESA should be cautious and in this regard should adopt a minimalist approach, only agreeing to specific substantive commitments after a clear demonstration of assured mutual benefits.

The overarching consideration should be to preserve and strengthen the regional integration programmes of COMESA, which no relations with any third countries should interrupt. Third countries should be partners when they fully support the COMESA regional integration programmes. The negotiations should therefore be pursued collectively on the basis of common positions, with COMESA operating as a bloc. By any definition therefore, COMESA Member States should negotiate the opening of India's current exclusion list in order to make room for further meaningful bilateral trade cooperation with India to flourish.

COMESA will have spokespersons, being the Bureau of the Council, which will have a mandate to advance the common positions as agreed in the preparatory meetings, to which all member states should be invited. At the technical level, the Bureau will still server as the spokespersons for COMESA, but with the possibility of utilizing expertise possessed by officials in the specific areas.

A New Approach to EPA Negotiations

By Sindiso Ndema Ngwenya

Introduction

The European Union (EU) is pressing for a deadline to end Economic Partnership Agreement (EPA) negotiations in the near future after which it will withdraw LOME-type preferences from any of the ten (10) Eastern and Southern Africa (ESA) LDCs currently benefitting from such access who have not completed the ratification process of Interim EPAs. In fact, in April 2013, the European Parliament reversed an earlier decision to wait until the beginning of 2016, instead opting for the much earlier deadline of 01 October 2014 to withdraw regulation 1528/07 that provided for continuation of duty free quota free market access into the EU to ACP countries that signed the interim EPAs.

The suggestion is that the current approach is fatally flawed since it does not consider global issues, specifically the impact on regional integration of shifts in world economic drivers, particularly the role of raw materials. The EU's arbitrary deadlines are too short and moving ahead with only one of its major partners will leave the region vulnerable to demands from the others.

The African Union Commission should be authorized by Member States to request that the deadline be extended until the next decade to allow for the exploration of various modalities and for Africa to attain its integration goals so that it can attain parity with the EU by negotiating as a collective, just like the EU does. This will also allow time to develop an international consensus between Africa and all its major trading partners on how best to integrate Africa into the international trading systems, and minimize fears of potential challenges of compatibility with the World Trade Organisation (WTO).

Perhaps the most important political question for Africa in our times is: "How do we make meaningful progress towards, and establish a functional Continental Common Market, starting with the Continental FTA in 2017 and the Continental Customs Union in 2019 in accordance with the overall continental integration template?"

This is mainly critical because the relations with key partners of Africa at the moment hardly factor in this continental integration programme, posing the risk that the eventual continental frameworks, including the Customs Union and Common Market, will already be so perforated as to be meaningless. The EPAs with the EU have already set back the integration process across Africa, by making it practically impossible to establish or maintain effective customs unions in the regional economic communities. That is because the EPAs in effect require bilateral reciprocal FTAs between the EU and individual African countries.

Current Negotiations only Addressing Micro Issues

The focus of negotiators' efforts is to conclude fair and balanced agreements among the negotiating parties - without due regard to the global impact throughout Africa. The issues that are being focused on are micro and are of direct irrelevance to the trade and investment regimes of African countries engaged in the negotiations, namely:

a. A level of liberalization that does not threaten existing activities or the development of new pursuits. Of concern has been the preferential import of subsidized agricultural products;
b. Compensation of fiscal revenue losses entailed by market liberalization, to cover not only budget shortfalls but to fund development programmes;
c. The so-called MFN obligations which would force EPA signatories to agree to bestow on the EU any concession negotiated with Africa's other major partners;
d. Structural safeguard measures necessary to protect SSA economies from the unexpected consequences from the trade concessions; and
e. Allowable cumulation among members of the same REC to stimulate joint production among several countries.

The Current Approach is Fatally Flawed

COMESA would be hesitant to move ahead in an ad hoc fashion where countries and groups of countries sign on to individual agreements with the EU with little co-ordination among themselves. This does not allow for global concerns to be addressed, including contradiction between:

a. The reciprocity demanded in EPAs and the non-reciprocal LDC provisions in the WTO;

b. The impact on regional integration goals of the individual negotiations. The differing rules applying within each of the EPAs as well as to the EU trade regimes governing non-signatories (EBAs, GSP+, regular GSP and GSP graduation) will create insurmountable obstacles to achieving the integration goals of the SSA region; and

c. The collateral impact on third countries wishing similar access to the African market as provided to the EU under the EPAs. There is no consensus with the other major African trading partners, at least as of now, on how to move forward with the EU and not leave the region vulnerable to similar pressure from other trading partners who would not allow their exporters to be at a competitive disadvantage to EU suppliers.

The obvious EPA casualties would include:

a. Efforts to renew and enhance the Africa Growth and Opportunities Act (AGOA), expiring in 2015. In this regard, it is worth noting that two recent documents (one by Corporate Council on Africa (CCA) and one by the Wilson Center and Manchester Trade) call upon the US Government (USG) to work actively to prevent EPAs from discriminating against US exports or undermining regional integration;

b. On-going discussions and existing arrangements on Duty-Free and Quota-Free trade arrangements with such trading partners as India, Japan and other Asian countries; and

c. South-South Co-operation with countries in Latin America, which is also very critical to Sub-Saharan Africa.

The Way Forward

a. The African Union, assisted by selected RECs and Member States, should take the lead in the efforts to have the EU reconsider its arbitrary deadlines. These deadlines do not take into account the requirements for genuine negotiation, nor do they consider the progress being made in the region towards creating the environment for mutually beneficial outcomes. The negotiation of deadlines needs to be done in tandem with African integration goals, which means delaying until the next decade to allow time for Africa to conclude a Continental Free Trade Area (CFTA) and the African Customs Union foreseen in the Abuja Treaty.

b. The African Union Commission should enlist the support of third countries who have a political, security, and/or economic interest in not allowing EPAs to undermine regional integration and whose exporters will be hurt by preferential access to EU products.

c. A strong public relations campaign should be mounted in Europe highlighting the impact of continued EU pressure of the current no-win approach being followed by the EU. Withdrawal of preferences would undermine African economic stability and harm European investors, producers and consumers. If Africa were to enter into the EPAs under their current terms, regional integration would be undermined with serious consequences for the continued stability of the region and the economic growth of its many small, land-locked and insular nations.

d. The African Union Commission should lead efforts to gain approval among its trading partners to treat African countries as a group for trade preferences to allow time for African integration goals to be achieved. One can extend the AGOA waiver; extend its applicability to all LDC preferential programmes, or gain approval of the AU proposal for a Common and Enhanced Trade Preference System for Least Developed Countries and Low Income Countries.

PART III

COMESA-EAC-SADC TRIPARTITE NEGOTIATIONS

The Future of the COMESA, EAC and SADC Tripartite

By Francis Mangeni

The Tripartite is made up of Member States of the Common Market for Eastern and Southern Africa and the Southern African Development Community, and the Partner States of the East African Community. They cooperate as Governments and work towards integrating more closely as economies to create wealth, jobs, ensure peace and security, and provide an environment for long term, sustainable social economic development that enables the people of the region to thrive.

As host of the First Tripartite Summit on 22 October 2008, Yoweri Museveni the President of Uganda delivered a typically Musevenisque statement – a lecture redolent with history, geography, politics, and strategy: *"I greet you all and salute you. I thank you for honouring my invitation to come for this historic Summit. This is a historic meeting because the greatest enemy of Africa, the greatest source of weakness, has been disunity and a low level of political and economic integration."* He added that the political disunity was manifested in the existence of numerous "small kingdoms". *"These mini-kingdoms and chiefdoms",* Mr Museveni said, *"because of the geography and circumstances of the continent that is thick forests, un-navigable rivers, disease-causing insects (for example tsetse flies, mosquitoes, etc) and the huge Sahara desert, did not see the need for bigger political units. The disease-causing insects ensured that the population remained small … a small population in the midst of plentiful natural resources (water, food, trees, wildlife, minerals, etc) are not good precursors for political integration. An illusion of self-sufficiency is pervasive".*

His message was intended to address the need for unity and common purpose in addressing the challenges that confront Africa.

He then went on to explain the need for economic integration: *"Integration is a strategic tool for a cluster of linked peoples, using a big market, in order to ensure their future safety and prosperity. Economically speaking, integration unites markets. Bigger markets are a strategic instrument of liberating people from poverty. The bigger the market, the easier it is for businesses to grow and make profit; they sell more; the costs of production per unit go down because you are selling more pieces … the EAC market of 125 million people gives me a better market than the Ugandan market of only 30 million consumers."*

He added that he would even prefer political and economic integration: *"Political-economic integration, where possible, brings even greater rewards for peoples than mere economic integration. It creates a unified defence system, citizenship and one central bank". "Therefore", he concluded, "there are two elements to integration: economic integration to promote trade and create a better business atmosphere where companies and ordinary economic actors can make more money by accessing bigger markets; and political integration to create greater defense and strategic capacity as an insurance for the long term security of our people".*

At the time of the First Tripartite Summit in October 2008, momentous developments were afoot, demonstrating both optimism and opportunity, as well as warning of crises that were gripping Africa and the world at large. Uganda had taken a seat as a non-permanent member and chair of the United Nations Security Council. Back in the region, Ugandan troops were in Somalia as part of the African Union forces trying to bring peace and security to that country. The East African Community was abuzz with fast-tracking the formation of its political federation.

In South Africa, the Vice-President, Kgalema Motlanthe had been installed as Acting President following a vote of no confidence in Thabo Mbeki as leader of the ruling African National Congress party. The democratic sentiment was still widely shared in Africa although there had been grievous reversals since the heyday of the winds of democracy blowing in Africa in the 1990s, when Africa saw the emergence of a number of dynamic leaders dreaming of a new Africa - even an African renaissance.

The food and energy crises were still blighting Africa. In the area of trade, the biggest story was the dragging negotiations at the World Trade Organisation, where developing countries were fighting hard to ensure that their development priorities were reflected in any outcomes. Africa was notoriously referred to as the last stand of poverty in the world, and some of its wars were still raging.

The US was catching the financial crisis, to spread quickly to Europe; and the European Union was pursuing Economic Partnership Agreements with Africa, to replace its longstanding unilateral preferences to former colonies.

Against this backdrop to the First Tripartite Summit of 22 October 2008, held in Kampala, it can be seen that the Tripartite priorities were rooted in real challenges facing the region and Africa at large and in optimism for immense possibilities open to Africa. As Kgalema Motlanthe said, *"We are meeting at a time where there is great uncertainty in the global economy following the food and energy price crises and, more recently, upheavals in the financial markets"*.

Mr. Motlanthe referred to the visionary nature of the Summit: *"It is a distinct privilege to address you on behalf of SADC on this historic occasion: the first meeting of the Tripartite Summit of COMESA, EAC and SADC. We are indeed honoured to be part of this Summit given its visionary aim of integrating the separate programmes of the three regional economic communities into a coherent overall programme that meaningfully advances the African Union's objective of continental integration."*

Referring to the origins of SADC in the struggle against apartheid, he said, *"The political dividends of this far-sighted vision can be observed today in the form of broader political stability and the progressive entrenchment of democratic practices. It also laid the basis for reclaiming control over our social and economic destinies, rooted in a development-oriented regional integration agenda. We see regional integration as a central component for our development in an increasingly globalised world".* He stated the strategic approach of SADC to regional integration as a developmental integration one that combines market integration with measures to build the production capacity in our economies underpinned by regional infrastructure development, including cross-border spatial development initiatives … which aim at accelerating efforts to achieve sustainable development, reduce poverty, create employment and improve the quality of life of all our people.

He added: *"SADC believes the time has come for COMESA, EAC and SADC to bring together our respective regional integration programmes in order to further enlarge our markets, unlock our productive potential, increase the levels of intra-Africa trade, and enhance our developmental prospects. As a next step in expanding regional markets in Africa, the process we launch today* *will place us in a stronger position to respond effectively to intensifying global economic competition and will begin to overcome the challenges posed by multiple memberships of regional organizations. Our convening here today reflects a profound recognition that sustainable integration into the global economy requires a commitment to an irreversible process of building economic, political and social unity."*

He concluded with the following rallying call: *"Let us take the necessary decisions to work systematically and with determination to establish a single free trade area that will weld together our three regions into one."*

The Suitable Tripartite

The Member States of COMESA and SADC and the Partner States of the EAC, have agreed that the three regional economic communities should cooperate and integrate more closely, especially in the areas of infrastructure, industry, and trade. To this end, the Heads of State and Government of the three regional economic communities have held summits to adopt the policy for the Tripartite.

Both the First Tripartite Summit of 22 October 2008 and the Second Tripartite Summit of 12 June 2011 were held under the vision of: "Towards a Single Market" and the theme of: "Deepening COMESA-EAC-SADC Integration". The summits laid a basis for the future of the Tripartite, by indicating the vision and the strategy of the Tripartite.

The two Summits underscored the critical importance of regional cooperation and economic integration as a strategy for achieving unity, peace, and prosperity in the Tripartite region; as well as the specific public policy objectives of creating wealth and jobs, and eradicating poverty. They set the Tripartite Initiative within the overall framework of achieving the African Common Market, which is to be progressively established by the year 2023 through a merger of the eight formally recognized regional economic communities of Africa, three of them being COMESA, EAC and SADC – the others being the Arab Maghreb Union, the Community of Sahara-Sahelo States, the Economic Community of Central African States, the Economic Community of West African States, and the Inter-Governmental Authority for Development.

In their statements at both summits, and in the communiqués, the Heads of State and Government charted the way forward having reviewed and welcomed the cooperation among the three RECs since the year 2001 and taking into account key regional challenges. These challenges were identified as low levels of social economic development, multiple membership and inadequate infrastructure, and global challenges such as the economic recession, the energy and food crises, and international trade negotiations.

The First Tripartite Summit called for an eventual merger of COMESA, EAC and SADC into one regional economic community. It also approved the expeditious establishment of one Free Trade Area encompassing the three RECs; directed the RECs to enhance and deepen cooperation and coordination in industrial and competition policies, financial payments systems, and development of capital markets and commodity exchanges; and also to coordinate and harmonize their positions in international trade negotiations. In the area of infrastructure, the Summit launched the Joint Competition Authority on Air Transport Liberalisation and directed the three RECs to put in place joint programmes for, a single seamless upper airspace, a seamless inter-regional ICT Broadband infrastructure network, and a harmonized policy and regulatory framework that will govern ICT and infrastructural development. The RECs were also directed to coordinate and harmonise their transport and energy master plans, and to develop joint financing and implementation mechanisms for infrastructure development. The directives were to be implemented within one year.

The Second Tripartite Summit reviewed and welcomed the progress made in implementation of the decisions of the First Summit; launched negotiations for the Tripartite Free Trade Area and gave direction in the other Tripartite programmes emanating from the First Summit. In doing so, the Second Summit streamlined the strategy for regional cooperation and integration by explicitly adopting a developmental approach to regional integration to be based on the three pillars of market integration, industrial development and infrastructure development.

From the statements of the political leaders, it is clear that a strategic choice has been made to focus on the areas of trade and investment, industry and infrastructure. In this regard, the vision of the COMESA, EAC and SADC Tripartite is to progressively become a single market; using the strategy of a developmental approach to regional integration based on the three pillars of market integration, industrial development and infrastructure development. Though far and short of the urgency conveyed by the political leaders, the year 2023 could be a working timeframe for the establishment of the Single Market, as it benchmarks the establishment of the African Common Market, according to the Treaty Establishing the African Economic Community (Article 6); while the three pillars are designed to ensure that there is a larger market, supporting critical levels of investment and industrial development, and facilitated by an enabling infrastructure that interconnects the entire regional market and by a policy framework that promotes trade and investment.

The specificities of the single market should continuously reflect the priorities of the Tripartite region. In this regard, the single market should focus on freer movement of goods, services, business persons, and investment; and on cooperation in strategic areas particularly, ensuring food and nutrition security, and competitive infrastructure including transport energy and ICT. Other critical focus areas are a modern industrial base that enables stakeholders to beneficially participate in the regional and global markets, the harnessing of science technology and innovation for social economic development, and macro-economic stability.

The Tripartite region is already a significant player at the continental and global levels. It has a combined Gross Domestic Product of US $1.2 trillion, compared to the continental GDP of US $2 trillion (2012 figures). The region has 27 Member States, out of a total of 55 African countries (counting South Sudan); and a population of about 600 million people out of a total of about one billion Africans.

Infrastructure Development

The Second Tripartite Summit noted the ongoing progress in infrastructure development, and called for support from willing partners. Sound infrastructure and trade facilitation reduce the cost of doing business and actually yield a regional market through interconnecting all the hubs and corners of the region through providing a production framework that promotes competitiveness of industries and products resulting from efficiently priced inputs such as energy, communication, transport, and various intermediate products.

With this in mind, the Tripartite should implement comprehensive infrastructure programmes aiming for ever better interconnectivity of the Tripartite region and efficiency of infrastructure services.

The Tripartite has already prepared joint master plans for transport and energy, and established a Project Preparation Unit to provide an institutional framework for advancing the infrastructure programmes. The Tripartite should work in line with the African Union Programme for Infrastructure Development in Africa, and through its Project Preparation Unit, will prepare bankable projects for funding and implementation.

The Joint Competition Authority for Liberalisation of Air Transport is operational. Further, a seamless upper air space will be established through the implementation of the regulatory framework especially the Yamoussoukro Decision. Ease of air travel within the region and into and from the region, will increase utilization of trade and investment opportunities that the Tripartite Arrangement will open up, consequently improving the quality of life of the people of the region.

The critical importance of ICT cannot be overemphasized particularly in light of the information-driven and knowledge-based economies that globalization and new technologies continue to generate, also taking into account that the stock of global knowledge doubles every 12 months and drives the progress of nations and peoples everywhere. The Tripartite should implement a joint master plan for effectively applying ICT in the social economic life of the region and for harnessing science and technology for the social economic development of the region. Thus, sub-sectoral strategies should be elaborated and implemented for the application of ICT in various strategic areas such as mobile telephony, internet, computing, education, health, innovation, agriculture, energy, climate change, and space science

Industrial Development

To achieve the public policy objectives of creating wealth and jobs, reducing poverty and improving the living conditions of the ordinary people, a Free Trade Area should provide a tangible market for stakeholders who have goods and services to trade. Without products to trade on the market, there won't be much utilization of the opportunities opened. At the same time, there should be a policy framework that enables all the countries and stakeholders to equitably benefit from the market. What is best, then, is if there is industrial and production capacity to supply the market, and if inclusive development is promoted especially through enabling micro, small and medium scale enterprises to also beneficially operate in the Free Trade Area.

The industrial development pillar of the Tripartite is, therefore, absolutely critical and should be implemented to ensure equity in and ownership of the Tripartite integration programmes. It will also promote the achievement of important public policy objectives especially inclusive development that benefits stakeholders and leads to peace and social stability.

The work programme of the industrial development pillar should be based on the industrial development programmes of the RECs and on the African Union Programmes in the same area, especially the Programme for Accelerated Industrial Development in Africa. Key interventions should include: building regional value chains, strengthening institutional capacity for industrial policy design, strengthening the capacity of industrial support institutions, improving the business and regulatory environment, enhancing access to financial and technical resources, enhancing access to industrial skills and to technology science and innovation, facilitating the development of small and medium scale enterprises, strengthening industrial information and management systems, promoting equitable industrial development, promotion of development corridors, sustainable industrialization and environmental management, gender in industrial development, and supporting market access for manufactured products.

Market Integration

Achievement of the public policy objectives of wealth creation and poverty eradication require that governments undertake interventions that provide opportunities for the people to produce and sell goods and services. It is apparent that the larger the market, the more the trade that can be done, which supports critical levels of investment and production. Interventions are necessary also to ensure that the trade and investment result in decent jobs, for decent incomes.

To ensure that the resulting economic growth benefits the majority of society in an equitable manner, interventions are necessary to provide a supportive policy framework for micro, small and medium enterprises so that they can beneficially trade on the larger market.

In light of the critical importance of creating and consolidating a large market that supports critical levels of investment, market integration through establishing and implementing a functional Free Trade Area should be a critical priority of the Tripartite. The Free Trade Area should cover trade in goods; but will be progressively extended to cover trade in services as well after the Agreement establishing the Tripartite Free Trade Area has been concluded.

The Free Trade Area should provide a legal, institutional and political framework for tariff liberalization, addressing non-tariff barriers, customs cooperation, standards and technical regulations, rules of origin, trade remedies, and dispute settlement. The services regime should initially cover infrastructure services, especially energy, transport, communication, financial, and education services; as well as professional services. The modalities on services should be agreed on at the appropriate time by the relevant organs of the Tripartite.

The Institutional Framework

An institutional framework has been put in place, under a Memorandum of Understanding that entered into force on 19 January 2011. The institutional framework makes the Tripartite a rule-based arrangement, with clear decision-making processes, reporting structures, and powers.

The framework provides for the following organs of the Tripartite: Tripartite Summit of Heads of State and Government which meets at least once every two years; Tripartite Council of Ministers which meets at least once every two years; Sectoral Ministerial Committees for the various tripartite areas such as trade, infrastructure, law and industry which meet at least once a year; Committees of Senior Officials and Experts which meet at least once a year; and a Tripartite Task Force made up of the Chief Executives of the three regional economic communities which meets at least twice a year.

For negotiations, dedicated bodies can be established. In this regard, to negotiate the Tripartite Free Trade Area, a Tripartite Trade Negotiation Forum was established.

Resources for the Tripartite

The Tripartite will require the necessary resources for it to function. The programmes will need to be implemented in a timely manner in order to match the expedition called for by the Heads of State and Government. The resources will need to be available on a sustainable and predictable basis. In this regard, the Member and Partner States should have the primary responsibility of funding the Tripartite.

Gaps, if any, can be met from resources to be provided by cooperating partners. It is noted that the Tripartite initiative has attracted tremendous good will from partners. It will be important to mobilize all friends that wish to support the Tripartite Initiative and provide them reasonable opportunities to assist as may be appropriate.

Estimates for the Medium Term Expenditure Framework should be prepared from time to time, together with targeted resource mobilization strategies, based on the priorities of the Tripartite region. In the area of infrastructure development, for instance, the bankable projects prepared by the Tripartite Project Preparation Unit will be used to mobilize resources for infrastructure. Projects will be prepared under the market integration and industrial development pillars as well.

Conclusion

The tripartite arrangement marks a fundamental turning point in the economic history and geography of Africa, and will accelerate the continental integration process. The arrangement deserves the highest prioritization by the governments and the people of the region.

Tripartite Text Based FTA Negotiations

By Francis Mangeni and Tasara Muzorori

The COMESA Authority at its Fourteenth meeting in Swaziland in September 2010 endorsed the Draft Agreement establishing the Tripartite Free Trade Area, together with the Annexes, as the basic negotiating documents for consultations and negotiations on the Tripartite FTA and urged Member States to undertake national consultations with all stakeholders on the outputs of the study on the Tripartite Free Trade Area and with the Secretariats of the three Regional Economic Communities (RECs) in readiness for the negotiations for the Tripartite FTA.

At the Tripartite level, the Tripartite Committee of Senior Officials (TCSO) at its Fourth Meeting held in June 2012 in Grand Baie, Mauritius, endorsed the Draft Tripartite Agreement as a starting point for the negotiations and that the text that will eventually be adopted will be the outcome of negotiations. Furthermore, the TCSO agreed that no Member/Partner State will be stopped from introducing new provisions or suggest changes to the Draft Tripartite FTA agreement.

The Fifth TCSO which met in February/March 2013 in Livingstone, Zambia reiterated that the Draft Tripartite FTA agreement and its annexes be used as a basis for negotiations. Further, the Fifth TCSO agreed on the modalities for Tripartite FTA negotiations as well as the timeframes for liberalization and approved commencement of text-based negotiations at the Seventh TTNF. The Annexes will be considered and negotiated together with the text of the Article in the Draft Tripartite Agreement to which they relate, it being understood that the Annex will have been considered by the relevant TWG.

Also, the TWGs have already been using the text of the Draft Annexes as the basis for their work. The Second Meeting of the TWG on Customs for instance, already finalized Draft Annex 6 on Simplification and Harmonisation of Trade Documentation and Procedures, which has been noted by the TTNF at its Fifth Meeting in December 2012 in Cairo. The Second Meeting of the TWG on Non-Tariff Barriers and Standards used the Draft Annexes on NTBs and on technical and health standards.

It may be worthwhile to note that the Draft Agreement establishing the Tripartite Free Trade Area, and the annexes, draw heavily from and are based on the existing COMESA Treaty, the SADC Treaty and Trade Protocol, and the EAC Treaty and Customs Union Protocol. A comprehensive matrix has been prepared, reproducing the relevant provisions of the Draft TFTA Agreement and comparing them with related provisions from the COMESA, EAC and SADC instruments. Member States are urged to use the various provisions from the existing REC instruments when negotiating the TFTA Agreement, so that the negotiations can be expedited, since the provisions have already been in use, and since the RECs have to a large extent already been borrowing from each other in preparing their REC instruments.

The Seventh Tripartite Trade Negotiation Forum will commence text-based negotiations using the Draft Tripartite Agreement as a basis, as agreed by the Fifth TCSO, covering the Preamble, Interpretation, Establishment, Objectives, Principles, Non-discrimination and Customs Cooperation together with the accompanying Annexes.

Choice of Instrument

There are various forms of treaties that can be entered into by countries. The Vienna Convention on the Law of Treaties recognizes various forms that arrangements between international entities such as nation states and international organisations can take. Agreements are one of the forms. Others include: conventions, charters, protocols, declarations, MoUs, *modus vivendi*, and exchange of notes. The choice of the instrument depends on practice and intention.

Treaties deal with grave matters, such as cessation of hostilities or establishment of a new institutional order and may deal with a wide range of areas, for example the REC Treaties. Treaties are less used now. Agreements deal with specific matters normally of a sectoral nature, such as trade, for example the WTO Agreements, and are increasingly used. Conventions are normally negotiated under the auspices of international organisations, for example the UN conventions. Charters normally establish new organisations, for example the OAU Charter or the UN Charter. A Protocol is subsidiary to a treaty or agreement, for example the EAC Customs Union Protocol or the SADC Trade Protocol; while a Declaration is subsidiary and is usually for aspirations, for instance the WTO declarations launching new rounds of negotiations or indeed the Declaration Launching the Tripartite FTA Negotiations. On the other hand, a MoU is subsidiary and deals with operational matters, such as the Tripartite MoU on Inter-REC Cooperation. Others include *Modus vivendi*, being a temporary agreement; and Exchange of notes which is normally bilateral and speedy, in that the other party responds to a note/ letter in the same terms.

