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Connecting African markets and people: STREAMLINING REGIONAL TRADE AND FREE MOVEMENT PROTOCOLS

POLITICAL ECONOMY DYNAMICS OF REGIONAL ORGANISATIONS IN AFRICA

PEDRO

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Connecting people and markets within and between African countries and regions is a longstanding aspiration and a core part of the African Continental Free Trade Area (AfCFTA). In this line, the AfCFTA aims to (1) address the challenge of multiple and overlapping regional economic community memberships and speed up regional and continental integration processes, and (2) contribute to the movement of people, which aligns with the African Union Free Movement Protocol (AU-FMP).

This paper discusses these two objectives and looks at how the AfCFTA and the FMP alter the state relations on trade and movement of people, and how AfCFTA implementation will interact with existing regional agendas and initiatives. It looks at policy statements and the political economy dynamics likely to shape integration and cooperation efforts, and helps identify policy priorities for African stakeholders at the national, regional and continental levels, as well as their external partners.

We find that rather than streamlining regimes, the coexistence of continental and regional frameworks creates parallel processes. As it stands, the AfCFTA and the FMP will coexist with a regional subset of distinct trade and free movement regimes in negotiations, institutional set-ups and implementation. More coordination between continental and regional processes is therefore needed, possibly complemented by sui generis agreements with different regional bodies. Policymakers and their partners should also seek stronger links between the AfCFTA and the FMP and identify where these could help create traction for existing regional processes, as well as where existing regional processes can support AfCFTA and FMP implementation.

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Acronyms

AEC	African Economic Community
AfCFTA	African Continental Free Trade Area
AfDB	African Development Bank
AU	African Union
AU-FMP	African Union Free Movement of Persons Protocol
BMZ	German Federal Ministry for Economic Cooperation and Development
CEMAC	Economic and Monetary Community of Central Africa
CEN-SAD	Community of Sahel-Saharan States
CET	Common external tariff
COMESA	Common Market for Eastern and Southern Africa
CTF	Continental Task Force
CU	Customs union
DRC	Democratic Republic of the Congo
DSM	Dispute settlement mechanism
EAC	East African Community
ECCAS	Economic Community of Central African States
ECDPM	European Centre for Development Policy Management
ECOWAS	Economic Community of West African States
ETLS	ECOWAS Trade Liberalisation Scheme
EU	European Union
FTA	Free trade area
IGAD	Intergovernmental Authority on Development
LDC	Least developed country
MoU	Memorandum of understanding
MPFA	Migration Policy Framework for Africa
REC	Regional economic community
RoO	Rules of origin
SACU	Southern African Customs Union
SADC	Southern African Development Community
TFTA	Tripartite Free Trade Area
UEOMA	Union Economique et Monétaire Ouest Africaine
UMA	Union du Maghreb Arabe
UNDESA	United Nations Department of Economic and Social Affairs
UNECA	United Nations Economic Commission for Africa
WAEMU	West African Economic and Monetary Union
WTO	World Trade Organisation

1. Introduction

Connecting people and markets within and between African countries and regions is a longstanding aspiration of its leaders. The objective goes back to the pre-independence pan-Africanist movement, before re-emerging in the 1970s with the moves towards creating an African Economic Community.¹ This aspiration is implicitly also included in the ‘Agenda 2063: The Africa we want’ which cites the desire of African Union (AU) member states to move towards ‘shared prosperity and wellbeing...’, to achieve ‘a prosperous Africa based on inclusive growth and sustainable development’ and ‘an integrated continent, politically united and based on the ideals of Pan-Africanism and the vision of Africa’s Renaissance’.

Those ambitions remain a core part of the African Continental Free Trade Area (AfCFTA), the current, major African initiative to promote socio economic development across the continent. The first stated objective of the AfCFTA is to “create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of ‘An integrated, prosperous and peaceful Africa’ enshrined in Agenda 2063”.² This would mean connecting 1.3 billion people across 55 countries with a combined GDP valued at \$3.4 trillion, with an estimated impact of lifting 30 million people out of extreme poverty by 2035 (World Bank 2020). However, though the African Union Free Movement of Persons Protocol (AU-FMP) was opened for signature the same day as the AfCFTA Agreement, only four countries have yet ratified the AU-FMP, compared to 38 countries for the AfCFTA.³ That contrast in political traction underlines the challenge of connecting markets and people in practice.

This paper therefore discusses two specific objectives of the AfCFTA: the first is to “resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes”, an objective that speaks to the fact that almost all AU member states are party to more than one regional economic community (REC), not to mention the set of additional sub regional groupings; the second is to “contribute to the movement of... natural persons... building on the initiatives and developments in the State Parties and RECs” (AU 2018a), where this aligns with the AU-FMP objectives. These also emerged as key areas of interest for policymakers in Africa and in Europe through a series of interviews, webinars and desk work undertaken for this paper. The focus here is therefore on the practicalities of promoting free trade and movement of people while simplifying regional overlaps.

In particular, the paper looks at how and to what degree the AfCFTA and the AU Free Movement of Persons Protocol⁴ (AU-FMP) alter the incentives that shape current relations on trade and movement of persons between states, and how AfCFTA implementation will interact with existing regional agendas and initiatives. We present the formal policy statements and objectives, but also discuss the key political economy dynamics likely to shape outcomes in terms of what drives and what can undermine regional economic integration and cooperation efforts. By providing this ‘reality check’, the paper helps to identify where to focus future policy attention for African stakeholders at the national, regional and continental levels, as well as their external partners.

This paper was written while AfCFTA phase I negotiations around tariff reductions and rules of origin (RoOs) were still underway, as well as the negotiations around the five priority services sectors. The outcomes of these negotiations will have implications on modes of services delivery and movement of people. In addition, discussions

¹ See the following link, for example, which provides an historical overview: <https://www.sahistory.org.za/article/organisation-african-unity-oau>.

² See AU 2015, AfCFTA Agreement.

³ See TRALAC 2021, [Status of AfCFTA Ratification](#).

⁴ More formally known as the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment (AU 2018a).

on the AU framework on the division of labour between the African Union (AU), AfCFTA Secretariat and Regional Economic Communities (RECs) more broadly are ongoing. Although uncertainty remains around how such coordination will be implemented in practice, the main concerns raised will remain relevant.

The following key messages emerge:

1. Rather than streamlining regimes, the approach being taken instead implies parallel processes of AfCFTA and REC implementation. The AfCFTA therefore adds an additional set of trade regimes among RECs and their free trade areas (FTAs). That is, it “does not fully consolidate fragmented markets but leaves a network of better connected and distinct trade regimes” (Olayiwola 2020). The same holds true for the AU-FMP.
2. The AfCFTA and AU-FMP will coexist with a subset of very distinct REC trade regimes, Customs Unions (CU) and free movement processes, whether in negotiations, institutional setups or implementation. While a taskforce for the AU, AfCFTA, RECs and CUs will help coordinate among this diverse group, it may also require *sui-generis* institutional relations between the AU, AfCFTA and each specific regional body to ensure maximum synergies and political traction in implementing the AfCFTA.
3. The taskforce for the AU, AfCFTA, RECs and CUs should seek to strengthen the connection to the AU-FMP agenda as a key part of realising the benefits of the AfCFTA. Indeed, the AfCFTA Secretariat might take on a stronger role in championing the AU-FMP protocol, perhaps in coordination with an AU-appointed envoy or AU-FMP champion.
4. To bridge the gap in political enthusiasm between the AfCFTA and the AU-FMP, policy makers might consider beginning by facilitating the mobility of specific categories of migrants such as business persons, migrant workers, students and tourists, in order to take advantage of the economic opportunities presented by the AfCFTA.
5. Overall, policymakers and their international partners must adapt their support to this complex reality for regional organisations, national governments and the private sector in terms of identifying and supporting i) where the AfCFTA and AU-FMP processes can help create traction for existing regional processes, ii) where existing regional processes can support AfCFTA and AU-FMP implementation, and iii) the private sector to adjust to potential threats and opportunities from the AfCFTA within and between RECs and regional groupings.

The following sections discusses each of these findings in more depth, highlighting the reality checks that need to be understood and the implications for policy makers in the implementation of the AfCFTA.

