

Cooperation between Regional Economic Communities and the Integration process in Africa: Legal Appraisal of the Stakes and Opportunities

Tsayem Boukeu Romanie

Research Fellow, Faculty of Laws and Political Science, University of Yaoundé II, Cameroon

DOI: 10.55662/JLSR.2024.10506

Abstract

Many experts in regional integration are convinced that, in order to develop, Africa had to launch a programme of regional economic cooperation among its nations and Regional Economic Communities (RECs). This is because cooperation within and between RECs is considered as a key factor for development and integration in the continent. It is by dint of this fact that most scholars agree that cooperation within and between RECs must prevail amidst the numerous challenges plaguing the integration process in Africa. By selecting eight RECs as building bloc for the African Economic Community (AEC), the African Union agrees that cooperation is an indispensable means through which regional integration can be attained. This work seeks to give a legal appraisal of the stakes and opportunity of cooperation between RECs for integration in Africa. To unravel this, we carefully kempt and analysed the contents of some relevant legal instruments and some literature around the subject. The results of our analysis suggest that, the timid level of cooperation within the African continent is a major challenge to the integration process and therefore the challenges to cooperation must be dealt with if Africa must achieve the desired level of integration. Informed by this conclusion, we submit inter alia that, the AEC should adopt a protocol founded on “one country, one community membership” of the eight recognised RECs. We also avouch for a rationalisation of RECs in each sub-region through harmonisation.

Keywords: *Cooperation, Regional Economic Communities, African Integration, Legal Stakes and Opportunities*

1. Introduction

It is apparent that the issue of economic cooperation between neighbouring countries located in one geographical area is important within the context of the developing and underdeveloped economies of Africa. Studying the contemporary economic picture of Africa, it becomes apparent that as long as Africa remains divided into fifty-five separate economic entities and separate markets, the chances for rapid economic advancement are rather limited.ⁱ Many economic experts are convinced that Africa, in order to progress, had to launch a programme for regional economic cooperation among its nations. Only in this way can the size of the African markets be enlarged, the limited financial and technical resources pulled together, and the natural resources developed.ⁱⁱ

Nowadays intra-regional cooperation is considered an important factor for economic development. In fact, it is considered as a tool for resolving political, social and economic challenges. Africa has not been left out in the drive for regional integration.ⁱⁱⁱ A question that is of particular strong interest to this study has been recently raised in numerous discussions and publications: To what extent can the contemporary analysis of regional cooperation that has been presented largely with reference to the developed nations of Europe be applied to the less developed parts of the world?^{iv} In most developed regions of the world, economic growth and economy stability is due to the high level of international cooperation and intra-regional trade motivated by good policies.

Most scholars believe that the cooperation of RECs especially in the developing and underdeveloped nations presents totally different issues and, therefore, should be examined within a totally different framework. This is so as inter and intra-REC cooperation is not only seen as mechanism of redirecting and redistributing existing resources for economic growth and development of all but as a means to further integrate these RECs for an African integration.

2. Opportunities in an Enhanced African Continental Cooperation

African leaders have long recognised the need for closer regional ties between existing RECs in Africa as one of the ways to overcome the fragmentation of the continent, which act as one of the major constraints to its economic development. Inter and intra-REC cooperation was perceived by many African leaders and government as a promising vehicle for enhancing economic and social development in Africa. The idea was further reinforced by the relatively successful experiences of integration between Western European countries, the United States-Canadian Free Trade Agreement and other integration schemes among countries in Latin America and in the Pacific and Asian Region.^v

2.1. *Economic Benefits of Inter-Regional Cooperation in Africa*

Economically speaking, inter-REC Cooperation schemes benefit countries especially in situations when those countries are small and represent small markets. Under such conditions, intra-REC cooperation will enable the member countries to combine markets, enabling firms to expand and markets to be more competitive.^{vi}

An integrated market encourages competition among producers and provides scale benefits in production and more opportunities for specialisation.^{vii} With the cooperation of regional economic communities, the market size increases; and studies have indicated that market size and growth attract foreign investors.^{viii}

The existence of cooperation between and within RECs influences the direction of foreign investment. It encourages foreign investors to engage in tariff jumping-that is, investing in one member country in order to trade freely with all members-expanding investments by local and foreign investors.^{ix} However, the positive link between inter-REC cooperation and investment growth is not immediately clear^x as several factors influence the decision making of investors as to where to invest. An important factor in this regard is whether inter-REC cooperation has contributed to favourable investment climate in the regions. Apart from market size and growth, other factors like policy credibility influence the decision of investors to invest in a country/region. Improving the economic management or providing incentives may not be enough to gain investor confidence if the country has a history of bad policies.

