

*Book Review***AFRICA'S "NEW" TRADE POLICIES IN AN  
INCREASING UNILATERAL WORLD****AFRICA IN THE NEW TRADE ENVIRONMENT:  
MARKET ACCESS IN TROUBLED TIMES.**

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*By Souleymane Coulibaly, Woubet Kassa, and Albert G. Zeufack, (Eds.), World Bank Group  
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**1. Africa in a Muddy and Agitated Global Trade Environment****1.1. A Brief Summary**

Souleymane Coulibaly, Woubet Kassa, and Albert G. Zeufack's edited book addresses the challenges currently facing Africa in international trade. As the subtitle indicates, the aim of this publication is to propose a new strategy to boost Africa's market access within the current global environment. This new strategic shift is tackled from three main angles. First, the authors analyse the impact of trade agreements (multilateral, regional, and unilateral) on Africa's position in global trade and suggest ways in which these partnerships could be improved in a way that benefit Africa's economies. Part I focuses on unilateral trade preference schemes devised by developed countries to provide non-reciprocal market access to goods originating in Africa. Two emblematic schemes are tackled here, viz the United States AGOA and the European Union Everything but Arms (EBA) programmes. Secondly, the book proposes going beyond 'traditional' partners and seek to secure access in new frontier markets in Asia where they have a lot

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to learn in terms of insertion in the global value chains (GVCs). In this regard, Part II provides insights on Africa trade relations with (East and South) Asia. As exports to Asia remain highly concentrated in natural resources, one also learns for instance that, contrary to some assumptions, China is not always the primary trading partner of individual African countries. Others players such as India and Pakistan are equally dominant (pp. 187-88). Part II therefore proposes to build on these achievements to strengthen trade ties with Asia. Thirdly, the book takes stock of the small size of African economies and suggests that they would be better off deepening regional integration. In this quest for a stronger and deeper economic integration, the largest middle-income AfCFTA State Parties are exhorted to take the lead.

## 1.2. The book in a broad context ...

Once portrayed as “hopeless”<sup>1</sup>, a couple of years later as “hopeful”<sup>2</sup> and “rising”<sup>3</sup>, Africa’s economic potential is characterised by contradictions. While the continent has experienced a relative economic growth thanks to the wave of economic liberalisations of the 1990s, its full economic potential, however, remains untapped even today. Many studies agree that the path to a sustained growth depends largely on a set of structural economic transformations.<sup>4</sup> One area where African countries continue to struggle is their full participation in the multilateral trading system. While the role of international trade as crucial in the fight against poverty<sup>5</sup> is largely undisputed, African countries have sometimes faced challenges inherent to their postures as latecomers at the multilateral trade negotiations table.

To these challenges, the WTO has largely remained inefficient: first the WTO has been incapable to efficiently discipline unfair trade practices, some of which affect exports of interest to African countries; in addition, it has been unable to strengthen the special and differential treatment provisions<sup>6</sup> aimed initially at accommodating their weaker economic positions and ensuring their smooth inclusion into the global trading system. The need to strengthen and accelerate regional economic

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2 The Hopeless Continent, *ECONOMIST*, May 13, 2000, <https://www.economist.com/weeklyedition/2000-05-13>.

3 Special Report Emerging Africa: A Hopeful Continent, *ECONOMIST*, Mar. 2, 2013, <https://www.economist.com/special-report/2013-03-02>.

4 Africa Rising, *ECONOMIST* (Dec. 3, 2011), <https://www.economist.com/leaders/2011/12/03/africa-rising>.

5 WORLD BANK GRP. & WORLD TRADE ORG., *THE ROLE OF TRADE IN ENDING POVERTY* 7 (2015), <https://documents1.worldbank.org/curated/en/726971467989468997/pdf/97607-REPLACEMENT-The-Role-of-Trade-in-Ending-Poverty.pdf>.

6 Regis Y. Simo, *Developing Countries and Special and Differential Treatment*, in *INTERNATIONAL ECONOMIC LAW – (SOUTHERN) AFRICAN PERSPECTIVES AND PRIORITIES* 254-63 (Kholofelo Kugler & Franziska Sucker eds., 2021).

integration on the continent comes to some extent as a reaction to some of these challenges.

Whereas some of these issues, notably the continued relevance of special and differential treatment<sup>7</sup> in the acceptance and implementation of WTO rules, have revived the tension between developing and developed country Members, thus fragilizing the organisation further, the ongoing war in Ukraine and the revitalisation of “aggressive” unilateralism in foreign policy could be the final nail in the coffin of multilateralism as we know it<sup>8</sup> and to its post-world war II institutions. Indeed, if the interests of countries have emphatically diverged<sup>9</sup> at the United Nations where attempts for a resolution<sup>10</sup> to condemn Russia did not gathered the semblance of unanimity, Russia is also contemplating to withdraw from the WTO<sup>11</sup> in response to the avalanche of trade and economic sanctions imposed after its invasion of Ukraine.

