The African Continental Free Trade Agreement: Loss of Sovereignty, Lack of Transparency

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The African Union's Assembly of Heads of State and Government conceived of the African Continental Free Trade Agreement (AfCFTA) in 2012 with the goal of creating a Continental Free Trade Area by 2017. In March 2018 the majority of AU member states signed the agreement to establish the free trade area, with most remaining AU members signing later in 2018 or early 2019. Notably, Nigeria is the only major African economy not to sign the agreement, and it has expressed resistance to doing so (as of early May 2019). One month after ratification by 22 member states, the free trade area will come into existence. 30 May 2019 has been set as the date of entry into force. If completed, the free trade area will be Africa's contribution to the global rise in "megaregional" trade agreements such as the proposed Trans-Pacific Partnership and Trans-Atlantic Trade and Investment Partnership. The AfCFTA will also have the largest number of country members of any post-WTO agreement, comprising 1.2 billion people.

Free trade agreements may improve certain economic indicators, such as GDP and balance of trade. However, such agreements have been shown to increase wealth inequality, only serving to intensify the profit-making of the wealthy. Given the poverty and unemployment plaguing the African continent, it is pertinent to ask why the continent's leaders are pursuing a free trade agreement, rather than policies that will benefit the majority of the population. The answer lies in the fact that the very leaders pushing for the AfCFTA are also those who will benefit economically from increased intra-continental trade.

The agreement seeks to create a single market on the continent, as well as to increase intra-African trade through liberalisation. Africa has the lowest rate of internal trade of any continent, but the AfCFTA has the potential to boost intra-continental trade by 30-55%, depending on the models used. These models however, say nothing of what is being traded and who will benefit. The agreement is premised on the notion that trade liberalisation, through both tariff and non-tariff barrier reduction, will drastically increase intra-continental trade, and that this increased trade will be beneficial for all. As is consistent with the ideological framework of free trade, the AfCFTA adheres to the myth that 'a rising tide lifts all boats,' despite empirical evidence to the contrary.

The agreement has been mired in controversy from the start, particularly given the distinct lack of transparency in negotiations. Civil society and organised labour have largely been denied access to the negotiating table, leaving many highly critical of what has gone on behind closed doors. For example, the Manufacturer's Association of Nigeria and the four million strong Nigerian Labour Congress (NLC) have fought vehemently (and thus far successfully) to stop Nigeria from joining the free trade area, often citing the secrecy of the negotiations and lack of input from non-governmental bodies. Nigerian President Muhammadu Buhari cancelled Nigeria's participation, rightly stating that Nigeria will "not agree to anything that will undermine local manufacturers and entrepreneurs, or that may lead to Nigeria becoming a dumping ground for finished goods." Whereas Ayuba Wabba, National President of the NLC, expressed concerns that the AfCFTA is an "extremely dangerous and radioactive neo-liberal policy initiative."

A controversial issue within the AfCFTA negotiations, as in all trade agreement negotiations, is over the question of investment disputes. Many 21st century trade agreements include “Investor-State Dispute Settlement” (ISDS) provisions. ISDS allows private foreign investors to raise disputes against states they are investing in if there is a threat to their investment, or even a threat to the profitability of the investment. Multiple states around the world have begun to realise the loss of sovereignty posed by ISDS. Private investors, including TNCs, may challenge a state’s domestic laws in an international tribunal, if said laws pose a threat to the profit-making of the investor. The most common forum for such disputes is the International Centre for the Settlement of Investment Disputes (ICSID), which is an organ of the World Bank Group, and therefore far from impartial. Investment negotiations, including investment dispute procedures, will be involved in ‘Phase 2’ of the AfCFTA discussions, expected to begin in the second half of 2019. Multiple African states have expressed wariness about ISDS, and favour state-to-state investment dispute settlement. Therefore the current text of the agreement includes provisions to create a state-to-state dispute settlement body, rather than ISDS. There is some resistance to ISDS within the AU, however, TNCs, non-African foreign investors, and wealthy African elites have consistently pushed for ISDS. This must be monitored so as to ensure that ISDS is not included in Phase 2.

Exemplary of the lack of transparency in negotiations, the exact tariff reduction schedules in the agreement have still not been announced (as of May 2019). Although it is unknown to what degree signatory states will be required to cut their tariffs, the experiences of previous liberalisation programmes can show the potentially harmful effects of the AfCFTA. Tariff liberalisation will inevitably displace workers, in countries that already experience high levels of unemployment, and it will probably lower wages even further in many sectors, at least in the short term. Industries that currently enjoy some level of protection and ‘nurturing’ behind tariff barriers will be completely exposed to global market forces through the agreement. The increased competition that results will certainly lead to job losses in various sectors. Orthodox economics assumes that workers displaced through liberalisation will be quickly and easily absorbed into gainful employment in other sectors. The removal of ‘trade distortions’ will supposedly allow each country to exploit its competitive advantages, and short-term displacements will be made up for by long-term growth. This is the rhetoric employed by proponents of the AfCFTA, but it is far removed from the lived realities of destructive trade liberalisation already carried out across the globe.