In the case of the Tripartite, an Agreement is the chosen instrument on the basis of common usage in international economic law and given that it constitutes binding obligations and rights and deals with the specific area of trade.

It may not be appropriate for it to be a convention (for instruments negotiated under international organisations), a charter (constitutes a new organisation) and it may not be appropriate for it to be a protocol or a declaration as these are subsidiary instruments.

Essential Areas Covered by an Integration Agreement

It may be helpful at this point to spell out in a general form the areas and issues that a regional agreement on economic integration should generally cover. These areas include the Preamble, citation, definitions or interpretation, establishment, policy provisions, operational provisions, institutional provisions, and final provisions.

The Preamble deals with who the parties are to the agreement and spells out the motivation for coming into the agreement. All the REC instruments have preambles, recalling the background to establishment of the organisations or the instruments, and underscoring the desirable goals and other motivation. The preamble for the TFTA should take the two Tripartite Summits as the points of departure, with a focus on achieving the key developmental objectives shared by all Member/ Partner States.

Like any entity, an instrument should have a name. There is therefore a preliminary provision called “citation”, whose sole function is to set out the name by which the instrument or the agreement is to be known and called. The EAC instruments have citations, like many other instruments; though the COMESA Treaty doesn't have this provision.

The key terms used in the Agreement need to be clearly defined to avoid ambiguity in the interpretation and application. All the REC instruments have this provision, which covers the usual terms used in trade agreements. What matters is to ensure that all key terms used are defined, and that terms not used need not be defined.

The entity being created by the Agreement needs to be established in law and so regional economic agreements or treaties do have a provision establishing the regional body. The entity being established is the Tripartite Free Trade Area, as a single FTA covering all the three RECs.

The policy provisions include the aims and objectives of the organization, its guiding principles and the general and security exceptions as well as trade remedies and protection of infant industries. These are necessary to give policy space to the Member/Partner States to be able to ensure the public good. The provisions also spell out the aims and objectives of the organization. The Member/ Partner States share common developmental aims and objectives. The security and general exceptions are more or less standard in trade agreements. The approach to trade remedies in different in the RECs. There will therefore be need for a degree of harmonization, but what is important is to ensure that the mechanisms agreed should be simple, usable and flexible but effective.

The operational provisions cover issues like non-discrimination, tariff liberalization, rules of origin, customs cooperation, and elimination of NTBs. These provisions are operative and spell out how the aims and objectives as well as the motivational aspects specified in the preamble will be achieved. Non-discrimination has two core elements: products from the Member/ Partner States should, at the point of entry, get the best treatment on the books, i.e., the Member/ Partner States should be the most favoured nation or be treated like one; and those products once they have entered the country should be treated like the domestic products (they should not be treated any less favourably).

What really marks out an FTA is the elimination of customs duties and other charges of equivalent effect, and prohibition of non-tariff barriers, on products traded among the Member/ Partner States. A key provision is therefore the one providing that Member/ Partner States shall eliminate duties and charges of equivalent effect on products originating from other Member/ Partner States; and that non-tariff barriers are prohibited, while establishing mechanisms for dealing with them. The elimination of duties in the three RECs has taken a linear approach, achieved over a period of years. However, given that the RECs have come this far in operating successful FTAs; building on this experience rather than starting from scratch, the time frame under the TFTA need not be long or a repetition of the duration already undertaken under the REC FTAs. Goods need documentation when moving around the FTA, and are required to pass through customs. Customs cooperation provisions are therefore a *sine qua non* for FTAs.

Where institutions are created to administer the instrument, they are set out in terms of being effectively established by the relevant provisions or in terms of establishment in future by further action. The powers and functions of the institutions will normally be set out. The better approach is for the provision to effectively establish the institutions, by stating that they are "hereby" established.

Trade agreements will have provision for dispute settlement, so that any issues arising are expeditiously addressed in order to promote the objectives of the agreement. Without an effective dispute settlement mechanism, the agreement would not function at all. The mechanism should ensure that costs to users, including the private sector, are kept to the minimum by avoiding lengthy procedures and instead having a simple and understandable mechanism that is accessible to all stakeholders by recognizing their right to bring cases.

As the agreement provides for preferential treatment among the Member/Partner States, it should also have provisions on relations between the Member/Partner States with third countries, covering existing bilateral and other agreements as well as future agreements. Usually, the provision allows such relations but requires notification and consistency with the objectives and operation of the regional trade agreement, in this case the TFTA.

Final provisions deal with such issues as date of entry into force of the agreement in terms of required number of ratifications (approval of the Agreement under the domestic procedures of each of the Member/ Partner States), duration of the instrument – whether the Agreement operates indefinitely or not, languages, signature of the agreement, accession by new members, amendment of the agreement, and testimonial or conclusion of the instrument by signatures. These provisions are necessary to make the agreement effective.

The TFTA Agreement is therefore arranged as follows: Title, Recitals/ Preamble, Interpretation, establishment, objectives, Non-discrimination, Liberalisation of trade in goods, Customs cooperation and trade facilitation, Trade remedies, Trade-related areas and other areas of cooperation, Organs for the FTA, Dispute settlement, Relations with third countries, General and security exceptions, Financial provisions, General and final provisions, and Signatures

Appropriate Ambition in Trade Liberalisation

While the case for the Tripartite Free Trade Area has been made for quite some time now, the region might still be headed towards an outcome that represents a lost opportunity. In terms of tariff liberalization, the Tripartite Committee of Senior Officials at its meeting on 28 February - 01 March 2013 in Livingstone agreed that 60-85 percent of tariff lines should be liberalized on entry into force of the TFTA. What this means in reality is that a country can open up only 60 percent of the tariff lines, given the very low ambition of one Member State. The remaining 15-40 percent of the tariff lines will be negotiated and liberalised over a long period of up to eight years.

Yet the real issue has been whether to maintain a limited number of exclusions. Surely, 15-40 percent of tariff lines cannot be left out of the initial liberalization in order to deal with the exclusions. It is well known that there are always general and security exclusions in trade agreements, and that there are some products trade in which is prohibited or restricted as a matter of law. These fairly standard provisions do not require complicated negotiations. What may require negotiation are cases where a country wishes to exclude a product for protective reasons. While COMESA and EAC have 100 percent product coverage, not counting the exceptions and the prohibitions and restrictions; SADC is the only REC with other exclusions, which however constitute not more than 3 percent of product lines. This shows that the level of ambition is still very low, and effort is needed to raise it.

COMESA has been a full Free Trade Area since 2000, with 100 percent product coverage, and has a track record of operating a successful and vibrant Free Trade Area where trade has increased from US $3.1 billion in 2000 to US $19.3 billion in 2012 – there is of course still a lot of potential and supply side constraints need to be continuously addressed. Mechanisms have been in place to deal with the need for safeguards where necessary, for policy space. The EAC experience also demonstrates a successfully operating FTA with 100 percent product coverage.

While adoption of these modalities will now enable the process of preparing offers to commence, the modalities contain a very low level of ambition and have left the 15-40 percent of tariff lines in abeyance, when these lines might have the most traded products and be of real commercial importance.

It is to be noted that most Member/Partner States have 0% duties on capital goods and raw materials. The table below shows, for instance, that the SACU Tariff has 56.3% of its tariff lines already with the MFN rate of 0%. In addition, for Member States that are in both COMESA and SADC, the application of the principle of *acquis* will mean that the existing FTA regime will be extended to the rest of the Tripartite Member States subject to reciprocity in respect of those not participating in the existing FTAs. The Member States in both COMESA and SADC are: Congo DR, Madagascar, Malawi, Mauritius, Seychelles, (Swaziland negotiates as part of SACU), Zambia and Zimbabwe. In addition, the five EAC Partner States (Burundi, Kenya, Rwanda, Tanzania and Uganda), have stated in the TTNF that they will offer 100% product coverage at 0% duty, excluding the usual general and security exceptions and the prohibited or restricted products, and subject to reciprocity. Likewise, the position of COMESA as endorsed by the Sixteenth Summit held in November 2012 in Kampala is to offer the COMESA FTA regime to the rest of the Tripartite, subject to the negotiation principles. This leaves SACU countries and Angola and Mozambique, as the focus of the negotiations, bearing in mind that South Africa is most interested in negotiating a phased market access offer with Egypt and Kenya (EAC). In terms of priority then, COMESA Member States may wish to work closely with the EAC Partner States, and to seek an ambitious offer from SACU and from Angola and Mozambique; bearing in mind that the SACU Tariff already has 56.3 percent of its tariff lines rated at 0%.

Table 1: Summary of Tariff Lines at Zero Percent

	Ref. Year	Reporter	MFN at 0%	MFN Positive Lines	MFN at 0% as % of total	Total Tariff lines	Source
1	2009	Angola	0	5,201	0.0	5,201	WITS
2	2009	Congo DR	0	5,794	0.0	5,794	WITS
3	2011	Comoros	750	4,629	13.9	5,379	WITS
4	2011	Djibouti	22	6,867	0.3	6,889	WITS
5	2009	Egypt	577	4,876	10.6	5,453	WITS
6	2006	Eritrea	2	5,267	0.0	5,269	WITS
7	2011	Ethiopia	245	5,224	4.5	5,469	WITS
8	2006	Libya	5,224	0	100.0	5,224	WITS
9	2011	Madagascar	326	6,027	5.1	6,353	WITS
10	2011	Malawi	1,159	4,120	22.0	5,279	WITS
11	2011	Mauritius	5,551	856	86.6	6,407	WITS
12	2010	Mozambique	182	5,016	3.5	5,198	WITS
13	2010	Seychelles	4,797	894	84.3	5,691	Customs
14	2011	Sudan	387	4,916	7.3	5,303	WITS
15	2011	Zambia	1,561	4,456	25.9	6,017	Customs
16	2010	Zimbabwe	586	5,369	9.8	5,955	Customs
17	2011	EAC	1,948	3,312	37.0	5,260	WITS
18	2012	SACU	4,076	3,164	56.3	7,240	SACU

There is therefore need to continue making the case for an ambitious TFTA. In this regard, the Member States may wish to note this and bear it in mind in all the meetings.

Also, it means that the 15to 40 percent of the tariff lines should not be forgotten or overlooked in the negotiations over the remaining four sessions, particularly during the Eighth Session scheduled for September 2013. COMESA can provide a good example in this regard, by producing ambitious offers, but which will specifically state that they are subject to reciprocity and that the right to revisit them is reserved, so that they can be re-opened in the final analysis on the basis of the overall level of ambition shown by the other Member States of the rest of the Tripartite.

Benefits of the Tripartite Free Trade Arrangement

A Larger Market

The rationale for the Tripartite is that it forms a larger market than any of the RECs, and therefore enhances prosperity through higher levels of trade and investment, drawing on economies of scale. This way, it contributes to the improvement of welfare and people's lives through creating employment and availing more goods and services. The Economic Commission for Africa estimates that the TFTA will result in US $12.8 billion of new trade due to the removal of remaining tariffs; and US $39 billion if tariff removal is accompanied by trade facilitation. The UNDP's assessment established that there will be significant welfare gains from the TFTA. These benefits will, however, not be realized if the liberalization is limited to products on which the tariffs are already at 0% or to product lines that are not commercially significant.

Harmonization of Conflicting Trade Regimes

The Tripartite, through harmonisation and better co-ordination, and through a single FTA, reduces the possibility of conflicting programmes to be implemented by Member States taking into account that four of the five EAC Partner States are in COMESA and eight of the 15 SADC Member States are in COMESA. The Tripartite provides a decisive manner of dealing with the issue of intersecting membership. A recent assessment on the domestication of COMESA Treaty Obligations and Council Decisions, presented to the November 2012 meetings of the Policy Organs in Kampala, showed that Member States were in a number of cases confronted with multiple regimes arising from the various RECs.

Conflicting regimes constitute political and economic complications for Governments of Member States in terms of having to choose which regime to implement over the other, and costs to the private sector in terms of maneuvering the various complex regimes. A scenario can be envisaged where a company could be put in a situation of having to have different production lines for each of the RECs in order to comply with the different regulations and rules of origin. The Tripartite FTA will provide a common regime covering the three RECs, which harmonizes or coordinates trade policy and regulation among the Member States.

A Powerful Bloc for Continental Integration and International Relations

By bringing 26 of the African countries into one grouping, out of a total of 55 countries, the Tripartite initiative supports the continental integration process of forming the African Economic Community as an important step towards a continental FTA through convergence among the RECs. It is to be recalled that the Tripartite countries have a combined GDP of US $1.2 trillion out of Africa's US $1.7 trillion; and a population of about 600 million people out of Africa's One Billion. This is a sizable economic space by any standards. This means that the Tripartite arrangement will constitute an important bloc on the continent and in engaging the rest of the world. The Tripartite forms a bigger and stronger bloc in international relations and therefore enhances the bargaining power of the countries collectively to secure better deals. Furthermore the Tripartite enhances connectivity of the countries through regional soft and physical infrastructure, to facilitate trade and investment, for an effective regional market and easier movement of business persons.

Consolidation

The Tripartite consolidates achievements in regional integration so far, through strengthening and expanding the REC FTAs, and through harmonization and coordination in pertinent areas such as NTBs, customs cooperation, rules of origin, trade remedies, trade development and productivity; competition and consumer protection. The behind the border regulatory areas are critical and need to be addressed in establishing a Free Trade Area.

Regulatory Issues

Regional integration has undergone changes which necessitate a new focus. The old generation regional integration focused on tariff liberalization since tariffs were the major instrument of trade policy. With tariff reduction having been achieved by many countries either unilaterally or in the context of Structural Adjustment Programmes or in the context of the multilateral trade system, many countries have resorted to non-tariff measures/barriers to regulate trade. The lowering or elimination of tariffs has eroded the margin of preference thereby rendering tariff reduction within the context of regional integration not much of an interesting proposition.

Scholars are increasingly arguing that 21st Century regionalism is not primarily about preferential market access as was the case for 20th century regionalism; it is about disciplines that underpin the trade-investment-service nexus. This means that 21st century regionalism is driven by a different set of political economy forces; the basic bargain is "foreign factories for domestic reforms", not "exchange of market access". As 21st century regionalism is largely about regulation rather than tariffs, regulatory economics is needed rather than Vinerian tax economics. It is pointed out that only 16.7 percent of world trade was eligible for tariff preferences in 2010, of which only 2 percent got tariff preference margins higher than 10%, showing that preference margins have dwindled. It should be noted that the more stable and deeper sources of government revenue tend to be domestic taxes on transactions, such as VAT, rather than customs duties. For instance, the EAC Partner States experienced a rise in tax collection from increased trade resulting from the formation of the customs union in 2005.

Non-tariff Measures

The Annual Report of the World Trade Organisation for 2012 takes a closer look at non-tariff measures (NTMs) in the 21st Century; these measures arise in a wide range of areas, such as food safety, technical standards, and customs procedures. This is so for a number of reasons. First, NTMs have acquired growing importance as tariffs come down, either through multilateral preferential or unilateral action. Secondly, a clear trend has emerged over the years in which NTMs are less about shielding producers from import competition and more about the attainment of a broad range of public policy objectives such as addressing market failures where there is information asymmetry as well as addressing public safety and health. Thirdly, the growing public policy concerns add significantly to the complex nature and variety of NTMs deployed by governments. Fourthly, the expansion of public policy agenda means that NTMs will not follow a path of diminishing relevance like tariffs have done.

This means that regulatory interventions addressing market failures are going to be of continued relevance in the 21st Century. Fifthly, the increased role of public policy becomes ever more present in international economic relations as globalization intensifies interdependency among countries. Sixthly, NTMs will have to feature prominently in any regional or multilateral integration trade system for the reasons spelt out above.

While NTMs can be used for legitimate public policy objectives, they can also be used for protectionist motives and making the distinction can be a real challenge. In fact three motivations can be identified for NTMs. First is the public policy motive where NTMs serve public policy (essentially non-economic issues such as ensuring the health, safety and well-being of consumers). Second are those NTMs that have an economic focus based on welfare enhancing effect on consumers or producers. Third, are those NTMs that have a political economy motivation that serve interests of particular groups in society and do not necessarily increase national welfare.

The Tripartite is no exception to the prevalence of NTMs and therefore the provisions of the

Tripartite Agreement should of necessity contain elements on how to deal with the NTMs in their various forms, recognizing the legitimate ones while establishing adequate measures for dealing with those that constitute non-tariff barriers.

Preparation of COMESA Tariff Offers

The Second COMESA Preparatory Meeting for Tripartite Negotiations, held on 24 February 2013 in Livingstone considered the matter of preparation of offers, including both the text and the templates for the offers. The meeting agreed that Member States will use the drafts produced by the Secretariat as initial drafts for their national consultations, and will produce final versions to be tabled for the tripartite tariff negotiations, now scheduled for the Eighth Meeting of the TTNF in September 2013. It was noted that Member States may wish to prepare differentiated offers to South Africa, on the basis of the differentiated offers to South Africa under the SADC FTA, by simply maintaining those SADC differentiated offers. Member States are therefore encouraged to finalise the preparation of their tariff offers. The Secretariat can assist as appropriate.

Final Remarks - Negotiation Tactics

Finally, there is merit in the Member States noting some of the tactics applied in the negotiations so far, so that they can manage the mechanics of the negotiations to their best advantage. The tactics have included the following:

a. Inappropriate interpretation of the negotiation principles in a manner that would maintain some current regimes that could be improved upon, such as rules of origin and exclusions – the TFTA provides a good opportunity to draw on best practices in the region and establish an economic space made of the best from the three RECs; also, the interpretation and application of the principles should advance the achievement of the level of ambition demonstrated by the Tripartite Summits, rather than detracting from it, and the level of ambition is in terms of expeditiously establishing the TFTA and to do by starting from the current levels of liberalization of the REC FTAs and building upon that to achieve a single TFTA that is functional and effective in order to address the complications of multiple membership and achieve the common developmental objectives based on the TFTA and on industrial and infrastructure development;

b. Procrastination or delaying to take decisions and conclude on issues, on the ground of undertaking inconclusive national and regional consultations – the proper position should be that national and regional consultations should equip negotiators with a range of options and adequate flexibility necessary to advance the negotiations at each given session of the TTNF, and quick consultations with capital by phone or email should be possible especially in light of the need to complete the negotiations within the remaining time of just four sessions;

c. Curtailing the powers of the Chair to bring discussion under an agenda item to a close, through insisting and prolonging the discussion in order to draw it towards a country's specific position, and then having the final word on the matter after the Chair's summary – the proper position should be that the Chair should be able to bring the discussion to a close in order to better manage time and should provide the summary so that there is clarity on the outcome of the discussion. However if a certain country decides to prolong the discussion, then the others should take the approach of asking specific questions and requiring clear answers, in order to get to the gist of the issue and the problem and find a solution or decide to refer the matter to the Senior Officials;

d. Divide and rule, taking advantage of divided RECs especially COMESA, and subtly threatening some countries that they could lose their benefits under existing trade regimes – this should be countered by the Member States adopting and advancing common positions where appropriate and coordinating with the EAC Partner States, and by re-asserting the correct interpretation of the relevant negotiation principles, such as starting with and building upon the *acquis*, reciprocity, and special and differential treatment;

e. Given its large size, some special attention should be given to securing meaningful market access opening by South Africa, if it is prepared to be magnanimous and provide some leadership. However, the principles of reciprocity and flexibility and special and differential treatment should always apply in the negotiations.

There is need for COMESA Member States to have a system of quick informal consultations, including during breaks, in order to understand what is going on and adopt appropriate response strategies. But above all, the Member States should be united and coordinate their positions, and support each other tirelessly and clearly.

Trade Remedies in the Tripartite Free Trade Area

By Francis Mangeni

Trade remedies have been variously defined as:

a. The term trade remedy measures or, simply trade remedies, generally refers to three types of import restrictions authorized under national and international trade laws: antidumping duties, countervailing duties, and safeguards" ;

b. "Trade remedies – or trade defence – are contingent measures enacted to defend local producers in certain circumstances. They take three principal forms: anti-dumping measures, countervailing measures and safeguard measures ; and

c. "The term 'trade remedy laws' refers to three types of national laws that impose import restrictions under specified circumstances. 'Safeguard measures' are temporary trade restrictions, typically tariffs or quotas, which are imposed in response to import surges that injure or threaten 'serious injury' to a competing industry in an importing nation. 'Antidumping duties' are tariffs in addition to ordinary customs duties that are imposed to counteract certain unfair practices by private firms that injure or threaten to cause 'material injury' to a competing industry in an importing nation. 'Countervailing duties' are tariffs in addition to ordinary customs duties that are imposed to counteract certain subsidies bestowed on exporters by their governments, when they cause or threaten to cause material injury to a competing industry" .

These are not legal definitions as such, and leave out lots of details, the possibility of price undertakings for instance as one form the measures can take as well as the detailed conditions and parameters; but they can greatly assist to provide a glimpse of the territory. The WTO Agreements contain the comprehensive definitions, as well as the substantive and procedural rules that govern these measures.

Brief History of Trade Remedies

A practical issue governments usually address in entering trade agreements is the protection of domestic industries against unfair trade practices or significant injury by competition from imported products.

The world's first modern anti-dumping law was enacted by Canada in 1904, against American steel makers, on the following ground as articulated by the then Finance Minister:

We find today that the high tariff countries have adopted that method of trade which has now come to be known as slaughtering, or perhaps the word more frequently used is dumping; that is to say, that the trust or combine, having obtained command and control of its own market and finding that it will have a surplus of goods, sets out to obtain command of a neighbouring market, and for the purpose of obtaining a neighbouring market will put aside all reasonable considerations with regard to the cost or fair price of the goods; the only principle recognized is that the goods must be sold and the market obtained …. This dumping then, is an evil and we propose to deal with it.

The emotive politics of antidumping measures, as well as the interface with anti-competitive practices, has remained with us over the years. Other countries followed suit; New Zealand (1905), Australia (1906), South Africa (1914), the US (1916) and UK (1921). When the General Agreement on Tariffs and Trade (GATT) was provisionally adopted in 1947, its Article VI contained provisions condemning dumping.

Subsidies countervailing measures also have a long history, also going back to Adam Smith's insightful discourses in 1776 on state bounties for exports and on mercantilism, and to the 1791 Hamilton Report which explained that unofficial bounties could harm US efforts to build its national industries. The first modern countervailing law was the US Tariff Act of 1897.

Safeguards, on the other hand, came later; the first safeguard law being the US Reciprocal Trade Agreements Program of the Trade Act of 1934. Earlier trade agreements didn't have safeguard clauses, or "safety valves" or "escape clauses" as they came to be known, and were either terminated or breached in times of crisis resulting from import surges. The US-Mexico Reciprocal Trade Agreement of 1942 had a safeguard clause in its modern form. The GATT 1947 provided for the emergency safeguard as it came to be called.

The GATT 1947 has been renegotiated in a number of rounds, and its latest modification or improvement is GATT 1994 now including three detailed agreements on antidumping, subsidies countervailing and safeguard measures; as part of the WTO Agreement which entered force on 1 January 1995. Negotiations are again underway, and yet to be completed since 2001, under the Doha Development Agenda, to improve the disciplines on dumping and countervailing measures while taking into account the concerns of developing countries; because the practice over the years has shown shortcomings to be addressed.

This background makes the point that trade remedies have been a practice in international trade agreements and in national laws for a long time now; that starting with national laws and bilateral trade agreements, trade remedies were incorporated into the GATT when it was provisionally concluded in 1947 and maintained as the GATT has grown over the years into the multilateral regime on trade in goods covering a total of 159 countries of the world by March 2013, including 20 of the 26 tripartite member/ partner states ; and that efforts at improvement remain ongoing.

KEY ISSUES IN CONSIDERING TRADE REMEDIES

What then have been the core issues in the discussion on trade remedies? Among others, the core issues have been the following:

d. What useful purpose do trade remedies serve?

e. Are trade remedies in their current form as set out in the WTO Agreements appropriate for achieving the intended objectives?

f. How can abuse of trade remedies best be prevented?

g. From a reading of the international rules, are trade remedies required, prohibited, or optional in free trade areas?

h. What flexibility exists for trade remedies in FTAs?

i. How can developing countries improve their capacity to use trade remedies?

The terms of reference for the situational analysis capture these issues, in addition to the specific tasks on the state of play in the member/ partner states and the RECs, assessment of utilization of trade remedies, a survey of good practices in other FTAs, and prevention of abuse; and to recommendations on ways forward.

In addressing these issues, the overarching position taken in this paper is that trade remedies can serve a useful purpose in terms of encouraging countries to agree to ambitious levels of liberalization in RTAs, but every care should be taken to avoid abuse and to limit use to only the deserving cases. This position is backed by the policy, the relevant WTO rules, and the overall flow of scholarship on the matter, as this paper expounds. For the TFTA, if trade remedies are to be included, they should be flexible and simple to use. In addition, there should be concerted efforts by governments and partners to build the capacity of stakeholders especially the private sector and civil society including consumer organisations, as well as of all relevant line ministries that work to promote the public interest. Furthermore, to deal with the monopolistic abuses resulting from trade remedies, national and regional competition policy and law should complement market regulation interventions to ensure fair trading, to ensure efficient markets that support job and wealth creation especially among small economic operators, and to protect society at large.

The Case for and Against Trade Remedies

Regarding the purpose of trade remedies, opponents argue that trade remedies are protectionist tools that benefit some producers or even monopolists while hurting consumers, importers and manufacturers that need cheap inputs; and on the whole constitute bad economic policy by reducing welfare and maintaining inefficient producers through sheer tariff and quota protectionism. Trade remedies therefore serve no useful purpose and should be eliminated from international trade agreements in order to promote efficiency in resource allocation, to promote competition and functioning markets. Some in this group argue that the place of antidumping and countervailing measures can then be taken up by competition rules to deal with unfair trade practices and by direct challenges under WTO rules on prohibited or actionable subsidies against member states that subsidize exports.

On the other hand, supporters argue that trade remedies provide governments the confidence to agree to trade liberalization, in the knowledge that contingent measures exist to remedy situations which can arise in future where domestic industries would otherwise suffer material or serious injury or threat of it: "contingent protection measures can be seen as strategic tools for governments to reduce the political cost and internal domestic pressure involved in opening domestic markets to international trade". Supporters argue that dumping in particular may make good business sense in that sales abroad can still be profitable when sold below the price in the market of the exporting market, without the intention of killing the competition then raising the prices (predatory dumping); that a response to a government that subsidizes its exports to make them cheap in the importing market should be a "thank you note" to the embassy of the exporting country; and that the escape clause in terms of possible safeguard measures against import surges can only be prudent, because the clause assists to prevent breach or termination of trade agreements which would be the only resort where there is no provision for safeguard measures. Supporters therefore argue that trade remedies are indispensable.