2. Rationales for streamlining regional processes

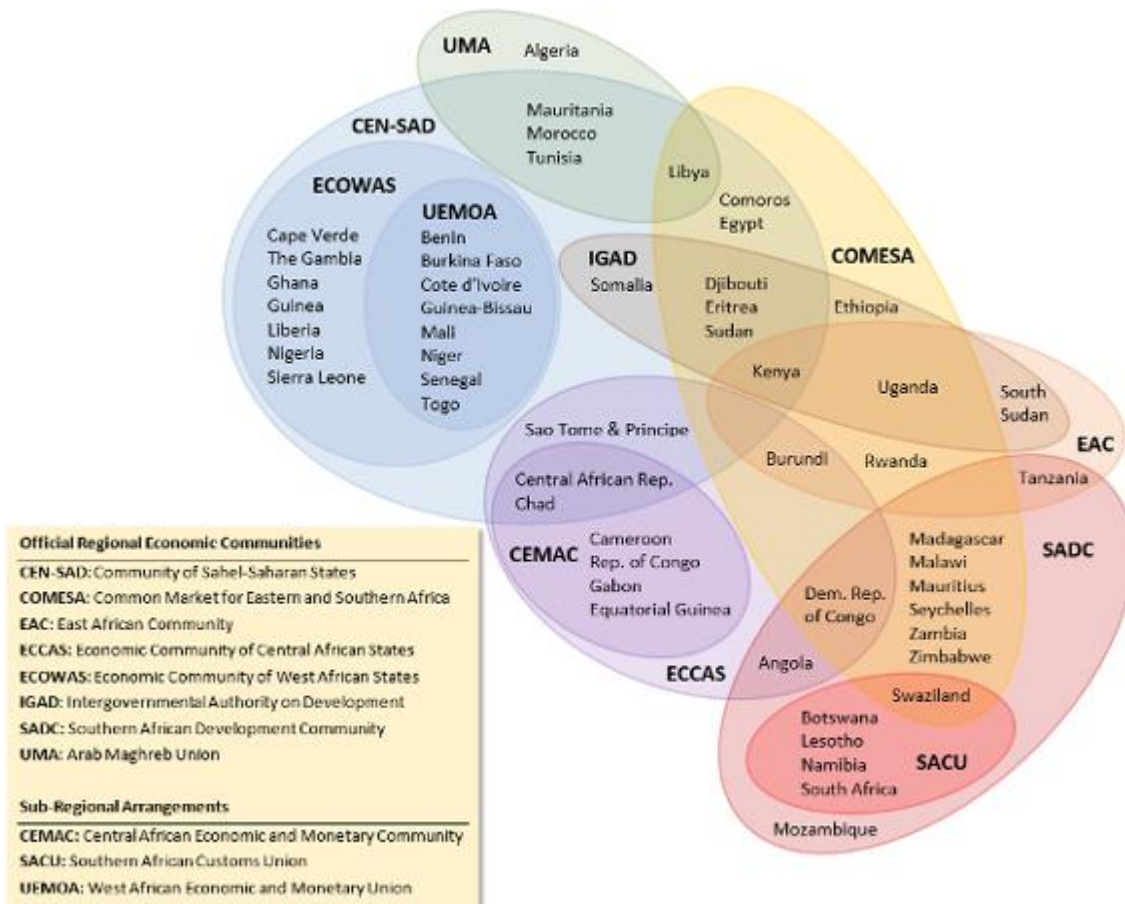
Reducing the overlaps

The AfCFTA states a key objective as being to “resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes” (AU 2015). This is in reference to the eight RECs formally recognised by the AU all of which are at different stages of economic integration, with most countries being a member of more than one REC.⁵

⁵ The eight RECs recognised by the 1991 AU treaty are: Arab Maghreb Union (UMA), Common Market for Eastern and Southern Africa (COMESA), Community of Sahel–Saharan States (CEN–SAD), East African Community (EAC), Economic Community of

But beyond the RECs, there are other regional mechanisms with trade regimes that have an impact on the governance of trade. These include the Tripartite Free Trade Area (TFTA), made up of SADC, EAC and COMESA, as well as various customs unions (CU) made up of sub-groups of REC members, such as UEMOA, SACU and CEMAC. This overlapping web of regional memberships is shown in Figure 1.

Figure 1: Africa’s Overlapping Regional Trade Arrangements



Source: [Ng and Mumford 2017](#)

There are conflicting views of the effect of the multiple memberships on regional integration. On one hand “membership in several communities could maximise the benefits of integration and minimise the losses by spreading risks. This could be especially important for countries with weak economies, which could benefit from gains in each regional economic community” (UNECA 2004). The presence of the West African Economic and Monetary Union (WAEMU) in the Economic Community of West African States (ECOWAS) region arguably eased the negotiations for the ECOWAS common external tariff, which used the WAEMU common external tariff as a platform for design and implementation.

Central African States (ECCAS), Economic Community of West African States (ECOWAS), Intergovernmental Authority on Development (IGAD), Southern African Development Community (SADC).

On the other hand, multiple memberships come with a range of challenges. At one level, the problems relate to duplications of policies, multiplicity of trade procedures, and capacity constraints in the allocations of staff and financial resources to maintain the regional organisations. For example, DRC, already a member of ECCAS, SADC and COMESA is currently seeking to join the EAC, adding to the burden of participating in multiple regional processes.⁶ In addition, it is difficult for countries to contribute and honour their obligations to all their RECs. Because the rules associated with each regional regime are unique, compliance requirements are duplicated and cumbersome for firms in countries belonging to several RECs, since the same traded product can be subject to different sets of rules in different countries of origin and destination. Overlapping membership also hinders trade standardization and enforcement.

Beyond capacity issues, overlapping memberships can lead to inconsistencies in policies. For example, the existence of multiple rules of origins as related to WAEMU and the Mano River Union poses challenges to the implementation of the ECOWAS Trade Liberalisation Scheme (ETLS) in promoting intra-regional trade (Byiers & Ndieye Forthcoming). Organisational structures are in place to promote WAEMU-ECOWAS harmonisation, but these also require additional staff time and resources, again raising the costs of dual membership. Similarly, for movement of people there are multiple, regional free movement regimes, shown in Figure 2 (see AU 2018a, Article 26).

In response to this ‘spaghetti bowl’ of overlapping regional memberships and agendas, both the AfCFTA agreement and AU-FMP protocol are seen as potential ways to harmonise and streamline these regional regimes.

Linking markets and people

Beyond seeking to reduce overlaps in regional membership, a stated objective of the AfCFTA Agreement is to “create a single market for goods, services, facilitated by movement of persons”, and “contribute to the movement of capital and natural persons” (AU 2018a). The aim is thus for policymakers to build on “the initiatives and developments in the State Parties and RECs” (AU 2018). Further, the AU-FMP protocol seeks to promote the “progressive implementation of free movement of persons, right of residence and right of establishment in Africa” (AU 2018a) with the reasoning that trade and mobility on the African continent are closely intertwined (AU 2019a).

In 2020, there were over 25 million migrants in Africa, with over 20 million originating from other African countries ([UNDESA Global Migration Database](#)). Migration within regions is highest in East and West Africa, with migrants from these regions constituting over 8.2 million of the migrants within the region and 7.2 million respectively ([UNDESA Global Migration Database](#)). This means that a large majority of the migration that occurs within Africa is intra-regional in nature.

As well as being largely intra-regional, current movement of people is characterised by the migration of low-skilled workers, mostly working informally (ILO 2019). A significant proportion of existing mobility occurs within informal channels, and outside formalised processes. Africans need visas to travel to 46% of the countries on the continent (AfDB 2020).⁷ Further, though there is a high level of mobility within regions, there is limited mobility across regions - such as from the West to the South or East Africa due to restrictive entry and visa policies. These restrictions to movement can limit the potential of various categories of people, including business persons and workers, to take advantage of the opportunities created for the trade in goods and services under the AfCFTA. This therefore ignores the current realities of the trading conditions in Africa that require people to move with goods, albeit for temporary purposes, such as truck drivers, and cross border traders, for example.

⁶ See here for example: <https://allafrica.com/stories/202106280421.html>.

⁷ Gambia, Benin and Seychelles offer visa-free access to all African visitors.

