How Can Africa's Regional Integration Agenda Reflect 21st Century Trade Developments?

There is broad agreement that regional integration makes sense for Africa. The challenges of small markets, small economies, as well as the specific geo-political configuration of the continent with many land-locked countries provide convincing support for an integration agenda.

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'Developmental regional integration' has become an important focus in the African integration discourse. The high level definition of 'developmental regional integration,' is compelling. Integration has to address the development challenges of unemployment and poverty in Africa. This developmental integration agenda is anchored on three pillars;

- market integration,
- industrialisation,
- and infrastructure development.

Given the fragmented nature of the continent, the integration of small markets to reap the benefits of economies of scale and scope, makes sense. Industrialisation to enhance the capacity to produce tradeables, perhaps Africa's fundamental challenge, is well acknowledged, and the importance of addressing Africa's infrastructure deficit is not contested. The challenge is to move from the persuasive political rhetoric of developmental regional integration to a practical policy and governance agenda that provides the incentives and legal certainty for investors, producers, and workers to take decisions that, in aggregate, deliver real development outcomes.

The markers of trade and competitiveness in the 21st century have important implications for a developmental regional agenda in Africa. Review of select trade and integration policy issues indicates that these global developments are not yet systematically integrated in a coherent African integration agenda. If integration is to deliver the expected development outcomes, the agenda has to address the competitiveness challenges of the 21st century. Focus has to shift from border issues such as the import tariff to behind-the-border issues such as standards, services, investment and competition regulation.

Trade and competitiveness in the 21st century

Baldwin provides a cogent description of trade in the 21st century. Key features of global trade include increasing trade in intermediates and trade in services. 21st century trade patterns reflect global interconnectedness, fragmentation of production in complex value chain configurations, and the increasing servicification of goods. The growing importance of developing countries in clusters of production excellence is also evident in global trade figures. The products of Factory Asia find their way into households on all continents, including Africa. Brazil sets benchmarks in agricultural production and trade and India has become a hub for a range of services sectors.

Competitiveness in the 21st century is anchored in the enlarged feasibility set of opportunities from which business can choose to enhance input-output relationships in a chain of value enhancement that, in many cases, measurably transcends the production possibilities of single-location production. The organisation of production in value chains raises the profile of investment decisions for competitiveness. Technology developments have contributed to reduce the costs and enhance the efficiency of producer services, such as transport, communication and finance, enhancing broad-spectrum competitiveness and facilitating trade. These developments are seen in the growing services-intensity of products. In short, the investment-services-trade nexus is central to competiveness in the 21st century. This point is clearly articulated by Baldwin.

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The economic realities of the 21st century require new approaches to trade policy. Trade policy that relies on traditional policy tools such as the import tariff and primarily concentrates on border measures to regulate trade is simply not adequate to effectively govern 21st century trade. 21st century trade policy has to address non-tariff barriers and include behind-the-border issues such as services, investment and competition.

The pernicious effects of non-tariff barriers (NTBs) have become, specifically in an African context, a particular trade policy concern. The relationship of many NTBs to regulation highlights the shift of trade policy emphasis to matters of domestic regulation and the importance of regional or multilateral approaches to regulatory convergence, harmonisation and mutual recognition. Some of these NTBs are associated with non-tariff regulatory measures designed to achieve legitimate public policy objectives; but their implementation may well change the legitimate measures into NTBs. NTBS are also often associated with customs and border management procedures.

Investment aspects of trade policy have to be a defining feature of a 21st century trade policy. The fragmentation of production in value chains, involves complex investment location decisions, influenced by cost and access to inputs, as well as the nature and quality of regulation. Effective investment governance, including remedies that are accessible to private parties, has to be part of this policy equation.

Services are not only the connectors between stages of a value chain, but also contribute significantly to production activities. Access to good quality, reliable supply and competitively priced services are vital for competitiveness and facilitation of trade. Addressing regulatory barriers to competition in services, through reform, harmonisation and mutual recognition, is an essential part of a services liberalization agenda.

Competition regulation is an essential component of economic governance, thereby contributing to efficient and equitable market outcomes. Regional and global value chains and associated market configurations require competition rules that transcend national jurisdictional boundaries to check anti-competitive practices that have cross-border effects.

A trade policy agenda centred on these new generation trade issues involves new players, including sector regulators, services suppliers and government departments with specific sector responsibilities. Their input to the development of a comprehensive services strategy and, specifically, a trade in services strategy is important, as they understand sector dynamics and role of services in competitiveness.

Africa's integration agenda in the 21st century

African countries will soon be launching the most ambitious integration project yet. The member states of the African Union have agreed to establish a Continental Free Trade Area (CFTA), and the negotiations process will be launched at a Summit in June 2015. It is therefore opportune to reflect on the integration experience, and take into account 21st century trade and broader economic developments. The CFTA provides impetus to shape a new integration agenda for Africa's development.

