

Chapter 3

The Tripartite and Continental Free Trade Areas

3.1 What is the Tripartite Initiative?

The Tripartite Initiative is a framework for inter-regional co-operation, co-ordination and integration among three regional economic communities (RECs): COMESA, EAC and SADC (Figure 3.1). Launched in 2008, the initiative is overseen at the highest political level through Summits of Heads of State and Government of the three participating RECs (Box 3.1). So far, there have been three summits:

1. the First Tripartite Summit in Kampala, Uganda, on 22 October 2008, which launched the Tripartite Initiative;
2. the Second Tripartite Summit in Johannesburg, South Africa, on 12 June 2011, which endorsed the Tripartite Vision and Strategy document and launched the TFTA negotiations;
3. the Third Tripartite Summit in Sharm El Sheik, Egypt, on 10 June 2015, which launched the Tripartite Free Trade Area (TFTA).

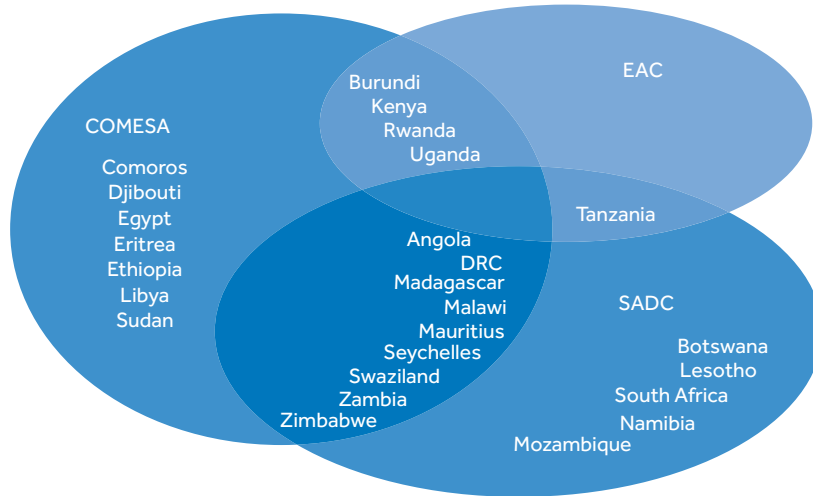
It is noteworthy that tripartite integration is to be based on a 'developmental regionalism' approach (Chapter 1), which is anchored on three pillars:

1. market integration based on the TFTA;
2. infrastructure development to enhance connectivity and reduce trade costs (e.g. North-South Corridor);
3. industrial development to address productive capacity constraints;

The Tripartite Vision and Strategy will be operationalised through a work programme, whose main pillars include the following:

- harmonisation and improvement of functionality of RTAs and programmes, including establishing the TFTA;

Figure 3.1 The Tripartite RECs



Box 3.1 COMESA-EAC-SADC Tripartite Institutional Framework

The COMESA-EAC-SADC Memorandum of Understanding (MoU) underpins the legal and institutional framework for the tripartite process and establishes the Tripartite Coordination Mechanism, consisting of the following organs:

- Tripartite Summit – consisting of the Heads of State and/or Government of COMESA, EAC and SADC, who shall meet at least once every two years and shall be the highest organ of the tripartite arrangement;
- Tripartite Council of Ministers – meeting at least once every two years;
- Tripartite Sectoral Ministerial Committee on Trade, Finance, Customs, Economic Matters and Home/Internal Affairs, which shall meet at least once a year;
- Tripartite Sectoral Ministerial Committee on Infrastructure – meeting at least once a year;
- Tripartite Sectoral Ministerial Committee on Legal Affairs – meeting at least once a year;
- any other ministerial committees that the Tripartite Council of Ministers may establish – meeting at least once a year;
- Tripartite Committees of Senior Officials and of Experts – meeting at least once every year; and
- Tripartite Task Force of the Secretariats of the three RECs – meeting at least twice a year.

The COMESA-EAC-SADC MoU also stipulates that each party shall establish a permanent unit within its Secretariat for the co-ordination of the mechanism for the harmonisation of the agreed programmes. Tripartite Coordination Units have since been established in each of the three RECs: COMESA, EAC and SADC.

Source: SADC, Continental and Inter-regional Integration, Tripartite Cooperation, available at: <http://www.sadc.int/about-sadc/continental-interregional-integration/tripartite-cooperation/#Vision> [accessed 30 January 2017]

- enhancement of trade facilitation to improve the flow of goods along regional transport corridors by lowering transit times and the cost of trading;
- joint planning and implementation of infrastructure programmes, which mainly comprise surface (road, rail, border posts, seaports) and air transport, ICT and energy;
- development of joint programmes for agricultural development and food security; and
- free movement of businesspersons within the tripartite region.