Increasing the free movement of persons is identified as one of the four freedoms for achieving regional integration as envisaged in the 1991 Abuja treaty. The Migration Policy Framework for Africa (MPFA) equally underscores the relationship between migration and trade. Pillar 8 of the MPFA highlights the importance of short-term migration especially relating to informal cross border trade towards economic development and the need for African governments to facilitate the movement of persons for trade. It acknowledges that free movement of persons is a “key pillar of regional trade and economic integration, as it facilitates trade in goods and services and industrialisation, thereby contributing to socio-economic development and poverty reduction” (AU 2018b). In principle, there is “an understanding across all the AU Member States that free movement and free trade goes together” (IOM 2020), the one helping generate the benefits of the other.⁸ According to Hon. Judith Uwizeye, the Minister in Office of the President of the Republic of Rwanda and the former Chairperson of the Specialised Technical Committee on Migration, Refugees and Internally Displaced Persons, “Without mobility and free movement, even the African Continental Free Trade Area (AfCFTA) will stay challenged as we cannot achieve free trade properly without free movement” (AU 2019a).

Facilitating the mobility of categories of people such as business persons, entrepreneurs and investors who are essential to multi- country investments and creating jobs is in line with the ambition of the AfCFTA, as well as the vision of the AU Heads of States. Informal Cross-Border Traders (ICBT), seasonal workers, and student migrants will also benefit from greater mobility (Stuart 2020; Kritz 2013). The economic development of African countries and achieving structural change and industrialisation are closely entwined with job creation, protecting the livelihoods of small and medium cross border traders and the ability of young and skilled African workers to take up available employment opportunities in other African countries (IOM 2020).

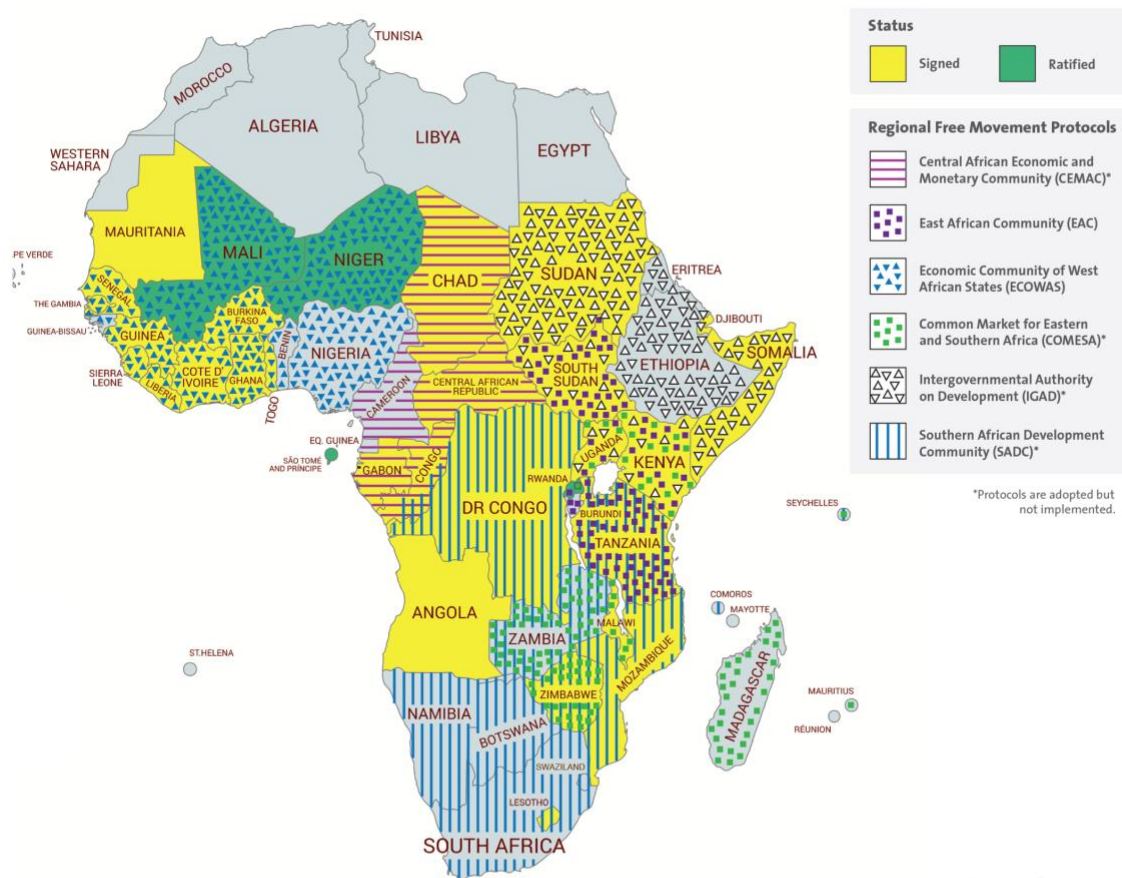
Consequently, the implementation of the AfCFTA and the AU-FMP are hoped to aid trade, continental integration and development (AU 2018b).⁹ But while the AfCFTA has been signed by 54 countries and ratified by 38 countries in record speed, the AU FMP was signed by 33 countries but has only four ratifications so far. This is considerably below the 15 necessary for the protocol to enter into force (AU 2019b). As Figure 2 shows, the ratifying states are Rwanda, Niger, Mali and Sao Tome and Principe (in green), thus excluding all major economies. The list of signatory countries (in yellow) excludes all of North Africa, and the major economies of the other regions: South Africa, Ethiopia, Nigeria and Cameroon have all failed to sign the AU-FMP.

According to Afrobarometer, two-thirds of Africans find it difficult to cross borders for work or trade in their region. This compares to only 21% who say it is easy. But there are regional differences with large majorities in four West African countries saying crossing borders is difficult: Mali (82%), Guinea (81%), Burkina Faso (78%) and Côte d’Ivoire (76%). This compares with three southern African countries where the figures are considerably lower: Botswana (41%), Angola (43%) and Namibia (52%)” (Afrobarometer 2021).

⁸ Interview with a representative from an African think tank.

⁹ The MPFA also highlights the high level of informality of trade in Africa, hence the need to ensure the protection of these informal traders while they move across country borders, in a bid to promote intra-African trade (Mudungwe 2017; IOM 2020).

Figure 2: AU-FMP Signatories and ratifications, and regional free movement protocols



Source: Created by the authors on the basis of African Union: "Indication of Legal Instruments Signed at the 10th Extraordinary Session of the Assembly on the Launch of the AfCFTA".
Graphic design: Yaseena Chiu - van 't Hoff, ECDPM.

ecdpm

Source: [ECDPM infographic](#)

The objective of the AU-FMP protocol is to reduce the current restrictive mobility practices on the continent through improved entry, establishment, stay and exit procedures for African citizens across the continent.¹⁰ The AU-FMP sets out three phases: phase one guarantees the right to entry; phases two and three grant the right of establishment and the right of residence, subject to national regulations.¹¹ Free movement of persons therefore goes beyond facilitating entry and exit conditions, and includes broader requirements of market access and establishing conditions to promote labour mobility across the continent (Kottoh et al. 2020).

Although there have been an increasing number of discussions on linking trade and free movement of people, the effects of these discussions are not visible in the negotiation and the ratification of the AU-FMP compared to the

¹⁰ This is in line with article 3 of the AfCFTA agreement which aims to "(a) create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of "An integrated, prosperous and peaceful Africa" enshrined in Agenda 2063; (b) create a liberalised market for goods and services through successive rounds of negotiations; (c) contribute to the movement of capital and natural persons and facilitate investments building on the initiatives and developments in the State Parties and RECs;"

¹¹ According to the roadmap for implementing the protocol, we are still in the first phase of the implementation (AU 2017).

