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AfCFTA 2018: THE CONTINENTAL FREE TRADE AREA, NEO-LIBERALISM AND AFRICA'S RESOURCE CURSES

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ABSTRACT

In March 2018, 44 Member States of the African Union signed up to the African Continental Free Trade Agreement (AfCFTA) in Kigali, Rwanda. There are many legal, social and policy issues to consider whenever Africa discusses either free trade or resource governance. There have been grave economic miscalculations in Africa's history. The article argues for a central emphasis on Pan-African economic and social solidarity and takes a frank look at some of the fundamental principles guiding contemporary neo-liberal economic institutions and critiques how these have treated Africa and African resources. The article describes some of the challenges and opportunities presented by free trade agreements and proffers some recommendations. This article also outlines principles guiding international trade in light of the relationships between such trade and the exploitation of Africa's resources. Above all, the article calls for vigilance against neoliberalism and argues for strengthened Pan-African economic and social solidarity.

Key Words: AfCFTA, African Union, free trade, resource curse, Pan-Africanism

INTRODUCTION

The African Continental Free Trade Agreement (AfCFTA), has just been signed and it is still too early to evaluate whether the agreement offers tangible progress to societal development, environmental justice, small businesses and the ordinary peoples of Africa. After all, there had been neo-liberal 'free trade' agendas that have not been helpful in the past. The AfCFTA, adopted in March 2018 in Rwanda has been said to present a forward leap in continental economic and trade policy and law formulation. At least 44 African Union (AU) member States signed up to the idea of a continental free trade area, following up on a plan envisaged by the 1991 Abuja Treaty for the Establishment of the African Economic Community. The AfCFTA requires members States to remove tariffs from 90% of goods and to encourage free access to products, services, and commodities. At the same Summit, 47 States also signed up to the Kigali Declaration and 30 States to a Free Movement Protocol. The summit indeed presented interesting ideas on Africa's future economic and social direction.

But is the continental free trade area just another 'free-trade' idea in the full concept of neo-liberal free market systems, and what exactly is in store for the never-ending resource curse problem? Africa is a continent that is heavily reliant on natural resources, in the form of agricultural produce, energy sources, and precious minerals. Investments in the sectors have left legacies of disempowerment, environmental damage, injustice, economic crisis and human rights violation. Major conflicts have also raged over resource control. The agreement, signed in accordance with Article XXIV of the World Trade Organisation's General Agreement on Trade and Tariffs (GATT) is therefore supposed to present opportunities for terminating resource curses on the one hand and developing Africa according to the dictates of Pan-African economic and social solidarity on the other.

African leaders must be on the lookout for the loopholes that cause resource curses dilemma in such significant economic landmarks. Resources can be blessings or curses depending on the mindset of leaders (Van der Ploeg, 2011). The laws governing trade and investment in Africa have been mainly influenced by Western institutions which in turn were mostly inspired by the *laissez-faire* philosophy of Adam Smith. Hence the concept of 'free trade' means minimising governmental interference in the business sectors, and this usually benefits multinational investors. Neoliberalism and the free market have manifestly failed to provide solutions for inequality, exploitation, environmental damage, and conflict. This paradox

led scholars to coin the concept of the resource curse. In simple terms, a resource curse occurs when a State has abundant natural resources but, instead of economic, political and social development, undergoes massive severe underdevelopment and usually tyranny. Richard Auty (1993) is the first person to coin the term 'resource curse' when he highlighted that 'new evidence suggests that not only may resource-rich countries fail to benefit from a favourable endowment, they may actually perform worse than well-endowed countries.' (Auty, 1993, p 2). Scholars have come up with various theories for the anomaly, including the rentier state theory where States get revenue from resources and provides basic goods for the people and on that basis, expects the people to be subservient. (Bearce & Laks Hutnick, 2011, p 690).

