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Session 2: ‘Regional Integration and Rules of Origin in Africa’

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- Summary of session 2 as per conference agenda:

*“This session will **discuss regional integration** on the African continent including the latest **developments, challenges** encountered in the region, its vision and its **impact on rules of origin**. It will touch upon the process of **developing rules of origin for the regional integration** within the African Union”.*

- **Regional integration in Africa – what is it about?**

- A process whereby neighbouring countries voluntarily embark on **closer cooperation through a set of common rules and common institutions**
- A process whereby independent States usually give up or **share some of their sovereignty** – depending on the degree of integration agreed to
- Involves **removing or reducing barriers to regional trade, movement of people, capital and investment flows** etc.

- **Regional integration in Africa – what is it about?**

- **Benefits can include**

- trade creation and associated business and consumer benefits,
 - Employment creation and opportunities
 - closer political cooperation and cohesion
 - Raised opportunity cost of conflict

- **Disadvantages can include**

- trade diversion (away from outside sources),
 - trade polarisation,
 - trade displacement by economically more developed member states,
 - employment shifts or reductions,
 - loss of some economic and political sovereignty etc.

- **Regional integration in Africa – what is it about?**

- **8 recognised** Regional Economic Communities (RECs) in Africa
- RECs often driven by political or other agenda, rather than trade and economic ambitions
- ‘Spaghetti bowl’ of RECs involving overlapping membership, each with their own RoO e.g. SADC, COMESA, EAC, ECOWAS etc.
- Intra-regional trade remains low (10-12%?), far behind EU (70%), ASEAN (50%)...
- Little ‘preferential’ trade between east and west Africa, yet new FTAs with the EU etc.

Regional Economic Communities (RECs)

Africa is moving toward regional integration. There are eight Regional Economic Communities approved by the African Union (AU)

CEN-SAD

(Community of Sahel Saharan States)
28 member countries



AMU

(Arab Maghreb Union)
5 member countries



IGAD

(Inter-governmental Authority
on Development)
8 member countries



ECOWAS

(Economic Community of
West African States)
15 member countries



EAC

(East African Community)
5 member countries



ECCAS

(Economic Community of Central African States)
10 member countries



COMESA

(Common Market for Eastern
Southern Africa)
19 member countries

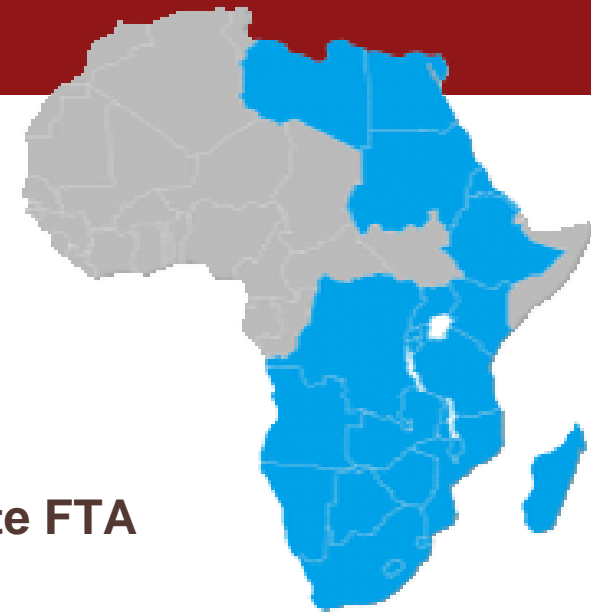


SADC

(Southern African Development Community)
15 member countries



- **Regional integration in Southern and East Africa and recent developments**



- **SADC, COMESA, EAC** as building blocs to the Tripartite FTA
- Expectation (was) of an inclusive FTA “**addressing the challenges of multiple (and overlapping) memberships**” and “**expediting the regional and continental integration processes**”
- **Member states to progressively eliminate import duties** - Art 9(3) of TFTA, but tariff eliminations **shall not apply to goods that are not subject to liberalisation** – Art 9(2)
- TFTA negotiations start(ed) from the **acquis** – *the current RECs will continue to exist*

- **Regional integration: The TFTA and its ambition**

- (To) bring together 26 member states with **>600million** consumers and **>\$1.3 trillion GDP (CFTA = 2-3x as much)**, covering east and southern Africa, under one umbrella trade and integration agreement. **Intra-regional trade up 15-fold** 1994-2014.

- **Foster greater regional economic growth**, and to solve some of the issues around overlapping REC memberships (e.g. Tanzania, Swaziland, Zambia)

- Promote greater **intra-regional trade**, which remains relatively low (but up to 25%?)