There is a middle ground as well, arguing that trade remedies are bad economic policy but should be maintained for reasons of pragmatism or political expediency; political leaders do not have the will or the wherewithal not to have trade remedies in the agreements they conclude – they would lose office if they didn't negotiate for or support the application of trade remedies. This school of thought then focuses on how to make the best of trade remedies through improvements to prevent abuse.

An illustrative example of recommendations proffered by scholars is the following:

Eventually, WTO Members could instead respond to predatory dumping with competition laws, to illegal subsidies with WTO dispute settlement, and to import surges with safeguards pursuant to a reformed safeguard regime. In the shorter term, WTO provisions do not prevent RTA partners from eliminating trade remedies among themselves.

Some of the scholars provide case studies or examples of reasons for improvement. Gomez, for instance, studied how the importation of stranded wire, rope and cables of iron steel originating from the UK was thwarted by an antidumping duty the International Trade Administration Commission (ITAC) of South Africa investigated and recommended imposition of, though the investigation had shown that only fishing rope was being dumped. The investigation was instigated by SCAW South Africa (Pty), a South African producer of these products and a competitor of the British company (Bridon International Ltd), which was exporting the products to South Africa. When ITAC subsequently recommended the lifting of antidumping measures, after a finding that the injury or threat no longer existed, SCAW brought a case in the South African courts to prevent the lifting of the duties. Gomez, recommended that South Africa could consider vigorously applying its robust competition laws to such cases.

The various views notwithstanding, there has been a large number of national investigations to apply trade remedies by WTO Members: a total of 4,230 initiations of antidumping investigations from 1 January 1995 to 31 December 2012, and 302 subsidies countervailing investigations over the same period; and 255 safeguard investigations from 29 March 1995 to 31 March 2013. But not surprisingly, given the controversy, there has been a large number of disputes heard and decided by the WTO Appellate Body and panels, relating to trade remedies: 98 disputes on subsidies countervailing measures, 96 on antidumping measures, and 43 on safeguard measures. Many of the trade remedy measures were found inconsistent with the WTO rules.

The history of trade remedies, the use, and the interpretation put to them by the WTO Appellate Body and the panels show that the trade remedies serve a purpose in multilateral trade liberalization in the context of GATT. The controversy however, as well as the large number of cases at the WTO, show also that trade remedies can be abused and that it is quite a complicated task to apply the rules correctly, more so for member states with capacity constraints. This is why this paper recommends that the TFTA should have trade remedies, but they should be modified or improved to prevent abuse and to suit the conditions of the tripartite member/partner states.

Member and partner States with Trade Remedy Laws and Institutions

Anti-dumping laws

According to their notifications to the WTO, the following eight tripartite member/ partner states have antidumping laws: Egypt, Kenya, Malawi, Mauritius, South Africa, Uganda, Zambia and Zimbabwe. The remaining 18 tripartite member/ partner states do not have antidumping laws in place. (Please see Table 1, attached.)

Subsidies countervailing laws

Ten tripartite member/ partner states have made notifications to the WTO under the Subsidies Agreement. Of these, Burundi, Kenya, Mozambique, Namibia and Zimbabwe have notified that they don't have subsidies countervailing laws; Swaziland, Uganda and Zambia that they don't give any subsidies; Mauritius, Namibia and South Africa that they maintain some notifiable subsidies; and Uganda and Zambia that they have laws for taking subsidies countervailing measures. (Please see Table 2, also attached.)

Safeguard laws

Only the three Member states of Egypt, South Africa and Zambia have laws for taking safeguard measures as notified to the WTO (See Table 3).

Trade remedy institutions

Only Egypt and South Africa have functioning regulatory and institutional frameworks, that is, investigating authorities.

Assessment of the prevalence of trade remedy laws and institutions in the tripartite

It would then seem a fair assessment that trade remedy laws and institutions are scarce in the tripartite region. Noting that the WTO Agreements require the existence of WTO-compliant and notified national laws and institutions as a pre-requisite for taking trade remedy measures under those Agreements, it can also be a fair assessment that tripartite member/ partner states on the whole lack the legal and institutional capacity at the moment to invoke and impose trade remedy measures under the WTO Agreements. In this vein, the next section looks at the actual utilization of WTO trade remedy agreements.

It may be noteworthy that Uganda's notification to the WTO, just like the other trade remedy notifications, referred to and notified the COMESA Treaty provisions on trade remedies, being the only country that has done this. But it can be pointed out in passing that subsequently, the Uganda Law Reform Commission has had a Draft Bill for a detailed WTO-consistent law and regulations for about 10 years, without much success in it being passed by the Parliament into law. Kenya and Mauritius also continue their efforts to have trade remedy laws; while Zambia and Zimbabwe have what a scholar have termed "partial" trade remedy laws , meaning incomplete. It would appear that parliamentary processes, including lack of prioritization for placement on the agenda in light of other pressing national priorities or due to a backlog or due to low familiarity with the subject, can also pose challenges to adoption and use of trade remedy laws.

Empirical facts on Utilisation of WTO Trade Remedy Measures

Between 1 January 1995 and 31 December 2012 , WTO Members initiated a total of 4,230 antidumping investigations. Of this total, South Africa initiated 217 investigations, while Egypt did 71, these being the only two tripartite member states that have ever undertaken antidumping investigations and notified them to the WTO since the establishment of the WTO in 1995. (Table4)

Over the same period, WTO Member initiated 302 subsidies countervailing investigations. Again, only South Africa and Egypt participated, with 13 and 4 initiations respectively. (Table 5)

Regarding safeguard measures, of a total of 255 investigations over the period of 1995 to 2013, Egypt initiated 9 and South Africa 3 respectively.

These figures show quite clearly that utilization of trade remedy measures by the tripartite member/ partner states has been minimal, with only Egypt and South Africa as users; even these two are relatively minimal users compared to the other WTO members. In contrast, the most avid users have been the developed countries and the advanced developing countries. For instance, over the 1995-2012 period, India did 677, US 469, Argentina 303, Brazil 279 and Australia 247 antidumping investigations. The US did 119 safeguard countervailing investigations out of the total of 302. India initiated 69 safeguard investigations out of the total of 255 over the period.

The RECs Regimes on Trade Remedies

The COMESA, EAC and SADC have provisions in their respective instruments on anti-dumping, subsidies countervailing and safeguard measures.

Availability of trade remedy provisions – primary sources

Regarding availability of trade remedy provisions and general structure, the primary sources, that is, the REC instruments show that:

a) The main treaties or protocols contain provisions on trade remedies in broad terms;

b) These provisions are then supplemented in two ways: either by providing that member/ partner states can use the relevant applicable WTO Agreements, namely, the Agreement on Antidumping, Countervailing, or Safeguard Measures, in the case of SADC; or through setting out detailed substantive and procedural provisions that are WTO-consistent, in Regulations in the case of COMESA or in an Annex and Regulations in the case of the EAC;

c) The COMESA and EAC instruments create dedicated regional sub-committees on trade remedies to oversee the implementation of the provisions; but the instruments do not create regional investigating authorities; and

d) If an example be given of a cooperative investigating authority: under the International Trade Administration Act of South Africa of 2003, the Government established the International Trade Administration Commission (ITAC) also in 2003, in accordance with the requirement under the SACU Treaty of 2002 that member states should have national laws and institutions on trade remedies; ITAC now serves as the investigating authority for the other SACU member states as well, namely, Botswana, Namibia, Lesotho and Swaziland as members of the customs union. SACU investigations are supposed to use detailed WTO-consistent rules.

Regarding the content of the trade remedy provisions of the RECs, it can be noted that the provisions define trade remedies and set out the substantive requirements in the usual standard or conventional terms as in the WTO Agreements, except that Article 61 of the COMESA Treaty provides for a safeguard measure against "serious disturbances occurring in the economy of a member state following the application of the provisions of this chapter", rather than "serious injury or threat of serious injury" as the WTO Safeguards Agreement says. However, it should be added that the detailed COMESA Regulations on Trade Remedies faithfully clone the WTO Agreements, which it should not be forgotten have not been used yet especially with respect to antidumping and subsidy countervailing measures.

Definitional and substantive requirements

A comparison and contrast of the requirements under the WTO trade remedy rules shows that there are substantial similarities across the three WTO Agreements.

The Appellate Body has noted the similarities:

We note that Article 11.3 is textually identical to Article 21.3 of the SCM Agreement, except that, in Article 21.3, the word "countervailing" is used in place of the word "anti-dumping" and the word "subsidization" is used in place of the word "dumping". Given the parallel wording of these two articles, we believe that the explanation, in our Report in US — Carbon Steel, of the nature of the sunset review provision in the SCM Agreement also serves, mutatis mutandis, as an apt description of Article 11.3 of the Anti-Dumping Agreement.

The similarities may make a case for having one instrument covering the three remedies, or at least close coordination among the various trade remedies. Considerable similarities exist especially with respect to the procedural requirements for notifications, thorough investigations, and the idea of provisional measures and eventually final measures that are nevertheless subject to possible to judicial review, and have to eventually be terminated since they are by nature temporary measures.

For antidumping measures, the main definitional and substantive requirements are as follows:

a) Dumping occurs when an enterprise sells a product in an importing market at a price below the market value in the market of the country from which the product is exported, with a direct result of causing material injury or threatening material injury to industries producing like or directly competitive products;

b) The market value can be established using, the price when the product is sold in the export market or in a third market, or using the constructed value, that is, constructed from the production cost and reasonable mark-ups;

c) The antidumping measures take the form of duties not higher than the margin of dumping or price undertakings to raise the price in order to remove the dumping;

d) The measures are taken in respect of the particular dumped imported product; and

e) There are detailed requirements on parameters, duration and reviews, among others.

For subsidies, there are two main approaches. A WTO Member can directly take another to the WTO Dispute Settlement Mechanism to challenge its prohibited or actionable subsidies under the Subsidies Agreement. The second approach is to take subsidies countervailing measures against the subsidized imports if they cause or threaten to cause material injury to a domestic industry producing like or directly competitive products. The countervailing measures, in the form of higher duties or price undertakings, must not be more than necessary to offset the subsidy. There are detailed provisions on parameters, duration and reviews.

For safeguards, there should be an unforeseen surge in imports that causes or threatens to cause serious injury to a domestic industry producing like or directly competitive products. Reports from the WTO Appellate Body and Panels show that it has proved very difficult for safeguard investigations and measures to have complied with the WTO Safeguards Agreement.

One major difference not to be lost sight of is that the injury or threat for taking antidumping and subsidies countervailing measures must be "material", while the injury or threat for taking safeguard measures must be "serious". The difference between these two is that "serious" injury is a higher standard than "material" injury. Other differences include the duration of provisional measures and the final measures, the nature of the remedies (instead of higher duties, safeguards may take the form of quotas), provisions for special and differential treatment for developing countries (a threshold of at least 3% of total imports of the product for safeguard measures to be taken by developed countries against a developing country), constructive remedies should be explored for antidumping measures against developing countries, and so on. These differences should be borne in mind in producing a consolidated law or agreement on trade remedies, as indeed has been done in the EAC and COMESA consolidated regulations on trade remedies.

Procedural requirements

The detailed regulations under the COMESA and EAC instruments reproduce the detailed procedural requirements set out in the three WTO Agreements on trade remedies. The SADC Trade Protocol says it doesn't prevent the member states from using the WTO Agreements. The main procedural requirements are notification of the initiation of the investigation, and of the taking of provisional and final measures; but above all the undertaking of a thorough public investigation involving interested parties to establish that the trade remedy measures can be taken – proof of the act of dumping or benefit of a subsidy or a surge in imports; proof of injury or a threat of it (material in the case of dumping and subsidization and serious in the case of safeguards); proof of a causal link; and establishment of the parameters or the extent of the measures to be taken to ensure they do not exceed the margin of dumping or subsidy, or the duties and quotas necessary to prevent serious injury from a surge of imports. Regarding the form that safeguard measures can take, the Appellate Body has been of the following view:

In our view, the text of Article XIX:1(a) of the GATT 1994, read in its ordinary meaning and in its context, demonstrates that safeguard measures were intended by the drafters of the GATT to be matters out of the ordinary, to be matters of urgency, to be, in short, "emergency actions". And, such "emergency actions" are to be invoked only in situations when, as a result of obligations incurred under the GATT 1994, an importing Member finds itself confronted with developments it had not "foreseen" or "expected" when it incurred that obligation. The remedy that Article XIX:1(a) allows in this situation is temporarily to "suspend the obligation in whole or in part or to withdraw or modify the concession". Thus, Article XIX is clearly an extraordinary remedy.

The overarching preliminary legal and institutional requirement is that the country should have WTO-consistent national laws under which the trade remedies can be invoked and imposed, and institutions to undertake the investigations for and administration of the trade remedies;

which should have been notified to the WTO. Except for Egypt and SACU countries, the tripartite member/ partner states, for not having both the laws and the investigating authorities, may not qualify to use WTO Agreements on trade remedies on this critical ground.

Special and differential treatment

The WTO Agreements provide for some special and differential treatment for developing countries. Safeguard measures should not be taken against imports of a product from a developing country if less than 3% of total imports of that product, or unless total imports of the product from developing countries exceed 9% of total imports. Constructive remedies should be considered when taking antidumping measures against imports from developing countries. Developing countries in addition benefit from longer time frames for the application of trade remedies.

In the tripartite, building on this idea, if there are to be trade remedies, some consideration could be given to having a high threshold below which no such measures should be taken against imports from other tripartite member/ partner states.

The Level of and Constraints to Utilisation of REC regimes on Trade Remedies

No EAC partner state has used the EAC trade remedy provisions; and neither has any SADC member state outside SACU invoked the SADC trade remedy provisions.

It can be noted that Egypt and South Africa have been the only users of trade remedy measures in the tripartite region, but they have invoked and applied their domestic laws, and not the COMESA, EAC or SADC trade remedy provisions. The national laws have been formulated for consistence with the WTO Agreements as the thrusting motivation, rather than consistence with the REC regimes.

In COMESA, Kenya has used a safeguard measure on sugar imports since 2002, which is due to expire in 2014, but the initiation of the safeguard measure was not under the detailed COMESA Trade Remedy Regulations; rather the measure was initiated under Article 61 of the Treaty which simply provides that a member state may take safeguard measures to last for up to one year after informing the Secretary General and the other member states, but the measure may be extended by the COMESA Council of Ministers if satisfied that the member state has taken necessary measures to overcome the imbalances for which the measure was taken. The extensions have been on the basis of recommendations from comprehensive reports prepared by the Secretariat confirming adherence to the conditions, which the Secretariat has produced after on-the-spot verifications and interviewing all relevant stakeholders in Kenya, and the conditions set by the Council.

Some relevant literature on REC trade remedy regimes

A number of works have undertaken an analysis of the trade remedy provisions of the three RECs. The TMSA training module on trade remedies provides both a comprehensive analysis of the WTO rules and the REC provisions. It is suggested that the following two papers, in addition to the others cited in this paper, are fairly comprehensive on the matter of the REC regimes of trade remedies. Denner (2009) provides an exquisite analysis of the REC provisions in his publication on trade remedies and safeguards in southern and eastern Africa; as well of course as Ousseni Illy (2012) in his publication on the experience, challenges and prospects for trade remedies in Africa.

Some of the key points made in the literature are the following.

Except for Egypt and South Africa, tripartite member/ partner states have not really utilized existing WTO or REC trade remedies in pursuing their development goals, and seeking to stave off the de-industrialization that resulted from the extensive trade liberalization especially since the 1980s. As Africa re-industrialises or booms , trade remedies against the rest of the world may just become as critical as they now are for the emerging powers (China, India, Brazil, Argentina and South Africa).

The constraints tripartite member/ partner states face in this regard include the following: inexistence of national legal and institutional frameworks, high cost and lack of expertise, local producers' weakness or lack of awareness or poor organization, and fear of repercussions from their donors who might get upset if trade remedies were applied against imports from their countries.

Another possible reason could be that until recently, most countries have enjoyed quite high bound tariff rates, which have provided the possibility of increasing applied rates up to the bound levels as measures to protect domestic industries. However, with the increase in bilateral and pluri-lateral FTAs that Africa's countries are entering with partners, and in light of the waves of multilateral trade liberalization, this room for maneuver has been rapidly disappearing.

Ways should be found to address these constraints, including long term capacity building, legal reforms, establishment of regional committees and possibly investigating authorities, designation of trade or revenue ministries as the competent and investigating authorities, and use of private investigators who may be retired civil servants or other resource persons. In the TFTA, the secretariat could have a function of closely assisting the member/ partner states in dealing with trade remedies.

If the tripartite is to have trade remedies, there could be merit in making appropriate modifications in the FTA rules on trade remedies, just as this has been the practice in other FTAs. This point is taken up in the next section on good practices in other FTAs. It is worth recalling again that the existing WTO-consistent REC regimes have hardly been used.

Good Practices in Other FTAs

The WTO Committee on Regional Trade Agreements established in 1996 has a mandate to examine regional trade agreements, including FTAs and customs unions that are notified to the WTO, as well as services liberalization agreements. The committee has been active, and has studied trends in the formulation of regional trade agreements. One such trend studied, has been how issues of trade remedies are addressed in RTAs.

Modification of WTO rules on trade remedies among RTA members

Sagara Nozomi back in 2002 already attempted to analyse the work of the committee in this area and the disputes decided by the WTO Appellate Body and Panels, and made the following findings. RTAs were taking different approaches, some provided for trade remedies in accordance with WTO rules, others eliminated them, while others modified or tightened the disciplines beyond the WTO rules to reduce use and abuse. On the whole, European (EU, EEA, EFTA), American (Canadian and Mercosur though NAFTA provides for trade remedies among the parties), and Oceania RTAs were making modifications or eliminating trade remedies. These mixed findings were cleaned up in a subsequent study in 2009 by Tania Voon, cited below.

Sagara concluded that provisions in RTAs that eliminated trade remedies were not found inconsistent with WTO rules; however, there were disputes regarding the correct procedures to be followed when a global safeguard measure was applied while excluding imports from members of the RTA. A framework for provisional safeguard measures can sooth the liberalization process on RTAs if import surges are anticipated. Antidumping and subsidies countervailing measures can be abolished in RTAs in light of substitutes such as competition policies and also given that GATT Article 24 calls for the elimination of restrictive regulations of commerce among members of a free trade area or customs union.

The numbers

In his survey of more than 150 RTAs around November 2009, Tania Voon made the following findings:

a) 25 RTAs did not mention the WTO trade remedy Agreements or made no significant modifications;

b) 28 RTAs provided for bilateral safeguards but in accordance with WTO rules;

c) 66 RTAs made procedural changes to WTO rules and provided additional rules on bilateral safeguard measures; and

d) 8 RTAs restricted the application of antidumping measures, 4 the application of subsidies countervailing measures, and 30 the application of global safeguard measures of which 4 prohibited both global and bilateral safeguards.

This analysis would appear to suggest, in terms of preponderance of numbers, that practice is tending towards making modification to WTO rules (66 RTAs) or even restriction of trade remedies (8+4+30); in contrast to those that maintain WTO rules (25) or provide for bilateral safeguards in accordance with WTO rules (28). Before moving on to the WTO law on these different approaches, the next section deals with the drafting techniques carrying those approaches.

Text for the different approaches

RTAs that maintain the WTO trade remedies either remain silent on the matter, or contain a provision to the effect that the RTA does not affect the rights and obligations of the parties under the WTO Agreement, or explicitly require member states to use WTO Agreements on trade remedies, or reproduce the WTO provisions.

RTAs that modify the WTO Agreements on trade remedies can contain explicit provisions that omit some of the requirements in the WTO Agreements, for instance, omitting the requirement for "unforeseen circumstances" in the RTA as a pre-condition for taking a safeguard measure (it has been argued that any negotiator of a trade agreement should expect that trade liberalization will result in increased imports and increased trade, and therefore should be deemed to have foreseen import surges, except perhaps the "serious" injury to domestic industries for which there should be a remedy even if the import surges were foreseen) ; abridging the time frames; limiting the actual measures to tariffs only and excluding quotas and price undertakings (the idea of the tariff-only approach is to promote transparency and tariffication as a means towards predictability and better planning of production costs, and to reduce rent seeking and political interference); and providing for high thresholds below which the measures should not be taken in order not to reduce trade as a result of generous use of trade remedies. It is absolutely important to highlight that such modifications would only apply among the members of the RTA under that agreement; but not to non-members of the RTA that are WTO Members. Any trade remedy measures against non-members of the RTA that are WTO members would need to be in accordance with the WTO Agreements.

Provisions that tighten the disciplines could additionally take the form of limiting the trade remedies to listed products or limiting the measures to products on which tariff phase outs have not reached zero (that is, during the transition period), requiring consultations before application of the measures, or providing for enhanced notification requirements as additional hoops to clear before the trade remedy can be invoked and applied.

RTAs that restrict the trade remedies may explicitly state that no trade remedy measures may be taken against imports from members of the RTAs, or provide for harmonized and common behind-the-border measures, or provide for free factor movement, or provide that trade remedies may only be taken "when no mutually acceptable alternative course of action has been determined by the Member States" , or link the abolition of trade remedies with competition rules: for instance,

"A Party shall not apply anti-dumping measures as provided for under the WTO Agreement on Implementation of Article VI of the GATT 1994 in relation to goods of a Party. The Parties recognize that the effective implementation of competition rules may address economic causes leading to dumping".

Regarding safeguards, NAFTA for instance provides that,

Any Party taking an emergency action under Article XIX or any such agreement shall exclude imports of a good from each other Party from the action unless:

(a) Imports from a Party, considered individually, account for a substantial share of total imports; and

(b) Imports from a Party, considered individually, or in exceptional circumstances imports from Parties considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports.

The TFTA negotiations therefore have a range of options; it would of course be best to take the one that makes the most sense and taking the practice in other RTAs into account.

Does GATT Article 24 Provide for Elimination of Trade Remedies in RTAs?

This has been a vexed legal question. It has arisen in disputes at the WTO when a country has excluded members of the FTA or customs union it belongs to from the application of a safeguard measure, pleading the FTA or customs union as the defense or excuse; notably the US pleading NAFTA as a free trade area and Argentina pleading Mercosur as a customs union. The question has arisen also in the critical discussion on whether RTAs can eliminate trade remedies among themselves despite the WTO Agreements.

Article 41(1) of the Vienna Convention on the Law of Treaties, which has been used and observed by the WTO Appellate Body and Panels, provides for inter se modifications to the WTO Agreements, that is, modifications under an agreement entered by a group of WTO members among themselves and to apply only among themselves; for it says:

Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone if:

a) The possibility of such a modification is provided for by the treaty; or

b) The modification in question is not prohibited by the treaty and:

i. Does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;

ii. Does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole.

On the basis of these provisions of the Vienna Convention, Tania Voon, in a definitive paper on the subject, concluded that:

Article XXIV of the GATT 1994 confirms that Members may enter RTAs modifying their WTO obligations, subject to the conditions laid out in that provision and the rest of the WTO agreements. Specifically, Article XXIV:5 states that the "provisions of this Agreement shall not prevent, as between the territories of Members, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area …".

On its part, the WTO Appellate Body has had occasion to address this matter in quite some informative detail that can provide sufficient guidance.

The point of departure is that there must be no intention on the part of the member/ partner states to raise barriers to trade with third countries, but rather, the whole purpose of the provisions of the TFTA, including the provisions on trade remedies or how they are addressed, should be to facilitate trade among the member/ partner states within the framework of the TFTA. WTO jurisprudence has been consistent that the purpose of the RTA, the FTA in the case of the tripartite, should be to facilitate trade among the tripartite member/ partner states, and the TFTA should do this in a manner that does not raise barriers to trade with third countries not members of the TFTA. The Appellate Body has been consistent on this:

According to paragraph 4 [of GATT Article 24], the purpose of a customs union [read FTA] is "to facilitate trade" between the constituent members and "not to raise barriers to the trade" with third countries. This objective demands that a balance be struck by the constituent members of a customs union. A customs union should facilitate trade within the customs union, but it should not do so in a way that raises barriers to trade with third countries. We note that the Understanding on Article XXIV explicitly reaffirms this purpose of a customs union, and states that in the formation or enlargement of a customs union, the constituent members should "to the greatest possible extent avoid creating adverse effects on the trade of other Members".

With this in mind, the TFTA can operate as an exception to the WTO rules on non-discrimination, specifically the WTO MFN rule and any other rule in the GATT 1994. The TFTA can so operate as an exception on the basis of GATT Article 24 (or the Enabling Clause). As the Appellate Body has stated consistently:

… in examining the text of the chapeau to establish its ordinary meaning, we note that the chapeau states that the provisions of the GATT 1994 "shall not prevent" the formation of a customs union. We read this to mean that the provisions of the GATT 1994 shall not make impossible the formation of a customs union [read FTA]. Thus, the chapeau makes it clear that Article XXIV may, under certain conditions, justify the adoption of a measure which is inconsistent with certain other GATT provisions, and may be invoked as a possible "defence" to a finding of inconsistency.

If one wonders whether this idea of GATT Article 24 operating as an exception applies to the WTO Agreements on trade remedies, the Appellate Body has resolved this issue by explaining that GATT 1994 incorporated the old GATT 1947 and the new Agreements relating to trade in goods, including the WTO Agreements on trade remedies. The exception under GATT Article 24 therefore operates in respect of the entire GATT 1994, including the Agreements on trade remedies:

Thus, the GATT 1994 is not the GATT 1947. It is "legally distinct" from the GATT 1947. The GATT 1994 and the Agreement on Safeguards are both Multilateral Agreements on Trade in Goods contained in Annex 1A of the WTO Agreement, and, as such, are both "integral parts" of the same treaty, the WTO Agreement, that are "binding on all Members". Therefore, the provisions of Article XIX of the GATT 1994 and the provisions of the Agreement on Safeguards are all provisions of one treaty, the WTO Agreement. They entered into force as part of that treaty at the same time. They apply equally and are equally binding on all WTO Members. And, as these provisions relate to the same thing, namely the application by Members of safeguard measures, the Panel was correct in saying that "Article XIX of GATT and the Safeguards Agreement must a fortiori be read as representing an inseparable package of rights and disciplines which have to be considered in conjunction."

