



3rd EU-Africa Business Forum

September 28-29, 2009

Nairobi, Kenya

Discussion Paper on Trade & Regional Integration



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Introduction

The Breakout Session on Trade & Regional Integration as part of the EU-Africa Business Forum provides an opportunity for the delegates to discuss and debate a number of important topics, action steps and initiatives relative to trade & regional integration in Africa, which is a crucial area with regard to improved economic development in Africa and the success of government pro-poor policies, as well as achieving the UN Millennium Development Goals and a gradual integration of African economies into the global economy. One of the first priorities of the European Commission co-operation policy in Africa is the encouragement of intra and inter-African trade as well as regional integration.

Three main topics have been selected for discussion:

- ✓ **How to make the integration efforts more effective and integration a reality?**
- ✓ **Ways the African and European private sector can contribute to the process of reforms and transition to an integrated Africa**
- ✓ **Identify priority areas where reforms need to be accelerated, in particular with the support of the private sector**

These three topics are set out below in this discussion paper.

The Session also provides an opportunity to review the recommendations in three key areas with regard to trade & regional integration, which were agreed at **the Second Business Forum** held in Accra, Ghana from 21 - 22 June 2007. These three recommendations are set out in Annex 1 below, together with details of what actions have been taken and what has been achieved as regards to these four recommendations by the time of this Third Business Forum in 2009.

An **Agenda for the Trade & Regional Integration Breakout Session** is also set out below in Annex 2. The Agenda includes the timings of the three main topics to be discussed.



How to make the integration efforts more effective and integration a reality?

To make current efforts toward integration in Africa more effective, it is necessary to recognize the difficulties that frustrated previous attempts and thus reflect appropriate lessons drawn from past experience both in Africa and elsewhere. The past challenges are many and varied, however, for the purposes of our discussion this write-up will focus on some selected experiences and lessons.

One of such lessons is that integration should not necessarily be concerned **primarily with preferential trade arrangements** among groups of African countries but **more broadly with cooperation on a much wider range of economic issues**. This is because no significant economic gains can be expected from access to larger African regional markets as a result of preferential trade liberalization within such markets. This conclusion is derived from the fact that African exports are not significant imports in African countries. Indeed only a very small share of the regional import needs can be met from its export capacity. African countries mostly export primary commodities – and rarely the manufactured products needed by their neighbouring integration partners – and thus face the basic developmental challenge of how to achieve diversity and growth of exports. The resulting high degree of non-complementarity of the region's exports and imports thus restricts the potential positive impact of trade-focused preferential trade arrangements among countries within the region, given the structure of their economies.

Another key lesson of experience suggests that regional integration schemes should constitute an extension of the domestic reforms of the member countries. Specifically member countries should attain a certain measure of macroeconomic stability and a competitive domestic economy in order to enhance the viability and effectiveness of a regional trade arrangement. These lessons of experience as well as the initial conditions and structural characteristics of African economies suggest that Africa should focus on the establishment and maintenance of macroeconomic stability, reduction of transactions costs, and rapid accumulation of human and physical capital as prerequisites for establishing more successful regional integration and cooperation arrangements among groups of African countries.

An aspect of regional integration in Africa also worth examining relates to the overlap in membership of the various regional integration agencies. The vision of regional integration that is articulated in the Lagos Plan of Action envisages a structure in which regional economic cooperation (REC) agencies (one from each sub-region of Africa) will feed into the continent-wide African Economic Community (AEC) and eventually fall



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away as the latter becomes fully operational. The AEC's Treaty provides that the RECs will serve as the building blocks for continental integration. This perspective has clearly been challenged by practical developments in various sub-regions of Africa. Except in the North where the Arab Maghreb Union (AMU) remains the sole sub-regional REC, all other sub-regions have more than one integration arrangement resulting in varying degrees of duplication and overlap in their membership and mandates. Attempts to resolve these issues have met with mixed results. However the AEC has set itself the target date of 2017 by which time it expects to complete the establishment of a free trade area and customs union in each regional bloc.

The effective implementation of regional integration schemes in Africa has also been constrained by another set of problems. In broad terms, these difficulties revolve around the lack of clarity regarding the functions, responsibilities and powers of the different organs involved in various regional integration arrangements. In many cases, this lack of clarity results in virtual impotence of the entire arrangement since the central body often lacks authority and resources to act on its own initiative while there are often no focal points at the national level with responsibility to act.

The forgoing brings up the subject of effective integration mechanisms for linking African countries together. In this context, two broad types of linkage mechanisms are proposed. One may be conceptualized through the development of regional infrastructure in the broader context of a more general framework that seeks to reduce intra-African transactions costs. The other through the stabilization and harmonization of key macroeconomic and sectoral policies, aimed at creating and sustaining an investment – inducing and growth-enhancing economic environment, and the endowment of these policies with as much credibility as possible. In view its significance and influence in the integration process, the rest of this section is devoted to a discussion of the first linkage mechanism.