A preferable economic agreement is one with Pan-African principles of economic and social solidarity. There is need to ensure that the continental free trade area will not perpetuate the economic and social inequality currently evident in African society. The dire situation of the continent is apparent from the reports of the United Nations Development Programme (UNDP). Life expectancy indexes show that at least 35 of the 40 states classified as having 'very low human development' are African. (UNDP, 2016). This position necessitates the need for credible safeguards in future economic and social planning and trade agreements to move the continent away from the poverty and 'race to the bottom' tragedies of the past.

THE NATURE OF THE CONTEMPORARY INTERNATIONAL ECONOMIC SYSTEM

The insatiable needs and exploitative nature of modern economic system usually drive the creation of international economic and trade institutions. The past 250 years of the human race, saw the development of the current economic system of capitalism. Under capitalism, Africa has been on the receiving end of imperialism, slavery, colonisation, and neo-colonialism. These forms of economic and political exploitation served to nurse the insatiable needs of the capitalist mode of production, namely markets and raw materials.

International economic laws and institutions, like other fields of international law, are supposed to be based on the concept of State sovereignty, which means States have the right to shape their economic and political destinies (Charter of Economic Rights and Duties of States, art 1). Bilateral and multilateral trade agreements are supposed to abide by the same principle. This concept has unfortunately proven to be a lie since poor States usually find themselves with just token political sovereignty and zero economic independence. The full wrath of capitalist sanctions can meet those who resist.

INTERNATIONAL TRADE INSTITUTIONS AND AFRICA'S RESOURCES

In the midst of Africa's plenty resources, there have been problems regarding strife, autocratic rule, and poverty which is the resources curse described above. The story of Africa's resources and international trade has almost been an absurdity, at least since the advent of colonialism.

With the coming of the AfCFTA, critical questions to ask are: What has changed from the past? Or instead what change is coming with the AfCFTA?

The way individual African states have been dealing with investors have proven detrimental to their revenue bases. Shared experiences may be one of the ways of lifting Africa from the quagmire of underdevelopment. To take the example of Zimbabwe, the State recently faced a lawsuit when its revenue authority tried to impose a more beneficial tax rate rather than the peanuts contained in an ill-advised contract from the 1990s. (*ZIMPLATS v ZIMRA & Another*; 2015).

This article will go on to examine the impact of the leading economic and trade institutions and their impact on Africa and Africa's resources. International economic and trade institutions are primarily concerned with the profit, rather than people, in this case, ordinary Africans.

The World Trade Organisation (WTO)

The WTO is the top neo-liberal global body tasked with facilitating trade relations between States. The body is a product of the Uruguay Round of trade negotiations held between 1986 and 1994. The WTO considers itself to be more democratic than other international economic institutions such as the World Bank and the International Monetary Fund (IMF). The body bases the claim on having Member States making decisions without delegating power to executive boards as is the case with the World Bank and the IMF. However, the WTO serves the interests of investors since they are the primary beneficiaries of open markets and free trade. Furthermore, the policies of the WTO rarely cater for social and environmental needs. Abumere (2015) rightfully dismisses the presumed innocence of the WTO and argues that: 'Just like IMF and World Bank, the World Trade organisation (WTO) has the capacity to cause its own fair share of damage especially.' (Abumere, 2015, p 85).

The General Agreement on Tariffs and Trade (GATT)

The GATT outlines the purpose of free trade agreements to be 'increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements' (GATT, art XXIV (4)). Under the WTO, GATT contains the primary rules that govern international trade. It is in this scenario that the GATT provides guidance on the creation of customs unions and free trade agreements.

The main shortcoming of GATT is that, beyond its Article XX, it does not provide safeguards for environmental protection. The GATT/WTO system does not concern itself with people welfare and the eradication of environmental injustice or resource curses. The only slight concession a little space given for States to make exceptions on global trade measures when it is 'necessary to protect human, animal or plant life or health' (GATT, art XX (b)). This Article XX (b) provision is the sole exception that the African States can rely upon to protect the free trade area against environmental damage and climate injustice.