Cooperation of RECs will gain trust of investors, as the agreement will help to lock in reforms made under the inter-REC cooperation agreement.^{xi} In such conditions, it cannot be denied that a cooperation scheme, which is properly designed and managed, can improve the investment climate, especially if it addresses infrastructure development of the region.^{xii} Larger markets, more competition and improved policy credibility are results of cooperation between and within REC arrangements, and these settings enhance the incentive for investment, thereby warranting the conclusion that inter-REC cooperation promotes the economic growth and poverty alleviation pursuits of member countries.^{xiii}

2.2. Socio-Political Benefits of Intra-Regional Cooperation in Africa

Intra-REC cooperation promotes a more complementary and sustained development of African countries, through the reinforcement of the regional infrastructure, a more efficient system of payment, greater access to credit, a more interrelated institutional system, a greater mutual awareness among economic agents operating in the different countries and above all, through growing technical complementarity and a greater development and integration of the productive sectors of African countries.^{xiv}

Although a majority of political leaders in Africa would agree today that cooperation between and within RECs should be at the centre of any regional development plan, nevertheless there exists a wide divergence of opinion whether inter and intra-REC cooperation should be limited to the industrial and trade sector or whether it should also include other sectors such as security, diplomacy, tourism, etc. There are experts who maintain that it is easier to start the process of intra-REC cooperation by limiting it initially to free trade between members of the cooperating RECs.

Despite the much effort put in place to foster inter-REC cooperation to reap some of these benefits, the results seem to be far fetch. This is caused by the numerous challenges impeding inter and intra-REC cooperation which has had a negative repercussion on the integration process in Africa as a whole. Though most if not all countries in Africa belong to a REC, the continent still suffers fragmentation especially with the plurification of RECs. With many RECs, Africa's aspirations toward political unity and cooperation is far fetch. It is worthwhile examining this and addressing the challenges to cooperation within and between RECs that has impede the integration drive in Africa.

3. Addressing the Challenges to Cooperation within and between RECs and their Repercussions on the Integration Process.

Not denying the fact that the RECs and AU have over the years developed good relations between African countries, these organs have been futile in the integration drive. The integration process in Africa is hindered not only by the remnants of the political and socio-economic hangovers from colonial past but also from unforeseen developments in the international economy. We cannot deny the fact that deficiencies in the economic, administrative, political, social and cultural systems of African countries has greatly slowed the process.^{xv} Africa just like many regional arrangements in the world face the challenge of intra-REC cooperation. The integration process in Africa has some peculiar challenges, intrinsic maybe because of the nature of its political arrangement. It is worthwhile perusing these challenges and recommending measures to overcome them.

3.1. Addressing the Challenge relating to the Legal Status of RECs in the AEC Treaty

A major challenge to inter-REC cooperation in Africa with great repercussion on the integration process is the poor regulation of the relationship between the AEC and the various RECs, between the RECs themselves and the relation between the AEC and member states in Africa. Although the RECs are the building bloc of the AEC, they are not members of AEC or parties to the AEC Treaty. It is the individual African states which are parties to the AEC Treaty and the treaties creating the RECs. States are often parties to more than one REC and this has often raised complex questions of knowing the extent to which the decisions of the AEC bind the RECs. Another question that begs for answer is that of knowing the legal basis for assuming that the RECs will one day merge to form the AEC since they are not parties to the AEC and they have their legal personality. Indeed, it is difficult to predict whether the RECs would willingly merge with the AEC.

One may also query whether the AEC has the will or legitimacy to impose its vision of an AEC on the RECs.^{xvi} If they were to merge and form the AEC, what will be the legal status of the REC's after the merger?^{xvii} The Protocol on Relations has not address these questions. It is worth noting here that, it may be practically impossible to have a merger of the RECs if at on set there is no cooperation between the RECs. This is because not all selected RECs as building bloc for the AEC have inter-RECs cooperation inscribed in their Treaty. This poses the

question of knowing how these RECs could subsequently merge without a minimum level of cooperation between them.

Since the treaties of the RECs were drafted after the AEC Treaty, it was expected that they will address the issues of their relations between themselves, with the AEC and of their status after the formation of the AEC more comprehensively and, perhaps, uniformly.^{xviii} As organisations created by treaties, the state parties retain an inherent right to terminate the treaty^{xix} if that is what will be needed for them to cooperate for a subsequent formation of the AEC. The attention of the AEC should be engaged especially for cooperation and merger issues as the RECs progress on the stages for integration.

There is, therefore, a need not only to redefine the aims and objectives of the RECs to include inter-REC cooperation but also to modify the aims and objectives of the AEC with targets that can be measured and which have a stronger, and more direct, causal relationship to regional integration. The stages of the AEC attempted to do this but made the assumption that the instruments, commitments and finances to be used to advance from one stage to the next would be in place. This was an in-hindsight mistake.^{xx}

3.2. Addressing the Challenge of Multiple and Overlapping Laws between the RECs

Another challenge to inter-REC cooperation is the existence of multiple and overlapping laws between member states. The dimension of the challenge posed by multiple and overlapping laws in the southern African integration process for example is that some of the member states also participate in other regional economic political and security groupings that extend beyond their geographical location. These groupings also join in the competition for the attention of the member states and therefore help in undermining the objectives of those regional groupings in the sub-region. For example, South Africa and Botswana both members of the Southern African Customs Union (SACU); Zambia is a part of the Common Market for Eastern and Southern Africa (COMESA); and Tanzania belongs to the East African Community (EAC). The overlapping membership into these different RECs means the existence of multiple laws and because there are different RECs with different missions, their objectives and laws will always overlap thus giving room for shopping.