A 21st century African integration agenda should reflect the dynamics of global investment, production and trade. The globally interconnected nature of investment, production and trade motivates strongly for a regional integration agenda that is outward-oriented, supporting not only intra-African integration, but also integration into the global economy. The core focus of the regional integration agenda should be competitiveness. The adoption of an inward oriented model, supporting a large import substitution project, will of necessity limit the choices of firms and circumscribe the development of competitive enterprise. Outward-oriented integration has important implications for the choice of pathways to industrialisation and the specific rules that will shape choices of firms to source inputs, decide on production technologies and seek markets for their products.

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The real agents of integration are investors, producers, traders, workers and consumers, and they should actively be involved in the design and implementation of the integration agenda. The decisions by these agents, to engage in economic activities that have cross-border effects, in aggregate, deliver regional integration outcomes. To make good decisions they need, amongst other things, access to information, legal certainty and remedies to resolve problems, should the need arise. In other words, the agents of integration need transparent, rules-based integration arrangements.

New emphasis on market integration

The African integration agenda is still predominantly a market integration agenda. Negotiations to establish Free Trade Areas (FTAs) usually begin with tariff liberalisation. The import tariff is a very visible and politically very popular trade policy instrument. For some countries it is an important source of government revenue. An increase in the import tariff is also, as a result of its domestic price raising impact, a very effective means of protecting domestic industry from import competition. As such, it has become an important industrial policy instrument for some countries. The fact is however, that the import tariff may be quite impotent to address real competitiveness challenges faced by domestic producers, such as energy costs and reliability of supply. The impact, on consumers, and producers requiring the products as inputs, is also very seldom factored into the real cost of using the import tariff.

In most regional economic communities (RECs) there has already been substantial tariff liberalisation. In some cases there are still sensitive products that are excluded from tariff liberalisation. Of more concern, perhaps, is the reintroduction of tariffs or the implementation of domestic taxes or levies on imports. A case brought by Polytol Paints against the government of Mauritius, following the increase of a tariff that had been reduced in the context of the Common Market for East and Southern Africa (COMESA) free trade area, was a welcome test of the rules-based nature of tariff liberalisation. Under the new Protocol on the SADC Tribunal, private parties, unfortunately, do not have standing to contest such policy reversals. Commitments to liberalise tariffs form an integral part of rules-based market integration, without which traders do not have legal certainty as regards intra-regional trade.

Rules of origin (RoO) are an essential feature of a preferential trade arrangement, and are closely associated with the applicable tariff regime. Compliance with the RoO is necessary to benefit from the lower rates of duty, ensuring that only products originating in the preferential trade area benefit from the negotiated tariff preferences. Such prevention of trade deflection is the primary function of RoO. The rules can, however, also be used as an NTB to protect domestic producers from import competition. Restrictive RoO are often associated with clothing and textiles, as well as agri-processed products. These are two sectors where many African countries do have productive capacity. Intra-regional trade in these products could well be promoted by less restrictive RoO. Reform of restrictive RoO has to be a priority to boost intra-regional trade.

More transparent and efficient implementation of regulations on standards, the simplification, standardization and harmonization of customs and border management procedures would go a long way to facilitate cross-border trade.

It is well recognised that eliminating NTBs is essential for regional integration. Some of the notable NTBs in RECs are related to customs and border procedures, and regulatory issues such as standards (sanitary and phyto-sanitary measures (SPS) and technical barriers to trade (TBT)). On closer examination it is often the manner in which these measures are implemented, that frustrates trade.

More transparent and efficient implementation of regulations on standards, the simplification, standardization and harmonization of customs and border management procedures would go a long way to facilitate cross-border trade. A comprehensive, detailed trade facilitation programme has to be part of the regional integration agenda. While the online NTB notification mechanism increases transparency with respect to NTBs, it is not an effective NTB elimination mechanism. A dispute resolution process, with access for private parties, is important.

Private parties produce and trade; they encounter NTBs and expeditious resolution of disputes is essential for business in the region.

Infrastructure-services linkages

The poor state of road, rail and communications infrastructure adds to the costs of doing business in Africa. Infrastructure development projects have become an important focus of the African integration agenda, at REC and continental levels. Financing large infrastructure projects, particularly cross-border infrastructure, poses very specific challenges that regional and continental development finance institutions are grappling with. It is also now recognised that the development of physical infrastructure needs to be accompanied by appropriate regulation to govern competition, pricing, and access to infrastructure services. Regulation features in the trade in services agenda and also in the services sector development strategies of some RECs and organisations such as the African Development Bank. The linkages between the infrastructure development agenda and the services agenda provide strong motivation for the adoption of sectoral approaches to the infrastructure services agenda, for sectors such as transport, communications and energy.

Industrial development

Industrial development enjoys priority focus at national level in African states, increasingly at REC level, and also at continental level in the Plan of Action for the Accelerated Industrial Development of Africa (AIDA).