Or, again, as the Appellate Body similarly decided regarding the Antidumping Agreement:

… Article VI of the GATT 1994 and the Anti-Dumping Agreement are part of the same treaty, the WTO Agreement. As its full title indicates, the Anti-Dumping Agreement is an "Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994". Accordingly, Article VI must be read in conjunction with the provisions of the Anti-Dumping Agreement, including Art. 9.

It is common ground among scholars that trade remedies are "restrictive regulations of commerce" within the meaning of GATT Article 24. However, there are two strongly opposed legal views on whether or not they should be eliminated in FTAs and customs union. One view is that they should, because GATT Article 24 requires "duties and other restrictive regulations of commerce" to be eliminated in FTAs and customs unions on substantially all trade among the members of the FTA or the customs union. The other view is they can be maintained. The bone of contention arises from the interpretation of paragraph 8(b) of GATT Article 24, which states that,

A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated on substantially all the trade between the constituent territories in products originating in such territories.

Because the excepted provisions in brackets which can be maintained in the FTA, where necessary, do not include the GATT Articles on trade remedies, namely, Article VI, XVI and XIX

(6, 16 and 19), has been the basis for the argument that these trade remedies should also be eliminated as restrictive regulations of commerce. But the other side has responded that the list of excepted provisions is only illustrative and there was no explicit intention or decision not to mention the provisions on trade remedies. Tania Voon's analysis indicates that this view is factually incorrect, as the drafting history shows that the matter of the list of exceptions was considered and the trade remedy provisions were omitted from the list. This should settle the matter.

However, this position means that trade remedies as restrictive regulations of commerce, are subject to the overall requirement that duties and the restrictive regulations of commerce be eliminated on "substantially all the trade"; raising another troublesome issue. While the Appellate Body has avoided producing an explicitly quantitative position on what constitutes "substantially all trade", it has at least provided the following guidance:

Neither the GATT CONTRACTING PARTIES nor the WTO Members have ever reached an agreement on the interpretation of the term 'substantially' in this provision. It is clear, though, that 'substantially all the trade' is not the same as all the trade, and also that 'substantially all the trade' is something considerably more than merely some of the trade. We note also that the terms of sub-paragraph 8(a)(i) provide that members of a customs union may maintain, where necessary, in their internal trade, certain restrictive regulations of commerce that are otherwise permitted under Articles XI through XV and under Article XX of the GATT 1994. Thus, we agree with the Panel that the terms of sub-paragraph 8(a)(i) offer 'some flexibility' to the constituent members of a customs union when liberalizing their internal trade in accordance with this subparagraph. Yet we caution that the degree of 'flexibility' that sub-paragraph 8(a)(i) allows is limited by the requirement that 'duties and other restrictive regulations of commerce' be 'eliminated with respect to substantially all' internal trade."

This can be understood to mean that a decision on whether or not to have trade remedies in the FTA or customs union, should be based on an evaluation of whether the requirement of eliminating other restrictive regulations of commerce to substantially all the trade will be met. This would mean that the FTA or customs union that allows extensive use of trade remedies would not meet this requirement, while the one which eliminates them or keeps them to a minimum would be more likely to meet the requirement.

As the Appellate Body has said:

With respect to "other regulations of commerce", Article XXIV:5(a) requires that those applied by the constituent members after the formation of the customs union [read FTA] "shall not on the whole be … more restrictive than the general incidence" of the regulations of commerce that were applied by each of the constituent members before the formation of the customs union. Paragraph 2 of the Understanding on Article XXIV explicitly recognizes that the quantification and aggregation of regulations of commerce other than duties may be difficult, and, therefore, states that "for the purpose of the overall assessment of the incidence of other regulations of commerce for which quantification and aggregation are difficult, the examination of individual measures, regulations, products covered and trade flows affected may be required". We agree with the Panel that the terms of Article XXIV:5(a), as elaborated and clarified by paragraph 2 of the Understanding on Article XXIV, provide:

… that the effects of the resulting trade measures and policies of the new regional agreement shall not be more trade restrictive, overall, than were the constituent countries' previous trade policies. … .

Now, to explicitly answer the question of whether the FTA can exempt its members from the application of a global safeguard against other members of the FTA: as regards WTO members that are not in the TFTA, the rules of the WTO Safeguards Agreement must be complied with by member/ partner states in imposing safeguard measures, that is, including the rule that the safeguard should be global, on a non-discriminatory basis. However, if the investigation explicitly shows that imports from the third countries, excluding imports from tripartite member/partner states, satisfy the conditions for applying the safeguard measure and an explicit finding to that effect is made, then the safeguard measure applied by a tripartite member/ partner state can exclude imports from other tripartite member/ partner states. The Appellate Body has reached this result, while avoiding a direct answer to the issue, by developing the rule now known as "parallelism":

… we do not prejudge whether Article 2.2 of the Agreement on Safeguards permits a Member to exclude imports originating in member states of a free-trade area from the scope of a safeguard measure. We need not, and so do not, rule on the question whether Article XXIV of the GATT 1994 permits exempting imports originating in a partner of a free-trade area from a measure in departure from Article 2.2 of the Agreement on Safeguards. The question of whether Article XXIV of the GATT 1994 serves as an exception to Article 2.2 of the Agreement on Safeguards becomes relevant in only two possible circumstances. One is when, in the investigation by the competent authorities of a WTO Member, the imports that are exempted from the safeguard measure are not considered in the determination of serious injury. The other is when, in such an investigation, the imports that are exempted from the safeguard measure are considered in the determination of serious injury, and the competent authorities have also established explicitly, through a reasoned and adequate explanation, that imports from sources outside the free-trade area, alone, satisfied the conditions for the application of a safeguard measure, as set out in Article 2.1 and elaborated in Article 4.2. …

In conclusion then, as a legal matter, GATT Article 24 provides the possibility of excluding trade remedies from application among members of the FTA and customs union, the TFTA in this case.

Way Forward

Throughout the paper, it has been clear that only Egypt and South Africa have trade remedy laws and functioning investigating authorities, and have quite actively used trade remedy measures in the multilateral trade system. The rest of the tripartite member/ partner states, even those few that have notified the WTO that they have trade remedy laws, have hardly used the measures, and lack functional investigating authorities.

This is a sharp contrast that requires an approach that objectively reflects this reality, taking also into account that Egypt and South Africa might be reluctant to stop using their existing laws and institutions, while the other member/ partner states would stand no realistic chance of using trade remedy laws in accordance with the WTO Agreements as experience since 1995 to date has clearly shown.

Such an approach could provide that member/ states in a list A, should use the WTO Agreements on trade remedies and ensure that their laws continue to meet the requirements under those Agreements; and that member/ partner states in a list B or the rest of the tripartite may use the rules set out for that group of countries, which are supposed to be suitable for them taking their human and financial resource, and legal and institutional constraints into account.

In this regard, for list B countries, the model of the Kenya sugar safeguard measure under Article 61 of the COMESA Treaty, is recommended for consideration; but taking into account that there is absolute need for strict timeframes for the maximum duration of the measure.

However, to minimize abuse and to limit use to deserving cases, and in light of the requirement to eliminate restrictive regulations of commerce on substantially all trade among members of a free-trade area, there should be overarching provisions on:

a) Maintaining the core definitional requirements under the WTO Agreements, but relaxing the parameters and the procedural requirements in order to prioritise consultations;

b) A requirement for a compulsory public interest test, to ensure that consumers, other importers of inputs and manufacturers, relevant line ministries, community-based organizations and relevant non-state actors can be adequately heard before trade remedy measures are taken;

c) Appropriate thresholds so that the measures are taken in serious cases, and without reducing trade and economic welfare, or constituting higher or more restrictive regulations of commerce;

d) Notifications, with a requirement for allowing the respondent member/ partner state to take reasonable measures to address the matter within a reasonable period of time;

e) A condition of only resorting to the trade remedy track where consultations have failed to result in a mutually agreed solution after a reasonable period of time;

f) Duration and periodicity, to avoid the application of trade remedy measures for overly long periods of time and to prevent repetitive investigations designed to discourage companies from exporting to the country doing the repetitive investigations;

g) An active role for the secretariat throughout the stages of taking a trade remedy measure;

h) Recognizing the possibility of using private investigators;

i) Recognizing the possibility of joint investigating authorities established among groups of TFTA member/ partner states especially those that are customs unions;

j) Establishment of a TFTA subcommittee on trade remedies as a forum for national competent and investigating authorities, for among other things assisted consultations, information sharing, cooperation among themselves, and technical assistance;

k) A flexibility provision to reflect the asymmetry between the bigger economies and the small ones, in terms of a higher threshold, mandatory consultations and a grace period following the end of consultations to allow the exporters from smaller economies to take corrective measures; and

l) A link to resorting to national and regional competition policy and law so as to minimize abuse and protect the public good, and to assist promote properly regulated and functioning markets.

m) An anti-circumvention provision can be attempted, to prevent importation of inputs for later assembly as a way of dodging the higher duties or restrictions under the trade remedies, but even the WTO found it problematic to have this provision in the GATT and later in the WTO Agreements.

Should there be no consensus on the matter, trade remedy provisions can be left out of the TFTA and a built-in agenda to develop them should be provided for, to be concluded when the TFTA is in force. This will mean, however, that in the interim period, member/ partner states will be left with more of the current unsatisfactory situation where they are unable to use trade remedies.

The TFTA should have a work program to address constraints that member/ partner states are facing in trying to utilize trade remedies, covering long term capacity building, legal reforms, establishment of joint investigating authorities, designation of trade or revenue ministries as the competent and investigating authorities, and use of private investigators who may be retired civil servants or other resource persons. In the TFTA, the secretariat could have a function of closely assisting the member/ partner states in dealing with trade remedies.

Table 1: ANTI-DUMPING LEGISLATION NOTIFICATIONS TO THE WTO

as at 24 October 2012 (Source: WTO)

Key: **** = Notification of no anti-dumping legislation***

None = No notification submitted

	MEMBER	NOTIFICATION PROVIDED
1.	Angola	G/ADP/N/1/AGO/1*
2.	Botswana	G/ADP/N/1/BWA/1*
3.	Burundi	G/ADP/N/1/BDI/1*
4.	Democratic Republic of the Congo	None
5.	Djibouti	None
6.	Egypt	G/ADP/N/1/EGY/2/Rev.1 + Rev.1/Suppl.1
7.	Kenya	G/ADP/N/1/KEN/2
8.	Lesotho	None
9.	Madagascar	G/ADP/N/1/MDG/1*
10.	Malawi	G/ADP/N/1/MWI/1 + Corr.1
11.	Mauritius	G/ADP/N/1/MUS/2
12.	Mozambique	None
13.	Namibia	G/ADP/N/1/NAM/1*
14.	Rwanda	None
15.	South Africa	G/ADP/N/1/ZAF/2
16.	Swaziland	G/ADP/N/1/SWZ/1*
17.	Tanzania	None
18.	Uganda	G/ADP/N/UGA/2
19.	Zambia	G/ADP/N/1/ZMB/1
20.	Zimbabwe	G/ADP/N/1/ZWE/2 + Suppl.1

Table 2 : COUNTERVAILING DUTY LEGISLATION NOTIFICATIONS TO THE WTO

as at 23 October 2012 (Source: WTO)

MEMBER/OBSERVER	NOTIFICATION PROVIDED
Angola	None
Botswana	None
Burundi	G/SCM/N/1/BUR/1
Democratic Republic of the Congo	None
Djibouti	None
Egypt	G/SCM/N/1/EGY/2/Rev.1 + Rev.1/Suppl.1
Kenya	G/SCM/N/1/KEN/2
Lesotho	None
Madagascar	None
Malawi	G/SCM/N/1/MWI/1
Mauritius	G/SCM/N/1/MUS/2
Mozambique	None
Namibia	G/SCM/N/1/NAM/1
Papua New Guinea	None
Rwanda	None
South Africa	G/SCM/N/1/ZAF/2 + Add.1
Swaziland	None
Tanzania	None
Uganda	G/SCM/N/1/UGA/2
Zambia	G/SCM/N/1/ZMB/1
Zimbabwe	G/SCM/N/1/ZWE/2 + Suppl.1

Table 3

SAFEGUARDS LEGISLATIVE NOTIFICATIONS TO THE WTO

(Notifications submitted as at 20 October 2012, (Source: WTO)

MEMBER	NOTIFICATION PROVIDED
Angola	None
Botswana	G/SG/N/1/BWA/1 (*)
Burundi	G/SG/N/1/BUR/1 (*)
Congo, Dem. Rep.	None
Djibouti	None
Egypt	G/SG/N/1/EGY/2 and Suppl.1
Kenya	G/SG/N/1/KEN/1 (*)
Lesotho	G/SG/N/1/LSO/1 (*)
Madagascar	G/SG/N/1/MDG/1 (*)
Malawi	G/SG/N/1/MWI/1 (*)
Mauritius	G/SG/N/1/MUS/1 (*)
Mozambique	None
Namibia	G/SG/N/1/NAM/2 (*)
Rwanda	None
South Africa	G/SG/N/1/ZAF/1+ZAF/2
Swaziland	None
Tanzania	None
Uganda	G/SG/N/1/UGA/1 (*)
Zambia	G/SG/N/1/ZMB/2
Zimbabwe	G/SG/N/1/ZWE/2 (*)

Trade remedy investigations – tripartite member/ partner states

Table 4: Anti-dumping Initiations: By Reporting Member 01/01/1995 - 31/12/2012

Reporting Member	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Argentina	27	22	14	8	23	43	28	14	1	12	12	11	8	19	28	14	7	12	303
Australia	5	17	44	13	24	15	24	16	8	9	7	11	2	6	9	7	18	12	247
Brazil	5	18	11	18	16	11	17	8	4	8	6	12	13	23	9	37	16	47	279
Bulgaria								1											1
Canada	11	5	14	8	18	21	25	5	15	11	1	7	1	3	6	2	2	11	166
Chile	4	3		2		5						1	1	1	1	1	1	1	21
China				3	2	11	14	30	22	27	24	10	4	14	17	8	5	9	200
Colombia	4	1	1	6	2	3	6			2	2	9	1	6	5	2	4	2	56
Costa Rica		4	1	1							1	1			2				10
Czech Republic				2	1														3
Dominican Republic																1			1
Ecuador				1												2			3
Egypt			7	14	7	3	7	3	1		12	9	2		2	1	2	1	71
European Union	33	25	41	22	65	32	28	20	7	30	24	35	9	19	15	15	18	13	451
Guatemala		1																	1
Honduras																3			3
India	6	21	13	28	64	41	79	81	46	21	28	35	47	55	31	41	19	21	677
Indonesia		11	5	8	8	3	4	4	12	5		5	1	7	7	3	6	7	96
Israel	5	6	3	7		1	4			1	4			1	6	6	1	2	47
Jamaica						1	1	1	1						1	1			6
Japan							2						4					1	7
Jordan												1							1
Korea, Republic of	4	13	15	3	6	2	4	9	18	3	4	7	15	5		3		2	113
Latvia							1	6											7
Lithuania					1	6													7
Malaysia	3	2	8	1	2		1	5	6	3	4	8						11	54
Mexico	4	4	6	12	11	6	6	10	14	6	6	6	3	1	2	2	6	4	109
Morocco																	1	2	3
New Zealand	10	4	5	1	4	9	1	2	5	5		1	6			1	2		56
Nicaragua				2															2
Pakistan								1	3	3	13	4		3	26	10	7	5	75
Panama				2											4				6
Paraguay					1					1									2

Trade remedy investigations – tripartite member/ partner states

Table 4: Anti-dumping Initiations: By Reporting Member 01/01/1995 - 31/12/2012 (continued)

Peru	2	8	2	3	8	1	8	13	4	7	4	3	2		4		1	1	71
Philippines	1	1	2	3	6	2		1	1						1				18
Poland			1		7			3	1										12
Russian Federation																	10	1	11
Slovenia					1														1
South Africa	16	34	23	41	16	21	6	4	8	6	23	3	5	3	3		4	1	217
Taipei, Chinese			1	6		4	3		2			5			1	2		9	33
Thailand		1	3				3	21	3	3		3	2	1	1	2	13	5	61
Trinidad and Tobago		1		4	3	1	1		2										12
Turkey			4	1	8	7	15	18	11	25	12	8	6	23	6	2	2	14	162
Ukraine							2	3	2	6	2	1	5	7	2	2	6	3	41
United States	14	22	15	36	47	47	77	35	37	26	12	8	28	16	20	3	15	11	469
Uruguay			1			1	4									1			7
Venezuela	3	2	6	10	7	1	1	1											31
Total	157	226	246	266	358	298	372	315	234	220	201	204	165	213	209	172	166	208	4230

Source: WTO
Reporting Member : All WTO Members
Initiation Date : 01/01/1995 to 31/12/2012
Type of Investigation : Original

Table 5: Countervailing Initiations: By Reporting Member 01/01/1995 - 31/12/2012

Reporting Member	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
Argentina	1	1	1																3
Australia			1		1			1	3			1		2	1	1	2	2	15
Brazil							1		1				1				3	1	7
Canada	3				3	4	1		1	4	1	2	1	3	1	1	2	6	33
Chile					4							1	1						6
China															3	1		2	6
Costa Rica									1										1
Egypt				4															4
European Union		1	4	8	19		6	3	1		3	1		2	6	3	4	6	67
India															1				1
Israel	2																		2
Japan										1									1
Latvia									1										1
Mexico			1						1								3		5
New Zealand	1	4	1																6
Pakistan																	2		2
Peru			1			1		1					1		2			1	7
South Africa			1	1	2	6	1							2					13
Turkey														1					1
United States	3	1	6	12	11	7	18	4	5	3	2	3	7	6	14	3	9	5	119
Venezuela, Bolivarian Republic of					1				1										2
Total	10	7	16	25	41	18	27	9	15	8	6	8	11	16	28	9	25	23	302

Source: WTO
Reporting Member : All Members
Initiation Date : 01/01/1995 to 31/12/2012

PART IV
THE CUSTOMS UNION, TRANSPOSITION AND LEGAL CHALLENGES

Explaining the concerns in operationalising the COMESA Customs Union

By Peter Malinga, Zerezghi Kidane and Francis Mangeni

Introduction

Following the successful milestone of the implementation of the Free Trade Area in 2000 was the operationalisation of the COMESA Customs Union. This was a major step towards the establishment of the single market thereby deepening regional integration. The COMESA market, with its 490 million consumers and a combined gross domestic product of US $525 billion, presents very strong and sustainable trade opportunities for regional companies, including SMEs and small scale traders.

The COMESA Customs Union, launched in June 2009, has been justified at regional level as an essential condition for the sustainable development and integration of the region. It will increase commercial, financial and technological exchanges, which will in turn help the region to grow in a harmonious manner. In addition, at the global level, the Customs Union will facilitate the integration of the region into the world economy.

In preparation for the launch of the Customs Union, the 11th Meeting of the Council of Ministers held in Cairo, Egypt in May 2001 adopted a roadmap for the establishment of the Customs Union and a Common External Tariff in 2004 with a timeline for the development of the main tools for the administration of the Customs Union namely the Common External Tariff (CET), the Common Tariff Nomenclature (CTN) and the Customs Management Regulations (CMR).

Furthermore, the 19th Meeting of the Council of Ministers held in Kigali, Rwanda in 2005 decided that Member States should work towards attaining a Customs Union but, in the event that some of them are not ready to implement the Customs Union, those that are ready should proceed with its implementation. The Council also decided that Member States should identify sensitive products that would be given a longer timeframe for adjustment to the CET or excluded from the CET harmonisation for protection of industry or revenue sensitivity under the Common Tariff Nomenclature.

Similarly, the 23rd Meeting of the Council of Ministers held in Nairobi, Kenya in 2007 adopted the structure of the Common External Tariff as follows: raw materials 0%; capital goods 0%; intermediate products 10%; and finished products 25%. Finally, the 25th Meeting of the Council of Ministers held in Lusaka, Zambia in 2008, adopted the Common External Tariff with rates of duty allocated to all tariff lines of the Common tariff Nomenclature.

It should be noted that several activities contained in the roadmap have been successfully implemented and among these are the following:

a. Launch and implementation of a Free Trade Area;

b. Structure of the Common External Tariff;

c. Principles for a Common Trade Policy which would guide the region's trade relations with the rest of the world;

d. Common Tariff Nomenclature based on the 2012 version of the Harmonized System;

e. Common Customs Valuation system;

f. Competition Rules;

g. Council Regulations for the Customs Union; and

h. Customs Management Regulations.

The Council regulations governing the COMESA Customs Union provide that:

a. The structure of the Common External Tariff, that is: raw materials - 0%; capital goods - 0%; intermediate goods - 10% and finished goods - 25%.

b. The rates of the Common External Tariff be subject to periodic reviews over time frames to be determined by Council;

c. Member States be given the flexibility and policy space to enable them address national issues arising out of implementation of the Common External Tariff rates;

d. Member States will be given space to maintain production incentive schemes such as industrial rebates on a time bound basis; and

e. Market access acquired by Member States prior to implementation of the Customs Union should be preserved.

The Authority established the Committee on the Customs Union and mandated it to oversee the implementation of the transition period of June 2009 to June 2012. The top priority now is for the Member States to adopt the CTN/CET and migrate to COMESA CMRs.

In November 2012, the Sixteenth COMESA Summit extended the transition period for the Customs Union by a further two years and called for the adoption of a comprehensive Roadmap for the extended period to address outstanding issues and concerns of Member States. Earlier on, the Thirty First Meeting of the Council of Ministers in November 2012 decided that the transition period be extended by another two years to give Member States some time to discuss, internalize and implement the outstanding Council decisions and also to address a number of concerns raised by Member States over time. Council further decided that it would undertake a mid-term review after one year to assess progress and to make recommendations on the readiness of Member States to implement the Customs Union by end of June 2014

The two-year extended transition period is calculated from 01 July 2012. This means that the first year of the two years is due to expire at the end of June 2013. In this case, Council has only one month within which to review progress on the implementation of Council Decisions on the Customs Union. It also means that Member States have only one year within which to operationalise the Customs Union. There is still a lot of work and time to be invested into addressing the concerns of Member states with regard to implications of embracing a Customs Union.

However, before addressing the various concerns raised by Member States, it is important to recall what a customs union is. A Customs Union is defined as a merger of two or more customs territories which agree to a common external tariff (CET) and common policies and procedures for managing the importation of goods from countries outside the Customs Union.

A customs Union is a deeper form of integration and has the following features and advantages:

a. Intra-customs union trade is on duty-free and quota-free terms;

b. Levelling the economic playing field and promoting fair competition by reducing disparities in production costs for manufacturers in the various countries with regard to taxes on imported raw materials, intermediate and capital goods from third countries;

c. implementation of a CET can result in major welfare gains for consumers resulting from efficiency and resource use;

d. The joint administration of trade policy by Member States creates regional institutions, which are the building blocks for a regional identity that can act as a catalyst for accelerated development of other regional programmes required to deepen regional integration and promote economic development;

e. Common trade policy formulation leads to deeper integration and more inter-dependence and gives a firm signal to the private sector that the process is irreversible thus positively impacting on cross-border investment;

f. Enhancement of the region's identity and its ability to safeguard common interests by negotiating and speaking as a bloc instead of negotiating and speaking as individual countries;

g. Global political economy requires deeper integration, for all other regions are integrating to form stronger blocs in international economic relations, while a fragmented Africa and COMESA will be weak and despoiled by global forces and new developments in international economic relations, such as the emergence of new resource seeking powers and the persistence of traditional partners to maintain their hold;

h. Deeper integration results in peace and prosperity through the market, economic and social integration of the economic operators and the people, as the EU experience has clearly shown over the past 70 years of peace in stark contrast to the two world wars and previously recurrent wars;

i. Establishment of the Customs Union is an integral step in the trajectory of the COMESA regional integration programme of progressing from the PTA, to the FTA and eventually to a Common Market and a Monetary Union; as well as the eventual integration of Africa to form the African Economic Community; and

j. Establishment of the Customs Union is a Treaty obligation under Articles of 45 and 47 of the COMESA Treaty.

Outstanding Issues

In preparation for the Customs Union, COMESA adopted various international instruments and measures relating to valuation, the customs goods nomenclature, and customs procedures and documentation. In addition to these programmes, COMESA worked on a CET towards which Member States needed to converge as they implement the Customs Union.

Simulations, modeling and studies both at regional and national levels were undertaken with a view to clearly identifying what challenges were likely to be faced in the implementation of the Customs Union at sectoral, national or regional level and to further refine the CET. It is important to note, however, that the initial CETs of existing Customs Unions in other parts of the world such as the European Union were not derived from quantitative studies and simulations. These existing Customs Unions, including the EU, which is well past the Customs Union stage, and UEMOA, set their initial CETs on the basis of political and economic considerations and not by any elaborate and empirical economic analysis or justification.

Basing on the preparatory phase, COMESA Member States launched a Customs Union in 2009 with a clear roadmap that would see the region graduate into a fully fledged Customs Union. A three-year transition period was provided for to give Member States the time to domesticate the various instruments meant for the operationalisation of the customs union by end of June 2012. Indeed Member States continued reporting progress and commitment to the customs union during the three-year transition period on the implementation of Council decisions such as the domestication of the CTN, alignment and domestication of the CET and domestication of the CMRs. It is clear that implementation of the Council decisions relating to the Customs Union has been very low. There are various reasons or concerns given by Member States for not implementing Council decisions. This was demonstrated at the first meeting of the Ministerial Task Force held on 27 February 2012 in Lusaka, Zambia; which was set up by the Authority in 2011 to review the implementation of Council decisions.

Concerns Raised by Member States

Despite the earlier studies and simulations conducted in preparation for the launch of the Customs Union, Member States have continued to reiterate the same issues which they feel must be addressed before they embrace the Customs Union. Some of these issues have been raised during the statutory meetings and others articulated when the Secretariat held two consultative meetings one in the DRC and the other in Zambia with both the private and public sector officials. The issues articulated by Member States included the following:

a. That they would experience losses in revenue derived from imported goods;

b. That indigenous industries would be negatively affected by competition from imported goods;

c. That they would lose sovereignty with regard to decision making on certain policies;

d. That there was need to create a 5% tariff band in the CET to cater for national interests;

e. That some countries have more than 50% of their national tariff lines at 0% rate and are finding it very difficult to move them upwards;

f. Some countries have had very bad economic and industrial break down that they need some considerable space to allow their economies and industries to recover;

g. That some Member States seem to be of the view that since the Tripartite Agenda is now in progress, there is no need to pursue the CU agenda at this point in time;

h. There is also the issue of how to deal with the four COMESA Member States that already belong to the EAC CU;

i. That there is lack of capacity, information and co-ordination on the ground despite the existence of national working committees, and

j. The argument that benefits from the FTA can suffice.