The proliferation of laws resulting from the membership overlap enables forum shopping, whereby political leaders select and choose to implement from overlapping RECs which laws are of more interest to them. Since there are different RECs with different missions and since there is membership overlap, it makes cooperation difficult as it imposes a heavy burden on the limited administrative resources available in the member countries to be able to participate fully in the RECs. The Tripartite Free Trade area which came as a remedy to this challenge in the SADC, COMESA and EAC ended up being a Free Trade Area. As a panacea to this challenge, a policy framework should be created, expanding and deepening synergy between competing economic groupings. This will help in building a solid bloc as the laws will be harnessed.

3.3. The Challenge relating to the Multiplicity of RECs

Another challenge, which is closely related to the point above is the existence of multiple, overlapping and often conflicting regional integration arrangements within the same region.^{xxi} A major obstacle is thus the existence of multiple regional groupings pursuing the similar goals of integration, which are often in conflict with the focal points/building bloc for the continental union. That has created multiple centres of authority demanding cooperation, support and compliance with their agenda of integration. The problem has invariably become one of regional governance, where there is absence of one strong centre for building solid bloc. This calls for some degree of cooperation and compliance between these multiple groupings at the sub-regional level. A good number of examples can be cited here from the various sub-regions in Africa.

In the Central African sub-region, the Economic Community of Central African States (ECCAS) exists alongside the Economic and Monetary Community of Central African States with French acronym (CEMAC)^{xxii} although ECCAS is recognised as the pillar of the African Economic Community. In West African, ECOWAS and the West African Economic and Monetary Union (L'UEMOA its French acronym)^{xxiii} are two regional groupings competing to build an economic and monetary community among their members. These organisations have separate but interestingly similar organisational and governance structure. The Southern African sub-region faces the same issue with the South Africa Development Community (SADC) and SACU existing irreconcilably side-by-side.

Alemayehu^{xxiv} affirms that this proliferation of RECs makes harmonisation of policies very difficult. This is especially so in the areas of rules of origin and customs procedures on harmonisation where a massive information gap is noticed and at policy making and implementation levels. Within the central African sub-region, following the decision from the joint summit of heads of states of the contending RECs in the sub-region, a committee was created called the COPIL/CER-AC charged with the rationalisation and harmonisation of RECs within the sub-region. This is a measure which if emulated within other sub-regions, will indefinitely deal with this challenge.

3.4. Policies Detrimental to Smaller Economies

There are vast incoherent policies detrimental to smaller economies in Africa be it economic, political, social or legal policies. This brings disparity between the different African countries making it difficult to engage in equal level of openness,^{xxv} and may even cause delay in the adoption of decisions toward further integration. An example here is the 1996 draft SADC protocol on free movement of people. The draft protocol had the objectives of phasing in, over a period of 10 years, the free movement of citizens of SADC member states between and within countries in the sub-region and to regulate the movement of non-SADC citizens into and within the region.^{xxvi} However, the draft Protocol was abandoned as a result of opposition of South Africa, Botswana and Namibia to its adoption.^{xxvii}

While there is no agreed sub-regional legal framework on movement of persons within the SADC region, the economic dominance of South Africa made it an attractive destination for migrant workers, mainly entering the country through illegal means. This again ignites another challenge as migrant workers are considered as 'taking away' local jobs making them susceptible to marginalisation and, in worst-case scenario, to attacks. One cannot forget the 2008 xenophobic attacks on migrant African workers in South Africa and the recent cases. The sad thing is that there is no guarantee that such attacks will not happen in the future. The inter-RECs cooperation effort is challenging as the economic disparity in 'marriage between unequals' renders win-win reciprocities and mutual benefits difficult.^{xxviii} Under such settings of significant inequalities in economic performance and institutional competence, there can be no realistic cooperation between the RECs on free movement of people for example. Free movement of people is one of the primary features of inter-REC cooperation. This is a

challenge that is gradually affecting the AfCFTA. The sharing of benefits among “unequals” is a difficult thing to deal with. A measure that has proven to be successful in other regions of the world is the use of Special and Differential Treatment. We think that it is a measure that adapts squarely to the African context.

3.5. Infrastructural Challenges

Another very important challenge to inter-RECs cooperation in Africa, against the backdrop of inter-REC cooperation is that of infrastructure. Infrastructure deficit is a major constraint to economic growth and integration in Africa. Many countries in African are faced with telecommunication, air transport, road transport, rail transport and other challenges. If there are already inadequate transport facilities linking most African countries, how then can they cooperate within their sub-region for a subsequent cooperation between their REC and others. Infrastructure is one of the factors that facilitate integration in the region. The continent is portrayed with absence of the requisite institutional and physical infrastructure to ease cooperation for subsequent integration.

