Creating the Political Will for Realizing the Gains of the AfCFTA

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A lot is said about the importance of integration to solving the economic problems of Africa and its potential role in creating competitiveness in the world trade. Many experts from around the world have written thousands of articles on how to structure the integration process in Africa. In addition, the Abuja Treaty of 1994 lays a clear road map about how to progress in the integration process leading to an eventual African Economic Community. However, 30 years after the Abuja Treaty, integration of the continent is stuck in the past. Proliferation of many overlapping sub-regional groups are complicating the process of the future integration process of the continent.

This blog post does not focus on the different reasons that makes integration difficult. Rather, it argues that the structure of the agreements of African Union (AU) contributes to the lack of political commitment among leaders which has been a missing ingredient for successful integration in Africa. As Prof. Thandika Mkandawire once said “Regional integration is a political project – we have to find ways of relating technocrats and politicians.”[1] The structures on the

agreement should also be crafted in the way that compels member states to honor the agreement until the end.

During the integration process, political will can be expressed by initiating the idea of integration, by the adoption of integration treaties and consecutive implementation agreements, or by supporting the process of implementation and establishing mechanisms for holding defaulting States accountable. When we cast our minds back to the experience in Africa Since 1963 the Organization of African Unity (OAU)/AU have initiated 66 treaties and only 32 had been able to get the minimum level of ratification to enter into force.[2] This points to where the problem of integration in Africa begins, which is the initial stage of treaty adoption and continues in the ratification and implementation which is full of variability and flexibility.

In the context of the OAU/AU, first, there are too many integration agendas that produce conflicting obligations and agendas which are not the main concern of member states. Second, there is a chaotic variability in the adoption and ratification of those treaties which makes the working structure of the AU the same like the UN while the goal is much advance to create a united continent in the economic social and political aspects. Third, the full adoption and ratification also fails to guarantee their implementation and success. Different initiatives, which were supposed to give fresh impetus to the continent's integration process have produced mediocre results in their implementation.[3]

Good examples for this are the Treaty which establish the African Economic Community and the New Partnership for African Development which have got full endorsement and failed. In addition, most of the treaties contain unrealistically onerous objectives and expectations that make them difficult to implement. To make matters worse, African countries are reluctant to surrender to international organizations the authority to determine if they are in default of their treaty commitments.[4] However, these exaggerated objectives serve a purpose of appealing to African countries to sign treaties which is going to fail.

In the AfCFTA, almost all these problems were visible in its adoption in Kigali. The treaty establishing AfCFTA puts the criteria of entry into force as "one month after the deposit of the 22nd ratifications."[5] With 52 signatories and 24 ratifications as at date, the agreement leaves behind three countries that have

not signed the agreement. Nigeria is one of the three countries that has not signed the AfCFTA. The continuing delay by the biggest economy in Africa could be costly and may have significant effect in its success[6].

The goals of the agreement are also exaggerated without detailed explanation on how it will facilitate trade and without taking into account the variables which hinders its effectiveness.[7] The rush to implement the treaty was another issue which was visible under AfCFTA. The agreement entered into force before the negotiation of the Rules of origin and tariff concession were agreed.[8]

These are negotiations which will impact on the real responsibility for countries. Signing of a treaty, ratifying it, and proceeding to implementation before the detailed agreement is determined shows empty enthusiasm which will not last in the longer term. This will also force us to question the potential effect of this on the continuation of the commitment of politicians to support the agreement. For example, when WTO was negotiated the final treaty which established the WTO has been signed in 1994 after everything was agreed and completed. Countries were already passed the long and difficult process of negotiation. But in the case of AfCFTA what happened is the opposite countries signed AfCFTA when most of the negotiation was outstanding and entered into force as it is. It makes it look like the countries have reached the agreement on the fine details of trade which every signing member should honor in the treaty.

Adoption and ratification of trade liberalization treaty before the implementation legislation is agreed might result problems. First, it makes it difficult to know if there was a real commitment on the part of African leaders to fully implement the AfCFTA's commitments. Second, without anything more than the general consensus to liberalize the 90 percent of trade at this point, there is a long road ahead towards the creation of continental free trade area by harmonizing the RTA overlapping and contradicting relationship. But the signing ceremony and entry into force of the agreement on May 30 communicates a different message. Third, the benefits of the AfCFTA are likely to be come in the medium to long term which means in the absence of short term benefits, exaggerated expectation and long negotiation ahead will decrease the support from politicians.

Conclusion

For Africa to move forward in the integration process, she should try a different approach to integration different from top to down integration initiative which begins from implementation legislation and detailed agreement before signing of a treaty. In addition, it should find a way to change the culture of variability in adoption, ratification and implementation by proposing treaties which have common consensus by members and making full ratification as an initial criterion to implement a treaty.

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[1]African development bank, Political will democracy: imperative for regional integration in Africa, 2013 https://www.afdb.org/en/news-and-events/political-will-democracy-imperatives-for-regional-integration-in-africa-12443/

[2] See the website of AU which lists the status of treaties adopted and ratified until the present day. The last treaty to be adopted is "Status of the African Charter on human and Peoples Rights on the Rights of Persons with Disabilities in Africa" and the last treaty to be ratified is "Agreement Establishing the African Continental Free Trade Area", https://au.int/en/treaties

[3]Rene N'Guettia Kouassi 'The Itinerary of the African Integration Process: An Overview of the Historical Landmarks' (2007) 1 (2) African Integration Review at 20.

[4]James ThuoGathii, African Regional Trade Agreements as Legal Regimes, new York :Cambridge University press (2011) 1-2

[5]Article 23 of 'The Treaty Establishing the AfCFTA'

[6]Mwai, C. 'How CFTA Will Boost Intra-African Trade' (2018). Available at http://www.newtimes.co.rw/section/read/230886/(Accessed on 24 May 2019) and 'Forty African Nations Signed Continental Free Trade Deal.' Available at https://www.ft.com/content/1.

[7]Daniel Idibia 'The quest for Africa's trade growt: Inter-African trade and the proposed African Continental Free Trade Area (AfCFTA): A commodification of old practice or maintenance of new order?' (2019) 6 (2) World Journal of Innovative Research at 42-43.

[8]https://www.tralac.org/resources/by-region/cfta.html

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