3.2 What is the Tripartite Free Trade Area?

The TFTA will be the largest free trade zone in Africa, linking 26 countries through their membership of three RECs: COMESA, EAC and SADC (Box 3.2). The TFTA was launched at the Third Tripartite Summit in Sharm El Sheik, Egypt, on 10 June 2015, with the signatures of 16 of the 26 countries participating in the negotiations.¹ Zambia signed the agreement on 17 June 2016, bringing the total number of signatories to 17.² Although the TFTA was formally launched, there is still outstanding technical

Figure 3.2 Africa's Tripartite Free Trade Area (TFTA)



Box 3.2 What's the Tripartite 'Grand' FTA?

The TFTA stretches from Cape Town to Cairo, creating an integrated market among 26 African countries (almost half the AU membership). The combined GDP of the 26 countries amounted to US\$1.2 trillion in 2013, representing slightly more than half (52.5 per cent) of Africa's total GDP. The combined populations of 638 million people represented 59 per cent of Africa's population in 2013. This collective market makes the TFTA the sixteenth largest economy in the world. Merchandise exports within the tripartite region grew from US\$14.3 billion in 2005 to US\$42 billion in 2015. Such trade actually reached a peak of US\$52.7 billion in 2013 before the global trade slowdown caused some decline.

Source: Author's calculations using data from UNCTADStat

work on the tariff liberalisation schedules, rules of origin and trade remedies.

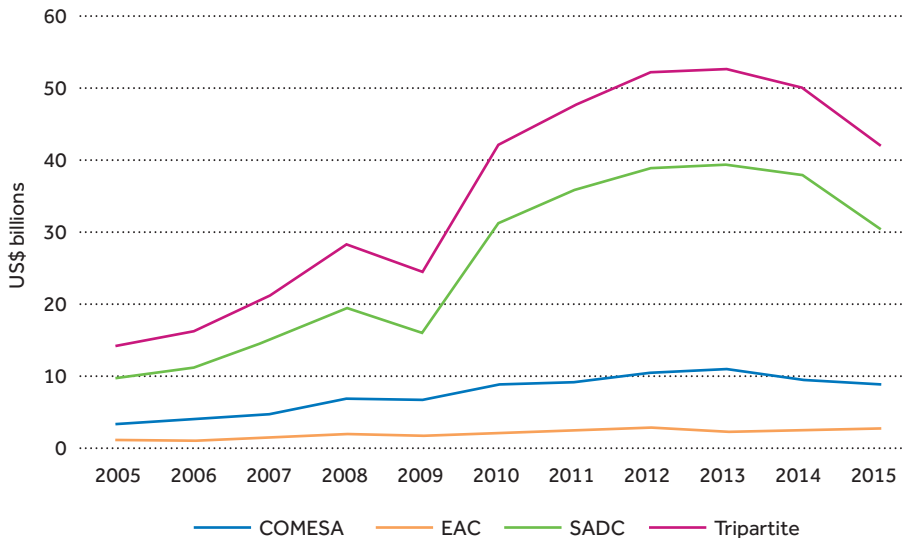
The TFTA is an important milestone towards rationalising the RECs and establishing the CFTA in 2017 and an African customs union by 2019. The TFTA's market integration agenda is being pursued in two stages or sequences:

1. Phase I covers trade in goods and its associated rules, and was officially concluded in December 2014. Preliminary discussions on the movement of businesspersons have been held as a parallel track to the first phase of the negotiations. This subject is expected to be an area of 'early harvest' under the second phase.
2. Phase II covers services and other trade-related areas. The TFTA Agreement provides a timeframe of 24 months to conclude the second-phase negotiations on trade in services, competition policy, intellectual property rights, movement of businesspersons and other trade-related matters.

The TFTA, if fully and effectively implemented, could have a substantial impact on intra-regional trade within East and Southern Africa. According to simulations by Mold and Mukwaya (2015) these effects could include:

- an increase of US\$8.5 billion in intra-regional trade (or a one-third increase from current levels);
- major trade gains for industrial goods, especially light and heavy manufacturing and processed food; and

Figure 3.3 Intra-regional merchandise exports in the tripartite region (2005–2015)



Source: Author's calculations using data from UNCTADStat

Box 3.3 What are the key provisions of the TFTA Agreement?

The TFTA Agreement consists of 45 articles and 10 annexes. The core of the agreement covers tariff liberalisation, disciplines on non-tariff barriers, rules of origin, trade remedies and provisions for dispute settlement. Other provisions include elimination of quantitative restrictions, customs co-operation, trade facilitation, transit trade, infant industries, balance of payments etc.

