

Governance, the APRM and Implementation of the AfCFTA

A Think Piece developed in the framework of the 2020 Africa Think Tank Summit on the theme “Implementing the African Continental Free Trade Area (AfCFTA) Agreement: Assessing the readiness of countries and implications for capacity building”

Introduction

On 21 March 2018 in Kigali, Rwanda, during the Extraordinary Summit on the African Continental Free Trade Area (AfCFTA), 44 Heads of State and Government of the 55 African Union (AU) Member States signed the Agreement establishing the African Continental Free Trade Area (AfCFTA)¹. The Agreement seeks to create a single continental market for goods and services, with free movement of ‘business’ persons and investments, paving the way for accelerating the establishment of the Customs Union. The Agreement was hailed as one of the continent’s and indeed the African Union’s key milestones as it seeks to create a trading block for a continent with an estimated combined Gross Domestic Product (GDP) of more than US\$3.4 trillion. The AfCFTA is estimated by [...] to be the world’s largest free trade area since the formation of the World Trade Organization. Estimates from the Economic Commission for Africa (UNECA) suggest that the AfCFTA has the potential both to boost intra-African trade by 52.3 percent by eliminating import duties, and to double this trade if non-tariff barriers are also reduced.

The Agreement Establishing the African Continental Free Trade Agreement (AfCFTA) entered into force on 30 May 2019 for the 24 countries that had deposited their instruments of ratification but among the major unanswered questions is that of governance. The first question has to do with the governance regime for the framework as stipulated in the Agreement. Is governance of the AfCFTA framework sufficiently coherent in its congruence with international trade regimes and does it provide sufficient provisions for fair intra-regional trade and mediation thereof? The second governance question pertains to the broader aspect of governance on the continent. Are the efforts by the African Union (AU), the Regional Economic Communities (RECs) and member states sufficient for creation of the requisite environment within which the objectives of the AfCFTA can be attained?

This discussion paper asserts that both questions can be considerably addressed within the framework of the African Peer Review Mechanism (APRM), a specialised entity of the African Union established in 2003 as an instrument for democratisation and promotion of good governance on the continent. The mandate of the APRM is to ensure that policies and practices

among African Member States conform to the agreed political, economic, and corporate governance values, codes and standards contained in the African Union Declaration on Democracy, Political, Economic and Corporate Governance. As a voluntary self-monitoring instrument, APRM fosters the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated regional and continental economic integration through sharing of experiences and best practices, including identifying deficiencies and assessing the needs for capacity building.

It is in this regard that the paper posits the centrality of the APRM to the successful performance of the AfCFTA. The APRM can contribute to the governance of and governance context of the AfCFTA in four ways. First, the APRM can undertake country assessments to determine the state of governance and preparedness to implement the Agreement. The outcome would provide member states with the intelligence needed to curtail appropriate policies. Second, the APRM can facilitate national buy-in into the AfCFTA through its sensitisation and public mobilisation process which is implemented during the Country Governance Reviews. This is critical for subsequent reform efforts. Third the APRM can support the institutionalisation of the AfCFTA Agreement into 'whole-of-Government'. This can be achieved through the APRM facilitated generation of a National Programme of Action (NPoA) which is subsequently integrated into the National Development Plans. Forth and last but not least, the APRM can provide the platform with critical linkages to various economic communities and actors who collaborate with the mechanism on a variety of issues in economic governance and management.

Background

The relationship between good governance and trade governance has been established in literature since the advent of the notion of good governance over a decade ago. 'Good governance' has been invariably been defined as good governance is the process of decision-making to overcome government failure, market failure and system failure, or a combination of these, and to implement decisions through interaction between formal and informal actors².

According Khorana and Zorzoso (2018), from an international economic relations perspective, there are three dimensions of 'good governance'. The first is about rules, resources and power, how power is used and how institutions function. The second is about key principles such as participation and inclusion. The third encompasses several themes that affect transparency, accountability, democratisation, human rights, rule of

law and administration of justice. Both the APRM and the AfCFTA are, to varying degrees, within the domain of multilateralism and international economic governance.

By extension, therefore, 'trade governance' is defined as 'consisting of institutions and organisational structures that determine the formulation and enforcement of rules and the associated negotiations over policies' (Khorana and Zarzoso, 2018). The review of literature highlights two major forms of trade governance: regional and global. The AfCFTA can arguably be described as the principal instrument for trade governance in the African Union.

The intersection, nexus and complementarity of the AfCFTA and the APRM in this regard, though not explicitly mentioned in the founding documents of each initiative, are logically inherent in the history and mandates of the two initiatives.

The African Peer Review Mechanism (APRM) was initiated in 2002 and established in 2003 by the African Union in the framework of the implementation of the New Partnership for Africa's Development (NEPAD). The purpose as initially conceived was for the APRM to undertake assessment and foster policies that improve political governance, economic governance and management, corporate governance and sustainable development policy. It was envisaged at the time that Africa needed to make profound improvements in these areas in order to generate the much-needed investor confidence critical for the success of NEPAD. Although NEPAD's initial conceptualisation of Foreign Direct Investment (FDI) may have referred specifically to extra-continental investors, in the context of the AfCFTA FDI refers to all investment coming from outside the national economy.

