Introduction to the Symposium on Dispute Settlement in the African Continental Free Trade Agreement

By:

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April 8, 2019

With 22 ratifications now guaranteed, the African Continental Free Trade Agreement, (AfCFTA), will soon enter into force. Once in force, its efficacy will depend on the political will to implement it as well as its enforcement mechanisms. The AfCFTA's Protocol on Rules and Procedures on the Settlement of Disputes establishes a WTO-like Dispute Settlement Mechanism with Panels and an Appellate Body.

This symposium evaluates the prospects of this Dispute Settlement Mechanism. The first installment in the symposium is Dr. Mihreteab Tsighe's contribution titled, "Can the Dispute Settlement Mechanism be a Crown Jewel of the African Continental free Trade Area?" Dr. Tsighe begins by noting the current retreat from multilateralism in international trade does not augur well for trade dispute settlement in general. He argues that for the AfCFTA's Dispute Settlement Mechanism to be effective, the States will have to initiate awareness of the

system and to allow and support the private sector to participate in the system.

Prof. Olabisi D. Akinkugbe's contribution is titled "What the AfCFTA Protocol on Dispute Settlement says about the *culture* of African States to Dispute Resolution." While he is cautiously optimistic about the new system, he argues that history does not support the emergence of a more rules-based dispute mechanism under the AfCFTA. He notes that SADC and the Tripartite Free Trade Agreement between three African regional economic communities, (SADC, EAC and COMESA), also adopt a WTO like dispute settlement system. In SADC that system has never been used.

The final contribution titled "Evaluating the Dispute Settlement Mechanism of the African Continental Free Trade Agreement," is by James Thuo Gathii. This contribution examines the existence of a Non-Tariff Barrier mechanisms for identifying, reporting, resolving, monitoring and eliminating NTBs which the AfCFTA borrows from sub-regional economic communities, alongside the WTO-like dispute settlement system of the WTO.

Gathii argues that the AfCFTA can learn both from the experience of the WTO's dispute settlement system as much as from the non-litigious settlement of disputes from Africa's sub-regional systems which allow non-state actors to engage national and sub-regional officials in the removal of NTBs. He argues that the experience and expertise of the sub-regional courts in Africa should inform how the AfCFTA's dispute settlement system develops and evolves.

Contributors

Mihreteab Tsighe: Can the Dispute Settlement Mechanism be a Crown Jewel of the African Continental free Trade Area

Olabisi D. Akinkugbe: What the African Continental Free Trade Agreement Protocol on Dispute Settlement says about the culture of African States to Dispute Resolution

James Thuo Gathii: Evaluating the Dispute Settlement Mechanism of the African Continental Free Trade Agreement

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