Sub-Saharan Africa’s (SSA) infrastructure has few regional linkages which keeps costs high. Many of these countries are characterised by lack of sufficient energy infrastructure. It is well recognised by the authorities in the continent that without adequate energy, among its member countries or develop sustainable industries, inhibiting its ability to improve the livelihoods of its population. For example, Ethiopia and Democratic Republic of Congo have significant potential to develop hydroelectric power. However due to their distance from other centres of economic activity, realising this potential requires coordination between countries both to create the physical infrastructure for long distance electricity transmission but also the institutional infrastructure to allow regional electricity trading to take place.

African integration will not be attained in the context of inadequate intra-regional infrastructures. Most RECs have good studies on regional infrastructure but lack funds to implement them. The Member States should allocate more budgetary resources to infrastructure and attract foreign direct investments to complement their efforts. Regional economic integration is about free movement of goods, capital and labour within and between RECs. Reducing Africa’s large infrastructure deficit in roads and ports will increase and ease cooperation between RECs across the continent.

3.6. The presence of many Landlocked Countries as a Challenge to inter-REC Cooperation

Africa is the most fragmented region in the world and is characterised by thick borders that pose significant challenges to cooperation for integration. With population slightly higher than that of China and India, Africa is home to 55 countries, more than any other continent, and the high fragmentation present a significant geopolitical challenge to cooperation. About 30% of the countries (16 countries) are landlocked.

As a result of the landlocked nature of the continent, cooperation between RECs and even between countries of the same REC is hindered by the time taken to trade^{xxxix} and uncertainty regarding the timing of trade due to the unreliability of logistics services, especially transit regimes for landlocked countries.^{xxx} Each additional day that a product is delayed before being shipped reduces trade by more than one percent. This effect is significantly larger for time-sensitive goods, which reduce a country's relative exports of such products by 6%.^{xxxi} The Citrus Growers Association of Southern Africa estimate that delays at the port of Durban cost its growers \$10.5 million per season on approximately \$400 million of exports.

The presence of 16 landlocked countries in Africa shared between the various RECs suffers from particular constraints. In addition to the longer transport distances (for the 16 landlocked countries the average closest distance to the sea is over 1,100 km³³), landlocked countries are also forced to rely on the infrastructure, institutional quality and political stability in their neighbouring countries. Landlocked countries also suffer complexities associated with seeking to facilitate the transport of goods across multi-modal journeys which are heightened by SSA utilising nine different railway gauges, although there are three that are most commonly used. Efforts to quantify the costs associated with being landlocked have discovered that the median landlocked country tends to incur transport costs 50% higher than those of the median costal country and to have trade volumes that are 60% lower.^{xxxii}

In addition to being handicapped by their location, evidence suggests that landlocked countries are also policy constrained,^{xxxiii} with the policies of landlocked countries in transport and telecommunications being on average twice as restrictive as elsewhere. This has the effect of creating a more limited access to services and induces a fall in the returns to infrastructure investments. This pattern is especially stark in SSA and suggests that there is hope for

landlocked countries to implement policies to enhance an overall integration with their neighbours.^{xxxiv} The handicap of location and policy constraints faced by these landlocked countries makes it difficult for these countries to cooperate with its neighbouring countries even in the same RECs.

3.7. The Challenge of Uneven pace of Integration between the RECs

The uneven level of integration and development between the RECs has proven to be a major challenge to inter-REC cooperation. A REC like the EAC, is at an advanced stage of development. It is difficult to predict whether they would willingly cooperate or merge with their less progressive counterparts such as the Inter-Governmental Authority on Development.^{xxxv} This for example may seem difficult when a REC advanced in its level of development has to cooperate with its counterpart still struggling with an early stage of integration that is, eliminating tariff and non-tariff barriers to trade. It is also arguable whether cooperation of the RECs will be supported by interest groups within the RECs.

3.8. Lack of Complementarities in the Circulation of Goods and Factors of Production between RECs

Much has been written on the challenges to regional integration in Africa. What most writers seem to have agreed on is that cooperation within and between RECs in Africa could ease the integration process, unanimity also lies on the fact that one way through which Africans could cooperate is by trading. Africa is one of the regions of the world with the lowest intra-regional trade, which account for 13.7% in 2022 from 17% of total Africa trade in 2019.^{xxxvi} This low level of inter-REC trade is a big challenge to ensuring inter-REC cooperation in Africa and it maximises the gain of integration.^{xxxvii}

Some scholars have argued that the continent will not realise significant progress in trade and cooperation since African economies and their products are homogeneous and in competition. This has become the basis for the conclusion that African countries have nothing to carry out trade exchange with and, therefore, without trade, there can be no inter-REC cooperation. Developed countries for example exchange a lot in trade despite the fact that they produce similar or competing goods.^{xxxviii} This is because the grounds for exchange decisions can arise from various factors: varying technical developments for production processes and product

differentiation, different structures of industrial and commercial properties, differences legal and political regimes and considerations of market access and location.^{xxxix} Even in situations where similar goods are produced, trade can take place on the basis of differences in production costs and externalities, which is the basis of comparative advantage thus permitting cooperation in trade.