At a time when the world is thus entrapped in a post-Covid cum Ukraine’s invasion turbulence, coupled with a soaring cost of living<sup>12</sup>, Africa is also struggling to finally get trade start under the Agreement establishing the African Continental Free Trade Area (AfCFTA). Concluded in 2018, entered into force in 2019, the start of trading under the AfCFTA Agreement officially commenced on 1 January 2021. This means that trade between State Parties to the Agreement that have deposited their instrument of ratification, i.e. 43 out of the 54 signatories. However, despite this “official” start of trading date, trade is yet to effectively take place because the negotiations of the operational instruments (especially the rules of origin<sup>13</sup> and

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7 *The Continued Relevance of Special and Differential Treatment in Favour of Developing Members to Promote Development and Ensure Inclusiveness*, WTO Doc. 19-1114, WT/GC/W/765/Rev. 1 (Feb. 26, 2019), [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S009-DP.aspx?CatalogueIdList=251793#](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?CatalogueIdList=251793#).

8 Adam S. Posen, *The End of Globalization? What Russia’s War in Ukraine Means for the World Economy*, FOREIGN AFFS. (Mar. 17, 2022), <https://www.foreignaffairs.com/articles/world/2022-03-17/end-globalization>.

9 Carlos Mureithi, *How African Countries Voted on Russia’s Invasion of Ukraine*, QUARTZ (Mar. 7, 2022), <https://qz.com/africa/2138584/how-african-countries-voted-on-russias-invasion-of-ukraine>.

10 Permanent Rep. of Ukraine to the U.N., Letter dated Feb. 28, 2014 from the Permanent Rep. of Ukraine to the United Nations addressed to the President of the Security Council (S/2014/136), *Aggression Against Ukraine*, U.N. Doc A/ES-11/L.1 (Mar. 1, 2022), <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N22/272/271/PDF/N2227227.pdf?OpenElement>.

11 Anna Shushkina, Tolstoy: *Foreign Ministry Sent Proposals to the State Duma on the Denunciation of International Agreements*, PUBL’N FED. ASSEMBLY RUSS. FED’N (May 17, 2022, 4:16 PM), <https://www.pnp.ru/politics/tolstoy-mid-napravil-v-gosdumu-predlozheniya-o-denonsacii-mezhdunarodnykh-soglasheniy.html>.

12 *World Economic Situation and Prospects as of Mid-2022*, U.N. DEP’T ECON. & SOC. AFFS.: ECON. ANALYSIS (May 18, 2022), <https://www.un.org/development/desa/dpad/publication/world-economic-situation-and-prospects-as-of-mid-2022/>.

13 Dennis Ndonga, *Rules of Origin as a Key to the AfCFTA’s Success: Lessons that can be Drawn from the Regional Experience*, AFRONOMICSLAW (Mar. 15, 2021), <https://www.afronomiclaw.org/category/analysis/rules-of-origin-key-afctas-success-lessons-can-be-drawn-regional-experience>.

tariff concessions for trade in goods, and schedule of specific commitments for trade in services) are still incomplete.

Pending the outcomes of these negotiations, which will certainly station African countries on the train of the most ambitious free trade agreement ever agreed on the continent, AfCFTA State Parties have engaged in the negotiations of a series of trade agreements with third-countries. The objectives of these agreements are as numerous as they can be confusing. They are sometimes aimed at securing (new) market access for African goods especially in markets where access used to be secured through non-reciprocal trade schemes. The conversion of unilateral EU GSP schemes into reciprocal Economic Partnership Agreements with certain erstwhile beneficiaries is a case in point. The United States is also craving to mature its own trade relations<sup>14</sup> with the continent through conclusion of trade agreements. Apart from these “historical” scenario, newcomers such as China<sup>15</sup> and India<sup>16</sup> are also knocking at the door and have already concluded comprehensive free trade agreements on the continent. Yet, the multiplication of these solo adventures also comes with the of risk of fragilizing the process of the AfCFTA and obfuscate the credo of speaking with a unique voice<sup>17</sup> in international trade issues if their foreign trade policies and interests (tend to) diverge. This divergence was strikingly manifest in the use of trade measures to address the Covid-19 health crisis. Unlike the European Union, for instance, where individual countries’ measures were quickly replaced by the EU Commission’s regulations<sup>18</sup>, African countries excelled by their solitary approaches, perhaps explained by the lack of a common external trade strategy.

