



United Nations
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The Option of a Framework Agreement in the Continental Free Trade Area (CFTA) Negotiations

A Non-Paper

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Definition and example

A framework agreement in international relations is an interim pact between countries that establishes the principles, scope and details of what has been agreed. A framework agreement normally includes a clear understanding that the outstanding issues will be concluded in an incremental manner and/or by a clearly established date.

In the context of a trade agreement, a framework agreement may encompass ‘an early harvest’ in one or more areas under negotiation, modalities in other areas, a road map with bench marks and time lines to complete the agreement or provisions for the agreement to be completed in an incremental manner taking variable geometry principles into account. A major advantage of a framework agreement is that it enables the negotiating parties to reach an agreement in key areas within a relatively short period of time with a clear mapping of what remains to be accomplished, how and when.

The ASEAN Free Trade Area Agreement which is an agreement in goods only with framework agreements in such areas as services and investment provides a good example of framework agreements as an interim outcome of trade negotiations. The ASEAN framework agreements also provide for the application of variable geometry. (See appendix).

The option of a framework agreement

Applied to the CFTA negotiations, which has an indicative time-frame to reach an agreement within two years, a framework agreement will establish the principles, scope and modalities to be covered in the agreement. It will also include the areas of an ‘early harvest’. With the negotiations due to be launched in June 2015, it should be possible to establish the CFTA by the indicative date of 2017 with early harvest agreements in such areas as goods, some services sub-sectors, investment,

movement of business persons, etc., with clear provision for what remains to be done, how and when.

The relatively short time-frame for the CFTA negotiations is related to the fact that implementation of the Abuja Treaty which provides the legal basis for the negotiations is running behind schedule. The Abuja Treaty, which entered into force in 1994, provides a roadmap to advance regional integration in Africa, with the ultimate objective to establish an African Economic Community by 2028. The role of the regional economic communities (RECs) as building blocks for the regional integration process is underlined in the Treaty and has been translated into meaningful actions undertaken on the ground. However, the eight RECs¹ recognized by the African Union (AU) have made uneven progress.

In fact, the RECs have generally not been able to meet the deadlines set by the Abuja Treaty and more recently through the “Declaration on Boosting Intra-African Trade and the Establishment of a Continental Free Trade Area (CFTA)” adopted by African Heads of State and Government at the 18th Ordinary Session of the African Union Assembly in January 2012. This Declaration established the following milestones and timelines:

- “Finalization of the East African Community (EAC)-the Common Market for Eastern and Southern Africa (COMESA)-Southern African Development Community (SADC) Tripartite initiative by 2014;
- Completion of FTA(s) by Non-Tripartite RECs, through parallel arrangement(s) similar to the EAC-COMESA-SADC Tripartite Initiative or reflecting the preferences of their Member States, between 2012 and 2014;
- Consolidation of the Tripartite and other regional FTAs into a Continental Free Trade Area (CFTA) initiative between 2015 and 2016;

¹ Namely the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), the Southern African Development Community (SADC), the Intergovernmental Authority on Development (IGAD), the Economic Community of West African States (ECOWAS), the Community of Sahel–Saharan States (CENSAD), the Economic Community of Central African States (ECCAS), and the Arab Maghreb Union (AMU).

- Establishment of the Continental Free Trade Area (CFTA) by 2017 with the option to review the target date according to progress made.”
(*Extract from Assembly/AU/Decl.1(XVIII)*).

Trade negotiations take time. The ongoing experience of the Tripartite FTA negotiations officially launched in June 2011 and now expected to be concluded by June 2015 is a concrete example. In the light of the 2012 AU Summit Declaration, one option for the CFTA negotiation process is to pursue a framework agreement as an interim measure. This can be accomplished through a two-step approach that will entail:

- 1) Aiming for agreements with commercial value in all feasible areas as an “early harvest”;
- 2) Continue negotiations beyond 2017 in all outstanding areas with a realistic timeframe for completion and with disciplines on how variable geometry principles or other incremental approaches may be applied.

Possible scope of a CFTA framework agreement

The ultimate objective of a framework agreement is to facilitate economic, trade and investment opportunities between African countries to enhance inclusive development prospects, industrialization and structural transformation through:

- i) Liberalization of the continental economic space for freer trade in goods and services;
- ii) Creation of a complementary transparent and conducive investment regime in Africa;
- iii) Facilitate policy convergence through common regimes in such areas as intellectual property rights, competition policy, and government procurement.

The scope of the CFTA negotiations is expected to be broad and cover trade in goods (including rules of origin), trade in services, movement of business persons, investment, intellectual property rights, competition policies, and possibly

government procurement. It is clearly not feasible to address and resolve all the issues in these areas within two years. On the other hand, it will be possible to prioritize those areas that can bring “early harvests” during the two years.

Trade in goods is one possible area for an early harvest. As proposed by the COMESA Secretary General at the January 2015 Session of the High Level African Trade Committee (HATC), a CFTA agreement on trade in goods can begin with the Tripartite bloc which has almost concluded an agreement on goods and ECOWAS which already has a common external tariff:

“The two blocks of countries can build on their currently prevailing duty-free trade regimes and on tariff lines with zero tariffs as a starting point and gradually eliminate tariffs on other products in a phased but incremental manner”².

The aim should be to limit as much as possible the exemption of ‘sensitive products so that benefits of a CFTA on goods can be maximized.’ The issue of rules of origin will also need to be tackled effectively. The AMU and ECCAS which do not yet have functioning FTAs could subsequently join the CFTA to make it fully continental-wide by undertaking the required liberalization effort.

As far as trade in services and movement of business persons are concerned, it could be envisaged that negotiations proceed in parallel to those pertaining to trade in goods. However, special emphasis could be placed on the services that facilitate investment (i.e. banking, business, financial services, ICT, etc.) in order to secure quick wins for African economies.

It should further be possible within the two years that are envisaged for the CFTA negotiations to reach an early harvest agreement on a common investment regime.

An early harvest with respect to competition policy and intellectual property rights may also be possible.

The foregoing does of course assume that some member states will be accorded flexibility and special and differential treatment (e.g. through transitional periods)

² See <http://www.ictsd.org/bridges-news/bridges-africa/news/low-ambition-in-tariff-liberalisation-cited-as-a-key-challenge-in>

and that variable geometry provisions may apply in implementing some obligations that fall within the scope of the framework agreement.

However, it will be important to adopt dispute settlement rules as early as possible in the CFTA negotiation process. Such rules will enhance confidence that differences between member states will be resolved in a timely manner.

Appendix

ASEAN Framework Agreement on Services

Available at:

<http://investasean.asean.org/index.php/page/view/asean-free-trade-area-agreements/view/757/newsid/870/asean-framework-agreement-on-services.html>

ASEAN Framework Agreement on Investment

Available at:

http://www.asean.org/images/2012/Economic/AIA/other_document/Framework%20Agreement%20on%20the%20ASEAN%20Investment%20Area.pdf

e-ASEAN Framework Agreement

Available at:

<http://www.asean.org/news/item/e-asean-framework-agreement>