3.9. Poor Implementation of Regional Cooperation Agreements

One of the notable challenges is the gap between agreements and their implementation in Africa.^{xl} The record of the implementation of protocols, treaties and decisions are not satisfactory. Hailu,^{xli} believes that it is attributed to “the adoption of unfeasible and unrealistic dates for implementation and lack of institutional architecture of the RECs that have the resources, power and authority to monitor the implementation of programmes and enforce decisions.”

The regional integration schemes introduced in Africa in the post independent years have been spurred at continental and sub-regional levels in anticipation of expected gains. A recent being the African Continental Free Trade Area (AfCFTA) Agreement. The AfCFTA aims at achieving integration in Africa by the promoting of free trade and the free movement of labour, goods, services and capital to bring economic growth and development in the continent.^{xlii} Since the agreement became effective, Africans expect that poverty and economic retrogression would be eliminated. The AfCFTA is a bold experiment in regional integration, with ambitious goals to transform its members’ economies through increased trade and increased integration in services, infrastructure, communications, and other spheres of economic activity. To achieve these AfCFTA’s goals requires unprecedented commitment by national and regional institutions.

Just like many other cooperation for integration schemes established in Africa, one of the drawbacks to the implementation of the AfCFTA for growth and development is that the expectations of the agreement do not take into consideration that the Continent’s high enthusiasm for regional integration has not been matched by commensurate political will and commitment of member states to effectively implement agreements reached under various integration arrangements. Not every country in Africa is prepared to surrender its sovereignty for the success of any regional integration scheme. Many protocols signed remain

unimplemented due to weak enforcement and implementation capacity as well as the absence of effective sanctions against defaulting member states. The failure to meet target dates set for the attainment of objectives is due to lack of political will by member states.

This is even the more glaring as the cooperation for integration effort in Africa has mainly been state centric, confined to a narrow group of political leaders. There has been little or no participation of the general public in discussing integration initiatives. Attention on integration issues is hardly given to CSOs in most African states. The decisions adopted at the continental and regional levels are done so with limited participation and discussion at the national level. This is manifested clearly in the process of negotiating the AfCFTA where most countries did not make use of stakeholders in the negotiations process.

3.10. *The Woes of Corruption*

The majority of African countries are plagued by the consequences of corruption, which is one cause of poverty and economic backwardness of the continent.^{xliii} It is pertinent to examine how corruption would further impact the implementation of agreements and its possible repercussion on inter-REC cooperation. In other words, can the goals for implementing agreements be achieved while the African continent has failed to tackle corruption?

It is noted that corruption among African nations is rife and in the Corruption Perception Index of 2023, the average score of African nations was 31/100 with only five countries scoring above 50.^{xliiv} This abysmal statistics does not reflect African nations' efforts in combating corruption notwithstanding that a significant number of them have ratified international and regional treaties on corruption like the African Union Convention on Preventing and Combating Corruption (AUCPCC) and even the United Nations Convention against Corruption (UNCAC). The African corruption index has been pervasive to the extent that the phenomenon is described as the "AIDS" of democracy.^{xlv}

Considering that the most cooperation agreements in Africa require the participation of civil servants working in consonance with the private sector across nations in Africa, it is noteworthy that a common cause of corruption in Africa that may pose a challenge to the implementation of agreements is the payment of low wages to civil servants.^{xlvi} This is because government poorly paid agents would impose rents on clients.^{xlvii} Gbemi Odusote and

Yakusak Aduak in their article^{xlvi} argue that the degree to which corruption is contained in Africa will determine the degree to which the African economy will thrive. In other words, if Africa refuses to combat corruption, its aspirations towards economic development and sustenance will remain illusory. This submission stems from the multi-dimensional effects of corruption as discussed above. Therefore, the success of any form of cooperation for integration in Africa will depend largely on the success recorded in the fight against corruption on the continent. It is therefore no longer an argument that failure in fighting corruption on the continent only spells doom on regional integration and the realisation of the economic benefits envisaged to flow from the implementation of agreements will only be a mirage, inter-REC cooperation being part of it.

4. Conclusion

The idea of regional integration continues to be populated despite the documented failures of its schemes and indications of current uncertainties. The enthusiasm for it is high and actually appears to be rising. The stakes may be limping (evidenced) by the challenges, but the law, via the legal mechanism identified, still provides for a myriad of opportunities. Inter-REC cooperation is an ideal that is apparently here to stay. The belief that the establishment of larger political and economic units in Africa would enhance the process of development is still popular. These larger units may not necessarily be concerned primarily with preferential trade arrangements but more broadly with cooperation between RECs on many issues. An approach to chart a path into the future is to devise suitable integration mechanisms and exploit the commitment to the ideal of cooperation in Africa at the same time, ensure that the regional integration arrangements contain strong outward oriented features.