AfCFTA.¹² While some stakeholders, especially businesses, acknowledge the important linkages between free movement of persons and accessing economic opportunities created by the AfCFTA (Azeez 2021), others do not, choose to ignore it, or refuse to accept it. As Hirsch (forthcoming) points out, while “governments felt comfortable signing the ACFTA because signatories knew that years of preparation of detailed schedules and complex negotiations on issues like rules of origin and standards would precede the actual implementation of the ACFTA”, the process on the AU-FMP was much less clear, creating a fear of committing to something that might become politically sensitive later.¹³ Consequently, free movement and trade are treated as two separate issues.¹⁴ Most governments have therefore signaled through their statements and signature of the protocols that their priority is trade, not free movement.¹⁵

3. Streamlining regional processes in practice

Building on the RECs

While seeking to “resolve the challenges of multiple and overlapping memberships”, two of the guiding principles of the AfCFTA Agreement are to ‘preserve the acquis’ and build on ‘best practices’ of the RECs (AfCFTA Agreement, Article 5). The AU-FMP similarly states that it shall “not affect more favorable provisions” in existing regional FMPs, but seeks to build on these in establishing the continent-wide free movement regime (AU-FMP, Article 5(3)(a)). This means that in practice, existing REC Free Trade Areas (FTA) and customs unions will continue to function. That is, *intra*-REC trade and movement of persons will continue to be governed by the existing regional regimes, with no new internal liberalisation via the AfCFTA negotiations. New tariff concessions made under the AfCFTA are only between those State Parties “that have no preferential arrangements in place between them” (Erasmus 2021), while the AU-FMP similarly affects movement beyond existing regional arrangements.

As such, RECs and other regional arrangements with higher levels of regional integration than those provided for in the AfCFTA Agreement - these include the sub-regional customs unions mentioned above or the TFTA - will continue to operate as before. Indeed these are free to deepen integration beyond AfCFTA commitments towards free circulation of goods, and the creation of a common market. This means that integration will follow the principle of variable geometry, allowing for integration at different speeds, and giving flexibility to accepting and implementing specific agreements in a treaty (Taye 2019). Article 19 of the AfCFTA Agreement further underlines that the AfCFTA takes precedence in event of any conflict or inconsistency between the AfCFTA and the RECs. Rather than streamlining multiple trade regimes, the approach therefore introduces ‘parallelism’ as an inherent part of the AfCFTA architecture.

¹² Some events on free movement of persons and trade [Pan African Forum on Migration \(PAFOM\) November 2018](#); [AUC consultative meeting Dakar December 2019](#); [ECOSOCC Webinar Series on The Migration Policy Framework for Africa, themed 'The AfCFTA as a catalyst for Free Movement of People in Africa' June 2021](#); and several other events organised by CSOs and platforms.

¹³ Hirsch, A. forthcoming, The African Union's Free Movement of Persons Protocol: Why has it faltered and how can its objectives be achieved? *South African Journal of International Affairs*.

¹⁴ Interview with AUC official; Interview with ECOWAS official.

¹⁵ 38 countries have ratified the AfCFTA agreement and have established committees for the implementation of the agreement. But with regards to the FMP, the signatory countries have not established any mechanisms to facilitate its implementation or begun the process of changing any national regulations or policies, to implement measures that will facilitate the movement of people.

A similar situation is seen with the free movement of people agenda. The AU-FMP seeks to harmonise the various regimes on the continent and promotes mechanisms to facilitate the mobility of persons on the continent through a phased approach. The continental AU-FMP aims to ensure that other states beyond the current REC members are able to benefit from the mobility of persons. This is primarily important for the AfCFTA as it is linked to promoting inter-regional trade. Thus, where existent, the REC commitments already lay the foundation for building up commitments at the continent level.

Therefore, though the AfCFTA has streamlining overlapping RECs as an objective, the fact that it also builds on the existing REC FTAs and AU-FMP processes implies the opposite, creating additional parallel processes. While that reflects a pragmatic response to the challenge of achieving such large trade and free movement ambitions among such a high number of countries operating at different levels of integration, it also poses problems for institutional coordination among governments entrusted with implementing these continental agreements at the national level, and for traders seeking to utilise these trade and FMP provisions. These are discussed in turn below.

Uneven regional building blocks

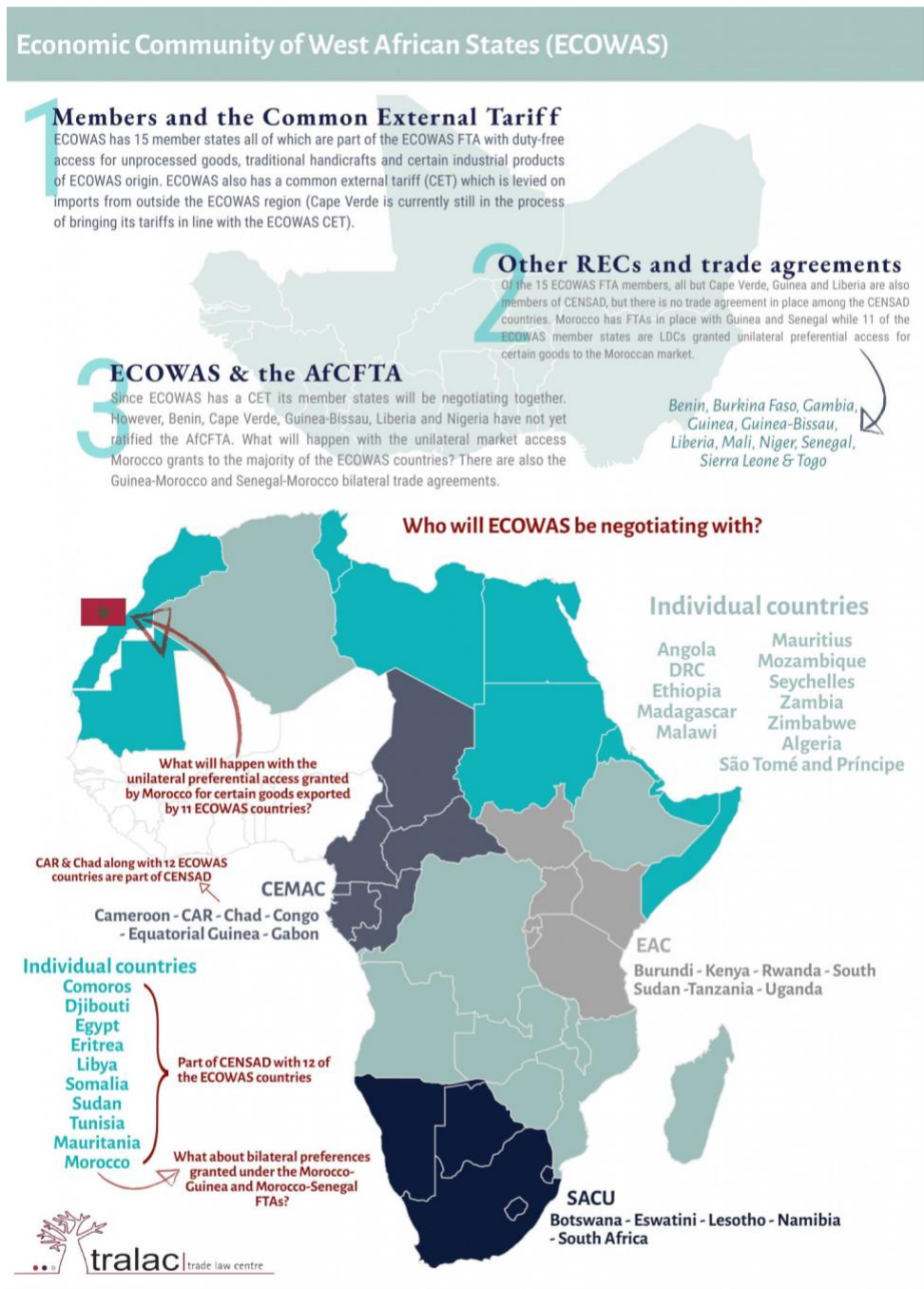
Although the RECs are recognised as the building blocks of the African Economic Community (AEC), the actual negotiation and implementation of the AfCFTA only directly involves a subset of the RECs and a group of non-REC customs unions. On the one hand, RECs like CEN-SAD or the AMU are not implementing trade agendas, while even among those who are, some are customs unions and others not, again implying different roles in AfCFTA negotiation and implementation. Member states of customs unions have submitted joint regional schedules of tariff concessions in order to maintain their common external tariffs (CETs). This is the case for members of the EAC and ECOWAS, both of which are recognised by the AU treaty, but also for SACU and CEMAC, which are not.¹⁶ In addition, although SACU has made a joint tariff offer to non-SADC members, trade among SACU *and* SADC countries will still be governed by the SADC FTA of which they are all members. That is, both SADC and SACU will have a role to play in implementing the AfCFTA.

