# Mainstreaming Social Concerns into the AfCFTA Negotiation Process

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In the wake of a legitimacy crisis brewing in the global trade system, Africa is forging ahead with the negotiation of the African Continental Free Trade Area (AfCFTA). Going by the forecasted benefits of the AfCFTA, this is a critical step in the African economic integration project. Despite delays by some countries to commit at the Kilgali Summit in March 2018, the record speed at which phase one of the AfCFTA negotiations were completed indicates that there is broad-based political support for the AfCFTA. However, at a point in the history of the global economic architecture when long-time champions of the multilateral model of trade liberalization are retreating towards protectionist enclaves, a little introspection is needed if Africa is to avoid the pitfalls which have beleaguered the global trade system in recent years. For example, the delay by some members of the AU in committing to the AfCFTA is not an encouraging start for a project intended to be at the heart of the AU's African economic integration agenda. The hesitation by Nigeria, in particular, is causing

quite a stir. Nigeria developed cold feet at the Kigali Summit after been an initial driver of the AfCFTA negotiation process. The Nigerian government claims that there is a need to consult with stakeholders back home to ascertain the economic and social impact of the AfCFTA on the country before committing.

The fundamental question then is: *why did Nigeria wait so late in the process to carry out national consultations with stakeholders?*More importantly, *is Nigeria's hesitation an indication of deficiencies in the stakeholder consultation process on the impact of the AfCFTA?* Before the fallout from the Kigali Summit, the AfCFTA seemed immune from the current debates relating to the legitimacy of global and regional economic regimes. However, there were early warning signs that appeared to have been ignored before Kigali. For example, at the Africa Trade Week in 2016, a civil society coalition had issued a joint statement that the AfCFTA was not robust on the inclusiveness of stakeholders. According to the African Civil Society Statement:

> "*The processes involved in the design and negotiations of the CFTA are so far opaque and exclusive. The structures created for the CFTA have little or no space for the involvement of civil society, the private sector, and the different social groups and economic constituencies whose interests are implicated. In addition, information related to the CFTA process, including even the timings of the meetings of the CFTA structures and their agenda tend to be treated as confidential and are not readily available.*"

This assertion by civil society is worrisome because it contradicts clause 6 (transparency and disclosure of information) of the principles of negotiation adopted by the AfCFTA negotiators. Furthermore, an ex-ante human rights assessment of the AfCFTA commissioned by the Economic Commission for Africa also recommended to the AfCFTA negotiators that:

> "*Ensuring broad consultation and participation in the CFTA negotiations and implementation is crucial.* [The report further stated that]: *This will not be possible without increased efforts by policymakers and negotiators to reach out to all stakeholders and ensure that the voices of vulnerable and marginalized groups are*

*heard and taken into account*."

Before Kilgali, the negotiation process seems to have been scripted according to the conventional technocratic driven model of global economic governance, with little regard for the social, economic and political dynamics of the African continent. For example, the fact that informal cross-border trade (ICBT) conducted by vulnerable, small, unregistered traders (mostly women) constitutes over 20% of intra- Africa trade pre-AfCTA is an indication that economic integration in Africa is hinged on socio-economic peculiarities which are unique to the continent. As such, the important steps taken by RECs such as The East African Community (EAC) and the Common Market for East and Southern Africa (COMESA) to simplify trade rules (STR) for ICBT must become the foundation blocks for designing an AfCFTA which is truly reflective of the peculiarities of the African continent. However, it is surprising to see that the AfCFTA agreement and the separate AU Protocol on Free Movement of People do not make explicit reference to ICBT. How can this be if meaningful participation of stakeholders in the negotiation process has been taking place? Again, during the negotiation process, civil society had voiced their concerns in this regard arguing that:

> "*perspectives and concerns of workers, farmers, traders, domestic producers, women's groups who have borne the brunt of trade policies of the past risk being marginalized in the CFTA process.*"

This low level of priority accorded to the social impact of the AfCTA contradicts the core values and aspirations of the African Union (AU). Most notably Article 3 (g) and 4 (c), (l), (m), and (n) of the AU Constitutive Act which all envisage an African Union that is democratic, inclusive, open to the participation of stakeholders, and sensitive to social concerns in the pursuit of economic development. However, going by what transpired prior to Kigali, it appears that priority was not accorded to these concerns mentioned above. More importantly, the recent hiccups experienced at the Kigali Summit are evidence that dialoguing with a broad range of stakeholders about the impact of trade on social structures is vital to the attainment of legitimate and effective economic agreements in Africa. Given this, it is laudable to see the extent to which Nigeria has gone to consult with stakeholders within its constituency. It is arguable that Nigeria is going about the process the proper way before making a making a firm commitment to the AfCFTA. Although these consultations

should have happened earlier, it is a timely reminder that international trade is not solely a technical matter best left to technocrats. Although it is not feasible to accommodate all dissenting views during consultations without watering down on the effectiveness of a trade agreement, attending to these social concerns, has become a critical factor which informs the conceptualization of international trade regulation in the 21st century. Africa must learn from this episode at Kigali as momentum gathers for phase two of the AfCFTA negotiations.

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