It is this dynamic and disconcerted global trade environment that provided context for this book edited by Souleymane Coulibaly, Woubet Kassa, and Albert G. Zeufack. Although the editors and authors are all economists not only by

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14 Regis Simo, *The AGOA as Stepping Stone for USA—Africa Free Trade Agreements*, 17 J. INT’L TRADE L. & POLY 115 (2018).

15 Free Trade Agreement Between the Government of the People’s Republic of China and the Government of the Republic of Mauritius, China-Mauritius, Oct. 17, 2019, [http://fta.mofcom.gov.cn/mauritius/annex/mlqs\\_xdzw\\_en.pdf](http://fta.mofcom.gov.cn/mauritius/annex/mlqs_xdzw_en.pdf).

16 Comprehensive Economic Cooperation and Partnership Agreement (CEPA) Between the Republic of India and the Republic of Mauritius, India-Mauritius, Feb. 22, 2021, <https://commerce.gov.in/wp-content/uploads/2021/08/India-Mauritius-CECPA-Text-for-Upload.pdf>.

17 Decision on the Draft Agreement Establishing the African Continental Free Trade Area (AfCFTA) & Decision on the African Common Position for Negotiations for a New Cooperation Agreement with the European Union, Executive Council, Eighteenth Extraordinary Session, Ext/EX.CL/Dec.1 & 2 (XVIII) (Mar. 19, 2018), [https://au.int/sites/default/files/decisions/34054-ext\\_ex\\_cl\\_dec\\_1-2xviii\\_e26\\_march.pdf](https://au.int/sites/default/files/decisions/34054-ext_ex_cl_dec_1-2xviii_e26_march.pdf).

18 Ignacio Carreno et al., *The Implications of the COVID-19 Pandemic on Trade*, 11 EUR. J. RISK REGUL. 402 (2020).

training but also in their daily practice, their pieces are accessible to a non-specialist audience.

## 2. The book's theses

The overview chapter of the book sets the scene for what the editors believe should be African countries' preoccupations in this troubled international trade environment. From the outset, they recognise that pre-Covid19 African countries' trade environment was already in a turmoil (p. 1). Indeed, they rightly hinted at the proliferation of regional trade agreements (RTAs) and the resurgence of protectionism that the world began to face with the election of Donald Trump as US President in 2016, epitomised by the trade war<sup>19</sup> waged against China and US allies in America and Europe. Although proliferation of RTAs usually connotes a negative phenomenon<sup>20</sup>, what is more preoccupying today is the propensity of some of these "new generation" schemes to (re-)write global trade rules outside the WTO forum where developing countries are once again excluded. The spread of WTO-extra<sup>21</sup> provisions in these agreements and the hopes for their multilateralization<sup>22</sup> remind us of these worries. Proliferation is not only prejudicial to the WTO, but poses a risk of marginalisation in the framing of future (global) trade rules.

Regarding the trade feud, Africa, as innocent bystander, certainly suffered from the increase of tariffs on goods originating in countries such as South Africa<sup>23</sup> (notably in the aluminium and steel industry). The amount of WTO requests for consultations<sup>24</sup> that some of these tariffs generated is a testimony of their scale. This chapter identifies another channel through which Africa can be indirectly affected by this trade friction is through the integrated production networks between African businesses and Chinese firms present in Africa (p. 7). Yet, a fair account of these protectionist measures cannot disregard the fact that some African countries,

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19 CHAD P. BROWN & MELINA KOLB, PETERSON INST. INT'L ECON., TRUMP'S TRADE WAR TIMELINE: AN UP-TO-DATE GUIDE (Apr. 19, 2018), <https://www.piie.com/sites/default/files/documents/trump-trade-war-timeline.pdf>.

20 Jagdish Bhagwati, *TERMITES IN THE TRADING SYSTEM: HOW PREFERENTIAL AGREEMENTS UNDERMINE FREE TRADE* (2008).

21 Henrik Horn et al., *Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements*, 33 *WORLD ECON.* 1565 (2010).

22 Bernard Hoekman, *Fostering Transatlantic Regulatory Cooperation and Gradual Multilateralization*, 18 *J. INT'L ECON. L.* 609 (2015).

23 Collins C. Ngwakwe & Mokoko P. Sebola, *The US-China Trade War and the Economic Ripple on South Africa*, 15 *GLOB. TRADE & CUSTOMS J.* 543 (2020).