The AfCFTA, established in May 2019, on the other hand, seeks to create a single liberalized market for goods and services, facilitated by movement of persons, in order to deepen the economic integration of the African continent. A critical dimension of this vision inherently speaks to the mandate and purpose of the APRM, and anchors the aforementioned nexus, that of deepening economic integration of the African continent.

The nexus between the AfCFTA and the APRM, however, is more consequentially anchored in the purpose of the APRM as a tool for sharing experiences, reinforcing best practices, identifying deficiencies, and assessing capacity-building needs to foster policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration. Accordingly, the APRM thus serves to support the

implementation of the AfCFTA in regard to the creation of a yielding governance regime and enhanced governance context necessary for the realisation of the AfCFTA vision.

The AFCTA and Governance

The AfCFTA will bring together all 55 member states of the African Union covering a market of more than 1.2 billion people. The APRM brings together a membership of 40 member states participating in the core mandate of the mechanism and through its various other initiatives, implemented as part of its expanded mandate, that cover all 55 member states of the African Union.

As indicated earlier grand project such as the AfCTA cannot be achieved successfully and timely while discounting the conversation on methods of realisation. Among these indispensable conversations is that regarding corporate, economic and political governance. As evidence indicates, progress in public governance has been a challenge owing to the historic international and domestic political economy. Additionally, the rapidly changing contextual conditions driven by the 4th Industrial Revolution, the decline of a unipolar hegemony and more recently the Covid-19 global pandemic, present new and complex governance challenges. The concurrent economic, health, and climate crises and their long-term consequences pose serious challenges to both the policy and business communities. These challenges re compounded by prevailing dysfunctions in public governance across many countries. Such contextual challenges cannot be addressed exclusively within the framework of the AfCFTA. They require a specialised instrument such as the APRM.

Discourse on the role of markets over the past two decades had relegated the role of the state to a quasi-observer status on the pretext on non-interference of markets. Following the 2008 global financial crisis states across the globe have revisited the position and begun to restructure their economies. In this regard, public governance is continually reviewing its steering capacities of markets and society. Similarly, companies now pay increasing attention to corporate governance modernisation and improved public administration or functioning of the state in general.

Regardless of the ideological differences that pertain to the discourse, the conclusion from all school remains that governments have a central role to play in markets. They provide political and social stability, and they regulate the private sector. This require that governments have access to technological, ecological, and social developments all of which impact directly and significantly on trade. The role of government in markets and in the creation of a competitive economy goes beyond intelligent market

regulation. Government must ensure strict respect of the rule of law. Similarly, it is universally recognised that governmental accountability promotes the willingness to invest.

All the above are governance challenges that governments must attend to if the AfCFTA is to achieve its objectives. Specifically, governments will need to profoundly revisit the way in which they steer markets and businesses, and how governments interact with one another in order to provide the context for the success of AfCFTA.

The Role of the APRM in the AfCFTA

The relevance and agency of the APRM in the implementation of the AfCFTA cannot be overemphasised. As a specialised governance entity of the African Union, the mechanism has the mandate and institutional framework to provide critical support to continental, regional and national processes aimed at strengthening political, economic, and corporate governance for enhanced intra-regional trade. The mechanism also provides a unique platform for progressive policy sharing and monitoring. The APRM undertakes this role by fostering the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration. A coherent trading block can only be realised through such efforts. The sharing of experiences and reinforcement of successful practices, including the identification of gaps and capacity needs assessments for capacity building are indispensable to the establishment of an African continental free trade area.

The role of the APRM in the AfCFTA can best be derived from its functions as a governance entity and they fall within four major categories; governance assessments; stakeholder mobilisation; domestication and institutionalisation; and networking and partnership development. In its statute, the APRM key functions have been itemised as follows. The first and most prominent role of the APRM is to promote and facilitate governance self-monitoring and evaluation by the Participating States in four areas; political governance; economic governance; corporate governance and sustainable socio-economic development policy. The relevance of these governance domains to the AfCFTA are articulated in both the vision and objectives of the Agreement. The assessments are in the form of four types of reviews. The Base Review carried out immediately after a country becomes a member of the APRM; the Periodic Review carried out every four years; the Targeted Review requested by the member country itself outside the framework of mandated reviews; and the Special Review commissioned by the APR Forum of heads of States and Government when there are compelling signs of pending political and economic crisis. These reviews are

undertaken using an instrument that covers codes and standards and a range of indicators for each of the four assessment (thematic) areas of the APRM.