Industrial development discussions are closely linked to developments in commodities sectors, where beneficiation and value addition and the promotion of regional value chains are important policy objectives. Manufacturing still enjoys important focus in industrial policy, while the linkages, and relationships across agriculture, industry and services sectors are yet not clearly captured in industrial policy development. The deliberations on regional industrial development have not produced a clear statement as to what a regional industrial policy is.

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The regional industrial development agenda is closely linked to the market integration agenda. Without effective market integration, it is not possible, for example, to develop regional value chains. Investment and, in particular, foreign direct investment with associated technology and skills transfers, is essential for industrial development and diversification. The development of standards and quality assurance infrastructure is an integral part of developing an industrial sector. At a regional level, harmonization and mutual recognition of standards plays an important role in enhancing industrial competitiveness.

There has been an impressive increase in the number of African countries that have developed competition laws and policies, and established competition authorities. While this is an important step in national market governance development, this is not sufficient to provide effective market governance in a regional integration context. The Common Market for East and Southern Africa (COMESA) is at the forefront of regional competition law and policy development. The COMESA Competition Authority deals with mergers and acquisitions, as well as anti-competitive practices that have a cross-border effect, and that may not be adequately addressed by national competition law. In SADC, member states have agreed to cooperate in enforcement of competition law and to assist national competition authorities through training programmes. There cooperation initiatives are useful, but they are not robust enough to ensure effective regional competition governance. As regional integration progresses, there may well be anti-competitive practices with a cross-border effect that escape the governance coverage of national laws. Effective market governance in a regional integration context has to include regional competition policy, law and regional institutions.

Implementation of regional commitments

African states are keen to sign agreements, but often reluctant to implement agreed obligations. Concerns about sovereignty and policy space are often cited as reasons for non-compliance.

The linear model of regional integration, that most African RECs follow, requires sacrifice of policy space, along this integration path. The establishment of a customs union, for example, requires that member states implement a common external tariff. This means that member states adopt a common position on the import tariff towards external trading partners. Concerns about such sacrifice of policy space, directly contradicts the prevailing model of regional integration.

The Southern African Customs Union (SACU) Agreement (2002) provides for a SACU Tariff Board and Tribunal. The Tariff Board should manage the customs union's common external tariff (CET), trade remedies and safeguards for the 5 member states. The Tribunal should adjudicate disputes; an essential aspect of a rules-based regional integration arrangement. The SACU Agreement came into force in July 2004. More than a decade later these institutions do not exist. An interim arrangement, in terms of which South Africa's International Trade Administration Commission (ITAC) serves as SACU's Tariff Board, appears to have become permanent.

It is somewhat trite to say that without effective implementation, the expected outcomes of regional integration will not be achieved. The reality is that lack of implementation also points to serious governance deficits at member state level. These have to be addressed for the quality of regional governance to improve. The quality of the national building blocks will determine the quality of regional integration initiatives.

Conclusion

Regional integration is an important component of African development strategy. Industrialisation has become an important policy focus in Africa's regional integration discourse, recognizing that the capacity to produce tradeables competitively, is perhaps the real challenge. Effective implementation of the market integration agenda, as well as reform of restrictive RoO, is necessary for industrial development and diversification. Behind the border regulatory issues such as standards, services, investment and competition policy need to feature prominently and comprehensively in Africa's regional integration agenda to provide a foundation for competitiveness in the 21st century. Fundamentally developmental integration has to be rules-based, providing transparency, predictability and legal certainty for the agents of integration, who take decisions to invest, produce, trade and work in the African region. The CFTA provides a singular opportunity to design a developmental regional integration agenda that could also support Africa's competitive integration into the 21st century global economy.

FOOTNOTES

1 Baldwin, R. (2011). 21st Century Regionalism: Filling the gap between 21st century trade and 20th century trade rules. WTO Staff Working Paper ERSD-2011-08. Available at: https://www.wto.org/ENGLISH/res_e/reser_e/ersd201108_e.pdf

2 Details of the case are discussed by William Mwanza: http://www.tralac.org/publications/article/5551-polytol-paints-v-mauritius-evidence-of-the-existence-and-direct-effect-of-community-law-in-comesa.html

3 Implications of the new protocol are examined by Gerhard Erasmus: http://www.tralac.org/publications/article/6900-the-new-protocol-for-the-sadc-tribunal-jurisdictional-changes-and-implications-for-sadc-community-law.html

4 The Southern African Development Community (SADC) has several sector protocols, focusing on energy, transport and other services sectors (available at: www.sadc.int)

5 The African Development Bank's financial sector development policy and strategy is available at: http://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/Financial_Sector_Development_Policy_and_Strategy_2014_–_2019_–_Draft_Version.pdf

6 Sectoral approaches are also being adopted in other preferential trade negotiations such as the Transatlantic Trade and Investment Partnership (TTIP) between the United States and the European Union.

7 The linear model plots progress from a freetrade area to a customs union, common market, monetary union and subsequently, political union.

8 South Africa, Botswana, Lesotho, Namibia and Swaziland are members of SACU.