The 31st Council of Ministers' Meeting held in November 2012 considered the above-mentioned issues and instructed the Secretariat to provide responses to them and also give guidance to Member States to enable them implement Council decisions.

The real reasons for not implementing the Customs Union, however, include the following:

a. National policies such as adoption of free zones, which are fundamentally incompatible with the Customs Union, such as in Libya, Mauritius and Seychelles – this means that because these member states already have up to 70-90 % of their tariff lines with a customs duty rate of 0%, they find it impossible to now adopt the 10% and 25% duty rates in the COMESA CET;

b. Existing FTAs with third countries especially with the EU and Gulf countries under the Arab FTA as in the case of Egypt and the Member States that have concluded Economic Partnership Agreements with the EU, which adoption of the CET could affect – this means that because these member states have FTAs under which they extend duty free treatment to the third countries, they now find it impossible to adopt the COMESA CET under which they would be required to introduce duty rates of 10% on intermediate products and 25% on finished products;

c. Strong domestic industry lobbies that feel threatened by competition from imports and resist liberalisation not withstanding any envisaged gains for the national economy or the region at large, in circumstances where Government does not undertake the expected balancing act of protecting the interests of all relevant stakeholders including consumers;

d. Lack of clear political direction on prioritization of regional integration in governmental action plans and development visions, annual budgets, and institutional framework in some Member States,

e. Lack of clear ways forward on relations among the various RECs, as in the case of Member States that need a clear pronouncement on the status of the SADC Customs Union first before proceeding with the COMESA Customs Union; or the interface between the EAC and the COMESA Customs Union;

f. Weak human and financial capacity in ministries dealing with COMESA matters, which in effect does not raise COMESA to the level of the key priority programmes of the Member State; and

g. Non-involvement of some key ministries particularly the Finance and Foreign Affairs Ministries, which wield a lot of influence in setting the national priorities in international and regional relations and in budgetary allocations, and in decisions affecting government revenue.

It would be best to have a frank discussion on the real concerns, specific to each Member State, in the context of a national consultative workshop, and a clear decision taken by each Member State on implementation of the Customs Union programmes and other COMESA programmes, by December 2013. Each Member State should own its process by convening such a national workshop, and producing clear positions to guide its engagement in the COMESA Customs Union programmes.

Explaining the Concerns Raised by Member States

1. ***Fear of loss of revenue***

Firstly, government revenue in nearly all COMESA countries is heavily dependent on trade taxes (customs duty, Value Added Tax and Excise Duties on imports). Indeed Customs revenue accounts for about 24 – 42 percent of total government revenue in some countries and hence justification for the fears. Adopting a CET that is lower than existing import duty rates may have revenue implications for some Member States. There are, however, cases where the national import duties are lower than the CET. In such cases, adopting the CET will not lower the revenues but may have other social and economic implications on the country.

Whereas Customs duties still remain an important element in most countries in the region, they should not be the only parameter to be considered when discussing regional integration. There are other elements such as industrial development, social issues and investment which should be taken into account. Over the years however, and as the world moves to establish more regional integration agendas through the establishment of the FTAs and Customs unions, Customs revenues are slowly taking a back stage in favour of domestic taxes.

It should also be noted that the global financial crisis has led to a downturn in international trade which has inevitably affected government revenues. Additionally, the global trend in the reduction of customs duty rates, through unilateral, regional, and multilateral trade liberalizations, could potentially have the same effect. Reduced international trade levels inevitably affect revenue flows, including Customs duties. Therefore, it becomes particularly important to ensure that Customs administrations facilitate the compliant trade sector in accordance with the harmonised COMESA Customs instruments such as the CTN/CET and CMRs.

The Secretariat reviewed various literature and established that although there might be loss of revenue in the short run, governments can collect more revenue over the long run. For instance, the COMESA Secretariat carried out a study in 2011 on the substantial tariff rates below the CET and established that at country level, the technical solutions for full tariff alignment to the CET were observed to bear potential net competitiveness gains with possible challenges in terms of consumer price increases. In this regard, the highest potential tariff revenue loss was observed for Egypt, with an estimated 8% reduction of original tariff revenue. Also, it was reported that the highest potential revenue loss would occur in Zimbabwe, with an estimated 1.5 percent reduction of original tariff revenue.

Hence, Member States may lose some revenue in the short term as a result of applying the CET and in order to address this, a COMESA Fund Adjustment Facility has been put in place. The

Adjustment facility provides for some compensation on account of revenue loss arising from the implementation of the COMESA trade liberalisation programmes. Indicative allocations under the COMESA Fund Adjustment Facility are given in the table I below for information. As can be seen from the table the current COMESA Fund covers the period 2012 – 2014 with a total of 35,109,161 Euros. The actual amounts to be disbursed are based on estimations of adjustment needs arrived at in consultation with the Member State. It is, however, expected that in the medium to long-term, revenues may increase as import structures change as a result of the application of the CET. In addition, it is expected that Member States will undertake reforms in their domestic tax systems in order to raise more revenue.

Table I: Variations based on COMESA Fund contribution ratios

	Total (Euro)	Distribution (Euro)		
	2012-2014	**2012**	**2013**	**2014**
1. BURUNDI	2,089,144	823,601	979,559	285,984
2. COMOROS	1,572,859	618,152	738,965	215,742
3. DJIBOUTI	1,572,859	618,152	738,965	215,742
4. DR CONGO	3,094,541	1,223,688	1,448,082	422,771
5. ETHIOPIA	1,658,177	-	1,283,466	374,711
6. KENYA	4,453,186	1,764,345	2,081,223	607,617
7. MALAWI	2,306,527	910,107	1,080,861	315,560
8. MAURITIUS	3,257,579	1,288,567	1,524,059	444,952
9. RWANDA	2,089,144	823,601	979,559	285,984
10. SEYCHELLES	1,572,859	618,152	738,965	215,742
11. SUDAN	1,805,414	-	1,397,431	407,983
12. UGANDA	2,442,392	964,172	1,144,175	334,044
13. ZAMBIA	2,741,294	1,083,117	1,283,466	374,711
14. ZIMBABWE	4,453,186	1,764,345	2,081,223	607,617

Another study conducted in 2012 sought to determine the implications for Zambia of the trade reforms that the country would undertake as it integrates under the COMESA Customs Union, and found that overall, the establishment of full free intra-COMESA trade and then a Customs Union would potentially result in a 0.7 percent increase in 2010 imports and a trade tax revenue loss of 6 percent or K323.5 billion equivalent to about 2.5 percent of total tax revenue. With such a small revenue loss and a less than one percentage point potential increase in imports, it would be expected that the trade reforms associated with the Customs Union would not change the pattern and size of Zambia's import trade significantly.

Similarly, to draw lessons from the experience of country implementation of the EAC Protocol on the Customs Union, it has been established that before the EAC CET, EAC Partner States had varying tariff structures, with Kenya having some at 60 percent and Tanzania at 70 percent, with some specific duties, while Uganda's highest tariff was 15 percent. All countries in the EAC feared loss of revenue and competitiveness prior to the implementation of the Protocol Establishing the EAC Customs Union. However, implementation of the CET has improved liberalisation, increased trade, and boosted the industries amongst the five Partner States. A presentation on this experience was made by a delegate of the Government of Kenya to the Twenty Seventh Meeting of the Trade and Customs Committee held on 15-18 August 2011 in the Kingdom of Swaziland.

The EAC Customs Union has had a positive impact in terms of increased trade among the EAC Partner States, revenue increased, economic performance improved, and tax administration improved. In terms of simplification, trade activities grew, and there is now greater reliance on other taxes through reforms such as income tax, VAT and other internal taxes rather than reliance on Customs duties. Import duty collection increased from Kenya Shillings 24 billion in 2005 to Kenya Shillings 47 billion in 2010, almost doubling. However, it was also noted that challenges were experienced on issues of sovereignty, NTBs, conflicting interests, harmonisation of exemptions, unrecorded informal cross border trade, overlapping membership, and differences in internal taxes.

1. Fear of closure of indigenous industries due to competition from imported goods

Article 61 of the Treaty provides for measures to protect local industries in case of any injuries. In the event of serious disturbances occurring in the economy following the application of the provisions of the Treaty, a concerned Member State can take necessary safeguard measures. Furthermore, the Council Regulations Governing the Customs Union provide that, where a Member State demonstrates that its economy will suffer serious injury as a result of the application of the Common External Tariff, the Member State concerned shall, inform Council and the other Member States, through the Secretary General on the measures it proposes to take.

As an example, Kenya has successfully used the COMESA safeguard mechanism to protect its sugar industry, in order to progressively improve its competitiveness.

In addition, the COMESA Treaty recognizes that Member States are at different levels of development and are faced with a varied range of capacity, economic and developmental limitations. The Treaty, therefore, allows for variable speed and geometry among Member States. Article 56(3) states that:

> *"Nothing in this Treaty shall prevent two or more Member States from entering into new preferential agreements among themselves which aim at achieving the objectives of the Common Market, provided that any preferential treatment accorded under such agreements is extended to the other Member States on a reciprocal and non-discriminatory basis."*

This Treaty provision permits two or more Member States to integrate further than other members, provided such arrangements aim to achieve the objectives of COMESA. The Customs Union is a stated objective of COMESA. It also indicates that other members can join the two or more members in the new arrangements when they are ready to reciprocate the terms of the new arrangements. It was on this basis that the COMESA FTA was launched initially with only nine Member States participating and that other programmes have been started by some Member States and joined by others.

2. Member States will lose sovereignty with regard to decision making

It should be noted that Member States developed the COMESA Customs Union roadmap following the launch and implementation of a Free Trade Area, such as Structure of the Common External Tariff; Principles for a Common Trade Policy which would guide the region's trade relations with the rest of the world; Common Tariff Nomenclature based on the 2012 version of the Harmonized System; Common Customs Valuation system; Competition Rules; Council Regulations for the Customs Union; and Customs Management Regulations. However, Member States will still have the policy space to have a list of sensitive products and excluded products over which they will have discretion in terms of the tariff treatment.

Loss of sovereignty will be limited to certain regional policies such as the common commercial or trade policy, the common external tariff and a few others. This is important if the customs union has to be sustained. It helps to keep the policies on track and to keep Member States have a stronger negotiating position whenever necessary.

However, rather than seeing it as a loss of sovereignty, the Customs Union and regional integration in general should be considered as pooling of sovereignty in the specific identified areas, without at all any suggestion that the sovereign powers embodied in the Head of State will be reduced or undermined, but those powers will now be stronger in relations with third countries because of the support from the other sovereigns. This means that in "given agreed areas", the governments of Member States will act collectively, becoming stronger as a bloc in relations with third countries.

3. The need to create a 5% tariff band in the CET to cater for national interests

This matter was discussed at the Thirtieth meeting of Council and Member States appreciated the recommendations on this issue. They were also encouraged to carry out their own national studies and report back to the Secretariat. Except Egypt, no other country has done this. It should be noted that three studies were done on the issue of the 5% tariff band and the studies advised against introducing the band. However, the architecture of the Customs Union is such that there will be periodic reviews of the CET to take account of emerging issues. This means that occasion will be found to review the CET.

On the basis of the findings, the study recommended that concerned Member States should counter check the partial and full adjustment solutions and in view of the implied competitiveness and consumer price challenges, take decisions as to which, if any, alignment options were feasible to implement. Where the partial and full adjustment solutions were not sufficient to address the issue, concerned Member States were encouraged to draw on the Council Regulations governing the Customs Union in:

(i) Article 7 which provides that Member States have adopted a Common External Tariff in respect of all goods imported into the Customs Union in line with the provisions of Article 47 of the Treaty;

(ii) Article 10, which provides for safeguard measures that Member States can use in protecting their economies;

(iii) Article 27 which provides for measures to address imbalances arising from the establishment of the Customs Union that Member States can use in line with the Fund established under Article 150 of the Treaty; and

(iv) Article 28 which provides for a safeguard Clause that states that in the event of serious injury or threat of serious injury occurring to the economy, Member States affected shall, take necessary safeguard measures ,

All the above mentioned articles provide additional policy space for resolving the 5% issue.

The real problem has been that some Member States have expected only a study that recommends the establishment of a 5% tariff band in the COMESA CET, and have chosen to ignore the clear recommendations in all the studies done so far that the 5% tariff band should not be introduced. The studies have provided elaborate suggestions on how to absorb the tariff lines with 5% rates into the CET structure with the possibility of a phase-in period as well as the possibility of listing some products as sensitive or excluded.

4. That some countries have more than 50% of their national tariff lines at 0% rate and are finding it very difficult to move them upwards

The main issue here has been that some Member States have a number of tariff lines with duty rates below either the 25% for finished products or 10% for intermediate products. This has resulted from national policies on tariff liberalization, which in some cases have been taken to the level of creating duty free zones. As pointed out already, this has been the case in Libya, Mauritius and Seychelles. For such member states, introduction of duties would amount to serious policy reversals. Egypt and Zimbabwe also claim to fall under this category, but their main concern is about the 5% tariff issue, since the tariff lines at 5% are below the 10% and 25% duty rates and a number of studies have already been done on how to deal with the 5% tariff lines.

The practical thing to do, in the circumstances, is for such member states to seek derogation from implementing the Common External Tariff of the Customs Union. This requires this political decision to be taken by the Government and discussed by COMESA at ministerial level, as a political matter. The benefit of this approach will be to preserve the liberalization the member states will have achieved, while leaving the rest of the membership to proceed with the Customs Union as appropriate; and this is allowed under the principle of variable geometry.

However, for a better perspective, Mauritius in particular, already has about 50% of its tariff lines already aligned to the COMESA CET rates. What Mauritius could have done but hasn't, is to implement the Customs Management Regulations and the Common Tariff Nomenclature. Good progress on these two key instruments would have put the country in good stead.

5. Some countries need considerable space to allow their industries to recover

As earlier stated; the COMESA Treaty recognizes that Member States are at different levels of developments and are faced with a varied range of capacity, economic and developmental limitations. The Treaty, therefore, allows for variable speed and geometry among member States and there are safe guard measures that can be deployed by Member States to protect their industries. Again the policy envisaged under the Customs Union can be invoked here.

In this regard, the COMESA Council has decided that Member States be given space to maintain production incentive schemes such as industrial rebates on a time bound basis and that Member States should preserve the Market access acquired prior to implementation of the Customs Union. This was done in line with the Article 49(2) of the Treaty that allows such measures for the purposes of protecting an infant industry, provided that a member state has taken all reasonable steps to overcome the difficulties related to such infant industry

In addition, if a Member State encounters balance-of-payments difficulties arising from the application of the provisions of the COMESA liberalisation measures, that Member State may impose, for the purpose of overcoming such difficulties for a specified period to be determined by the Council, quantitative or the like restrictions or prohibitions, on goods originating from the other Member States provided that member state has taken all reasonable steps to overcome the difficulties (Article 27 of the Council Regulations Governing the Customs Union).

6. The Tripartite FTA and the Customs Union Agenda at this point in time

On the issue of the Tripartite Agenda, the Fourth Extra-Ordinary Ministerial meeting in October 2012 observed that the Tripartite FTA and the COMESA Customs Union are complementary. Therefore, Member States should take advantage of the Tripartite negotiations to review and internalize all Council Decisions on the Customs Union and ensure that they are domesticated. The interface between the Tripartite FTA and the customs unions is such that the Tripartite FTA rules will govern trade among the Tripartite countries, while the customs unions rules or CET will not apply to trade among the Tripartite countries but only to trade with third countries outside the Tripartite.

The question of removing customs unions off the table does not arise in the first place, because there are actually functional customs unions in the Tripartite region (the East African Community and the Southern African Customs Union), and the Treaty of COMESA already requires that COMESA should establish a Customs Union, which has in fact already been launched. In addition, the Communique of the First Tripartite Summit of 22 October 2008, from Kampala, calls for the eventual merger of COMESA, EAC and SADC.

7. How to deal with Member States that belong to EAC Customs Union

It is generally argued that a country cannot belong to two different customs unions at the same time unless the two customs unions have the same common external tariff and a common customs law. In this regard, COMESA and the EAC are currently engaged in discussion for the purpose of harmonizing their common external tariffs and their customs laws.

The four COMESA Member States namely, Burundi, Kenya, Rwanda and Uganda that are already in the EAC Customs Union may wish to pronounce that they are in effect implementing the COMESA CTN/CET already as the differences are minor, estimated at less than 20 percent. Discussions between COMESA and the EAC are ongoing on how to harmonise the divergences of the two CETs and customs laws. Such a pronouncement would assist remove the political problem of having to choose between COMESA and EAC regimes.

8. The lack of capacity, information and co-ordination on the ground

On addressing the lack of capacity, information and co-ordination on the ground despite the existence of national working committees, the Council at its various meetings directed the Secretariat to continue working closely with Member States to provide technical assistance in implementing the Council Decisions on the Customs Union. The Secretariat is working closely with Member States through facilitating consultative workshops/meetings as well as outlining revised action plans to assist member states fulfill their commitments.

9. That the FTA is sufficient

Some Member States have taken the view that the FTA is sufficient and that there is no need to have the Customs Union. This view does not adequately take into account the fact that establishment of the Customs Union is an obligation on each Member State under the COMESA Treaty, and that the FTA by itself cannot and does not deal with certain policy harmonization and co-ordination programmes that are required to reduce the cost of doing business in the region and to promote competitiveness and better utilization of the market access under both the FTA and the Customs Union. Under that view, all the complementary programmes that have been implemented in COMESA to support regional integration would have to be stopped, since the FTA by itself only requires elimination of duties and other restrictive regulations of commerce on substantially all trade.

This strict definition of an FTA falls far below the level of ambition exhibited or desirable in COMESA and in practice has not been used or stuck to; rather, an all-encompassing approach has been taken, by adopting and implementing all relevant complementary programmes that address critical supply side constraints and key challenges to integration in the COMESA region.

In this regard, the Customs Union assists in reducing the cost of doing business through the trade facilitation customs programmes related to integrated border management and simplification and standardization of documentation, standardization and modernization of customs processes and administrations through the Customs Management Regulations, policy coordination and harmonization among the Member States through various customs and industrial programmes, and adoption of the industrial policy based on the CET of reducing the cost of inputs by reducing tariffs on these products while affording some protection to industries producing finished products by maintaining a reasonable rate of duty at 25 percent, subject always to affording relevant policy space to Member States as may be needed.

The other important consideration is that in the range of location factors or advantages that a region can have in order to be a desirable destination for investment, a customs union attracts tariff-hopping investment. This is investment that seeks to locate behind customs duties that protect the industry if the internal market is sizeable. In the case of large economies such as China or the USA, the national duties can provide this tariff hopping incentive. But in the case of small economies, it is the customs union that creates the sizeable market and provides a common tariff behind which the investment can be made. The experience of the European Union has shown that a number of companies from the Japan, USA, and other major economies were attracted into locating in the single market in order to jump the European Common External Tariff so their products could be competitive on the internal market.

Perhaps more importantly, the practice of regional integration worldwide shows that a mere FTA has never been the approach taken in any regional integration organization. All regional integration organisations complement the FTA with relevant supportive programmes; and some of the organisations have moved quite fast in establishing customs unions or even economic and monetary unions. Examples in Africa include the SACU, EAC, and UEMOA and CEMAC which are a customs union, a common market and monetary unions respectively.

Under the Tripartite Arrangement, a developmental approach to regional integration has been adopted, based on the three pillars of market integration, industrial development and infrastructure development. Developmental integration is never confined to a mere FTA, anywhere in the world. The continental vision, to which all Member States of the African Union adhere and are working towards achieving, is a free and united Africa, and a globally influential economic bloc under the umbrella of the African Economic Community. Outside Africa, reference can be made to the European Union, which has continued to expand from six countries to 27 now, with more lining up to join on the basis of the existing *acquis* of the single market. Reference can also be made to MERCOSUR and the Central American Common Market, which are well known.

In line with this approach, the last Joint Meeting of Finance Ministers and Central Bank Governors, as reported to the Twenty Seventh Meeting of the Trade and Customs Committee held on 15-18 August 2011 in Swaziland, established a Convergence Council made up of Finance and Trade Ministers and Central Bank Governors, in order to streamline the implementation of the monetary and fiscal harmonisation programme, and taking into account that the FTA and the Customs Union provide essential trade policy components of a monetary and fiscal management programme under the Fiscal Surveillance Mechanism and the Macroeconomic Convergence Programme, particularly in relation to foreign reserves and to deficits and to overall sustainability of any regional economic integration programme.

Member States may therefore wish to re-commit to the due implementation of the COMESA Treaty and to faithfully pursuing the COMESA vision of become a fully integrated, internationally competitive, and prosperous regional economic community that is fully part of the continental integration programme of forming the African Economic Community. To limit COMESA to a FTA is to be inconsistent with the vision of the region and the Treaty as a whole, to depart from the unity of Africa, to ignore the practice of regional integration elsewhere in Africa and indeed worldwide, and to ignore the need to comprehensively deal with key regional challenges to economic integration and to social economic development as a whole.

The Commitment of Member States

Member States have time and again reported their commitment to the implementation of the Customs Union. It is in this spirit that Member States should build confidence in operationalising the Customs Union. The COMESA internal market can only be consolidated if there is commitment and trust among the various players. This will result in increased trade among them and generate more development in the region. A customs union is just a means to an end. Member States should use the partial and full adjustment solutions and utilize the policy space provided in Articles 7, 10, 27 and 28 of the Council regulations governing the Customs Union.

Status of Transposition of COMESA Programmes by the Member States

By Anne Ndirangu

Background

The Treaty establishing COMESA came into force in 1994, as a successor to the Preferential Trade Area for Eastern and Southern Africa (PTA), which had been in existence since 1981, as part of the framework of the Lagos Plan of Action and the Final Act of Lagos of the Organization of African Unity (OAU).

The key objectives of establishing COMESA were to take advantage of a larger market size, to share the region's common heritage and destiny, and to allow greater social and economic co-operation, with the ultimate objective being part of the African Economic Community. COMESA's principal focus is promoting regional integration through trade development, investment promotion and sustainable utilization of natural resources for the mutual benefit of all citizens of the region.

The COMESA approach to regional integration is the classical, stage-by-stage gradual method of progressing from Preferential Trade Area (PTA) to Free Trade Area (FTA) to Customs Union to Common Market and eventual Monetary Union. The practice, however, shows that progress is being made on all these stages at the same time.

By 2025, COMESA expects to be a single trade and investment area in which tariffs, non-tariffs and other impediments to the movement of goods, services, capital and people will not be in existence, while trade in goods and services from the region should have achieved global market competitiveness. The region also expects per capita income to have doubled because of a steady expansion of the regional economy.

COMESA's Vision is "to have a fully integrated internationally competitive regional economic community within which there is economic prosperity and peace as evidenced by political and social stability and high standards of living for its people and its Mission is to endeavor to achieve sustainable economic and social progress in all Member States through increased co-operation and integration in all fields of development".

Definition of Transposition

Transposition has been referred to in various literature as "mainstreaming", and "domesticating". These terms mean more or less the same thing, i.e. ensuring that policy and administrative measures are put in place to implement regional agreements, decisions, Protocols at national level. It involves giving force to a regional commitment by passing appropriate implementation, application and enforcement means by a Member State. This is done to ensure that policy and administrative measures are put in place to implement regional agreements, decisions, and protocols at national level. The transposition of regional integration commitments into national development strategies is therefore without doubt an important exercise towards the success of regional integration.

In COMESA, transposition is foreseen under Article 173 of the Treaty. The Article specifies that: *"Member States agree that the implementation of the provisions of this Treaty shall be prioritized on the basis of comprehensive and measurable programmes with clear implementation targets and effective evaluation mechanisms".*

Therefore, information on the degree of success of mainstreaming of regional integration and cooperation commitments at national levels should be monitored/ implemented at four (4) levels, covering the actual transposition as well as its application and enforcement. These levels are:

a. **Legal and Regulatory Framework Level -** the degree of actual transposition of commitments into the national legal and regulatory frameworks required for their implementation.

b. **Strategic Policy Level -** the degree of integration of the commitments into the national policy frameworks, such as national plans, PRSP, sector strategies etc.

c. **Planning Level -** the degree of concrete transposition into the national planning tools such as Public Investment Programme and Budgetary Frameworks.

d. **Operational Implementation Level -** the existence of a monitoring mechanism, and the degree of actual implementation of the various commitments against an agreed roadmap and monitoring benchmarks, and including corrective measures.

Legislative Basis for Council Decisions

The legislative mandate of Council is derived from the COMESA Treaty, particularly Article 10 on Regulations, Directives, Decisions, Recommendations and Opinions of Council which provides that:

a. The Council may, in accordance with the provisions of this Treaty, make regulations, issue directives, take decisions, make recommendations or deliver opinions;

b. A Regulation shall be binding on all the Member States in its entirety;

c. A Directive shall be binding upon each Member State to which it is addressed as to the result to be achieved but not as to the means of achieving it;

d. A Decision shall be binding upon those to whom it is addressed; and

e. A Recommendation and Opinion shall have no binding force.

Article 11 on Reasons for Regulations, Decisions and Directives states that: "Regulations, Directives and Decisions of the Council shall state the reasons on which they are based and shall refer to any proposals or opinions which were required to be obtained pursuant to the Treaty".

Article 12 on the entry into force of regulations, directives and decisions of Council provide that:

i). Regulations shall be published in the Official Gazette of the Common Market and shall enter into force on the date of their publication or such later date as may be specified in the Regulations;

ii). Directives and Decisions shall be notified to those to whom they are addressed and shall take effect upon the receipt of such notification or such dates as may be specified in the directives or decisions;

Pursuant to the above, the COMESA Secretariat after every meeting Gazettes the decisions of Council and thereafter expects Member States to domesticate the decisions to enable implementation. The current arrangements are that the COMESA Coordinating Ministries oversee the domestication of the Council decisions. In addition, each and every Member State is expected to have established appropriate Institutional Structures for coordinating and implementing COMESA programmes. In this regard, attention is drawn to the decisions of Council on the establishment of Inter-Ministerial Committees in each country and other relevant stake holder consultative forums.