The policy of regional integration has to be looked upon as a long-term commitment to attain distant goal rather than a short run solution to cope with some temporary difficulties or to achieve a few transient benefits. As mentioned earlier for regional development to be successful it has to have convincing features of permanency and irreversibility. Looked at from a different angle, time is certainly on the side of regional economic cooperation. The longer an individual project has been in operation, the better are the chances of its survival.

Considering the fact that most if not all the challenges discussed are directly or indirectly linked to poor policy, our propagation lies more on policy orientation. Looking through the

challenges, it is evident that most stem from the fact that there is no clear law or mechanism employed to regulate the relationship between AEC, RECs and countries. It is on this note that we propagate that there be an amendment of the protocol on relation defining with clarity the relation between the AEC, RECs, and member states in relation to the integration process and the progression that will be made to have this done.

Besides defining the relationship between these entities, the RECs have to be signatories to this law since they are separate entities from the countries. As pointed out above, RECs are not parties to the AEC Treaty thus making them one, will ignite their dedication and make them more incline to the integration drive. It is worth noting that the AU envisages a subsequent merger of these RECs to form the AEC. There is also a need to develop mechanisms that will hinder double membership of countries in RECs. This will curb multiplicity of membership in RECs. As a corollary to the above, it will be a booster to the integration drive if a piloting committee is created in every sub-region to coordinate the merger of RECs within that sub-region. This work has begun in some sub-regions and if this is the case in every sub-region with timely date of completion, then the challenge of multiplicity of RECs will be combatted.

Africa's economic integration arrangements are yet to reach a point where their constituents frequently have a single spokesperson in major international organisations. It is recommended in this work that, Africa should form a front through integration, to participate and influence decision making in some of the world's leading organisations like the World Trade Organisation (WTO) and actively participate in trade dispute settlement. Africa share a common trade interest and can coordinate their position to speak with one voice in the international scene. As a result of regional economic integration, in the form of customs union and free trade areas, and looser political and geographical arrangements, some groups of countries in the WTO are represented by a single spokesperson in meetings and negotiations. The member states of the EU for example have coordinated their positions in Brussels and Geneva and the European Commission alone represents the EU at almost all WTO meetings. The EU is a member of the WTO in its own rights just like each of its member states.

The AU contended that there is a great need to accelerate intra-African trade and boost the continent's trading position in the world through a strong common voice and policy on issues

around trade. There is significant potential for Africa to work together not only in consolidating already existing trading platforms but to also implement free trade agreements to tap the benefits that arise with implementation of the agreements.

In addition, to buttress some of the challenges affecting Africa's operation as a full and independent bloc, Economic Partnership Agreements (EPA) which are development-oriented trade agreements involving Africa, must be exploited. These agreements are often asymmetric, providing important advantages and safeguards to one party to the agreement. This is for example, the EPA between EU and the African, Caribbean and Pacific (ACP) countries, to foster sustainable economic development, regional integration and integration on world markets. The rationale behind EPAs is that reciprocal trade liberalisation should encourage economic development.^{xlix} An advantage with this form of agreement is that aside providing for tariff free trade to goods and services between nations as well as the elimination of other barriers to trade, it often includes areas like Investment, IPRs, government Procurement and even dispute settlement. Other examples of this Technical Assistance Schemes that can greatly influence the integration process in Africa is the China-Africa Cooperation.

To avoid provisions in agreements that could be detrimental to smaller/developing economies in a cooperation arrangement and challenges in the circulation of goods and factors of production between RECs for example, the WTO has set out principles that should serve as the foundation of multilateral trading system. Some of these principles are: Trade without discrimination (Most-Favoured-Nation Treatment and National Treatment Principles); free trade gradually through negotiations; predictability through binding and transparency; promoting fair competition; encouraging development and economic reform. Though these principles are not without challenges themselves, we believe that they set a base for the conclusion of cooperation agreements.

It is true most African countries have ratified international instruments for the fight against corruption, and have even developed national measures against this, but the reality seems to point at the fact that, these measures taken are not properly implemented. So far, this has been one of the major drawbacks of inter-REC cooperation, therefore this work comes just to add to the many plea that have been made on the subject seeking for better reforms at the national

level to combat this “HIV of development”. The cankerworm of corruption, which has eaten deep down the roots of the African society, is one of the causes of poverty and economic backwardness of the continent.

Generally, we strongly propagate that while crafting laws on cooperation for growth, development and integration in Africa, the legislators should consider the reality of the African continent, considering the challenges that are inherent to the continent. Replicating the success stories of other regional arrangements of the world to Africa without considering the peculiarity of the African society may only help in delaying the integration objective.