The Cotonou Agreement

The Cotonou Agreement is probably the best known recent trade agreement in Africa. The Cotonou Agreement is concerned with relations between members of the African, Caribbean, and Pacific Group of States (ACP) and the European Community. The treaty opened the space for the African States to enter into Economic Partnership Agreements (EPAs) with EU states. The positive aspect of the Agreement is that it acknowledged the need for sustainable development. The agreement declared that 'cooperation on environmental protection and sustainable utilisation and management of natural resources shall aim at mainstreaming environmental sustainability into all aspects of development cooperation and support programmes and projects implemented by the various actors' (Cotonou, art 32 (1)(a)).

However, Hurt (2010) describes the partnership as a form of coercion rather than cooperation. Indeed, the Cotonou Agreement has an underlying patronising attitude. Its objectives are stated as to 'promote and expedite the economic, cultural and social development of the ACP States (added emphasis), with a view to contributing to peace and security and to promoting a stable and democratic political environment.' (Cotonou, art 1). Provisions like this run throughout the agreement and seem to imply that the European Community will help handhold African, the Caribbean and the Pacific States towards the attainment of economic, cultural, political and social development.

Africa's Regional Economic Communities (RECs)

These are eight RECs at the moment, namely: the Common Market for Eastern and Southern Africa (COMESA), Economic Community of West African States (ECOWAS), Arab Maghreb Union (AMU), Southern African Development Community (SADC), Community of Sahel-Saharan States (CEN-SAD), East African Community (EAC), Economic Community of Central African States (ECCAS) and the Intergovernmental Authority on Development (IGAD). The RECs are the centres of trade and economic regulation and coordination within Africa's regions.

There is a need for better coordination and capacity building for these RECs as Africa transforms into a continental free-trade area. Almost all the RECS have experienced cases of resource-based conflict and can be said to be still learning to deal with such. ECOWAS, SADC, and EAC have historically had problems with containing minerals-related conflicts in Sierra Leone and Nigeria (ECOWAS); Angola and the DRC (SADC) and South Sudan (EAC). Lack of efficiency at regional levels does not bode well for the continental level.

ON THE QUESTION OF OPPORTUNITIES AND CHALLENGES

In the aftermath of social destructive neo-liberal Economic Structural Adjustments (SAPs) from the IMF and World Bank, there is a need for continued scrutiny of Africa's economic initiatives to identifying opportunities and outlining challenges associated with them. Like on any other economic activities of this magnitude, there is bound to be scrutiny on what the continental free trade area seeks to promote for the ordinary people of Africa. Africa cannot afford to go back to the ill-calculated SAPs that tried to push the hegemony of Western free-market capitalism following the collapse of the Soviet Union. The SAPs were disastrous and led to reversals of social and economic development across Africa. Hence we need to take time and examine the continental free trade area.

Opportunities for Pan-African Economic and Social Solidarity

Benefits from continental economic policies must accrue to the ordinary people, small business, small-scale farmers, and workers rather than to business elites. The continental free trade area offers some economic opportunities if implemented in the spirit of pro-people and Pan-African economic and social solidarity.

Fairer Economic Competition with the Developed World

A continental free trade area can be a respite for the continent's small businesses and producers who have not been a match for developed countries' big business. Granted that a fair economic system is a pipe dream under the capitalist mode of production, the removals of tariffs and free movement can, however, be a helpful step. Goods may even be more affordable for the poor and ordinary classes.

A Unified African Currency and Financial Integration

A unified continental currency, financial integration, are some of the planned fruits of the continental free trade area. With proper implementation and safeguards against financial crimes and a Pan-African monetary policy planning system, a unified currency can assure business and ordinary people and ease exchange rate uncertainties. The concept has improved trade and also had its setbacks within, amongst nineteen States in the Eurozone of the European Union. In Africa, currency unions are not new. There have been currency unions at regional levels. For instance, the West African CFA franc, the Central African CFA franc and to some extent the rand union. A monetary union and a unified Pan-African currency system can indeed be a panacea to the problem of inflation in the many States.