COMESA Transposition survey

In October, 2011 the Council of Ministers decided to fast track transposition/domestication especially relating to the (rider) amendment to the Regional Integration Support Mechanism (RISM) Contribution Agreement to the European Union which proposed to enable support to Member States under the COMESA Adjustment Facility. Improved transposition of regional commitments by Member States into national policy and legislation would be the basis for determining disbursement of funds under the RISM programmes. Pursuant to this, Council in October 2011 approved specific indicators under RISM.

Pursuant to the above decision of Council which was endorsed by the COMESA Authority, the Secretariat undertook field missions (May – July 2012) to seventeen (17) Member States to ascertain the extent to which Member States have transposed Council Decisions, Regulations and Directives to implement agreed COMESA Programmes as outlined in the COMESA Medium Term Strategic Plan 2011-2015 as endorsed by Council in 2010 in Swaziland.

In-house teams led by Country Officers collected data at a technical level using a standard template, interviewing COMESA country desk officers and other line ministries in the Member States. Data was also collected through engagements with the representatives of the private sector. Case analyses of available COMESA documents and country reports were done and minutes of official meetings were also reviewed.

Specifically the survey was intended to:

a. Take stock of regional integration treaties protocols, decisions, commitments agreements and sub-agreements indicating the date of entry into force of the commitment;

b. Document level of domestication (Legal and regulatory framework level, Strategic Policy Level, Planning Level, Operational Implementation Level) of regional integration treaties protocols, decisions, commitments agreements and sub-agreements by member States;

c. Document implementation/transposition challenges faced by individual member States;

d. Consolidate findings, lessons, conclusion and recommendation to improve transposition.

Main Findings on Transposition

COMESA Member States have made some important progress in implementing Decisions of the COMESA Council of Ministers and other regionally agreed instruments and protocols. From these successes it is clear that deeper regional integration is being achieved as countries honour their commitments and more actively pursue the gains of regional freer trade, regional co-operation and common socio-economic and geo-political development. The path towards a structurally transformed, modernized and globally competitive region has been taken and is being achieve a step at a time.

Political commitment at the highest level among COMESA Member States is not in doubt. Bold decisions made over the years towards deeper integration can attest to this. The challenge appears to be the ability to take COMESA decisions through the legislative and or planning and resource allocation processes. Therefore a strategy to address these challenges must focus on continuously cultivating political support at the highest level and having an intimate knowledge of the regional and national political dynamics.

In general there exists a perennial challenge of poor integration of regional programmes into national development plans of Member States which has led to poor implementation. A fuller understanding of the reasons and exact extent of the disconnect between political will and implementation requires, an in-depth, systematic and intentional exploration and analysis of issues.

Among the reasons for poor implementation is that (i) National Development Plans (NDPs) and Budgets of Member States often do not reflect the commitments made at COMESA Policy Organs meetings; and (ii) M&E capacity at the COMESA Secretariat and in Member States is low, making it difficult to track implementation and its challenges in order to inform planning and strategic decision making.

The challenge, broadly defined, is one of resource-capacity; specifically inadequate "resources" in four interrelated dimensions of institutional, technical, financial and political. A closer analysis also reveals potential stress points in the decision-to-action continuum that must be addressed as part of a comprehensive strategy for integrating Regional Commitments into NDPs.

Institutional Constraints

During the Transposition mission to Members States the study revealed that in general there are major institutional challenges which relate to weak (or absent) structures and systems to support implementation of the decision process. The determinants of a strong and effective institutional structure include a legal or policy framework, sectoral representation, requisite authority and a coordination and accountability mechanisms.

Where institutional structures exist, performance is hampered by inadequate coordination, irregular and poorly attended meetings and lack of budgetary support. The problem of coordination is compounded by the fact that some countries have numerous inter-ministerial committees and even ministries with duplicative roles due to multiple memberships.

A strategy to address institutional constraints should focus on buttressing or helping establish the policy or legal framework in which to anchor regional integration into government structure. Having an accountable, permanent inter-ministerial committee chaired by one ministry responsible for all integration affairs will help improve coordination. Who should be the convener of such meetings? Should it be central or line ministries? The convener of such a forum should be one who has authority to summon other ministries. This is because sound institutional structures and systems often act as self-enforcement mechanisms.

Technical Constraints

The COMESA integration agenda in all its economic, social and political dimensions is broad, ambitious and complex. The range of skills, knowledge and experience required are often not readily available in all Member States and a formal mechanism for exchange of such expertise within members States is not in place. There is acute need for technical assistance to, among others, undertake in-depth studies, formulate policies, design and implement programmes; and assess progress, impact and implications of programmes and projects.

Financial constraints

Lack of financial resources is among the most frequently cited reasons (by Member States) for poor implementation of Council and Authority decisions. The COMESA Treaty (Article 150) anticipates this and provides for the establishment of a Special Fund to help compensate Member States for "special problems…and other disadvantages arising from the integration process".

Consistent with this provision, the COMESA Fund, comprising the COMESA Adjustment Facility (CAF) and the COMESA Infrastructure Fund (CIF), has been operational since 2006. While this Fund is beginning to help Member States implement their regional commitments, there is considerable room to expand its scope and size. But even when this fund operates at its full potential, it is unlikely that it will address all the budgetary constraints that Member States give as the reason for poor implementation of Council decisions. Some of the constraints – such as lack of budgetary support for committees –will need to be addressed through national planning and resource-allocation processes concurrent with efforts to address institutional and political constraints.

Pre-Decision Phase

Proposals that end up as Council or Authority decisions usually originate from technical committees who often work with experts and the Secretariat to research, investigate, study, and analyse the issues at hand and make appropriate recommendations. A strategy to strengthen the pre-decision phase requires that Member States ensure (i) participation in technical committees is at the right level of expertise; (ii) adequate pre-policy organs meeting briefing on the salient issues and their implications; (iii) attendance in meetings is at the right level of responsibility and authority.

Decision Phase

Committee proposals are subjected to the first key decision test at the Intergovernmental Committee (IC). Likewise, Council receives proposals from IC. Depending on the complexity of the issue at hand, adequate time should be set aside for review and discussion. Dissenting voices should be given space to articulate their positions.

In order to address the expressed concern about the number and clarity of decisions, the focus should be on few, consequential and well-defined proposals, particularly those with potential for the broadest and widest impact within the shortest time possible.

Post-Decision Phase

A persistently expressed concern is the lack of post-decision follow-up. In order to address this problem, a post-decision strategy should, at a minimum, incorporate:

(i) A post-meeting debrief and review. This, like the pre-meeting briefing and review, should be initiated by the COMESA coordinating ministry;

(ii) To enhance follow up, a monitoring, evaluation and reporting system should be developed and adequately resourced. This should be backed by an on-going analysis of obstacles to effective implementation of decisions.

In relation to the five key areas of implementation, it would appear that the region performed favorably in relation to implementing decisions on addressing supply-side constraints, peace and security and cross-cutting issues. Member States faired moderately in relation of the implementation of decisions on building productivity and competitiveness. On the other hand, although the implementation of decisions related to the elimination of barriers to factor mobility was relatively on track, there were major concerns regarding the Customs Union to the extent that implementation progress in that respect was very low.

Recommendations

As has been observed, the gains in regional integration have not been without challenges. The Member States have faced constraints that have hampered progress in the implementation of legal and programmatic commitments. In view of all the observations, insights, lessons learned and conclusions emanating from this transposition report, the following recommendations could be considered:

a. There is need for a very clear strategy to address the perennial challenges of poor integration of regional programmes into national development plans of Member States (MS). Regional Integration agenda is broader than Trade, and there is need to ensure that the new dimensions are incorporated.

b. A high level political decision will be needed to provide the necessary guidance on how to deal with the slow progress of implementing decisions related to the Customs Union under the elimination of barriers to factor mobility by Member States.

c. COMESA Member States should be assisted to identify and properly cost the key infrastructure and industrial needs that facilitate regional integration. Based on these infrastructure needs assessments, a proper sequencing of what should be done first should be undertaken. This should be accompanied by vigorous and innovative domestic and external resource mobilization strategies to finance infrastructure programmes. With the current decline in donor funding, domestic alternatives of funding infrastructure projects should be explored. Domestic resources are also required to sustain some of the donor-supported COMESA programmes.

d. A review of existing policies should be undertaken with the broad objective of determining which ones have been relatively easier to implement and which ones have been particularly difficult; these reviews should be towards ensuring that poorly formulated and/or difficult to implement policies are reformulated and recast.

e. Efforts to sensitize Member States about the COMESA agenda for regional integration and its rationale (including anticipated benefits and costs) should be intensified towards building political will, positive public opinion and deeper understanding and appreciation in technical, implementing Government departments and agencies. Greater efforts should also be made in terms of technical support and building skills and institutional capacities in Government departments and agencies in the Member States.

f. To institutionalize the Inter Ministerial Coordinating Committees, definite Terms of Reference should be drawn and adopted. Countries with strong monitoring and tracking system of COMESA decisions are better placed to transpose and implement Council decisions. This will help keep an Audit Trail of decisions. The monitoring framework should be complemented by a strong co-ordination between the Secretariat and Member States and also among the Member States themselves.

g. In line with this there is need to establish Regional M&E Frameworks. To strengthen M&E there is need to connect with whoever is responsible for M&E at MS level/REC level. The Ministries of Economic/National Planning can play a big role in M&E because they monitor their Economic Plans – (assuming regional integration agenda in part and parcel of National Development Plans).

h. Trade Facilitation Instruments: Many of the instruments under implementation have gone through national legislative processes for domestication either through parliament or through subsidiary legislation in line with the normal practices in individual member states. In order to facilitate implementation by countries not implementing, there are different options depending on the reasons why a country is not implementing. The following may be the actions to facilitate implementation:

    i. Providing Member States with model legislative instruments;

    ii. Assistance to states to build capacity both in personnel training and institutional strengthening;

    iii. Arranging for exchange of personnel among states in order to learn from good practices;

    iv. Sensitizing regulators and service providers to understand the benefits of the specific instruments.

i. Sensitization and awareness campaigns at country level are critical for change of both attitudes and practices towards implementation in the Member States. In the transposition survey, a number of Member States specifically highlighted the importance of sustained sensitizations and awareness campaigns regarding COMESA protocols, declarations, decisions and programmes with the relevant stakeholders such as parliament, business, exporters and the people in general, the intended beneficiaries of regional integration. It was noted that some of these stakeholders, notably business and exporters, could be used as agencies to identify problems as they are conducting business within the region.

j. Fast tracking the Tripartite Framework. Administrative constraints related to belonging to more than one Regional Economic Community (REC) have complicated the implementation of some regional commitments. Particularly, multiple memberships for some countries complicated the implementation of the COMESA Customs Union commitments such as those related to the CTN, CET and CMR. It is in this context that the envisaged broader Tripartite Framework is expected to be very useful.

k. Sustained political will at the highest level is critical for enforcement of Decisions, Directives and regulations. In COMESA, the lack of legally binding mechanisms to enforce the implementation of agreed actions, decisions, resolutions and directives has also been identified as a challenge.

l. Engaging the private sector to address SPS matters at regional and international levels still abound. The report to the 5th Meeting of the Committee on Standardization and Quality Assurance noted that countries face several challenges. The order of importance in paying attention to SPS issues is clearly still not well aligned to the regional commitments of COMESA. This is a significant challenge for implementation of the regional agenda.

Institutional and Legal Difficulties in Implementing the COMESA Integration Programme

By Francis Mangeni

COMESA is a regional economic community of 19 Member States, with booming regional trade (intra-COMESA trade had reached US $19.3 billion from 3.1 in 2000), a population of 490 million, a combined GDP of US $525 billion, and land mass of 12.6 million square km. These figures mean that COMESA is a credible force in regional, continental and international relations; a force for good though, because according to Article 3 of the Treaty, the reason COMESA exists is to improve the living standards of the people in the region. Together, the various programmes that COMESA implements are designed to lift the people out of poverty and misery, so they are freed to pursue their dreams in happiness.

COMESA is the largest FTA in Africa and through its various programmes and institutions has had an indelible imprint on the continental integration process, not only through its sheer geographical and economic size, but more importantly through the pioneering nature of its programmes and institutions. The most successful COMESA institutions include, the Clearing House which has now established an international payment system called the Regional Payment and Settlement System, the Leather Products Institute, and the Alliance for Commodity Trade in Eastern and Southern Africa. The financial institutions of COMESA have now grown into continental institutions and enjoy excellent global rankings, namely, the PTA Bank, the Re-insurance Agency, and the African Trade Insurance Agency. The COMESA Court of Justice stands out for the wide jurisdiction it has and access it provides to individuals and companies, as well as the Secretary General, COMESA institutions, and the Governments of Member States.

The integration programmes of COMESA include the following: the FTA since 2000 now with 14 Member States (Uganda and Congo DR are in advanced stages of joining while Ethiopia has taken a decision in principle at the political level to join; South Sudan has issued a directive that the FTA regime will continue to apply and is expected to formally accede to the Treaty; Swaziland has a derogation because it is a member of SACU); the Customs Union (still to be implemented by Member States); services liberalization regulations are in force (negotiated schedules of specific commitments are ready for consideration by the Council in four sectors: financial services, communications, transport and tourism; movement of persons; visa relaxation but the protocol on movement of skilled person is not in force; infrastructure (transport, energy, ICT); agriculture (CAADP); industry and SMEs; gender; peace and security; science technology and innovation; intellectual property; and international negotiations.

All these programmes are embedded in the COMESA Treaty, which is already in force having been ratified by all the Member States. From year to year, the Summit and the Council issue Decisions and Regulations to advance these programmes. The Regulations and Decisions become binding once published. Ensuring the implementation of COMESA programmes is a foremost priority of the COMESA family as a whole. Therefore, every year, Member States report on how they are implementing the programmes. The reports are now more structured than in the past, to encourage comprehensive reporting and to allow ranking or assessment of performance, and peer comparison. In addition the Secretariat has undertaken a comprehensive assessment of the state of play in the Member States, through missions undertaken by staff to check the laws, policies and other relevant national instruments that are supposed to implement the COMESA obligations in Member States. A general assessment is that 60-70% of COMESA programmes are being implemented by the best performing member states. This definitely leaves a lot of room for improvement.

There are several reasons why implementation has not been better than this, including legal reasons, but the overarching legal reason is that the COMESA instruments are not domesticated by the Member States, through domestic laws to that effect and through policy instruments and action plans that operationalise the COMESA obligations within the domestic legal, economic and political systems.

This inertia can be attributed to, among other things, in some cases dysfunctional government or civil service following years of economic survival and brutalization that has drained whole populations of the work ethic and reduced them to cynicism and apathy; in other cases a culture of impunity and no rule of law resulting from governments without accountability to stakeholders and without responsibility for peace and prosperity; international obligations are forgotten before the ink dries; treaties are not enforced in regional courts (including the COMESA Treaty) except perhaps the EAC Court which is increasingly generating important jurisprudence and establishing itself as the linchpin of the integration programme; and paucity of integration lawyers in government (civil service, executive, parliament and judiciary), and in private law practice.

There are institutional reasons as well: integration instruments and programmes are not in the national long term, medium term and annual plans; lack of dedicated ministries or strong departments (EAC ministries as a best practice); lack of inter-ministerial coordinating committees (enabling law and appropriate placement in the hierarchy of ministries are important); regional integration is not adequately mainstreamed into national decision-making processes (not a regular cabinet topic); weak or no parliamentary committees on regional integration (to demand accountability of implementation and prioritization); and multiple membership, which causes the possibility of conflicting sets of regimes to maneuver through.

The real reasons, however, might be some of the following political economy and social political processes factors: unsupportive or integration-blind foreign policies of member states (regional integration is not as important a priority as relations with some third countries who are important cultural, trade or development partners); weak coordinating ministries without clout; human and financial constraints; no dedicated training on regional integration in institutions of higher learning in the Member States; weak participation and ownership by stakeholders (private sector associations and entrepreneurs/ business persons); and salesmanship/ public relations machine of COMESA has a lot of room for improvement.

In the COMESA region, no one will lose an election just because they don't care about regional integration! Regional integration is yet to be a visible factor in the national and regional social political processes – media, education, local government (The East African newspaper is a best practice). But the business community is light years ahead of government, in a parallel domain; struggling to survive the inaction or misfeasance of governments in the form of non-tariff barriers.

Funding for regional integration is shamefully inadequate. Donors fund the integration programmes, and this is not unique to COMESA considering that 93% of the African Union's budget is donor funded. However, alternative sources of funding proposals have been vigorously resisted by some Heads of State at the African Union Summit. The Obasanjo Report recommended US $2 per hotel stay and US $10 on each air ticket into and out of Africa, excellent proposals which shockingly drew some objection. Well, without funding, the rest is history! Best practices from ECOWAS, however, hold out some hope: the community levy is functioning successfully, yielding upwards of US $600 million a year.

When all is said and done, the question is: to integrate or to die? Member States have not answered this question. The policy and law apparatus has not been mobilized at all to the integration effort. The point needs to be made that those that resist or downplay regional integration, are vigorously advancing political weakness and human poverty and misery. Fables need to be told again: you can break a twig easily, but a bundle of them, united, are much harder to break. To eat the stack of hay, the donkeys tied to each other, should agree to eat one stack first, together, then move on to the other. Without cooperation, the people will wallow in hunger and misery.

The timing for urgently tackling the dreadful enemies of humankind represented by hunger, poverty, disease, illiteracy, and injustice, has never been better; given the favorable international public opinion supporting initiatives to permanently address the development challenges facing the remaining poor countries on this planet. There is indeed a tide in the affairs of men, which taken at the high leads on to fortune and prosperity; but missed, the people will be stuck in poverty and misery (a play on Shakespeare's wisdom in the play Julius Caesar). If we fail to rise to the challenge and seize the opportunity, now, the rest will be a slow painful death for years to come.

PART V

PRELIMINARY IDEAS ON INCLUSIVE GROWTH

Preliminary Ideas on Inclusive Growth in the COMESA Region

By Yusuf Atiku Abdalla[2]

Introduction

Article 3(a) of the COMESA Treaty states that the institution aims to: "Attain sustainable growth and development of Member States by promoting a more balanced and harmonious development of its production and marketing structures." This, coupled with other objectives aspires for the promotion of joint development in all fields of economic activity, including agreed common positions for attracting investments; the strengthening of relations between the Membership of COMESA and cooperating third parties; the promotion of peace, security and stability among Member States for the express purpose of enhancing economic development in the region; and contributing towards the realization of the broader continental agenda of Africa wide integration into one continental economic community.

Globally, while policy makers over the years have generally tended to promote economic expansion as the panacea for prosperity and poverty reduction, particularly in the developing and the emerging world, there has been failure to recognize that growth is a means to an end, rather than an end in itself (The Growth Report). Growth can be an unpredictable weapon in the fight against inequality and poverty. It has been quicker and more effective in delivering poverty reduction in some countries than others. It has also been claimed that poverty reduction is almost twice as responsive to economic growth in East Asia as in sub-Saharan Africa, because structural inequalities matter in translating growth into poverty reduction. Others have argued that the rate of improvement of almost all quality of life indicators that are commonly used in the analysis of growth and development is only weakly related to the rate of economic growth.

In the wake of the recent successive global economic, food and fuel shocks/crises and as the deadline to meeting Millennium Development Goals (MDGs) approaches at the end of 2015, the international community is once again trying to redirect focus towards growth. This time, due, apparently, to the realization that the kind of growth that should be espoused matters in shaping new avenues for restructuring and redefining the optimal path for future growth. That is why the new theme that has underpinned ongoing growth discussions has moved to what is now known as "inclusive growth"

There have been important successes recorded on growth and development in the past half-century, which were accompanied by global progress in health, education, civil rights, etc. Since 1960, global average infant mortality has halved; between 1970 and 2000, the global average ratio of female to male literacy improved significantly from 59 to 80 percent. The overwhelming majority of people now live in countries that have signed the UN Universal Declaration of Human Rights; and Africa as a continent has observed some dramatic improvement in governance and accountability, even in some countries where prospects initially appeared least promising.

2 Comments and contributions from colleagues at COMESA Secretariat are acknowledged.

Following the recent spate of global shocks, at least some moderate growth is expected to continue in both emerging and low-income countries (LICs), unlike in the advanced economies. However, in many respects the challenges of development – and in particular, associated risks posed - are arguably more difficult to address than in the past. This is in part due to current increasing interdependence between countries; and as a result countries and their people have tended to become more vulnerable to economic and climactic shocks against which "belts have tightened" so as to access scarce resources, such as land, food, and water.

The Pattern of Economic Growth in Sub-Saharan Africa

A generalization of the grand picture suggests that many countries in Sub-Saharan Africa witnessed some reasonable economic growth during the decade beginning 2000. Nevertheless, this does not discount the fact that growth has differed widely among countries in the region. For instance, while Angola, Ethiopia and Mozambique displayed strong growth, the economies of Burundi, Malawi and Zimbabwe seemed to have struggled and not benefitted substantially from the overall jump in growth experienced in the Sub-Saharan region after 2000.

Inclusive Growth Defined

Inclusive growth refers to the pace and pattern of economic growth. Literature on the subject draws a fine distinction between the commonly used notions of direct income redistribution, shared growth and inclusive growth. The inclusive growth approach takes a longer term perspective as the focus is on productive employment rather than on direct income redistribution as a means of increasing incomes for excluded groups. Inclusive growth is, therefore, supposed to be inherently sustainable as distinct from income distribution schemes, which in the short run may reduce undesirable disparities between the poorest and the richest. Inclusive growth, therefore, tends to assist people to "contribute to and benefit from economic growth" as a whole over a longer term period.

The notion of inclusive growth as a strategy of economic development received attention owing to a persistent rise in concerns about the fact that benefits of economic growth have not been equitably shared. The concern here entails that growth should be inclusive when it creates economic opportunities along with ensuring equitable access to them. Apart from addressing the issue of inequality, inclusive growth may also make poverty reduction efforts more effective by explicitly creating productive economic opportunities for the poor and vulnerable sections of the society. Hence, by encompassing the hitherto excluded population, inclusive growth can bring in several other attendant benefits as well to the economy.

The debate about what it is that inclusive growth infers and indeed how the notion can be applied to evaluate growth and development outcomes in general terms are vast. This debate, in part, has been sustained due to the fact that the underlying applicability of the notion may differ from one country or agency to another depending on their unique conditions, circumstances and motivations. A rather more accommodating definition is now beginning to emerge, which tries to account for most of the relevant elements traditionally associated with the understanding of economic growth and development literature. This definition can be presented as follows: *"Inclusive growth basically means broad based, shared and pro-poor growth"*. It is supposed to facilitate a decrease in the rise of poverty in a country; and increase the involvement of people in the growth process of the country.

Inclusive Growth and COMESA Economies

This paper seeks to assess available literature on inclusive growth, which has a bearing on the record and interpretation of how "inclusive growth" has evolved in Africa, the Sub-Saharan and the COMESA region. The findings generally point towards the necessity of delivering inclusive growth through a wide range of instruments. The instruments suggested include policies that can be used as a trigger progress particularly in developing countries. There is also focus largely on the record of Africa's growth in the post-1960 era, mainly because of the availability of comparable cross-country data on contemporary nation states of the developing world.

Simple cross-country averages have tended to suggest, at best, a story of modest progress. Human development indicators showed an improvement over the 40-year period, and real GDP per capita rose by 60 percent. But on a deeper look, the record was profoundly unsettling. Non-African growth consistently outpaced African growth after 1960, with the result that Sub-Saharan real incomes fell by over 35 percent relative to incomes in other developing regions, and by nearly half relative to industrial countries. Human development gaps widened over time rather than narrowing, and Africa's cumulative progress was insufficient, by 2000, to reach the levels of human development the rest of the developing world had already attained in 1960.

More troubling though was the picture of deprivation that emerged from a continent-wide perspective. Cross-country averages tended to obscure the impact on African populations of slow growth in the continent's largest countries. Average real income per capita for the region as a whole barely increased between 1960 and 2000. Moreover, household survey data suggested a sharp increase in income inequality over much of the period. Given slow overall growth, this meant an increase in income poverty. At the turn of the millennium, nearly half of the Sub-Saharan African population fell below an income poverty line of US $1.50 per day.

Two research questions seemed to have pre-occupied the motivations behind the above findings. One, what were the key growth options, opportunities and attendant constraints faced by the Sub-Saharan Africa region after 1960? And second, what were the possible explanations that can be advanced for the success or failure in taking advantage of the opportunities available then?

An influential and comprehensive research that investigated the African economic growth performance between 1960 and 2000 found a number of peculiarities about the pattern and conduct of growth in Africa during that period. By combining global evidence on determinants of growth with country-specific behavior of agents (firms and households, the organization of markets and the political economy of policy and institutions), the researchers used a two-stage approach on cross-country models to first cast country specific growth patterns and behavior in comparative perspectives in order to identify major proximate determinants over time. This was then followed by the task of marshalling the evidence on why and how the determinants of growth evolved in the manner they did.

The findings identified some broad "anti-growth syndromes" that emerged consistently from country specific evidence. A couple of these were classified directly as being attributed to choices of incumbent state actors at the time in the form of controls or regulatory regimes that severely distorted productive activity, and ethno-regional redistribution regimes that compromised economic efficiency in the process of resource generation. But certainly, one feature of the findings showed that after 1960, incomes in African developing countries seemed to diverge substantially from the incomes of other developing non-African countries.

The lessons learnt from the findings are both powerful and insightful, mainly from the point of view of interpreting growth behavior in Africa in the past. The first lesson learnt relates to the critical role of core functions in any growth strategy. This is the single most important choice for closing the growth gap between Africa and other regions. The second relates to misjudgments that led to the under-provision of critical public goods. While African countries often do face unusually high natural and locational impediments to growth, those disadvantages should not be perceived as destiny because they can be offset by appropriate investments and public policy choices, the domain of which is partly national and partly regional. The third relates to shifting human-resource platforms for growth, which means reverting to educational thresholds and parameters of demographic change. These are two areas that could turn out in favour of Africa by opening new potential growth opportunities in the future.

Other concerns of inclusive growth literature focus on the common barriers to poor people's participation in the growth process and the policy responses required to promote inclusive growth. These barriers include: geographical location (mainly because the poor in the African continent live mostly in remote, often rural, areas that are relatively less catered for by public policies); weaknesses of infrastructure and services; constraints imposed by human capital factors that impinge on or limit investments in human technical skills in a manner as to constrain the scope of participation by the poor in labour; barriers to access to credit and product markets; the adverse impact of a substantial informal sector that pervades the African economy; and the poor state of the health of the population, which inhibits the availability and productivity of labour. Other barriers are: demand and supply side constraints which are partly complicated by geographical location factors; concerns about economic insecurity which introduces inherent vulnerabilities of the poor segment of society to risk taking and the adverse impact of market failures; and imperfect information and lack of access to markets for goods produced by the poor; among others.