The second function of the APRM is that of monitoring, evaluation and tracking the implementation of key governance areas on the continent. This function is undertaken collaboratively with other AU agencies and the United Nations and it covers the governance dimensions of the AU Agenda 2063, the UN Agenda 2030 and National Governance Reporting. Essentially the monitoring of these areas is an evolving process that continually integrates governance aspects of all AU instruments. The AfCFTA is one such instrument. The third function is the preparation of the African Governance Report (AGR) which is undertaken in collaboration with the African Governance Architecture (AGA). The report is a policy report of the African Union and is presented to the AU Assembly for consideration at its Ordinary Session every two (2) years. Essentially the AGR includes a status account of the governance of key initiatives of the African Union such as the AfCFTA.

The third function of the APRM is to serve as a platform for sharing best practices at national, regional and continental level. In this regard, the APRM processes at a country and continental level mandatorily oblige the involvement of all stakeholders across the entire spectrum of society. This is aimed not only at ensuring inclusion but critically at promoting the sharing of successful practices and lessons. The logical end point is to accelerate coherence and convergence of policies, standards and codes all of which are critical for the successful implementation of frameworks such as the AfCFTA. The fourth function of the APRM is to encourage the participating states to implement their National Plans/Programmes of Actions (NPOAs). This function is pivotal in ensuring that governments design feasible reforms and implement the same in a coherent and coordinated fashion. In pursuing this function, the APRM support governments to integrate these NPOAs into National Development Plans. The successful implementation of the AfCFTA will rely on the implementation of a variety of institutional and policy reforms most of which are undertaken within the gambit of governance reforms. From the onset the APRM would consider integration of AfCFTA-relevant standards and codes in its instruments and thereafter in the NPOAs. This function also drives the integration of the objectives of APRM into other plans such as those of the RECs and regional developmental bodies, including AUDA-NEPAD.

The fifth and final function relevant to the AfCFTA is that of promoting democracy and good governance on the continent. This is a broad function that covers entire spectrum of promoting good governance from research, to

providing support to continental, regional and national bodies and actors working on good governance. Improved governance has direct implications for the success of the AfCFTA.

Recommendations

In view of the above this paper proposes that the APRM provide support and collaborate with relevant African Union Agencies in the following areas.

1. Governance Assessments

The APRM can undertake country assessments to determine the state of governance and preparedness to implement the AfCFTA Agreement. The outcome would provide member states with the intelligence needed to improve specific aspects of governance that bear on trade and foster appropriate intra-Africa trade policies. A series of national level country reviews and targeted reviews can be undertaken in this regard. These processes are implemented concurrently with others during the Country assessments that are in two key phases. The country self-assessment process which culminates to the production of the country assessment Report (CSAR) and the Country Review Mission which culminates into the Country Review Report (CRR). The later is interrogated by a Forum Heads of State and Government of the African Union and it includes the National Programme of Action upon which a member states submits a progress report to the Forum on an annual basis. This platform would be ideal for a focused examination of progress made towards governance aspects of the AfCFTA.

1. Stakeholder Mobilisation

The APRM can facilitate national buy-in into the AfCFTA through its public information and sensitisation campaigns. The sensitisation campaigns involve both state and non-state actors at all levels of society and across geographies. They include both the formal and informal sectors and thus guarantee a unique interface between key actors in trade.

1. Domestication and Institutionalisation

The APRM can support the institutionalisation of the AfCFTA Agreement into 'whole-of-Government'. This can be achieved through the APRM facilitated generation of a National Programme of Action (NPOA) which is subsequently integrated into the National Development Plans. The NPOAs provide a unique mechanism for enumerating and institutionalising the key elements of the AfCFTA across the public sectors. Critically, the NPOAs

integration into the National Development Plans is a vital step in securing public investment for governance reforms necessary for the successful implementation of the AfCFTA.

1. Networking and Partnership Development

The APRM provides platforms with critical linkages to various economic communities and actors who collaborate with the mechanism on a variety of issues in economic governance and management. The institutional framework of the APRM which includes AU policy organs, global strategic partners, the academia, schools of government and a variety of networks in both the public and private sector provides a strategic avenue for building theme-specific and broad partnerships for delivery of the AfCFTA. In this regard the AfCFTA can consider joining this governance ecosystem.

Conclusion

All international governance and financial institutions are that good governance remains a key precondition for transformational economic development. Accordingly, trade governance is plays a paramount role in maintaining stable and predictable trade flows by providing a transparent regulatory framework such as the AfCFTA that accords advantages of all countries. But such an instrument must necessary be harmonised with the full spectrum of governance instruments at a continental, regional and national level. To this end, the AfCFTA needs to be implemented within the framework of the governance AU architecture which is primarily defined and instrumentalised in the APRM in collaboration with AGA and other agencies. Essentially in this endeavour, the APRM further involves actors such as civil society, nongovernmental organisations and trade unions, who as vectors infuse and internalise good governance into all AU frameworks.

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1. : International Trade Centre (2018). A business guide to the African Continental Free Trade Area Agreement. ITC, Geneva^[?]
 2. Khorana, S and I Martinez-Zarzoso (2018), ‘Trade Governance and Intra-Commonwealth Trade’, International Trade Working Paper 2018/04, Commonwealth Secretariat, London.^[?]