References

-
- ⁱ Scitovsky, Tibor. 1960. “Integration as a Means to Overcome Small Size” E. A. G. Robinson ed, *Economic Consequences of the Size of Nations*, McMillan and Co, London
- ⁱⁱ NC Vakil and PR Brahmananda. 1960. “The Problems of Developing Countries” E. A. G. Robinson, *Economic Consequences of the Size of Nations*, McMillan and Co, London, 136
- ⁱⁱⁱ Nguenhwe Ronie Bertrand and Jean Tchitchoua. 2019. “Intra-Regional Trade Facilitation: A Comparative Analysis between ECCAS and ECOWAS” available at [gtap.agecon.purdue.edu](https://www.gtap.agecon.purdue.edu) accessed on September 28, 2023
- ^{iv} Robson Peter. 1968. *Economic Integration in Africa*, Allen and Unwin Ltd., London, 32
- ^v Ndulo Muna. 1993. “Harmonisation of Trade Laws in the African Economic Community” Paper 65, Cornell Law Faculty Publications. <http://scholarship.law.cornell.edu/facpub/65> accessed on September 28, 2023, 103
- ^{vi} UNECA. 2004. *Assessing Regional Integration in Africa*, available at <https://repository.uneca.org/handle>, accessed on November 23, 2022.
- ^{vii} Colin McCarty. 2011. “African Regional Economic Integration: Is the Paradigm Relevant and Appropriate?” in Christoph Hermann and Jorg Philipp Terhechte (eds.), *European Yearbook of International Economic Law*, 350.
- ^{viii} A case in point is the surge of FDI from the United States to the newly formed European Economic Community at the time in the 1960s. It is believed that the integration of the European countries and enlargement of the market size as a result, was a major factor driving investors from the US to the EEC. See Vudayagiri Balasubramanyam and Griffiths David. 1993. “Regional Integration agreements and Foreign Direct Investment” in Kym Anderson and Richard Blackhurst (1993), *Regional Integration and the World Trading System*, Washington DC, World Bank, 147
- ^{ix} UNECA. 2004. op. cit. p 12-13
- ^x Maurice Schiff and Alan Winters. 2003. *Regional Integration and Development*, World Bank, Washington DC, 6
- ^{xi} Ibid, p. 108
- ^{xii} Colin McCarty. 2011. op. cit. p 351.
- ^{xiii} Martha Belete Hailu. 2014. “Regional Economic Integration in Africa: Challenges and Prospects” *Mizan Law Review*, Vol. 8, No.2, 307.
- ^{xiv} Ibid
- ^{xv} Omotayo Olaniyan. 2008. “Challenges in achieving Regional Integration in Africa” keynote address at the Southern Africa Development Forum on progress and prospects in the implementation of protocols In Southern Africa organised by UNECA-SA Lusaka, Zambia, 5
- ^{xvi} The AU’s vision in using RECs as building bloc in the formation of the AEC and the AEC Treaty fails to state with exactitude its ability to finance the cost of the Merger.
- ^{xvii} The United Nations Economic Commission for Africa (UNECA) (2004), conceives the future relationship between the AEC and the RECs in this way: After the [RECs] have achieved a customs union and a common market, they will merge to form the African Common Market, and the full-fledged African Economic Community

intervention will follow. The African Economic Community will take the lead on dealing with member countries, and the functions and structures of the (RECs) will be revised to serve as its implementation arms. See UNECA. 2004. *Assessing Regional Integration in Africa II: Rationalizing Regional Economic Communities*, p. 94.

^{xviii} Richard Frimpong Oppong. 2009. *Relational Issues of Law and Economic Integration in Africa: Perspectives from Constitutional, Public and Private International Law*; DPhil thesis, University of British Columbia. 74

^{xix} *Vienna Convention on the Law of Treaties*, 23 May 1969, 1155 United Nations Treaty Series 331, art. 54(b).

^{xx} Mark Pearson. 2019. "Regional integration in Africa: Need for a paradigm shift?" *Perspectives on the Soft Power of EU Trade Policy*, 125

^{xxi} Marcelo Olarreaga and Manuel de la Rocha. 2003. "Multilateralism and Regionalism: Trade Opportunities for sub-Saharan Africa" 38 *Africa spectrum* 1, 104

^{xxii} The acronym stands for: Communauté Économique et Monétaire de L'Afrique Centrale

^{xxiii} This acronym stands for Union Economique et Monétaire Ouest Africaine.

^{xxiv} Alemayehu Geda. 1998. "Trade liberalisation and Regional Economic Integration in Africa: The Case of COMESA" Policy Analysis Support Unit (PASU) of OAU, Addis Ababa.

^{xxv} Dejo Olowu. 2003. "Regional Integration, Development and The African Union Agenda: Challenges, Gaps and Opportunities" 13 *Transnational Law and Contemporary Problems*, 240.

^{xxvi} V Williams. 2006. "In Pursuit of Regional Citizenship and Identity: The Free Movement of Persons in the Southern African Development Community" *Policy: Issues and Actors*, Vol. 19, No1, 7.

^{xxvii} Another draft Protocol on the Facilitation of Movement of Persons was tabled as an alternative and approved by SADC in 2005, but has not entered into force as it has not secured the required ratification number.