To illustrate the resulting complex landscape of trade agreements, Figure 3 presents the AfCFTA negotiating partners of ECOWAS and some of the potential questions that need to be addressed in terms of offers to customs unions and to individual countries. The agreement to liberalise 90% of trade includes flexibility and thus differing time schedules according to country circumstances. That means that beyond the mix of RECs and non-RECs, each regional grouping will have different scopes and paces of tariff liberalisation, depending on their internal negotiations among member states.¹⁷

¹⁶ In the case of SACU, Botswana has not yet ratified the AfCFTA which is required in order to preserve the CET.

¹⁷ Member States agreed to 90% liberalisation of tariffs on trade in goods, with the remainder designated as sensitive (7%) or exclusive (3%). According to the schedules, developing economies can liberalise sensitive products over 10 years, while least developed countries (LDCs) can take 13 years. Countries can also take advantage of a 5-years-or-less transition period before liberalising sensitive products.

Figure 3: ECOWAS different REC and non-REC negotiations



Source: TRALAC 2020a

Varying regional progress on free movement

Although the objective of streamlining the varying REC regimes also exists in the AU-FMP (see Article 26), RECs are at varying stages of implementing their own regional FMPs. Compared to other regions, ECOWAS and EAC countries are more advanced in implementing free movement albeit with challenges still observed in daily practice as people

cross borders for work, trade or study (Afrobarometer 2021; Yeboah et al. 2021). In Southern Africa, SADC countries have adopted a free movement protocol, which is not implemented yet because it lacks the required number of ratifications by Member states (Nshimbi and Fioramonti 2014). In Central Africa, Communauté économique et monétaire de l'Afrique centrale (CEMAC) countries adopted a free movement protocol in 2013 and ratified it in 2017, however its implementation is subject to reciprocity in some countries and visa free travel is not yet fully established among all member states. The Intergovernmental Authority on Development (IGAD) has recently adopted its free movement protocol in 2020, however, this is yet to be ratified by member states (IGAD 2020). Mobility across northern African countries is governed by bilateral agreements between countries.

Part of the hesitancy of states to ratify both the AU-FMP and regional protocols relates to current challenges with insecurity. In the Sahel this has led West African states to adopt a more restrictive approach towards the free movement of persons in the region (Hamadou 2020). This is in addition to the current drive by the EU to tackle the irregular migration towards Europe from the region (Castillejo 2019). Security challenges have also been frequently cited as a reason for the slow implementation of the IGAD FMP recently signed in 2020 (Castillejo 2019).

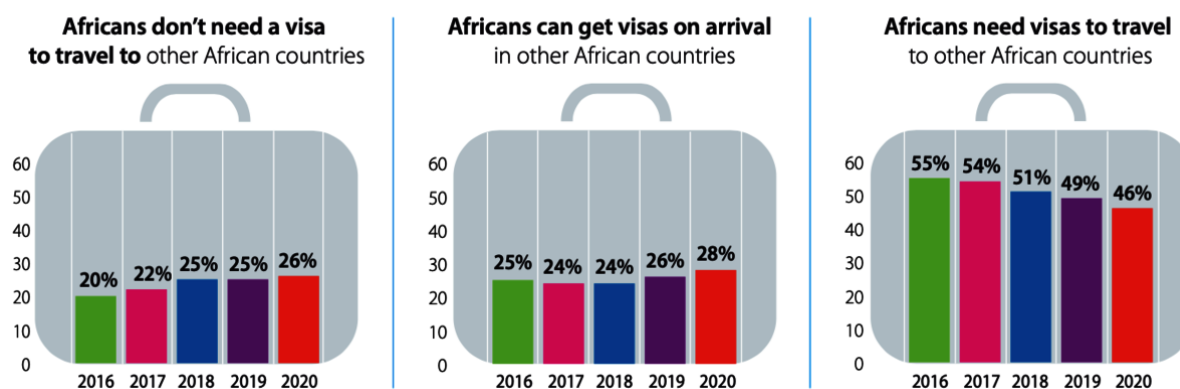
States also face socio-political challenges with migrants frequently 'othered' and expected by some to undercut labour market wages by competing for scarce jobs with nationals. Thus migrants are often scapegoated as being criminals and a drain on the domestic social welfare (Solomon 2019; Bornman 2020) regardless of their contribution to the domestic economies through their businesses and job creation (UNDESA 2020:11). Most African countries are therefore reluctant to sign and ratify the AU-FMP protocol although it provides for a varied approach to liberalising the movement of persons (Hirsch 2020), and even to implement phase one commitments, which require the least changes to national regulations.

Consequently, in order to manage the migration and mobility into their countries, some African governments have chosen to adopt bilateral agreements, which allows them to determine the sectors in which migrants are needed and set the specific conditions for entry, stay and if possible residence. These bilateral agreements are usually based on reciprocity and mutual agreement with other countries of similar economic development. This allows them to address the (largely unfounded) fear of the government and society of the possibility of being overrun with migrants from other countries with a lower level of economic development. In southern African countries, bilateral agreements between countries regulate the mobility of labour and persons (Nshimbi and Fioramonti 2014).¹⁸ Recently, more countries have adopted visa - on - arrival and eVisas for travellers from other African countries, thereby facilitating entry processes. These entry regulations are monitored by the AfDB visa openness index, the main trends of which are summarised in Figure 4. However, these measures can also be changed unilaterally without the consent of other countries, contrary to the AU-FMP which would 'lock in' commitments, arguably to the benefit of the AfCFTA and movement of persons for trade and investment reasons.

¹⁸ For example the visa waiver agreement between Mozambique and Kenya in 2018 (Mumbere 2018).

Figure 4: Changes in visa openness scores 2016-2020

Change in Visa Openness scores, 2016-2020, %



Source: [Visa openness findings 2020](#)

Like the AfCFTA, the FMP also allows for variable geometry in its implementation (Hirsch 2020; Mayer and Bisong 2021). Nonetheless, the different levels of implementation of the free movement protocols mean that there are varying levels of effectiveness for continental processes to build upon. This will challenge the process of harmonisation especially in countries with no experience or interest in implementing regional FMPs. Further, the process of changing national legislation to align with the provisions of REC and the AU FMP may be more difficult to achieve in some of these countries, as the interests of the policymakers and stakeholders needed to implement these changes may be difficult to secure.

Every region is a unique combination of country interests

Beyond their trade and free movement integration status, each regional organisation and REC has its own history and regional agenda, formally stated and otherwise. Each was established independently of each other and has followed its own path, structure and prioritised areas of activity. These different historical and structural factors combine with formal and informal ways of working to shape regional objectives and how they are pursued, making each REC very different, not least in how their member states engage regionally (Vanheukelom 2016).

Each region is therefore also characterised by a different mix of member states that shape how they work. The 2019 African Regional Integration Index (AfDB et al. 2020) shows the diversity of RECs but also the strengths and weaknesses of key member states. In SADC, South Africa, the largest economy is singled out as a high performer in trade, productive and infrastructural development, but an average performer in macroeconomic integration, and a low performer in the free movement of people. In ECOWAS, Nigeria, the largest economy within the region is flagged as a high performer in productive integration, an average performer in trade and infrastructural integration, and a low performer in macroeconomic integration and free movement of people. In the EAC, Kenya, the largest economy, was a high performer in trade, productive and infrastructural integration and free movement of people but a low performer in macroeconomic integration. Patterns are similar for other AU-recognised RECs. Building on existing regional FTAs therefore implies taking into account a great variety of organisations, governments and interests across diverse groupings of member states with different strengths and interests.

One consequence of this is that the implementation of regional integration agendas is ultimately driven by the ambition and interests of the member states, with each REC therefore also given a different role in negotiating and implementing the AfCFTA by its member states.

Countries also use different RECs to meet different national objectives. Differing interests and levels of influence in the regional organisations they participate in mean they may indeed seek to maintain multiple memberships, even where these seem to overlap. According to some, WAEMU coexists with ECOWAS to protect the interest of smaller Francophone countries and limit the dominance of Nigeria by having a “common voice” in integration negotiations (Olayiwola 2020). Some members of SADC such as Tanzania and Angola have memberships in other RECs (EAC and ECCAS, respectively) to maximise benefits from other arrangements. Even if DRC is already a member of ECCAS, SADC and COMESA, arguably this reflects its size and the integration of different provinces with different regions, such as Katanga with the SADC countries. Similarly, the east of the country is more integrated with the EAC countries, even simply in terms of infrastructures.¹⁹

Apart from geographical considerations, Kenya has used its COMESA membership to resist the dumping of sugar and wheat exports, which it could not have realised through the EAC trade remedy regime (Gathii 2010). Multiple REC membership is therefore not an accident but has been sought by countries to “retain their sovereignty and accrue benefits from multiple regimes otherwise not available through sole memberships” (Gathii 2010). This then suggests that member states would be hesitant to give up the overlapping regional memberships that the AfCFTA seeks to resolve, given the different ways that these can be used to achieve specific goals.