24 *Index of Dispute Issues: Aluminum and Steel Products*, WORLD TRADE ORG., [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_subjects\\_index\\_e.htm?id=G232](https://www.wto.org/english/tratop_e/dispu_e/dispu_subjects_index_e.htm?id=G232) (last visited Apr. 21, 2023).

the same South Africa's wine sector took advantage of a trade war between China and Australia<sup>25</sup> to conquer Chinese customers, even though the context of that war totally different from the US-led trade war identified earlier.

Beside this collateral damage narrative, that Africa was also struggling with its own internal trade wars in several places during the same period, and some still ongoing, is worth mentioning and should not have escaped the attention of the editors in this introductory chapter. In effect, Rwanda unilaterally closed its border with Uganda in February 2019, i.e. before the Covid19 outbreak, and only reopened<sup>26</sup> it 3 years later. This closure not only threatened regional economic integration in the East African Community, since it restricted free movement of goods and persons, but it also set a bad precedent for the use of trade instruments to settle political scores between African leaders. The lingering trade war between Uganda and Kenya, that saw a truce last year, is also on the verge of resumption with the recent Kenya's tax on Ugandan eggs.<sup>27</sup> These habits do not bode well for the future of the AfCFTA since these same measures may to be invoked by the same countries against the same targets in the operationalisation of the AfCFTA Agreement. The future of the AfCFTA is consequently hanging on the use of these types of trade (defence) instruments sometimes imposed in total disregard of the texts of the treaties. According to Kassa, Edjigu and Zeufack in chapter 6 of this collection on "The Promise and Challenge of the African Continental Free Trade Area", the systematic recourse to unilateral border closures to curb the flow of some goods sensitive to the imposing country is sometimes symptomatic of African countries' culture to trade dispute settlement, thus forms part of the numerous challenges facing the AfCFTA (p. 273).

The rest of the book is divided in two parts. What follow next will only address Part I of the book on nonreciprocal trade arrangements. While the editors have opted for the term "agreements" (p.33), this is a misnomer given that the beneficiaries of unilateral trade preferences do not have to "agree" with the granting state for the schemes to be established. Therefore, it is perhaps more correct to refer to them as arrangements consistent with the WTO taxonomy.<sup>28</sup> Terminology aside, three

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25 Freshfield Bruckhaus Deringer, *The Australia-China Trade Dispute: What Happened, and What's Next?*, LEXOLOGY (Jan. 17, 2022), <https://www.lexology.com/library/detail.aspx?g=f53a9d6f-053f-4a94-b42b-d919456a0341>.

26 Press Release, E. Afr. Cmty., EAC Applauds the Re-opening of the Gatuna-Katuna Border Post by the Republics of Rwanda and Uganda (Jan. 28, 2022), <https://www.eac.int/press-releases/2354-eac-applauds-the-re-opening-of-the-gatuna-katuna-border-post-by-the-republics-of-rwanda-and-uganda>.

27 Gerald Andae, *Kenya Fresh Tax on Uganda Eggs Sets Stage for Another Trade War*, E. AFR. (June 13, 2022), <https://www.theestafrican.co.ke/tea/business/kenya-fresh-tax-on-uganda-eggs-sets-stage-for-trade-war-3846726>.

28 Glossary Term: Preferential Trade Arrangements (PTAs), WORLD TRADE ORG., [https://www.wto.org/english/thewto\\_e/glossary\\_e/preferential\\_trade\\_arrangements\\_ptas\\_e.htm#:~:text=This%20is%20the%20term%20used,to%20a%20trade%20partner%20unilaterally](https://www.wto.org/english/thewto_e/glossary_e/preferential_trade_arrangements_ptas_e.htm#:~:text=This%20is%20the%20term%20used,to%20a%20trade%20partner%20unilaterally) (last visited Apr. 21, 2023).

chapters conduct, one after the other, a product-level analysis of exports to the EU and US under the EBA and AGOA. In Chapter 1, the authors find that AGOA has contributed to increased exports in most Sub-Saharan African countries, these gains were essentially concentrated in these countries' primary sectors and less so in manufacturing sectors. In Chapter 2, a product-level analysis suggests that the apparel sector has benefitted of the preferential market access to the US under the AGOA. Chapter 3 engages in a comparative analysis of the AGOA and the EU EBA.