On account of the above inherent inhibitions to inclusive growth in Sub-Saharan Africa, the literature also tries to advance a whole range of policies that could be used or applied in the pursuit of inclusive growth and long term development. These policies include:

a) Creating enabling environments to help encourage business activities and investment, especially in technology and innovation;

b) Designing comprehensive plans for the redistribution of public expenditures and social protections;

c) Establishing concerted programmes for human capital and job creation, mainly through expansion of basic education, technical and vocational education as well as higher education; and development of broad-based sectoral growth programmes that should benefit the poor directly, particularly in the agricultural sector; and

d) Introducing appropriate rural infrastructure and agricultural technologies that are necessary for developing rural economies and for providing rural populations with opportunities to access markets, basic services and to source employment and income opportunities.

Lessons Learnt So Far

Certainly, there are a few important lessons learnt from the successive analytical work conducted over the decades on the topic of growth and its prognosis over time, particularly in so far as the results of the work pertain to the understanding of Africa's own growth story. For the benefit of growth and development, policy makers in Africa and the COMESA region, one of the important lessons learnt was that economic growth and development policy, in general, is largely country-specific, and it may involve or require only just a few fundamental reforms that can be optimally sequenced to relax binding constraints, so as to trigger larger positive welfare impacts.

One of the important attributes of the literature, which is perhaps most relevant to the interest of the COMESA region at this point in time, concerns the role of policies and actions targeted at advancing inclusive growth which can generate employment opportunity for enhancing the welfare of individuals and labour providers. In the scope of the conclusions, inclusive growth should therefore focus on both space and pattern of growth associated with poverty reduction.

For this kind of growth to be sustainable in the long run; it should increasingly be broad-based across sectors and inclusive of the large part of a country's labour force. It is in this sense that inclusive growth is directly linked with macro and micro determinants. This is also the sense by which inclusive growth captures the significance of structural transformation for economic diversification. Inclusive growth is therefore said to be about raising the "breadth" of growth, as much as it is about enlarging the size of an economy, while rendering the playing field level for investment, trade and increased productive employment opportunities to flourish.

Policies to achieve inclusive growth should therefore form an important component of all government strategies for sustainable growth and the creation of productive employment. This is based on the underlying assumption that growth can generate employment and boost incomes of individuals from earnings in all types of employment- firms, self employment and the public sector.

The Nexus between Trade and Inclusive Growth in the COMESA Context

The nexus between the notions of trade and economic growth is at best still tenuous and a subject of intense debate among researchers and economists. If, for the simple reason of argument that growth can be defined synonymously with the rise in income, then a vast literature exists on trade which describes the many channels through which trade can affect income. Notably, there is specialization according to comparative advantage, exploitation of increasing returns from larger markets, spread of technology through investment and exposure to new goods, and to some extent geographical factors, among others.

Numerous empirical research outcomes and conclusions have been drawn in respect to this debate and a couple of these are cited herein. According to Frankel and Romer (1999), their estimates and conclusions on the effects of geography-based regional differences in trade are at least suggestive of the effects of policy-induced differences, and those estimates would suggest that the impact of geography-based differences in trade are often quantitatively large. In simple terms, this conclusion tends to bolster the case for the importance of trade and trade-promoting policies at both national and regional levels.

In attempting to reconcile the macro-economic and micro-economic evidence on trade and growth, Ricardo Lo'pez (2005) has argued that recent findings of new empirical analyses are broadly consistent with the view that openness to trade increases productivity and growth in developing countries, although a careful examination of the apparently contradictory results of some studies reveals that the causal link between trade and growth seems to run from the former to the latter. This interpretation is, on the one hand, consistent with the findings of many studies based on aggregate data and with a large amount of anecdotal evidence. On the other hand, it would permit to derive policy implications that might help developing countries to experience faster productivity growth. The bad news for these countries is that the main policy changes should come from the receptors of their exports, i.e. the developed countries that import from them. He further argued that a reduction in the many restrictions which advanced countries have continued to impose on goods produced in less-developed economies could potentially increase the profitability of becoming an exporter in these countries and might subsequently trigger the adoption of more advance technologies that may help to improve productivity at firm levels.

Baldwin R (2000) also tried to reflect on the long standing disagreements among economists about the relationships between trade and growth. Basically, in the early post-World War II period, many economic leaders concluded that protective trade policies stimulated growth, and subsequently import substitution policies were widely adopted by developing countries then. However, by the 1980s, country-specific and general cross-country analyses had demonstrated the failure of the import substitution approach, and consequently export-oriented policies were widely adopted. This was because extensive cross-country studies generally indicated the growth effectiveness of outward-looking policies.

In spite of this conclusion, criticisms still pervade the debate and have in some format called this conclusion into question. Baldwin tried to explain the source of the disagreement between trade and growth which is attributed largely to several reasons. One important reason for the divergence in views relates to the differences among investigators in the manner they define the issue being studied. Some authors focus more, for example, on whether there is a causal relationship between increases in trade and increases in growth and vice-versa, no matter what the reasons for the increases in trade or growth are, while others prefer to limit their focus on the effects of differences in government policies on trade and growth.

What can however, be broadly inferred from the body of evidence available so far is that there is a reasonable relationship between trade policies and growth, where the former term is narrowly defined as covering trade taxes and subsidies, and other trade-distorting measures specifically targeted at restricting imports or promoting exports, for example quotas on particular imports or exports, but excluding macroeconomic policies such on the exchange-rate, the government-budget, and monetary policies that also do affect the pattern of trade but are mainly aimed at achieving broader macro-economic goals. The usual direct measures of trade policy, namely, the average level of tariffs and export subsidies and the levels or product-coverage of traditional non tariff measures are also generally not related to growth of output or factor productivity in a statistically significant manner.

Lastly, according to the 2005 Report of the Growth Commission of the World Bank, economic growth can be defined explicitly as a function of trade and its policies (with feedback). The work of the Growth Commission of the World Bank clearly concluded that although there are necessary and basic fundamentals for growth, such as a stable macro-economic environment, openness to trade, effective government and others, they are not entirely the whole story. The Commission highlighted a range of diverse ways in which growth fundamentals can interact with policies and institutional setups in different country contexts. The report also suggested that what should be ideal for fostering growth in its entirety is to target the distortion to growth associated with the biggest multiplier effect and therefore one with the largest direct welfare impact. In this case one of such distortions may relate to employment and job opportunity conditions.

The above body of evidence clearly indicate that trade has inherent relationships with growth. It is thus plausible to conclude that COMESA's past and future growth in trade within the regional market and with third countries outside the region efforts are directly and broadly relevant for spurring economic growth, the rise in incomes and improvement of living standards in the COMESA region. In this regard, all trade related programmes being pursued by COMESA and designed to foster trade should be perceived as consistent with the region's broader economic growth interests and objectives as defined by the COMESA Treaty. Accordingly and in the past, the region has undertaken a range of programmes aimed at meeting these objectives, and some of these experiences and programmes under the framework of regional integration are discussed below in brief terms.

COMESA's Programmes

COMESA's strategy for regional integration and inclusive growth is couched on development integration. This strategy encompasses both market Integration and production (or project-directed) integration approaches. The market approach relates to the integration of markets through trade liberalization via the removal of both tariff and non-tariff barriers to commercial interaction and investment. The approach is designed to lead to the achievement of full economic co-operation through a gradual process, starting with the creation of a free trade area and a customs union, followed by the establishment of a common market and ending with an economic community.

The production approach is defined mainly by co-ordinated planning and implementation of productive activities, while the development integration approach includes elements of both production and market integration approaches, but specifically emphasizes equitable development through compensatory and corrective initiatives and incentives. The strategy is therefore geared towards the integration of the economic space through the removal of trade and investment barriers.

Although COMESA has made good progress in respect to the above approaches, a new focus and momentum should in the next decade and beyond be shifted to development integration. This means giving increased prominence to the supply side of integration in form of investment in productive sectors. The shift in emphasis is intended to comply with developments both at the global and regional level. Globalization in general and trade liberalization under the multilateral regime in particular are now pushing countries to remove trade barriers and to open up markets. Regionally, COMESA trade and investment promotion programmes have improved the investment environment as well by making it more attractive to investment. Under the programme on investment and development integration, the private sector is expected to play a central role so as to allow individuals and small firms the necessary space to play their rightful roles as the main drivers of economic growth and regional integration in the region.

In light of the above and for a considerable period of time now, the COMESA region has, within the framework of its regional integration agenda and medium term strategies, been involved in planning and delivering focused programmes that are intended to advance inclusive growth in the region. These programmes are amenable to a growth and development model that is intended to lift the majority of the people of the region from poverty through targeted wealth-creation programs. Already, there are a range of such programmes that cover trade facilitation and interconnectivity programmes that should deepen the regional market. Some of the programmes include the elimination of duties and quotas and mechanisms for addressing NTBs; improvement of macroeconomic and political stability; initiating programs for rural transformation and wealth creation for the ordinary people; and the attraction of investment. This is apart from COMESA pursuing a decisive programme of structural transformation to achieve inclusive growth, which is expected to ensure sustainable and inclusive growth in the region through the acceleration of growth; pprioritization of people–centred growth for the poor, the marginalized and vulnerable groups; and the promotion of decent jobs and rural development.

The following are some key trade programme areas of intervention by COMESA:

Trade Development

The overriding objective of COMESA is ultimately to create a fully integrated and internationally competitive region in which goods, services, capital and persons move freely. The instrument of trade development in turn lies in orderly trade liberalization and the freeing of market forces.

The favourable result for COMESA should be the emergence of a regime where resources are allocated efficiently in the economies of Member States leading to incremental trade creation. This market approach should essentially drive the efficient allocation of resources of the economies of the Member States leading to trade creation, economic expansion, investment growth and region-wide production integration. The following are some of the dedicated programme priorities set out under the trade development objective:

a. *The formation of a COMESA Free Trade Area:* The elements of the FTA include the removal of tariff and non-tariff barriers to intra-COMESA trade and it embodies the simplified trade regime, which enables small scale cross-border traders to benefit from the COMESA trade preferences so as to provide opportunities for all sections of society to improve their incomes. The FTA has created a larger market for goods and services and increased intra-COMESA trade between Member States. In addition, it has induced incentives for attracting both regional domestic and foreign investment, which has resulted in increased access to new markets leading to higher competition and efficiency.

b. *Formation of a COMESA Customs Union:* The formation of a COMESA Customs Union is intended to accelerate successful economic transformations and structural adjustment in the member States' economies to enable enterprises to become competitive both regionally and internationally. The result is that with a larger, competitive and a more efficient market on the one hand, and a wider market that is bound by fewer distortions and a common external trade policy instrument in the form of the Common External Tariff (CET). The merits of the Customs Union can sufficiently encourage additional investments that would take advantage of a larger market and benefit from economies of scale, as new opportunities of employment are derived for the people of the region.

c. *Formation of a COMESA Monetary Union:* The objective of the formation of a COMESA monetary union programme is basically a medium term and achievable programme, designed to engender conditions of monetary stability. A monetary Union is an essential catalyst for trade and economic growth, with efficient exchange rate and payments systems that can facilitate faster market integration of the region. The long-term goal is to create a monetary union with a single currency for the COMESA region.

Agriculture, Fisheries, Livestock and Irrigation Development

These programmes have positively assisted the ordinary people in the region to directly change their economic situation. They are implemented under the framework of the Comprehensive Africa Agriculture Development Program (CAADP) and Climate Change Unit. The initiatives are designed to address and foster inclusive trade in the region by fast tracking higher economic growth through agriculture-led development. It encompasses a detailed Agriculture Sector Development Strategy and Investment Plan (DSIP) which sets a roadmap to guide public action and investments in the region.

Investments are packaged under four programmes representing the key areas of opportunity for the people and these include enhancing production and agricultural productivity; improving access to markets and value addition; creating an enabling environment; and institutional strengthening of the sector. Additional efforts are here dedicated towards food and agricultural marketing information systems through training of data collection consultants and programme administrators mainly under CAADP - designed to bring agriculture back to the pinnacle of economic development, ultimately contributing to the attainment of the Millennium Development Goals by 2015. The twin challenges for COMESA are how to assure food security through sustainable increase in overall agricultural production, and how to stimulate a strong and dynamic agriculture-industry link.

With respect to fisheries, livestock and irrigation developments, fish and fishery products are important commodities in the region as sources of high quality protein, employment and income particularly in the rural areas. Some Member States rely to a large extent on their fishery resources for food security and income generation through exports. With improved trade facilitation measures including air transport, the region has already witnessed substantial development of the fish export industry, providing good returns to a number of the Member States. The livestock share of agricultural output is reasonably high in some COMESA Member States ranging from 3 percent to 45 percent and the potential for increasing the productivity of the sector within the COMESA sub-region is tremendous.

In the past three decades, food production in the COMESA sub-region has grown at about 1.4 percent per year on average, while population growth averaged 3 percent, thus creating a significant food deficit that is unsustainable. Increasing demand for food, coupled with population pressure on arable land, worsened environmental degradation practices and in some cases, led to desertification. It is for this reason that it is now widely acknowledged that irrigation has an important role to play in expanding food and agricultural production in the region and thus close the food deficit gap in the medium term.

Investment Development, and Industrial and Private Sector Support

The focus of the investment development momentum in COMESA has been on the critical sectors of industry, agriculture, livestock, fisheries, and irrigation. In the services sector, the focus has been on financial inter-mediation, insurance, tourism, human resource and other social infrastructure developments. The strategy for programme implementation has therefore involved the identification and co-ordination of investment opportunities in all these sectors, promotion of higher productivity in agriculture and industry through training and collaborating programs, development of suitable investment regimes, direct support to businesses through market development programs, and to a good extent, programs to mainstream gender in every aspect of industrial development.

Industrial and private sector support programmes are important initiatives being undertaken and aimed at enhancing the expansion of intra-COMESA trade and industrial production. In the short to medium term, the COMESA strategy has been to emphasize the following: development of capacities in standardization, quality, metrology and testing; development of a robust network of databases which are regularly updated in order to enhance the flow of information between the countries; promotion of a level investment climate through reforms of private sector policies and the regulatory environment as well as the establishment and strengthening of private sector networks and linkages through support to related COMESA organizations.

Industrialization in particular remains the driving force behind COMESA's development process, and since independence, many governments in Africa have taken industry as the main vehicle for diversifying their economies, generating jobs and reducing dependence on primary production and exports. Unfortunately, the share of industry in GDP for Africa has declined over the years, consistent with the decline in per capita income. As expected, the liberalized policies initially led to a contraction of manufacturing output, particularly in respect of the originally protected manufacturing sub-sector. Nevertheless, the key strategies for developing a stronger, balanced and competitive industrial base in the COMESA have been reformed to include the promotion of industrial co-operation so as to facilitate technology transfer and the exploitation of complementarities based on the principles of market sharing and resource pooling; capacity building in entrepreneurial, business management and other technical skills targeted at micro, small and medium enterprises (MSMEs); policy reforms aimed at supporting MSMEs and providing a more level playing field; and the implementation of programmes that promote balanced industrial growth as a way of narrowing disparities in industrial development.

A dedicated regional investment agency has been established to assist with the promotion of COMESA as an investment destination, while private sector support in form of programs to mainstream gender considerations in certain industrial activities are implemented. Under this arrangement and the COMESA industry and private sector development pillar, COMESA has supported the development of SMEs under specific industrial cluster programmes to increase productivity (particularly in the leather and leather products value chains and market linkages), while the COMESA Business Council (CBC) has advanced support to private sector associations throughout the region by providing capacity building and training opportunities on market analysis in order to develop policy positions and proposals to influence overall trade policy.

Infrastructure and Energy Development

COMESA's attainment of long-term growth and development as well as the achievement of the mission of a fully integrated regional economic space where goods and services, and production factors can move will depend substantially on the infrastructural capacity of the region. Infrastructural weaknesses and inadequacies often pose the single most challenging factor of supply-side constraints to the processes of economic integration, inclusive growth and overall economic development. Unfortunately, the current inter-state infrastructure in the COMESA region, particularly in respect to transport and communication, is at best inadequate to support rapid integration as envisaged in the COMESA Treaty. In recognition of this reality, transport and communication infrastructure programmes in the region have tended to feature prominently among priority programmes of COMESA.

Infrastructure development programmes are configured to contribute to efficient movement of people, goods and services. This is being implemented alongside COMESA's strategic areas of emphasis on the development and implementation of transit traffic facilitation programmes; identification and co-ordination of regional investments in transport, communications the energy sector; and the promotion and coordination of institutional and policy reforms in transport, telecommunication, postal, energy and environment sectors. Regarding information and communication facilities, a programme on telecommunication connectivity, information and communication technology harmonization, and metrology and shipping services have been launched.

On energy, the production, distribution and utilization of energy in the COMESA region is far from being uniform. This difference in the supply and demand for power is partly to blame for the disparities seen in factor costs across the region. The main focus of the COMESA energy strategy is therefore to pursue the joint development and pooling of energy resources with the objective of optimize intra-COMESA production and trade in commercial energy products. Emphasis will therefore need to be exerted on joint exploration, exploitation and conversion of the energy resources of the sub-region such as wood-fuel, fossil, oil, hydropower, coal, geothermal, biomass and solar energy. The potential for the exploitation of these resources is enormous because over 170 billion cubic metres of natural gas; 200 billion metric tonnes of crude oil; 60 billion tonnes of coal; and 106,000 MW of hydropower potential are endowed in the region. Thus, the COMESA energy strategy should aim to conserve and economize on energy use through the employment of technological innovations that consume less energy.

The single largest user of petroleum-based energy is the transport sector which, in most countries, consumes well over half of all oil consumed, while road transport alone consumes the highest proportion in the transport sector, followed by rail and air transport. As a long term solution, electrification of high traffic density rail sections can help to reduce the consumption of imported petroleum products since the region produces hydroelectricity. The upgrading or diversion of goods traffic from road to rail and water may also provide cost savings and therefore minimize the cost of doing business and of products.

The Cross-border Trade Initiative

This is another of COMESA's trade facilitation initiatives and a programme designed to address some ominous supply side constraints that inhibit the free flow of goods and services within the region, especially for individuals and small scale traders who live and conduct business in the vicinity of the Member States' borders. It is designed to facilitate the realization of the broader objectives and to ensure they enjoy the benefits of COMESA trade preferences. So far seven (7) of the nineteen (19) Member States of COMESA are now implementing the Simplified Trade Regime (STR) at all major border stations with support of 22 Trade Information Desks.

Other Programmes

Other dedicated programmes have featured on tourism development; science, technology and innovation (STI); climate change; and programs for poverty reduction in line with Millennium Development Goals. Tourism is probably one of the fastest growing industries in the world today and the industry has a potential for growth in the COMESA region, underpinned by the region's vast wildlife and natural endowments. One of the strategies of COMESA has therefore been to promote the industry and to review its policy to attract potential investors into the industry. Furthermore, the vitality of the tourism sector places it in a vantage position to establish formal links with other sectors including transport and communication and the labour services industry, which together are relevant to the population in terms of job opportunities they are able to offer the people of the region.

COMESA is now advancing and advocating for science, technology and innovation as a powerful paradigm and critical component for spurring growth and development. It is especially a critical ingredient for productivity growth and competitiveness of economic enterprises in the COMESA sub-region. In this regard, the COMESA region has lately embarked on a programme for fostering Science, Technology and Innovation (STI) through investments and Research and Development (R&D) in the region - a new dimension of focus for COMESA which has hitherto been miniscule in the Sub-Saharan region since sub-Saharan Africa's investment in R&D has averaged only 0.3 percent of GNP (compared to 2.2 percent for developed countries). The vision is to create an environment that fosters a dynamic, self-reinforcing relationship between the demand and supply of S&T knowledge and products, and their financing, and it is hoped that STI will eventually be fully embedded into the delivery of all COMESA programmes under a comprehensive framework of policy.

On climate change and issues of the environment, COMESA Member States believe that the essential parameter of development in the region will eventually depend on how the environment is managed. That is why the COMESA Secretariat has taken the environment programme seriously, with a focus on coordinating a joint action programme on trans-boundary environmental and conservation issues based on mutually agreed policies. The key areas of environmental management are therefore to prevent arrest and reverse the effects of deforestation, erosion, deterioration of coastal waters, declining bio-diversity and loss of general diversity, polluted soil, water and air. As a result, COMESA is now working hard to develop a common environmental management policy to preserve the sub-region's ecosystems, and this endeavour is expected to help forge a common stand to prevent incidences of third countries dumping toxic and undesirable waste in the region.

In summary, one of the long term objectives of COMESA is to attain sustainable growth and development of the Member States by promoting a more balanced and harmonious development of its production and marketing structures with the aim of ensuring that poverty in the population is reduced and a cross-section of the population realizes improved quality of living standards. Consistent with this goal, the region already has a number of millennium development villages. As a matter of fact, by 2009, six out of the 13 millennium villages of the world were located in the COMESA region. This puts COMESA in a position of advantage, because the region could use the existing villages to expand them and to introduce new ones. Thus, the Millennium project, under which the villages are established, in collaboration with the governments, has provided key interventions such as in the provision of schools, clinics, seeds, new products, marketing information, and transport facilities; which assist to achieve poverty reduction goals in line with the vision of COMESA.

Way Forward

In view of the above lessons and achievements, a few challenges remain for the COMESA region to address. This will mean that for the period ahead, certain action programmes need to be re-emphasized and redirected to address the current urge towards inclusive growth for all in the region along the following suggestions:

As implied in the literature, the COMESA region should consider implementing further structural transformation to ensure sustainable and inclusive growth. This will require measures to accelerate the path of growth through programmes of income generation and job creation, diversification of sources of growth, prioritization of people centred growth, targeting of the poor and the vulnerable and promoting decent jobs under programmes of rural development, and investment that helps to reduce poverty and inequality. The structural reforms should support the format of growth of agriculture and to sustain food security of the people through improved food production, availability, accessibility, agricultural modernization and linkages with industrial activities, integration of small farm holders to play a role in sustaining and improving agri-business value chains, and improving quality of institutions that provide information exchange avenues on agriculture and food security.

In order to advance the gains from structural transformation programmes, programmes of human capacity development should be redesigned to deliver quality access to resources and social services in order to mitigate the adverse effects of extreme poverty among vulnerable groups that are susceptible to extreme poverty- including the elderly, people with disabilities, a cross section of the rural population and displaced persons. Hence, programmes should be designed to provide education and human capacity development opportunities for the poor through prioritized provision of access to quality primary, secondary, technical and vocational education.

Universal access to basic healthcare and the prioritisation of gender equality and women empowerment schemes must be incorporated into the programmes in line with international MDG goals. Additionally, and in line with the continental plan for addressing population pressures and the growing youth community in the region, enhanced programmes for economic transformation should take account of the need to strengthen entrepreneurial capacities and opportunities for the youth as well as to ensure the availability and access to decent and affordable housing in both rural and urban areas.

In order to foster regional financial self-reliance, domestic finance in COMESA Member States will be a primary source for growth, but that a focused effort must be devoted to attracting international finance from both public and private sources to supplement ongoing efforts. To that extent, an important strategy would be for COMESA region to develop and embark on a new strategy for building a more versatile system of sourcing required finances and building partnerships that can assist with some of the strategic programmes for inclusive growth. The programmes can take the form of initiating intensive sourcing of overseas development financing and assistance to support programmes linked to the COMESA inclusive growth strategy. Other alternative sources of financing should involve domestic financing sources through internal borrowings from the public and the financial systems of member states, while additional external financing sources are mobilized mainly via reinvestment of FDI proceeds, reduced costs of external transfers, and the exploration of new non-traditional sources of finance.

As to the building of new partnerships for inclusive growth, the region should embark on heightened schemes of promoting public-private partnerships with emerging economies and other regional arrangements within Africa. These initiatives could serve as optimal avenues for promoting access to global markets, improving the scope of global governance arrangements that have a direct bearing on growth programmes, promoting peace and security in the region, and instilling mechanisms for optimal macroeconomic management and participatory development continually refined and implemented.

As indicated above, Innovation, technology and research and development are essential components for growth. Ideally, this is a strategy that should be built and supported alongside other development programmes. The scheme should be tied closely to a deliberate COMESA programme for enhancing the role that SMEs can play in the growth process. This is because despite the fact that nearly 99 percent of all firms in developing countries are SMEs, there is very limited evidence to show the impact of SMEs on overall economic growth. It is now widely accepted that SMEs are likely agents for driving economic growth when levels of income start to climb, and in this way, the role of SMEs in economic growth and development becomes highly critical when a country is set on a development path based on sustained economic growth wherein a wider section of the population participates and contributes to the process of growth. Coupled with a robust strategy for addressing the incidence of informality in COMESA economies, the role of SMEs in fostering sustained growth can become extremely crucial for the COMESA region if long term regional and inclusive growth objectives can be attained.

The COMESA region should consolidate its current programmes that are consistent with the aims of achieving overall growth in an inclusive way. The march towards attaining appropriate growth rates should encompass the improvement of the standards of living for the wider cross section of the COMESA population, without leaving behind the most vulnerable and extremely poor sections of society. Accordingly, the region may therefore wish to rethink and re-strategize in a manner as to allocate additional resources to more amenable programmes that can deliver sustainable inclusive growth across the board. In undertaking such new and additive measures, the benefits of related programmes must be seen to accrue to the vast majority of the populations of the region in form of improved living standards, if extreme poverty and deprivation is to be eliminated in the long run. Such a feat cannot be achieved without the support of all stakeholders, including those involved with the shaping of the framework of the implementation of a robust economic growth policy and post MDG development agenda programmes. In meeting MDG objectives however, COMESA will need to work with partners who share the MDG ideals so that related programmes are adequately configured and supported.