Although overlapping REC regimes also exist in the free movement of persons, their limited implementation and the use of bilateral agreements among REC members limits the effects. Thus although EAC and COMESA may have some overlapping members, mobility within COMESA is governed by bilateral agreements between states, while the free movement of persons within the EAC is available to the citizens of all its member states. Here the challenge is therefore about harmonising mobility regimes both within and between regions which are currently at very different implementation phases and where unilateral approaches have been the preference.

Overall, while rationalising multiple and overlapping trade regimes seems a legitimate objective, it is undermined not just by the goal of building on the existing RECs processes, but by the fact that each REC is very different, plays a different role in terms of governing trade and movement of people, but also in how it is used by each of its member states. The AfCFTA implementation process will therefore need to take account of the very different roles that each REC can and should play, and find pragmatic ways to engage each in different ways rather than seeking uniformity on both agendas.

Regions and continental institutions

All of the above has implications for the institutional setups required to further promote implementation of both the AfCFTA and the AU-FMP. Beyond their differing roles in AfCFTA negotiations, the RECs are formally attributed roles and responsibilities in the institutional setup for its implementation. As per the AfCFTA Agreement, the AfCFTA Secretariat “working with state parties, RECs and partners”, is to coordinate and provide technical assistance and capacity building in trade and trade related issues for the implementation of the Protocols on Trade in Goods and Services.²⁰ The Johannesburg Declaration on the start of trading under the AfCFTA similarly urges the RECs and the AfCFTA Secretariat to collaborate in the implementation of the AfCFTA Agreement (AU 2020). This means that,

¹⁹ See here for example: <https://allafrica.com/stories/202106280421.html>.

²⁰ Article 29(1) of the AfCFTA Protocol on Trade in Goods and Article 27(3) of the Protocol on Trade in Services.

despite the discussion above, *all* the RECs are given a key role in the implementation of the AfCFTA, thus requiring coordination between the continental and regional levels, even though some have FTAs or customs unions, and some are barely active on trade issues at all.

Article 12 of the AfCFTA also gives the RECs an “advisory role” in the Committee of Senior Trade Officials, mandated with overseeing implementation, developing programmes and action plans and monitoring the Agreement. But the Agreement does not provide clear modalities for what regional representation entails, nor how the 8 AU-recognised RECs will act through one common mechanism for engagement in spite of their differences.²¹

While understandable at one level, given that negotiations are between states, “the AfCFTA became a forum where the expression of national interests prevailed, sometimes even over REC-level commitments, even though the REC FTAs were to be the building blocks of the AfCFTA” (UNECA et al. 2019). This was evident during the early negotiation phase when RECs and customs territories were reportedly reduced to observer status.

Apart from their advisory role in the Committee of Senior Trade Officials, RECs participate in several AfCFTA sub-committees where they guide their member states on alignment of the AfCFTA with intra-REC commitments. Early on in the process, the Continental Task Force on the AfCFTA (CTF) comprising the AUC, the eight RECs, ECA, AfDB and UNCTAD was established by the AU Assembly to coordinate actions between the AUC and the RECs to ensure that the AfCFTA negotiations are conducted within the agreed timelines.²² The CTF has been functioning as the Technical Secretariat for the AfCFTA negotiations though a lack of clarity over roles and leadership reportedly meant it could not perform optimally.²³

In the meantime, the AfCFTA Secretariat is working on a framework for collaboration on key areas where REC involvement is required under the various Annexes of the AfCFTA Agreement. Areas under the framework include customs harmonisation, transit, trade facilitation, the harmonisation of standards, development of regional value chains, capacity building, intellectual property rights, investment, competition, enhancement of the capacity of SMEs, women and youth in trade and monitoring. This is a long list of topics, each of which will require specific plans, capacity and resources, and will face different hurdles.

The first meeting of the heads of RECs and the AfCFTA Secretariat on the implementation of the AfCFTA was held in September 2021, with strong recommendations made to have a clear framework for collaboration.²⁴ A draft action plan on collaboration between the AfCFTA Secretariat and the secretariats of the RECs has been developed seeking to develop key action lines of cooperation in the implementation of the AfCFTA Agreement.²⁵ The draft action plan is expected to allow for more structured monitoring and reporting of the implementation progress of the AfCFTA Agreement, and better tracking of the key achievements by identifying indicative timelines to be undertaken by the AfCFTA Secretariat and the RECs’ directorates. There is a clear role for RECs including customs unions, which is, “to coordinate the positions of their respective Member States based on existing commitments at the regional level”.²⁶ According to the draft action plan, RECs are to establish AfCFTA Regional Committees and liaison offices at the AfCFTA Secretariat to coordinate the implementation of the AfCFTA. Other suggestions from the coordination

²¹ See e.g. TRALAC, [How will the AfCFTA Institutions contribute to Compliance?](#)

²² See UNECA, [Update on the progress being made in the Continental Free Trade Area negotiations.](#)

²³ Interview with AfCFTA Secretariat July 2021.

²⁴ AfCFTA Secretariat, First (1st) Coordination Meeting of the Heads of Regional Economic Communities (RECs) on the implementation of the African Free Trade Area (AfCFTA), 20 September 2021. Live stream on Single African market Channel.

²⁵ AfCFTA Secretariat. 2021. Draft action plan for collaboration between the AfCFTA Secretariat and the secretariats of Regional Economic Communities (RECs) on the implementation of the AfCFTA. First (1st) Coordination Meeting of the Heads/CEOs of Regional Economic Communities (RECs) on the Implementation of the African Continental Free Trade Area (AfCFTA) Accra – Ghana, 18 – 20 September, 2021. On file with the authors.

²⁶ *Ibid.*

meeting include establishing an expanded task force, building on the CTF as an instrument for continued collaboration between AUC, RECs and the AfCFTA Secretariat. In addition, the AfCFTA Secretariat, working together with some partners, is in the process of recruiting five regional trade advisors- representing the AU's five geographical regions- at the REC level by the end of the year.²⁷

For the FMP, states are in the lead to implement the provisions. Provisions relating to stay and establishment, in particular, require changes to national legislation and policies. It is therefore envisaged that the RECs and the AUC play an overall coordinating role in ensuring that states harmonise their national laws with the provisions of the protocol, while RECs are also to bring their regional FMPs in compliance with the AU-FMP and monitor the compliance and implementation of the protocol by their member states.²⁸ As such, the institutional setting for the AU-FMP remains to be consolidated. One suggestion, then, given the rationale for linking the two agendas but low political traction for the AU-FMP is to more explicitly link the two institutionally, potentially through the AfCFTA Task Force, or a separate task force, where the AfCFTA Secretariat itself might take a championing role.

All of this comes at a time where broader issues of AU-REC relations are in discussion after the Kagame Report called for the clarification of the division of labour among AU, RECs, RMs, and other institutions and the introduction of a Mid-year AU-REC Summit in 2019.²⁹ While a new protocol on AU-REC relations beyond the AfCFTA may also clarify the issues related to division of labour between AUC-REC-AfCFTA Secretariat, as discussed above, the AfCFTA involves a mix of *some* RECs and customs unions, suggesting that any AfCFTA coordination framework will need to balance clarity with flexibility to ensure that the most effective organisations are able to play an effective role, whether on trade or movement of persons.

Perhaps recognising the challenges of a uniform approach to RECs, the AfCFTA Secretariat and the COMESA Secretariat have agreed to establish a bilateral framework agreement on AfCFTA implementation.³⁰ This could serve as a way to ensure adequate coordination between the continental and individual regional institutions. Though it would raise transaction costs if each REC and CU required a separate Memorandum of understanding (MoU), it would help address the challenges cited above of creating one framework for engaging with and working with very different RECs and CUs.