- **>>** Remains a WIP **>>** Official launch has taken place...but real test is when businesses and consumers can benefit from agreement

▪ **About the Tripartite FTA and its process**

- Negotiations from end-2011; the TFTA officially “launched” mid-2015
- TFTA process based on phased negotiations, each with different pillars
- TFTA negotiations start(ed) from the *acquis* and the current **RECs will continue to co-exist** - tariff negotiations between countries that do NOT have preferential arrangement between them – thus simply another layer of preferential scheme?
- **1-year “grace” period** to finalise outstanding issues (e.g. RoO) – now “expected” to be concluded in 2017 (???)
- **Outstanding issues** at launch of TFTA were substantial (RoO, trade remedies, tariff offers, – and the private sector still cannot trade “under” the TFTA)
- While TFTA has been **signed** by 18 (from 26) countries, **none have ratified it (needs 14 countries)**

▪ **Negotiating Rules of Origin for the Tripartite FTA**

- Task was to bring together **three different RoO regimes into new harmonised** rules (and halfway through process, EAC changed its RoO regime)
- **RoO negotiations technical and complex** esp. between partners with very dissimilar needs, resources, competencies [SADC RoO process took >10 years]
- Negotiations conducted through TTNF, technical areas (RoO) via Technical Working Group(s) TWGs
- **Preparatory draft agreement** (45 articles) plus 10 **annexes** (incl RoO) used as basis for negotiations

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- **Negotiating Rules of Origin for the Tripartite FTA**
 - Early consensus on '*wholly obtained*' definition, *cumulation*, *simple operations* etc.
 - But: **RoO divergences in terms of product rules too substantial, then agreed on a 'matrix' approach rather than a generic model.**
 - Preparation of matrix found that:
 - *common rules (15% - leave intact)*,
 - *similar rules (29% - polish and tweak)*
 - ***dissimilar rules (56%) - HAVE TO NEGOTIATE***

▪ Negotiating RoO for the Tripartite FTA

- What implication of this development for TFTA RoO? Highly resource-intensive and time-consuming process
- Line-by-line rules invariably are **business-owned** and subject to existing vested interests and political economy interests – and thus outcomes not necessarily **business-friendly** (often leads to most restrictive rules being chosen)
- Most recent RoO TWG meeting April 2017 still discussed items such as definition of value added, ex works cost (deferred), rules matrices, fisheries rules etc.
- Aiming for completion in 2017. What implications for CFTA process?

- **Towards a Continental FTA with own harmonised RoO**

- **Decision to establish CFTA** at AU summit January 2012, negotiations mid 2015

- **Objectives of a CFTA and timelines:**

To create single continental market for goods and services...expand intra-

Africa trade...resolve challenges of overlapping memberships of RECs

- **Ambitious plans** – consolidation of TFTA and other FTAs into a CFTA, agreement on Phase 1 items (including RoO) 2016-2017? Refocus regional FTA efforts to CFTA?
- Aims to increase intra-regional trade from 10% to 15% (2022)
- **“End 2017”** – establishment of the CFTA (the “party”)

- **What are some of the challenges to achieving CFTA RoO harmonisation?**
 - **RoO:** How will CFTA **RoO** negotiations process pan out?
 - Similar **matrix** approach with TFTA outcomes as a benchmark / input? Would parties agree to transfer TFTA outcomes to a continental RoO design?
 - **Or:** A new RoO process – off a clean slate?
 - **Implementation of commitments** by countries
 - [e.g. Zimbabwe SADC-EU EPA]
 - **Developing trust** in system and mutual recognition / customs cooperation
 - [e.g. SA apparel imports from other SADC country]

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- **What are some of the challenges to achieving CFTA RoO harmonisation?**
 - **Information transparency**, adjudication at border?
 - [e.g. EAC website, COMESA annex, SARS web]
 - **Meaningful involvement of private sector?** Double-edged sword?
 - [e.g. First EABC private sector dialogue on TFTA RoO took place in 2016]
 - **Strength of customs system and technical competence**
 - [e.g. coffee RoO]
 - Wide range of development levels across members (amid “one size fits all” approach)

▪ **Uncertainties and opportunities**

- Will we see a **battle of RoO approaches** in the CFTA?
- Will we follow a previous model of trying to enable preferential market access “internally” through **RoO “restrictions”** at the expense of (non-CFTA) outsider?
- Or given the reduction in trade costs and fragmentation of production, will we choose **more open rules** that allow us to attract FDI, trade on our strengths, integrate with global production networks?
- **CFTA principles** quite similar to TFTA / negotiations based on *acquis* – how will this be interpreted? Who will negotiate with whom (TFTA process...low ambition...) will it be e.g. SACU & ECOWAS, EAC & ECOWAS, etc.

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▪ **Uncertainties and opportunities ctd.**

- **Parallel process** TFTA/CFTA, given the timelines? Sustainable?
- Should we consider using **stepping stones** – e.g. first embrace wide continental (extended) **cumulation** – by retrofitting existing RECs?
 - *May be politically more palatable and goes some way to achieving objectives*
 - *Would require administrative cooperation for origin verification – but could consider a simple, stand-alone agreement that parties sign*
 - *TFTA currently uses standard approach ,EAC is already more progressive*

▪ **Reality checks**

- Will all parties to the agreement benefit?
- (Over) -ambitious agreement and timelines, that nobody ratifies?
- Should we aim for less ambitious outcomes but which can be implemented?
- Are we focusing sufficiently on trade facilitation?
- Implementation becomes a success once businesses and consumers benefit