^{xxviii} Martha Belete Hailu. 2014. *op. cit.* p. 324

^{xxix} Simeon Djankov, Caroline Freund, and S Cong Pham. 2010. "Trading on Time" *The Review of Economics and Statistics*, MIT Press, vol. 92(1), 166-173

^{xxx} Jean-Francois Arvis, Gael Raballand, and Jean-Francois Marteau. 2007. "The Cost of Being Landlocked: Logistics Costs and Supply Chain Reliability" <https://openknowledge.worldbank.org/handle/10986/2489> accessed on September 28, 2023

^{xxxi} Simeon Djankov, Caroline Freund, and S Cong Pham. 2010. *op. cit.*

^{xxxii} Limao Nuno and Venable Anthony. 2001. "Infrastructure, Geographical Disadvantage, Transport Costs, and Trade" *The World Bank Economic Review*, Oxford University Press.

^{xxxiii} Ingo Borchert et al. 2011. "Landlocked or Policy Locked? How Services Trade Protection Deepens Economic Isolation" *World Bank*, 1818 H Street NW, Washington DC 20433.

^{xxxiv} Losandro Abrego et al. 2020. "The African Continental Free Trade Area: Potential Economic Impact and Challenges" *International Monetary Fund*, 14.

^{xxxv} Richard Frimpong Oppong. 2009. *loc. cit.*

^{xxxvi} Dhruv Gandhi. 2019. "Figures of the week: Increasing intra-regional trade in Africa" [Brookings.edu](https://www.brookings.edu); see also UNECA et.al, *The CFTA in Africa –A Human Rights Perspective*, available at <https://archive.uneca.org/continent> accessed on November 23, 2022

^{xxxvii} UNECA. 2017. *Transforming African economies through smart trade and industrial policy*, available at <https://archive.uneca.org/transforming>, accessed on November 23, 2022

^{xxxviii} Wassily Leontief. 1965. "Factor Proportions and the Structure of American Trade" *Review of Economics and Statistics* 38: 437-460; Mahmut Hizioglu, Abdulkadir Hizioglu and Abdullah Hulusi Kokcam. 2013. "An Investigation on Competitiveness in Services: Turkey Versus European Union" *Journal of Economic Studies* 40 (6). 775-793; GH Beyene. 2014. "Trade Integration and Revealed Comparative Advantages of Sub-Saharan Africa and Latin America & Caribbean Merchandise Export" *The International Trade Journal* 28 (5), 411-441.

^{xxxix} Imad Karim and Ibrahim Ismail. 2007. "Potential for Agricultural Trade in COMESA Region: A Comparative Study of Sudan, Egypt and Kenya" *African Journal of Agricultural Research* 2 (10), 481-487; Limao Nuno and Venable Anthony. 2001. *op. cit.* p. 451-479

^{xl} BKS Asante. 1996. *The Strategy of Regional Integration in Africa*, Accra, Ghana: Friedrich Ebert Foundation.

^{xli} Martha Belete Hailu. 2014. *op. cit.* p. 318

^{xlii} Article 3 of the Agreement Establishing the African Continental Free Trade Area

^{xliiii} John Mukum Mbaku. 999. "Corruption Clean-Ups in Developing Societies: The Public Choice Perspective" *International Journal of Public Administration*, 22, 309-345. Available at <https://doi.org/10.1080/01900699908525385>, 321; Graf Johann Lambsdorff. 2005. "Consequences and Causes of Corruption: What Do We Know from a Cross-Section of Countries?" *Passauer Diskussionspapiere: Volkswirtschaftliche Reihe*, No. V-34-05, 4-14.

-
- ^{xliv} Transparency International. 2023. "Corruption Perception Index" Available at https://www.transparency.org/en/cpi/2023?gad_source=1&gclid=EAIaIQobChMI5On53-GDiQMVxGJIAB3gXBXBEEAAYASAAEgJcbvD_BwE accessed on October 10, 2024
- ^{xliv} RK Hope. 2000. "Corruption and Development in Africa" In B. C. Chikulo, *Corruption and Development in Africa*, (Ed.) Macmillan, 17-39, Available at https://doi.org/10.1057/9780333982440_2, 17-18
- ^{xlvi} Inge Amundsen. 1999. "Political Corruption: An Introduction to the Issues" CMI Working Paper, CHR Michelsen Institute. 3, 17.
- ^{xlvii} Matthew Page. 2018. "A New Taxonomy for Corruption in Nigeria" Carnegie Endowment for International Peace. Available at <https://carnegieendowment.org/2018/07/17/new-taxonomy-for-corruption-in-nigeria-pub-76811> accessed on September 28, 2023
- ^{xlviii} Gbemi Odusote, Yakusak Aduak. 2022. "Implementing the African Continental Free Trade Area Agreement (AfCFTA) and the Challenges of Corruption in Africa" *Open Journal of Political Science*, 2022, 12, 321-336 available at <https://www.scirp.org/journal/ojps> ISSN Online: 2164-0513 ISSN Print: 2164-0505, 329.
- ^{xlix} Frederik Stender et al. 2020. *The Trade effect of Economic Partnership Agreements between the European Union, the Africa, Caribbean and Pacific Group of states*; Discussion Paper / Deutsches Institut für Entwicklungspolitik