Questions also remain on the relations between the AfCFTA and other regional trading arrangements such as the TFTA. Although the TFTA process precedes that of the AfCFTA, at present four ratifications are still needed for the TFTA to come into force, putting it behind the AfCFTA in terms of progress. Nonetheless, by virtue of AfCFTA Article 19, its acquis is retained, meaning that once in force it will qualify as one of the regional trading arrangements upon which the AfCFTA will build and coexist beside.³¹ Whether the TFTA will live an active life of its own, will depend on the unique trade liberalization profile which its members will be able to agree on (TRALAC 2019), though both

²⁷ Interview AfCFTA Secretariat July 2021; First (1st) Coordination Meeting of the Heads of Regional Economic Communities (RECs) on the implementation of the African Free Trade Area (AfCFTA).

²⁸ See articles 27,28,29 AU FMP. According to the Roadmap on the implementation of the FMP, periodic reports are to be submitted to the Executive Council through the relevant Specialised Technical Committees on the status of implementation of the Protocol.

²⁹ A draft protocol on AU-REC relations is being finalised for presentation at the AU Summit in 2022, building on a proposed framework for division of labour presented at the first AU-REC Summit held in Niamey. RECs are mandated to facilitate the implementation of continental policies, programs and projects (such as the AfCFTA). They are also responsible for the execution of continental programmes and developing regional frameworks for the mobilisation of resources to implement continental policies and programs (AU 2019b). The proposed revised Protocol on Relations between the AU and RECs aims to improve the implementation of the institutional reforms REC involvement in implementation of continental programmes. See here: <https://issafrica.org/pscreport/psc-insights/the-importance-of-regional-integration-highlighted-by-covid-19>.

³⁰ See COMESA, [AfCFTA, COMESA to Establish Cooperation Framework](#).

³¹ See COMESA, [New Deadline set for Ratification of Tripartite Free Trade Area](#).

agreements essentially seek similar objectives of market integration, value chain and industrial development. Again, however, there are no clear guidelines as yet for coordination between the Tripartite Task Force (made up by the secretariats of the three RECs: COMESA, EAC and SADC) and the AfCFTA Secretariat. While the TFTA is an important building block for the AfCFTA - membership of the three RECs it comprises represents 53% of the African Union membership and roughly 60% of African continental GDP (COMESA 2021) - it will further add to the overlapping network of FTAs and create challenges for governments and the private sector alike.

Implications for the private sector

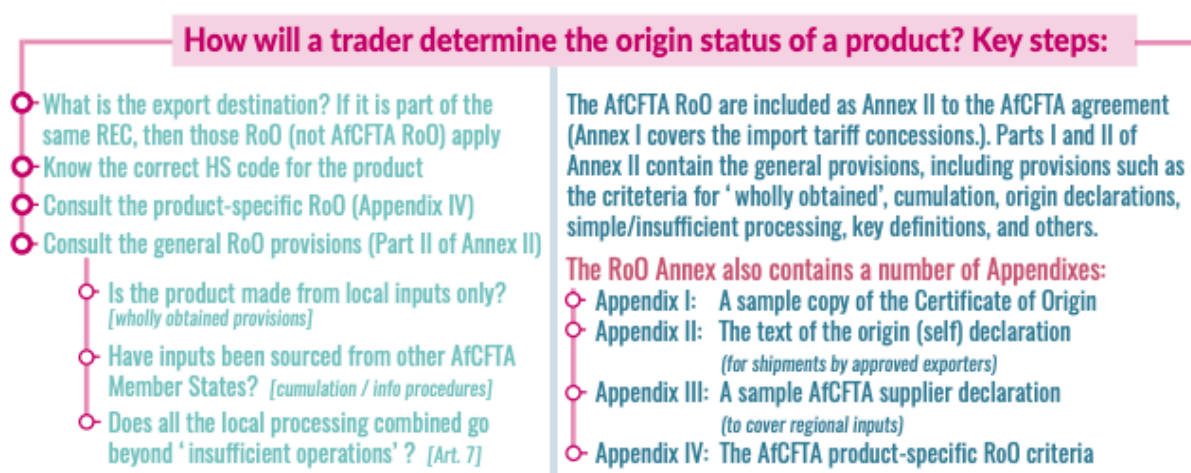
While the creation of an additional network of FTAs is not problematic in itself, and the AfCFTA offers access to new markets outside existing regional regimes, this comes accompanied by an additional set of tariff regimes and rules of origin for trade outside the region. As the AfCFTA will not replace regional trade regimes, accessing non-regional markets will also imply abiding by additional sets of rules, according to target countries. That is, the AfCFTA will add to existing different rules of origin (RoOs) regimes being applied by different RECs and CUs with an additional set for extra-REC trade. For example, some exporters in Malawi, Swaziland and Zambia that are members of both SADC and COMESA often prefer to use the COMESA RoOs, which are viewed as more straightforward (Ndonga 2021), resulting in regime shopping. A similar situation pertains for the group of eight WAEMU countries within ECOWAS, where RoOs have yet to be harmonised between both RECs. A question arising from the private sector is therefore whether AfCFTA RoOs will also cover intra-regional trade to lower their compliance costs (Interview 2021).

While lessons from existing regional trading agreements show that over-restrictive or complicated RoOs adversely affect intra-African trade in terms of the costs of compliance, reports suggest that the AfCFTA RoOs are likely to follow those of SADC, which are product specific and considered to be strict, having been heavily influenced by South African protective concerns (Signé and van der Ven 2019). The existence of multiple RoOs and the need for firms to be aware of, and compliant with strict rules risks adding to trade costs, thereby disincentivising the use of AfCFTA preferences and again undermining the rationalisation objective of the AfCFTA.³²

Arguably, the present situation where the AfCFTA is in force, pending the coming into force of the TFTA, may allow TFTA member state firms to opt to trade under either regime when trading among themselves, creating unnecessary duplication and additional costs in maintaining parallel institutional support systems (UNECA 2018). Traders will have to distinguish between goods using REC RoOs and those that will benefit from continental RoOs. The certification processes for the two regimes also differ, which raises questions of the simplicity and use of various processes under the existing multiple trade regimes. Figure 5 below illustrates some of the considerations traders have to keep in mind when trading under the AfCFTA, again underlining the challenge of a 'network' of FTA's rather than the rationalisation which was the original AfCFTA objective.

³² On RoO compliance costs, see firm-level analysis from Colombia by Cadot et al. (2014). See also Tsowou and Davis (2021) on the need for 'well-functioning RoOs'.

Figure 5: Steps to determine the origin status of a product



Source: TRALAC, [Introduction to the AfCFTA RoO](#)

There may also be a possibility of forum shopping in trade disputes settlement, with an overlap of jurisdictions between the dispute settlement mechanisms (DSMs) present at the global level through the World Trade Organisation (WTO), continentally within the AfCFTA and within RECs. This can create overlaps or conflicts of jurisdiction and of hierarchy in dispute settlement. That can happen where the same dispute or related aspects of the same dispute could be brought to two distinct institutional jurisdictions or two different DSMs. Though more about states than firms, forum-shopping can result if disputing entities have a choice between two adjudicating bodies or two different jurisdictions for the same dispute. When the DSMs of two agreements are triggered in parallel or in sequence, two problems can occur: both tribunals might claim final jurisdiction (supremacy) over the matter, or they could reach different and opposite results (Olayiwola 2020).

For movement of persons, countries are slowly moving towards freer movement through unilateral measures. The steady growth in the number of African countries removing visa requirements for African nationals is indicative of the slow but steady progress towards liberalising entry procedures, which is the first stage of the implementation of the AU FMP (see figure 4 above). African states are simplifying entry regulations in order to boost tourism, promote entry access for investors and boost access to skills as an innovation hub (AfDB 2020; KPMG 2020). In the Gambia, for example, the recent steps towards granting visa free access for all African nationals is driven by the rationale to promote the tourism industry in the country (AfDB 2020; Mendy 2019). Benin, Seychelles and Rwanda equally cite tourism, promoting entry access for investors and further integration as some of the reasons for adopting unilateral visa liberalisation measures (Bourdillon 2017; AfDB 2018). According to the Nigerian president, the new visa policy would contribute to promoting FDI, attracting skills and contributing to African integration while ensuring national security. "This new Visa Policy will advance our goal of building a globally competitive economy, by helping attract Innovation, and specialised skills and knowledge from abroad, to complement locally available ones. We are sending a message to the world that Nigeria is Open for Business." (@MBuhari, February 4 2020).