The common thread of these three chapters is the appraisal of African countries' market access through the EU EBA and the US AGOA, notably their impacts on trade creation and their subsequent implications for economic transformation through exports. Their findings suggest a clear heterogeneity in African countries' responses to these trade preferences. Accordingly, the argument is that more success for economic transformation lies with "changes in infrastructure, connectivity, the fundamental institutions of legal frameworks and property rights protection, and smart macroeconomic management with stable and competitive exchange rates and low inflation" (p.33). Although the pertinence of these findings is not put to question, some of these "prescriptions" may raise some eyebrows. They resonate with the so-called Washington Consensus<sup>29</sup> packages, especially in their institutional reforms and property rights protection. The institutions where the authors of these pieces are affiliated with may even make their claim suspicious in this regard. Indeed, for the critics of the rule of law rhetoric<sup>30</sup> there could be a perception that what was then prescribed as conditions for loan (structural adjustment programmes) now appears as a *sine qua non* for market access under preferential market schemes. This, of course, is already tied to the eligibility criteria as mentioned below.

The comparison between the AGOA and the EBA, and the neglect of the EU GSP, is equally puzzling. To begin with, the logic of this comparison is not readily evident from a legal standpoint. It is worth noting that these schemes differ in several respects. From a legal standpoint, the WTO legal coverage of the AGOA is a waiver of US obligations under Article I and Article XIII of the GATT. Indeed, Article IX:3<sup>31</sup> of the Marrakesh Agreement Establishing the World Trade Organization

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29 John Williamson, *The Strange History of the Washington Consensus*, 27 J. POST KEYNESIAN ECON. 195 (2004).

30 UGO MATTEI & LAURA NADER, PLUNDER: WHEN THE RULE OF LAW IS ILLEGAL (2008).

31 Marrakesh Agreement Establishing the World Trade Organization art. IX:3, Apr. 15, 1994, 1867 U.N.T.S. 154.

(WTO Agreement) provides that the WTO Ministerial Conference can waive an obligation imposed on a Member by any WTO covered agreement if warranted by “exceptional circumstances”. The EBA on the other hand relies on the Enabling Clause.<sup>32</sup> In particular, Paragraph 2(d) provides, in addition to preferential tariff treatment accorded by developed countries products originating in developing countries, that *special treatment* may be extended to the least developed among the developing countries in the context of any general or specific measures in favour of developing countries.

In addition to the legal coverage of these programmes, their beneficiaries and their eligibility criteria differ. While the EU EBA initiative expressly targets LDCs, i.e. the most vulnerable among developing countries, the US AGOA’s beneficiary list attracts a mix of developing countries and LDCs, thus the *raison d’être* to seek a WTO waiver. Whereas the focus on the EBA and the AGOA in this book make economic sense, especially their impacts on the beneficiaries’ exports, the EBA comes with almost no conditions attached, unlike the AGOA. The underutilisation of AGOA is sometimes the result of the enforcement of these conditions. On this front, a better comparator from a legal perspective, would have been the EU GSP scheme, especially the GSP+ mechanism with the associated sustainable development conditionalities. Indeed, what both the AGOA and the GSP+ schemes share in common is the promotion of the granting states’ values. Complying with these set of conditions, such as the elimination of barriers to US trade and investment<sup>33</sup> (by granting national treatment to US trade and investment), entails that these schemes are not genuinely “unilateral”.

Based on these differences, one may explain the logic of this comparison by the authors’ desire to assess the EU and US “special” unilateral tariff preference schemes that operate next to their “default” GSP programmes. Moreover, the fact that many former EU GSP beneficiaries have negotiated reciprocal trade agreements with the EU may have steered the authors to exclude it from their analysis.

### 3. Conclusion

This edited collection is a great addition to the literature on African trade policy in an era where the discourse is dominated by post-Covid19 recovery,

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32 Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries: Decision of 28 November 1979 (L/4903), WORLD TRADE ORG., [https://www.wto.org/english/docs\\_e/legal\\_e/enabling1979\\_e.htm](https://www.wto.org/english/docs_e/legal_e/enabling1979_e.htm) (last visited Apr. 21, 2023).

33 African Growth and Opportunity Act, 19 U.S.C. § 3703.

and where the world is struggling with a gradual retreat of globalisation. In this context, Africa would need to strengthen its policies to be able to advance its economic transformation. While there are no doubts about political support behind the AfCFTA, the implementation challenges remain enormous but not unsurmountable.

The editors have identified the pertinent themes that would determine the fate of the AfCFTA, notably the issue of non-tariff barriers that prevents active partaking in global and regional trade. On this front, the design of products standards, the reduction of high transportation costs (sometimes linked to inadequate trade infrastructures) associated with other trade facilitation measures (such as red tape and transit issues) will be key in the success of the AfCFTA agenda for the free movement of goods (alongside reduction/elimination of tariffs). The other agenda waiting AfCFTA policy makers is in the sector of services, especially, but not limited to, producer services absent which trade in goods may not happen.