Tariff liberalisation: The TFTA aims to liberalise 100 per cent of tariff lines (with general, specific and security exceptions). Between 60 and 85 per cent of tariff lines are to be liberalised upon entry into force of the agreement, while the remaining 15 to 40 per cent will be negotiated over five to eight years.

Non-tariff barriers: Article 10 and Annex 3 of the TFTA Agreement provide for the harmonisation of the COMESA, EAC and SADC non-tariff barrier (NTB) arrangements into a single mechanism and a process for identifying, categorising, reporting, monitoring and resolving NTBs in the tripartite region. The institutional framework includes a tripartite subcommittee on NTBs, as well as national monitoring committees and focal points.

Rules of origin: Article 12 and Annex 4 of the TFTA Agreement set out the criteria and conditions for goods to qualify for preferential rules of origin, based on a product list of rules. At the time of the launch, however, only about 25 per cent of the product list had been negotiated and agreed. The Third Tripartite Council of Ministers undertook to finalise the tripartite rules of origin within 12 months following the TFTA launch.

Trade remedies and dispute settlement: Articles 16–20 and Annex 2 of the TFTA Agreement provide for the application of anti-dumping, countervailing

(Continued)

Box 3.3 What are the key provisions of the TFTA Agreement? (cont.)

and safeguard measures to address dumping, subsidisation, import surges etc., but the technical details are yet to be finalised. There is a commitment to complete this body of work within 12 months following the launch. Article 30 and Annex 10 of the TFTA Agreement provide for a Dispute Settlement Body and its powers, which include, among others, the establishment of panels and an appellate body, surveillance over the implementation of rulings, and recommendations of panels and the appellate body.

Other provisions: Other provisions include those on the elimination of quantitative restrictions, customs co-operation, trade facilitation and transit trade, infant industries and balance of payments, among others. These are generally consistent with obligations under the WTO and international best practices. Article 29 details the organs for the implementation of the Tripartite FTA. These include, among others, the Summit of Heads of State and Government, the Council of Ministers, the Tripartite Task Force (made up of the Secretariats of the three RECs), the Tripartite Sectoral Ministerial Committee, the Tripartite Committee of Senior Officials and the Tripartite Committee of Experts.

Source: Luke and Mabuza (2015)

- a welfare increase of US\$2.4 billion, although some tripartite member states are likely to gain more than others and these unequal benefits need to be carefully managed (see Chapter 1).

It should be noted that these estimates do not include potential gains if the TFTA were to be extended to cover trade in services, as envisaged under the second phase of the negotiations.

3.3 What is the Continental Free Trade Area?

In June 2015, African Union (AU) member states officially launched negotiations for the establishment of the CFTA, which is a priority initiative under the AU's *Agenda 2063*. In launching the CFTA negotiations, the summit clarified the scope, institutional arrangements, guiding principles and other practical arrangements to guide the negotiations.³

The CFTA is envisaged to be a comprehensive and mutually beneficial trade agreement in goods and services among the AU member states. If successfully concluded, the CFTA would constitute the largest FTA in the world, with 55 member states, a combined population of more than one billion people and

a combined GDP in excess of US\$3 trillion. In line with the deadline set in the Abuja Treaty, the negotiating parties aim to establish the CFTA by the ‘indicative date’ of 2017.

The CFTA negotiations are being conducted in two phases:

1. Phase 1: simultaneous negotiation of trade in goods and trade in services (separate tracks);⁴ and
2. Phase 2: trade-related issues (competition, investment, intellectual property rights).

According to UNECA (2015), the CFTA is expected to bring wide economic benefits to Africa:

- the CFTA could increase intra-African trade by as much as US\$35 billion per year, or 52 per cent above the baseline, by 2022;
- imports from outside the continent would decrease by US\$10 billion per year, and agricultural and industrial exports would increase by US\$4 billion (7 per cent) and US\$21 billion (5 per cent) above the baseline, respectively; and

Box 3.4 What are the CFTA negotiating objectives?

AU member states have set out the objectives for the negotiations:

- an agreement to address the challenges posed by multiple and overlapping memberships of RECs;
- reservation of the *acquis* (building on what has already been agreed through existing agreements);
- variable geometry (different countries may reduce tariffs at different speeds), flexibility and special and differential treatment;
- most-favoured-nation treatment (countries must extend the preferences that they grant under the CFTA to all African countries equally);
- national treatment (once import tariffs have been paid, goods and services from other African countries will be treated the same as domestic goods and services by domestic regulations and internal taxes);
- reciprocity;
- decisions in the negotiations to be taken by consensus (unanimity); and
- adoption of a detailed Indicative Roadmap on the Negotiation and Establishment of the Continental FTA.