Although African states are undertaking measures to promote the mobility of persons through facilitating entry measures, the *ad-hoc* nature of these, not to mention COVID-19 travel restrictions, means that the difference between political support for the AfCFTA and the AU-FMP are likely to continue.

Free movement of services and free movement of persons

REC representatives and member states are quick to draw attention to the distinction between liberalising trade in services and free movement of persons. They note that the movement of natural persons and business under the services protocol is temporary and regulated by sector specific requirements, while movement of persons as envisaged in the AU FMP has a broader scope.

The negotiations on AfCFTA services liberalisation are ongoing in five (5) selected priority sectors - financial services, communication, transport, tourism and business services (TRALAC 2020b). Negotiations through a request and offer process seek to ensure that private sector service suppliers can access the markets of other African countries on terms no less favourable than domestic suppliers.³³ Through commitments related to trade in services, governments will therefore have to ensure that categories of businesses and natural persons, including workers and service providers, can move to other countries for a limited period of time to provide certain specific services - this relates to 'Mode 4' commitments which allow the presence of a natural person to supply services in the territory of another member state.

Commitments under the trade in services protocol will also mean that member states will have to take steps to ensure mutual recognition of standards, licensing and certification of service providers in order to ease the process of meeting national regulatory requirements ([see Article 10 of the services protocol](#)). This will require changes to national regulations and sectoral policies to ensure that market access is actually granted in practice, but will again provide a basis on which the AU-FMP might build.

Overall, while the trade in services negotiations arguably provide a basis to help gather political traction for the AU-FMP, the mobility of other categories of natural persons who fall outside the scope of the services protocol, such as informal cross border traders are not addressed. A combination of the AfCFTA trade in services while focusing on the AU-FMP for specific categories of workers may offer a pragmatic way to proceed, given the resistance to the AU-FMP, and hesitancy within RECs to implement agreed protocols on movement.

The larger number of regional movements will be outside the scope of the trade in services. Although it may be argued that mode four commitments are similar to the FMP, the restrictive nature and temporal aspects highlight the difference.

National interests in connecting markets and people?

AU member states who have ratified the AfCFTA and those who have ratified the AU FMP will still need to make changes to their national laws and regulations in order to allow migrants including business persons and workers to access their domestic labour markets. However, the main challenges come with the changes required to ensure that nationals and other African migrants have the same rights and access to services. This may be difficult, even for those member states who are part of REC FMPs, as has been seen in RECs such as ECOWAS and EAC, despite their advancements in promoting labour mobility.

However some of the most crucial changes for the benefits of the AfCFTA to flow are those that grant access to investment opportunities, regulations for establishing businesses, access to employment in the domestic labour market (some sectors in some countries are not open for non-nationals), etc. These changes need to go through the national legislative processes.

³³ See [article 4 of the Trade in services protocol](#).

But countries that have regional FMPs which promote mobility within their regions are also reluctant in ratifying the AU-FMP. A recent survey reveals that while most Africans would like to see progress in facilitating the movement of goods, the same is not felt for the movement of persons, thus helping explain some of the hesitancy among states to sign and ratify the AU-FMP. Some underlying reasons for these sentiments include competition for limited employment opportunities and other economic resources, perception over lowered domestic wages, and perceptions of a risk of increased crime. *“Overall, only a modest majority (55%) of Africans favour free movement of people in their region to trade or work in other countries. A significant minority (41%) instead want their governments to limit cross-border movement to protect nationals from external competition”* (Afrobarometer 2021). This hesitancy towards migrants from other African countries accessing their domestic labour markets and having the opportunity to trade in the domestic markets has resulted in a wave of xenophobia across several African countries, more latent in some than others.

Given these perceptions towards migrants from other African countries, it may be a long process to achieve the required changes to the legislations and policies. In practice, it is the interests of the policymakers and citizens that will determine how long this process will take. And given the current reluctance of states towards mobility and free movement of persons, this may not happen in the short term. Indeed, the above feelings towards other migrants may jeopardise the implementation of the AU-FMP and the accessibility of African migrants to opportunities within the continent, thus, going against the objectives of the AfCFTA and the AU-FMP more broadly.

4. Implications

Though the AfCFTA Agreement explicitly seeks to manage the challenge of overlapping REC memberships as an objective, both it and the AU-FMP protocol also seek to build on existing REC FTAs and free movement initiatives. The fact that RECs therefore maintain their *acquis*, their pre-existing tariff regimes, regional RoOs and associated preferences and their Free Movement Protocols means that the rationalisation effect is hard to bring about. Rather, the AfCFTA adds an additional set of trade regimes among RECs and their free trade areas (FTAs), leaving “a network of better connected and distinct trade regimes” (Olayiwola 2020) through which companies will access new markets beyond their regions. The same principle holds for the AU-FMP.

The interface between the AfCFTA and the RECs and customs unions is recognised as critical to successful implementation of the Agreement. But the varying levels of involvement and existing roles in trade of some RECs and CUs point to the need for an institutional framework that offers clarity of roles *as well as flexibility*. Not all RECs should be treated uniformly, given their very different levels of integration, as the AfCFTA allows for variable geometry. The AfCFTA and AU-FMP will coexist with a set of very distinct RECs, CUs and free movement processes, whether in negotiations, institutional setups or implementation. While the taskforce for the AU, AfCFTA, RECs and CUs will help coordinate among this diverse group, it may also require *sui-generis* institutional relations between the AU, AfCFTA and each specific regional body to ensure maximum synergies, but also political traction in implementing the AfCFTA.

The COMESA MoU with the AfCFTA Secretariat may be an example to follow for other regional bodies, focusing more on bottom-up approaches to how RECs/CUs can best play their role in AfCFTA implementation rather than creating new top-down institutional approaches.³⁴ This would also avoid imposing a uniform approach to such a widely heterogeneous group of RECs and customs unions. Moves by the AfCFTA Secretariat to engage customs unions in the continental AfCFTA task force may also help in this regard, allowing the full variety of regional bodies to play differing roles.

In order to advance discussions on linking free movement and the AfCFTA, African states will need to balance their aspirations for aligning with the continental agenda and the realities of their domestic interests and their citizens. While there is some appetite for free movement in several regions in the continent, especially as it relates to intra-regional mobility, this is limited by nationalist sentiments that seek to protect domestic markets against competition from migrants from other African countries. Furthermore, although states and citizens want to benefit from the liberalisation of trade, their sentiments are not the same when it comes to liberalising the mobility of persons. Thus the challenge lies in states moving the discussions beyond current intra-REC mobility which currently exists, towards promoting mobility across RECs and in the entire continent, where the emerging opportunities from the AfCFTA may help.

Envisaging the challenges which African states face in implementing the protocol has led to a phased approach to the AU-FMP, with safeguards that mean states can adopt a variable geometry approach. Emphasising the economic and development benefits of achieving free movement of persons especially in the context of the AfCFTA may provide the political traction necessary to garner further political support for the signature, ratification and implementation of the AU-FMP. Initial efforts might focus on promoting movement among certain categories of people, for cross border traders, business persons, workers, investors to be able to take advantage of the opportunities offered by the AfCFTA. Beyond this, the AfCFTA Secretariat might take on a stronger role in championing the AU-FMP, perhaps in coordination with an AU-appointed envoy or AU-FMP champion.

Policymakers and their supporters/donors must adapt their support to this more complex reality for regional organisations, national governments and the private sector. In this regard, opportunities must be sought to engage:

- where the AfCFTA and FMP processes can help create traction for inter-regional processes around goods, services and people
- where regional processes can be built upon to better implement the AfCFTA and AU-FMP;
- With the private sector and others who must be encouraged to take advantage, and demand implementation of the AfCFTA and AU-FMP.

The implications of this for implementation and impact will depend on what is ultimately negotiated (i.e. how much of a change it actually entails) but especially how different interests and incentives for key actors play out within and between countries and RECs.

Overall, the ambition of connecting markets and people seems increasingly relevant, and perhaps even within reach. Even if this does not simplify existing regional trade agreements, as this paper has discussed, the interlinkages between the two can form the basis for more targeted support from policymakers and their partners going forward.

³⁴ See Byiers et al. 2021 on taking a more bottom-up 'Problem-driven approach to regional integration through regional public good delivery'.

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