Free movement of the ordinary African people

Free movement of goods, people, and services is one of the acceptable outcomes of the Kigali summit. Just as the Schengen zone in Europe has made travel more accessible and improved connection, the time for Africa to shed colonial-era borders has been long overdue. Customs usually frustrated trade and cultural exchange. Free movement of African people will encourage the sharing of cultural and economic ideas.

Narrowing the space for 'race to the bottom' deals

There is a need for the opening up space for African institutions and non-governmental organisation to play watchdog roles in ensuring that States and leaders adhere to the principle of Pan-African economic and social solidarity. United voices on economic and monetary policies and trade negotiations will go a long way in eliminating unnecessary, destructive 'race to the bottom' competition.

THE CHALLENGES

Lukewarm support by African 'Super-Powers.'

The major drawback of the continental free trade area idea so far has been the weak support from some of the most industrialised States on the Continent, namely South Africa, Egypt, and Nigeria. This lukewarm support may end up influencing an amended trade agreement that suits the more significant powers at the expense of the lesser economically developed African States, and this will turn the clock back to the fiefdoms era.

Lack of Efficiency and trust in Institutions

The historical failure of African democracy and human rights institutions as well as of Western-funded economic initiatives attempts, such as the New Economic Partnership for Africa's Development (NEPAD), highlight that there may be trust issues with continental economic initiatives from either the people or within the leaders themselves. The AMU, for instance, has had frosty relations with the African Union due to the historical disagreement between its member Morocco and the AU over the former's continued annexation of Western Sahara.

The possibility of financial crimes and wrongdoing

Financial regulation and collaboration in the fight against financial corruption are critical in eliminating the resource curses. Financial crimes and other forms of illicit financial flows such as money laundering and externalisation have been the blight of many African States. There is a need for efficient continental institutions on transparent economics and on enforcing deterrent regulations against financial criminals and economic saboteurs.

SOME RECOMMENDATIONS

This article gives three main recommendations:

A Continental-Wide Plan for Diversification of Skills and Resources

States with abundant natural resources should be harnessed together with those with excellent academic and research institutions through a progressive continental vision. There should be a new economic approach towards diversifying industries. A continental free trade area in Africa requires continental Pan-African solidarity.

There is the need for utilising revenue from such sources into capacitating skills on renewable energy and clean energy at a continental level and a committed movement away from the devastating use of fossil fuels for energy and industry in Africa.

Environmental and Social Assessments

There must be continental mechanisms to monitor and regulate international trade. Investor relations based on strict implementation and rehabilitation of the environment and local communities will go a long way in developing Africa. Ecological and social impact assessments on both domestic and foreign business investments will ensure the prior consultation of people in resource-rich areas before governments sign up agreements with investors in faraway capitals. In the past, the arrangements and contracts signed by African states with multinational companies have been glaring in their lack of safeguards against environmental and social injustice.

Pan-African Economic and Social Solidarity

A continental free trade area, with adequate safeguards will go a long way towards ensuring solidarity and eliminating the history of unnecessary civil strife, destructive competition, conflicts, and xenophobia. This aspiration is not novel. Africa's leading institutions grew out of the desire to achieve anti-colonial and economic solidarity. These include the then Organisation of African Unity and then anti-colonial blocs such as the Frontline States. There is a need for a return to Pan-African economic, social and political planning.

CONCLUSION

In conclusion, the continental free trade area poses many benefits for Africa if done in a spirit of Pan-African economic and social solidarity. Economic and social opportunities are possible from financial integration, unified currencies and free movement of goods, people, and services. Cooperation will also reduce destructive 'race to the bottom' competitions in trade negotiation with foreign multinationals. The free trade area must permanently protect environmental and social justice. African leaders and institutions must strive for solidarity, diversification, and justice in their trade relations with each other and with foreign multinationals.

There is a great need for a continental system that develops and enforces treaties outlining the responsibilities of multinational and domestic investors to desist from interference in political processes and to respect human and environmental rights. It would be amiss for the AU to come up with another neo-liberal trade agreement that does not ensure mandatory obligations on big businesses and foreign investors.

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