Source: UNECA *et al.* (2016)

Box 3.5 Case study: Potential impact of CFTA on the EAC

There is potential for the EAC to gain significantly from a CFTA. While intra-EAC trade has grown significantly, trade between the EAC and other African countries, particularly those outside the tripartite area, remains limited. However, there has been renewed interest in expanding trade and investment links with Nigeria and the ECOWAS subregion. In 2012, EAC exports to ECOWAS amounted to US\$132 million. West Africa currently relies on extra-African imports of coffee and tea, and EAC could be in a position to tap into this market if high tariffs and weak transport links can be addressed. In May 2014, Kenya and Nigeria signed trade pacts aimed at deepening trade ties, following high-level political meetings and several large Nigerian business delegation visits to East Africa. Trade with neighbouring ECCAS has shown significant growth, with exports to the region expanding by close to 40 per cent between 2010 and 2012, from US\$1.2 billion to almost US\$1.7 billion. The CFTA would further open doors to West and Central Africa, through the reduction and eventual elimination of tariffs and improved trade facilitation and infrastructure.⁵

- if coupled with complementary trade facilitation measures to boost the speed and reduce the cost of customs procedures and port handling, the share of intra-African trade would more than double over the baseline, to 22 per cent of total trade by 2022.

As of March 2017, five meetings of the CFTA Negotiating Forum (CFTA-NF) have been held. The CFTA-NF has, among other actions, considered and adopted definitions, principles, approaches and modalities for the CFTA negotiations. The first meeting of the CFTA Technical Working Groups was also held in Rwanda in February 2017.

During the 27th AU Heads of State and Government summit, in Rwanda in July 2016, it was decided to establish a High-Level Panel of five eminent persons (one from each region) to champion the fast-tracking of the CFTA, ahead of its proposed launch in 2017. They also called on member states to ‘speak with one voice’ on all issues related to trade negotiations with third parties (see Chapter 1).

3.4 Is there a roadmap for establishing the CFTA?

In January 2012, AU Heads of State and Government agreed on a roadmap for establishing the CFTA. The roadmap proposed that the CFTA be built on two regional blocs:

1. The first is the 26-member TFTA (COMESA, EAC and SADC).

Box 3.6 What is the role of the AU Commission in the CFTA?

The CFTA Negotiating Forum was established by the Assembly of the AU and comprises officials from the AU member states and RECs that are recognised by the AU. It has the responsibility of conducting trade negotiations at the technical level and reports to the Committee of Senior Trade Officials on its negotiation activities. The CFTA Negotiating Forum also has responsibility for preparing quarterly reports on progress made in the negotiations, highlighting areas requiring higher-level intervention to the Committee of Senior Officials, ministers for trade, the High-Level African Trade Committee and the Assembly.

The AUC provides and co-ordinates technical and administrative support to the member states and RECs. The AUC also serves as the Secretariat to the CFTA Negotiating Forum. In playing its support and harmonisation role, the AUC closely collaborates with the RECs, the UN Economic Commission for Africa (UNECA) and the African Development Bank (AfDB), which are members of the Continental Task Force on the CFTA, operating at the level of Chief Executive Officers and at the technical level.

Sources: African Union (2016a,b)

2. The second is a combined bloc of RECs (ECOWAS, ECCAS, CEN-SAD and UMA), which would emulate the TFTA. Initial consultations took place in April 2013, and the first negotiation meeting on the second bloc occurred in December 2013.⁶

Given recent dynamics, including lack of progress on the second bloc, this roadmap no longer appears feasible. Instead, the CFTA is moving straight to continental liberalisation. For goods trade, the member states have agreed to liberalise between 85–95 per cent of their tariff lines over a period of 5–10 years. They have also agreed to allow for flexibilities through exclusion and sensitive lists to accommodate countries that may face challenges during liberalisation. A CFTA Template Agreement has been prepared as a basis for text-based negotiations. Services negotiations will be more challenging. It is paramount that a developmental integration perspective frames the overall CFTA process (Chapter 1).

Notes

- 1 Countries that have signed the TFTA are Angola, Burundi, Comoros, the Democratic Republic of the Congo, Djibouti, Egypt, Kenya, Malawi, Namibia, Rwanda, Seychelles, Sudan, Tanzania, Uganda, Swaziland and Zimbabwe.

- 2 TRALAC (2016).
- 3 The Negotiating Principles for the CFTA, Institutional Arrangements for the CFTA negotiations, the Terms of Reference for the CFTA-NF and the Indicative Roadmap for the CFTA negotiations.
- 4 Unlike the TFTA's two-phase sequencing of goods and services trade negotiations.
- 5 International Centre for Trade and Sustainable Development (2014).
- 6 A formal Memorandum of Understanding outlining how decisions will be made and establishing co-ordination mechanisms still needs to be signed, along with the launching of work on technical studies and key institutional preparatory work on the formation of this second bloc.

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