The African agricultural sector is very much under threat from the free trade area. Small-scale farmers make up a large portion of the continent’s population. Liberalisation of agriculture has been shown to favour economies of scale, and therefore large industrial farms; particularly those using monocrop techniques for the cash crop export market. Subsistence farmers and those growing food crops for domestic consumption may be dislocated by industrial farms, leading to intensified urbanisation and proletarianisation, increased food prices, decreased food security, and the loss of biodiversity. Some commentators have noted that a reduction of food crop production capacity on the continent will simply serve to open the market for food imports derived from large agribusinesses, both African and non-African.

Increased trade in itself will not drive industrialisation or development; it must be accompanied by appropriate policies. The AfCFTA, through tariff reduction, takes away one of the continent’s last remaining tools for designing development policies. Many post-colonial African states have been required to undergo structural adjustment programmes (SAPs) and other forced fiscal austerity measures conditional for the advancement of much needed credit. This has reduced the ‘policy space’ available to African governments, as they have been required to follow the development paths put forward by their creditors. This severe erosion of national sovereignty has left countries with few tools for development and industrialisation, although some tariffs have been allowed to remain. Tariffs are an important source of revenue, contribute to price controls, prevent against ‘flooding’ or ‘dumping,’ and are crucial in protecting local industries. The AfCFTA will further the removal of tariff barriers, eliminating one of the last tools available to African states.

Although in previous liberalisation programmes it has been foreign states dictating the economic restructuring of African economies, in this case it is African states themselves. The agreement will not be in the economic interest of the poor African masses. The peasant and working classes, along with the unemployed living in urban and peri-urban slums, will gain little or nothing from the free trade area. Those who own large businesses, those who profit off the toil of others, have much to benefit from tariff liberalisation. The AfCFTA is not driven primarily by western states, as with the WTO or SAPs. Rather it is driven by the wealthy African elite, at the expense of those they claim to represent.

The most developed countries, and particularly the late-industrialisers, employed industrial policy to grow their manufacturing sectors. States successfully managed to reduce dependence on imports through the nurturing of domestic ‘infant industries,’ until such time as said industries were strong enough to survive exposure to international market competition. Tariffs play an important role in industrial policy, and through liberalisation, such as that seen in the AfCFTA, states lose the ability to formulate such policies. Liberalisation in developing countries has largely resulted in a reliance on the export of primary commodities. Weak domestic industries (particularly manufacturing) are destroyed by pre-existing large foreign industries, often dominated by transnational corporations. Multiple African countries have used tariffs for successful import-substitution, such as Cote d’Ivoire’s poultry production and Nigeria’s cement production. The AfCFTA allows states to exempt from liberalisation up to 10% of their export value to other African countries. This provides a small amount of relief, but it does not allow enough policy space for states to truly choose their own development paths and reject the export-led, dependence forming Washington Consensus approach.

An increase in intra-African trade has significant potential for promoting, and even formalising, South-South cooperation and solidarity. It is possible that the AfCFTA will assist in increasing trade within the continent. However, liberalisation alone will not lead to industrialisation or ‘development.’ Liberalisation must be accompanied by policies and programmes that will ensure that those inevitably displaced by market integration will be re-incorporated into the economy. This requires structural transformation, rather than simply liberalisation. The AfCFTA in its current form simply continues to open up African countries to the international market, without providing a framework for developmental policies. Tariff and quota policies were some of the few tools left for African states in defending their domestic industries from the international market, but the AfCFTA is set to take away even these tools.

This is not to say that African countries should pursue protectionist trade policies. However, nor should states subscribe to the free trade paradigm. Industrial and trade policies, often including tariffs, rather than full market exposure, have been shown to be fruitful in development. This is particularly true in regards to more lucrative economic activities such as services and the production of high-value manufactured goods. Trade agreements, such as the AfCFTA, remove states’ ability to formulate their own legitimate paths to development, cementing the current model of raw material and low-value goods exporting coupled with reliance on imports of food and value-added goods.

There is significant attention currently being given to the AfCFTA, as it could have serious impacts on the whole continent. Most commentators maintain favourable views of the agreement and the creation of the free trade area. Some have even positively compared the free trade area to Kwame Nkrumah’s vision of a united and revolutionary Africa. There may be some reason to believe that this agreement could promote a significant increase in intra-African trade and solidarity. However, the agreement has been shrouded in secrecy from the beginning of negotiations. There has been little to no input from civil society, social movements, or the communities that will be affected by the free trade area. This lack of transparency and inclusion is deeply worrying. The creation of the text was undemocratic to the core, and remains opaque. African states have long been dispossessed of their ability to independently formulate a path to development. The AfCFTA, driven from within the continent, further cements this dispossession, removing the ability of states to impose tariffs, among many other measures that could be used in economic development and industrialisation programmes. Rather than making drastic structural changes to the systems of production within Africa, the AfCFTA may intensify the 'race to the bottom' between working classes on the continent. Other trade agreements, such as the Trans-Pacific Partnership (TPP), have received large amounts of civil society resistance, but the AfCFTA has largely been ignored despite its imitation of many TPP provisions. As the free trade area comes into effect, civil society and social movements must be sure to critically engage in the debates surrounding it.

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P.S.

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