Recommendations

Without prejudice to other views, this paper recommends the following work programme ahead to bolster trade and generate the required momentum for the realization of inclusive growth within COMESA:

a. A comprehensive plan for the redistribution of Member States' national public expenditures and social protections should be developed in order to cushion the most poor and vulnerable from extreme poverty. The plan should include a component on human capital and capacity development, and job creation to help strengthen capabilities of potential employees in the labour market. In this way, the programme can address higher education and capacity needs of society.

b. Broad-based sectoral growth programmes, including the introduction of appropriate rural infrastructure and agricultural technologies be set up to benefit the poor directly. This is essential because the majority of the population in the region lives on agriculture and in rural areas. Programmes of this nature should incorporate opportunities for accessing markets for the products of the rural communities.

c. The COMESA region should harness the regional dimension of Member States' growth strategies within their national trade policies that explicitly address inclusive growth considerations. This may entail undertaking additional reforms in order to create enabling environments to help span production and business activities and investment especially through science, technology and innovation attuned to inclusive growth objectives.

d. In order for COMESA programmes to deliver on the inclusive growth objective, the region has to build strong partnerships to support the efforts. These partnerships can be with private sector big business and with international development partners that can support and fund inclusive growth programmes. The programmes should focus on programmes of technological transformation and research; human capacity development; and the attraction of investments from big business corporations to provide jobs and other opportunities for citizens of the region. The proposed partnership should incorporate international organizations that may share the ideals of COMESA with respect to regional integration, trade and inclusive growth.

e. Specifically, consolidating existing ongoing programmes for SME development in the region is essential. Other programmes that foster investments in climate change adaptation, reduction of deforestation, desertification and adverse pollution of the environment, improvement of land management systems and promotion of the utility of new resources will be essential for transformation to happen. Such programmes must be seen to link up with the implementation of the COMESA comprehensive industrialisation programme that espouses value addition through private sector development, improvement of distribution and reinvestment options for extractive industries, and an intensive programme devoted to the transformation of the informal sector into a formal market economy.

f. Finally, All Member States of COMESA should undertake to develop growth oriented country strategy papers and living strategic trade policies. Identified collaborating partners can be marshaled to assist and finance the development of these country strategy papers that can define trade policies that are consistent with the required merits for addressing remaining constraints to trade, and more importantly by incorporating the vision of achieving inclusive growth for all peoples of the region, particularly in respect to creating jobs for the most vulnerable in society.

PART VI

RESTATING THE CASE FOR PAN-AFRICANISM

Restating the Case for Pan-Africanism

By Prof. Arthur G.O. Mutambara

Introduction

This Jubilee celebration on 25 May 2013 marks the 50th year since 32 independent African countries founded a continent-wide organization, the Organization of African Unity (OAU), whose mission was spearheading the liberation of Africa from colonial rule. The OAU was then replaced by the African Union (AU) on 09 July 2002, and this organization now has 54 members. African leaders and their people must map out the next 50 years of political and economic integration, with emphasis on achieving shared economic prosperity throughout the continent and the African Diaspora. On this momentous occasion it is imperative to reflect on the achievements, failures and future prospects of continental integration.

The mission of the OAU consisted of two key objectives: the Total Liberation of Africa and the achievement of African Unity. These two can then be broken down further as follows: To achieve equality, justice and dignity for all citizens, and ensure their advancement; To establish unity that transcends ethnic or national lines; to establish and maintain peace and stability, and settle disputes through mediation and negotiation; freedom, including fighting against all forms of neocolonialism; non-interference in the internal affairs of other African states, with a specific prohibition on cross-border subversive activities; and Nonalignment with any major power blocs.

The AU framework has been designed as to do the following; institutionalize continental integration, ensure continuity of OAU ideals, further the objectives of AEC, strengthen regional blocks (EAC, SADC, COMESA, ECOWAS, Magreb), and operationalize the AU strategic arms, that is, New Economic Partnership for Economic Development (Nepad), African Peer Review Mechanism (APRM), and the African Parliament. Some of the objectives of this successor organization, the AU, include; to achieve greater unity and solidarity between the African countries and the people of Africa; to defend the sovereignty, territorial integrity and independence of its Member States; to accelerate the political and socio-economic integration of the continent; to promote and defend African common positions on issues of interest to the continent and its peoples.

Background

They say a page of history is worth ten volumes of logic, so let us start with some background. The OAU was rooted in the philosophy of Pan Africanism. Pan Africanist conferences were held from 1900 to 1945 attended by various political leaders and intellectuals from Europe, North America, Caribbean and Africa. They met six times to discuss colonial control of the continent and African political liberation. The six congresses: the first one in 1900 organized by Sylvester Williams, where the father of Pan-Africanism, WEB DuBois was present. Next was 1919 (Paris); then the third and fourth was in 1921 & 1923 in London. The fifth was in 1927 in New York, and the last key one was after the Second World War, thereafter leading into the liberation struggles in Africa, in Manchester in 1945.

What is the meaning of Pan-Africanism? As an organizing framework and philosophy it means all people of African descent, living in or outside the continent, are the same people, and must unite and work together for their political, social and economic advancement. Africans are not only found on the continent. They are in North America, South America, the Caribbean islands and all over the world. The founding fathers and mothers of Pan-Africanism include WEB Du Bois, Kwame Nkrumah, George Padmore, Martin Delany, Marcus Garvey, Jomo Kenyatta, Patrice Lumumba, Haile Selassie, Sékou Touré, Abdul Nasser, Sojourner Truth, Harriet Tubman, Mbuya Nehanda, Ben Bella, Cheikh Anta Diop, Léopold Senghor, Julius Nyerere, Walter Rodney, Franz Fanon, and Amilcar Cabral. Many other distinguished revolutionaries followed in this great Pan-Africanist tradition and these include Samora Machel, Kenneth Kaunda, Robert Mugabe, Nelson Mandela, Joshua Nkomo, Herbert Chitepo, Thabo Mbeki, Muammar Gaddafi, Malcolm X, Martin Luther King Jnr, Winnie Mandela, Angela Davis, Kwame Ture, Huey P. Newton, Ruth First, and Sheiba Tavarwisa.

As conceived then, Pan Africanism is about the total liberation and unification of the African continent and its peoples. Until the entire African continent is free, no person of African descent anywhere in the world will be free or respected. That was the spirit. Africa is the richest continent, with more 30 million km^2 of land most of it which is arable. It is endowed with large quantities of underground natural resources, forests, animals, water bodies, and extensive coastlines. All this wealth belongs to Africans and the African Diaspora. It must be leveraged to empower them.

In the Pan-African world outlook there is an emphasis on acknowledging and leveraging African contributions to knowledge, such as Ubuntu with its various and variegated slogans: I am because we are. We are because I am. I am because you are. Also there is a strong embrace of African contributions to civilization such as Egyptology, the Pyramids, the Great Zimbabwe, and Mali's Timbuktu. The old civilizations of Mali, Zimbabwe, Tanzania, and Egypt are embraced while noting that some of the currently dominant nations are very young, for example the USA is only 237 years old, which is a baby in terms of civilization. African contributions to thought leadership include civilization universal, African philosophy, religions, and regional integration concepts, are preached. This is the African renaissance. However, it must be emphasized that this notion of renaissance must include economic and military affairs so that we are able to defend and enhance the African civilizations. Slavery and colonialism distorted the trajectory of the continent hence the African renaissance must concentrate on remaking the narrative of our people. However, all this will require African political, social and economic unity.

The Achievements of the OAU and AU

After a decade of the African Union, and as we celebrate 50 years since the founding of the OAU, it is an opportune moment for reflection on the historic achievements and the grand narratives that have been part of the Pan African project for at least the last fifty years. We have had our fair share of achievements and challenges. The major successes have been in the area of liberation and political freedom. From the independence of Ghana in 1957, through that of Nigeria and Kenya, right up to Zimbabwe's in 1980 the freedom train was unstoppable. Following Namibian independence and the end of apartheid in 1994, the transformation of the OAU into the African Union signaled a new era for our continent. Led by the OAU during the Cold War, the African Group at the United Nations (UN) was a disciplined and formidable voting bloc. With great ingenuity and resolve, it oversaw the imposition of sanctions against both Rhodesia and apartheid South Africa — the first use of such measures in the world body's history.

The OAU's primary mandate was to liberate Africa from the shackles of colonialism and apartheid. That was effectively achieved. Except for the case of Western Sahara, the rest of African continent is free from foreign domination. This background of liberation is what heralded in the current positive trends we see in Africa today. Currently the African narrative has not been all gloom. Seven out of ten of the fastest growing economies in the World for the period 2011-15 are African. These are Ethiopia, Mozambique, Tanzania, Congo, Ghana, Zambia, and Nigeria. In the period 2001-10 there were six African countries in the top ten; Angola, Nigeria, Ethiopia, Chad, Mozambique, and Rwanda. These countries are experiencing what has been called China or Asia type growth rates of around 10%. Africa is the second fastest growth region after Asia, and it is projected to overtake Asia within a year's time. Africa's middle class is poised to be greater than that of China in ten years' time. All these new statistics about the continent point to new economic growth and improved country competitiveness leading to new business opportunities. It also presents scope to uplift African communities out of poverty. The regional blocs of SADC, COMESA, EAC, ECOWAs and Magreb have performed reasonably well in particular with respect to maintaining peace, and political stability.

The Challenges and why they persist

In terms of challenges we have a number of civil wars, coup d'états, food insecurity, weak nation states, unstable governments, lack of economic prosperity, and weak economic integration. For example, citizens in countries like Somalia, Sudan, Congo, CAR, Mali and Chad still suffer from warfare and poverty. There is fragmentation, destruction and structural underdevelopment caused by centuries of colonialism. There is balkanization and divisions along colonial lines; Francophone vs. Anglophone vs. Lusophone vs. Arabic. All this has complicated the tasks of nation and state formation, fighting poverty, ignorance and disease. The vision of African unity, development and integration has thus been difficult to realize. The recent impressive growth story has not translated into economic diversification, commensurate jobs or faster social development. Most African economies still depend heavily on commodity production and exports, with too little value addition and few forward and backward linkages to other sectors of the economy. Across the continent the quality of life for the generality of our people is still low, with quite significant sections still afflicted by abject poverty, disease, poor sanitation and lack of access to education. Africa's strong economies of South Africa and Nigeria are no exception to this malaise. Even in the first world economies such as the USA the conditions of the majority of the people of African descent are deplorable. The so called American dream is just an American nightmare in the ghettoes of the USA. Martin Luther King, Jnr's dream has not been realized and Malcolm X has been vindicated.

The reasons why these 50 years have had a number of failures include: Individual country vertical integration into the rich North; unequal and uneven development; the African "Nation-state" is still in the making; Some African countries are neither nation states nor nations, most are just neo-colonial states; Africa remains balkanized; misdiagnosis of the US struggles as a civil rights movement, as opposed to an anti-imperialist, anti-colonial human rights conflict; lack of synergy between the struggles on the continent and those in the diaspora; and bilateral engagements between individual African countries and Western nations. Clearly we are still facing challenges on the road to continental integration and Pan-African solidarity.

A major challenge of African economies is the absence of basic economic statistics. Planning, execution and monitoring is difficult without data. For example, GDP assumes the necessary information to calculate accurate estimates exists, and that it is available consistently over time. Of course, there is always some information missing. We have no proven methods of measuring poverty, and in most African countries there is no reliable basic economic data such as population statistics. There must be capacity building and resourcing of our measuring and data collection platforms

In 1963, as they were setting up the organization of OAU, this is what Kwame Nkrumah had to say “The independence of Ghana is meaningless unless it is linked to the independence of the rest of Africa.” He went further and asserted that “We as Ghanaians are prepared to surrender our sovereignty in part or in total in pursuit of African Unity.” Ben Bella the great Algerian leader has this to say, “Let us die a little so that Rhodesia can be free. Let us die a little so that South Africa can be free.” Today, how many African leaders can speak like these great Pan-Africanists?

This is what the Nkrumah of today would say, “The prosperity of South Africa is meaningless unless it is linked to the prosperity of the rest of the continent.” He would further intimate that, “We as Ghanaians are prepared to surrender our sovereignty in part or in total in pursuit of complete African economic integration.” Of course the 21st Century Ben Bella would say, “Let us all die a little so that there is shared economic prosperity throughout the African continent. Let us die a little so that the African Diaspora can be economically empowered.” Are the current African leaders prepared to step up to the plate and build on the legacy of Kwame Nkrumah and Ben Bella? The evidence has been disappointing.

The 21st Century Pan-Africanism is about shared economic prosperity and unification of the African continent and peoples. Now we are pushing for Pan-Africanism rooted in economics, entrepreneurship, science and technology, the ICT revolution, creativity, innovation and talent. Until the entire African Continent is prosperous, no person of African descent anywhere in the world will be respected. This dictum must apply to all Africans, in particular those with high public visibility like Barrack Obama, Oprah Winfrey, Aliko Dangote, Patrice Motsepe, Mo Ibrahim, Jacob Zuma and Goodluck Jonathan. They are not worthy of respect or honour until all people of African descent are prosperous. Their success and significance; their positions of power or wealth, should be meaningless unless it is linked to the prosperity of the entire African continent and its diaspora. That is the spirit of Kwame Nkrumah and Ben Bella. That’s the philosophy we must embrace as we celebrate 50 years of the AU and OAU.

On the Pan-Africanist agenda, there is a leadership vacuum. This dearth of leadership is compounded by leadership failure. Most of those constituting the current crop of African leaders are inward looking, and national interest driven. They do not understand that regional and continental integration is not free. There are painful trade-offs to be made. You have to give up some aspects of national sovereignty in order to effectively embrace and operationalize the regional blocs such as SADC, EAC, COMESA, and ECOWAS. More importantly, you have to give up some aspects of national sovereignty in order to deliver effective and complete economic integration of the African continent, through the AU. We need to move away the traditional emphasis on the nation state and its trappings and embrace collective continental sovereignty. We must be able to say “I am an African first and Zimbabwean second.” African countries have to restructure their economies away from overdependence on custom revenues. New revenue streams have to be developed from intra-Africa trade and other aspects of complementarity.

The big debates at the beginning of the OAU are still unresolved. Nkrumah pushed for an immediate establishment of a United States of Africa while Nyerere pushed for a gradual process of building African Unity brick by brick through regional blocs that will then combine into an integrated African continent. Neither of the two approaches has been pursued in earnest, much less succeed. Africans must wake up. There is dearth of decisive Pan-Africanist leadership. As we celebrate these 50 years let us rededicate ourselves to the agenda of making the 21st Century, the African Century. Come 2063 we must have a United States of Africa, by whatever approach or strategy we adopt.

The AU must give hope that the 21st Century is indeed an African Century. All this must be within the philosophy of African Renaissance where we push for the regeneration of African culture, economy and democracy, while repositioning Africa in global geo-politics. The doctrine of African solutions for African problems must be reinforced. However, this is not possible if 58 percent of the AU budget is paid for by the so-called co-operating partners external to Africa, in particular coming in from Europe and the USA. In fact these foreign partners will insidiously influence the African agenda and encourage certain AU programmes while undermining others. More specifically, they will neither encourage nor support the key African strategic initiatives that require continental consensus such as ownership of African natural resources by Africans, change in natural resource laws, beneficiation of African primary products, and smart protectionism of new African value addition industries. The African status quo benefits the partners' countries.

It is not in the interest of the rich North, Western or Eastern economic powers to promote beneficiation in Africa. Their preference is for Africa to produce and sell raw materials while these external economies sell refined goods to Africa. If beneficiation is to happen on the continent, it will happen in spite of these rich nations. Africa is on its own with respect to the value addition agenda. In fact, the economically strong will disincentivize Africa from value addition. Moreover, it is not in the interest of Europe, the USA, India or China to have a strong globally competitive and fully integrated economy of united and focused 1.1 billion Africans with a collective GDP of US $2.5 trillion. Given these competitive issues with respect to the so called international partners, how can the AU allow 58 percent of its budget to be driven by opponents of its agenda? How can African leaders be that blind, deaf and dumb? As we celebrate this Jubilee, Africans must wake up and smell the coffee. The complete economic integration of Africa leading to a peaceful, stable, prosperous, and democratic continent should be funded by Africans themselves. It is also prudent and instructive to remember that during the OAU inspired and resourced liberation struggles to extricate the continent from colonial domination, Western nations either actively opposed the African cause or gave soft-not-so-impactful support such as scholarships, clothes and medicines. The guns that liberated Africa came from the communist countries of Asia and Eastern Europe. The USA and most of the European nations labeled and blacklisted African freedom fighters as terrorists and in some cases helped the colonial and apartheid regimes to capture, torture and kill these great patriots. If Europe and the USA were opposed to the liberation of Africa championed by the OAU, why will they now genuinely support the AU's current agenda of complete continental unity and socio-political and economic integration? Africans must not be naïve. A page of history is worth ten volumes of logic.

Recent activities demonstrated some of the weaknesses of our African institutions. The crass and clumsy behavior of member states in the election of the AU Commission Chair pitting Dlamini Zuma and Jean Ping was not helpful. This was worsened by the brazen involvement of external powers, in particular France. The NATO action in Libya with the complicity of Nigeria, Gabon and SA, against the AU and general African position, was unfortunate. The involvement of France in Côte d'Ivoire in the dispute between Gbagbo and Ouattara completely undermined the AU. The same can be said of the recent French activities in Mali. Are the Africans and the AU this impotent? Furthermore, there are too many bilateral deals between individual African countries and European, American and Asian nations; undermining African unity and cohesion. Under globalization the small nation state is not the best platform of survival. Our regional blocks; EAC, COMESA, SADC, Magreb, ECOWAS are better frameworks to these non-African economies. Scale, market size, pooling of resources together and regional consensus improve bargaining power immensely.

The Way Forward and the Prospects

As we look at the next 50 years, there are new prospects for more effective integration. Globalization has created a new imperative for African unity. It is now a survival issue. Under globalization, regional and continental integration is the only viable framework. Regional blocs are now global best practice as evidenced by the efforts of the EU, NAFTA, and ASEAN. Advances in science and technology, in particular the ICT revolution have provided effective tools for integration. Fundamental and extensive technology driven innovations have taken place. The ubiquity of ICTs and mobile phones in particular has revolutionized communication in Africa. It is estimated that there are 600 million handsets on the continent.

The Chinese success story is also inspiring and instructive for Africa. They were once as poor as us, but in just a generation from 1978 to 2008, they were able to become the second biggest economy in the world, moving over 600 million people out of poverty. More significantly for Africa, they did this by leveraging their disciplined and focused population size, 1.3 billion people. An integrated African economy of 1.1 billion hard working and well skilled Africans has to be our answer. The total gross domestic product of all the SADC countries, including South Africa, is less than that of Turkey, Denmark, or Brazil. If the entire region cannot compete with a single country what could be expected of the constituent members? African states will be forced to unite to achieve the economies of scale necessary to compete in the global economy. A globalizing world has made the imperative for integration unequivocal. In unity lies scale and strength. If anything should get the continent's nations to work together, it is the prospect of shared prosperity.

Continental integration is more important now, because under globalization the key drivers are regional attractiveness, regional competitiveness, continental attractiveness, and continental competitiveness. Regional and continental frameworks are the only game in town. National economic plans, budgets, visions, strategies and programs must be aligned between the African countries and fashioned into regional ones and ultimately into continental frameworks and initiatives. For example we need SADC and COMESA economic visions and strategies. More importantly, we need the AU 50 year Economic Vision (Africa 2063) and the corresponding AU Economic Strategy. Infrastructure and financing models for integration must be developed, such as the regional infrastructure projects, AfDB Pan-African Infrastructure Bond, and the Programme for Infrastructure Development in Africa (PIDA) projects.

The world is also now confronted by global problems requiring global solutions, and this presents an atmosphere that nudges Africans into seeking Africa wide solution. New South-South groupings such as the BRICS are also fortuitous as they incentivize African countries to work on building scale. South Africa will only be a meaningful member of the BRICS if they are there as part of SADC or the AU. There is also a growing global realization that there is a fortune at the bottom of the pyramid, thus attracting investors and capital to emerging markets, using volume and technology driven strategies and business models. All these recent developments and phenomena bode well for the resurgence of 21st Century Pan-Africanism and continental integration.

There are things, we can do immediately. For example, remove the visa and immigration constraints among our people. We must allow free movement of goods, people and capital across African borders. The single African passport must become a reality. How about a common African foreign policy? This is within our control as African leaders. Of course the borderless continent will require infrastructure to facilitate movement. The bread and butter of regional integration; interconnected road, train, air space, power and ICT networks should be at the center of our discussion. Regional blocks should be nudged towards common passports, such as those of the Economic Community of West African States, and spending requirements – probably first on agriculture, but later on a range of priorities – will be imposed on individual countries. By 2063, the continent should have moved close to full economic integration, with people and goods flowing over national borders that will exist largely as theoretical lines, rather than imposing fence. This time the driver will be economic necessity in a competitive world.

In order to compete, Africa requires internal trade, investment in the skills and technology that can make it more productive, an end to conflict and a reduction in overall military spending, and united policy-making at a global level. For individual countries, that means giving up at least a portion of their sovereignty. And that is exactly what leaders of the AU hope they will do. There must be movement from pursuit national self-sufficiency to complementarity through intra-Africa trade. Diversification is needed to increase trade numbers. This means a country must produce something that is trade-able, which other countries want. This speaks to the importance of value addition. Each country must understand its comparative and competitive advantages, and then produce the right type of quality and quantity at the right price. Beyond intra-Africa trade, we need intra-Africa Investment, and investment outflows from the continent to the rest of the world. Effectively leveraging Africa's vast natural resource coupled with beneficiation enable all this, and play a significant role in the sustainable development of Africa where there is strong, shared and inclusive economic growth. Furthermore, with a growing population of over a billion people Africa is on track for a demographic dividend, through training, education and re-skilling. Where young people constitute 60 percent of the African population, the continent is also poised for a youth dividend. These two dividends augment and add to the African value proposition to the world. We need Pan-African strategies to enhance human capital development and programs target the empowerment of young people. After all Africa 2063 is about the future. Today's young people must lead today, and create their destiny.

Empowerment of African women and equality of the sexes is more than a discourse on human rights. It is not just about morality and righting the wrongs of the past. It is all about economics. Women constitute more than 52% of the population. Moreover, new studies find that female managers outshine their male counterparts in almost every measure. Women have special skills, that men are weak in, such as multi-tasking, caring and nurturing, meticulousness and thoroughness, service excellence, quality and aesthetics, sensitivity, high emotional intelligence (EQ), and high cultural intelligence (CQ). Men and women bring different skills and strengths to an organization. There is, therefore, need to leverage and unlock value from the differences between men and women. Throughout Africa, we must view gender diversity is a virtue.

Improvements are being seen and can be enhanced in education, child and maternal mortality rates, and gender equality. The decades-long quest for Africa's political and economic integration must be addressed. Energising and galvanising the people of the continent toward an African Renaissance is the objective. The result will be a continent more productive, with faster economic growth, better levels of employment, more skilled people, plentiful food, and perhaps even a universal respect for human rights. And also, economically empowered people have fewer conflicts, finally a continent at peace with itself. In the last 50 years there was concentration on political rights and civil rights. The next 50 years must place a premium on economic rights, in other words, we are migrating from civil rights to silver rights. The emphasis now on economic empowerment, economic safety nets, wealth creation, ownership of resources, access to finance, job creation, productivity, jobs, food security, education and health. This is should be the agenda for African economic freedom fighters.

As we speed up integration of the continent, we must improve our understanding of the Nature of Africa's Investment Opportunities. According to a McKinsey report of 2010, the following was posited; US $2.6 trillion - Africa's collective GDP in 2020 (of which US $1.3 trillion is from consumer facing industries), US $1.4 trillion - Africa's consumer spending in 2020; 1.1 billion - the number of Africans of working age in 2040, 128 million - the number of African households with discretionary income in 2020; 50 percent - the portion of Africans living in cities by 2030. The summary impact from this research is that Africa's growth opportunity is more than a resource boom. The key growth driver, about 50 percent of GDP, is now coming from consumer facing industries (retail, ICT, banking, services). Mining and agriculture are important, but even in these traditional sectors, emphasis is on the potential impact of secondary industries driven by processing and value addition. Africa must move up the regional and global value chains.

Of particular importance is the need to integrate the African Diaspora in all our plans and activities. In fact, this group of Africans must be recognized as the 6th African region. On their part, the Africa Diaspora must learn from other countries such as India, China and Israel that they can be effective sources of remittances; trade, tourism and investment advocacy; knowledge, ideas and frameworks about statecraft and economic strategies. However there should be no taxation without representation! We as African governments must adequately address the concerns of the African Diaspora such as multiple citizenship and travel documents.

Conclusion

Indeed, the 50th anniversary of the OAU and AU represents yet another moment for reflection and an opportunity to recast our continent. There is general acceptance about the rise of Africa for the last decade in terms of economic growth, public investment in infrastructure development, regional integration efforts, as well as improvements in democracy, governance, peace and stability and some human development indicators. There is also an emerging consensus that Africa's endowments and future trends present huge opportunities: its human resources and demographic trends, especially its youthful population and its women; its rates of urbanization; the arable land and other natural resources at its disposal; the potential for energy generation, both fossil and renewables; its mineral deposits and its long coastlines. All this potential must be converted into economic value.

We must ensure that Africa is integrated, people-centered, prosperous and at peace with itself over the next five decades. We must set bold milestones in various continental frameworks and initiatives, especially around human development, infrastructure, agriculture, women's empowerment, health and industrialization, and above all on political unity and integration.

We must grow the requisite leadership, facilitate people's participation, boost resource mobilization and improve our implementation, monitoring and evaluation strategies in order to ensure impact, scale, efficiency and effectiveness. We must ensure that our institutional architectures and value systems are aligned towards the achievement of rapid integration, development and industrialization. However, we must take a hard look at our failures. Only through robust self-criticism and introspection can appropriate lessons of history be learnt and Africans, as a people, self-correct, rededicate and confidently forge ahead towards a peaceful, stable, fully integrated continent characterized by shared economic prosperity. Africans have largely misunderstood Nkrumah's clarion call, "Seek ye first the political kingdom and all else shall be added unto it." He did not mean a national political kingdom for each African country. He meant a borderless united and politically integrated African continent. We have not achieved this. Consequently, the socio-economic kingdom has remained an illusion. Africa must unite.

Peace and stability are not achievable without economic development. Furthermore, development is people. Every generation defines its mission, and fulfills it or betrays it. On 25 of May 1963 Nkrumah's generation clearly defined their agenda, they fought and they conquered. On this 25 May 2013, 50 years later, let us have clarity and conviction about our Pan-African generational mandate: Achieving sustainable, shared and inclusive economic prosperity for all people of Africa descent, through the complete social, political and economic integration of the African continent including its Diaspora. Yes, we shall triumph and overcome. However, where there is no struggle there is no progress.