A number of factors account for Africa's high costs of transactions. First, transport costs are high because so many African countries are landlocked, the regions transport system is insufficiently competitive and transport is unreliable. Second, transactions costs are high because contract enforcement is made particularly difficult by judicial systems that don't work well. Third, the cost of information is high, due partly to the high cost, unreliability, and low density of Africa's telecommunications systems. The generally poor quality of the region's ancillary public services provides the fourth and final reason why transaction costs are high in Africa. Clearly, without reducing transaction costs to world levels, the potential for expanding intra-regional trade will remain largely unfulfilled.

A significant component of Africa's high transactions costs is explicable in terms of infrastructural deficiencies, which suggests the existence of considerable potential for regional cooperation in the more effective provision of infrastructural services. Some of



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these regional infrastructural programs and projects have been or are being undertaken by several integration groupings, including for example ECOWAS and SADC. NEPAD too has made regional infrastructure a major area of its focus. The establishment of regional transport networks through removal of cross-border transport bottlenecks, additional investment in missing links and upgrading of existing roads and railways are among the priority programmes and projects of most African regional integration arrangements. **Undertaking the investment outlays and regulatory and administrative reforms required for ensuring the adequacy and efficiency of transport and transit systems—within and between countries--would be the single most important intervention aimed at facilitating intra-regional trade and investment.** Regional electric grids and power pools, and other energy projects are other promising areas of cooperation. Examples include the West African gas pipeline project, the Southern African power pool and the telecommunication cable in the Indian Ocean: East African Submarine Cable System (EASSy).

In addressing the issue of high transaction costs through the development of regional infrastructure, it is also worth noting that a model pilot project has been designed for the ECOWAS region with potential for replication throughout the rest of the continent. This plan, the Abidjan-Lagos Corridor project, is part of the Pan-African Highway that is supposed to cut across all of Africa and end up in Mombasa, Kenya. The proposal has the following strategic objectives;

- To build and strengthen technical, institutional and organisational capacities to overcome sanitary & phyto-sanitary, technical barriers to trade and non-tariff barriers to trade
- Assist in developing hard and soft infrastructure that would remove and suppress trade barriers, facilitate trade, transport & free movement of goods, services & people
- To fully engage the private sector & explore alternative trade dispute resolution mechanisms

With lessons from the examples of regional projects given above, this plan needs to be properly appraised financially and packaged with the “hard infrastructure”¹ component promoted to potential investors. The investment required for such regional infrastructure is often substantial. There is therefore the need to have clearly defined functions and responsibilities for the regional agencies, the cooperating governments and (potential) independent (local or foreign) private investors. The implementation of this plan will also entail enhancing the project planning and management as well activity delivery capacities of all key stakeholders.

¹ The “hard” infrastructure component includes most of the transport and communication facilities and energy supply



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Similar potentials also exist for regional cooperation for the development of various trade-facilitating and investment-promoting regional cooperation activities aimed at developing stock markets, insurance and trade credit facilities, and efficient intra-African trade payments systems.

Ways the African and European private sector can contribute to the process of reforms and transition to an integrated Africa

Private sector expansion and growth is an objective of the integration process in Africa. The process presents the sector with significant benefits and opportunities as well as challenges. As a consequence of the integration process the private sector has to be aware of the erosion of trade preferences, the implications of multiple trade negotiations and significant new obligations. The benefits expected from integration will be neither achievable, nor sustainable, without a business-friendly environment and a strongly engaged business sector. Therefore both the public and the private sectors must prepare themselves for the significant changes that will result from integration.

The private sector needs to be mindful of the main areas and processes of integration such that it has a clearer overview of where it will be most impacted – and also some indications of where it will need to use its scarce advocacy and influence resources. Experiences from elsewhere indicate that the private sector has to organise itself at a regional level, as best possible, to try and follow, engage in and influence the entire cycle of regional integration from the inception of ideas to the implementation and enforcement of legislation in member countries. Indeed regional integration can only be successful if it is built on multi-stakeholder input and support – and the private sector is the most important of these stakeholders. It is therefore vital that the private sector is able to find mechanisms to act as a coherent and constructive partner in the regional integration process.

At a general level any regional project needs to have: (i) a treaty that is subscribed to by all members, (ii) a set of institutions to pursue these goals and within which decisions can be taken, (iii) a commitment to a gradual, transparent and well-timed elimination of barriers, and finally (iv) the creation of a series of well sequenced common policies. These four elements are fundamental to the overarching project and the private sector needs to have a clear perspective on these issues and formulate strategies to influence them.



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An integrated Africa can only succeed on the basis of confidence – a confidence that all the right rules are in place and applied fairly, a confidence that problems can be solved quickly, that there is fair competition, that there is equal access to information and influence – and the private sector needs to be both a consumer and producer of these elements of confidence. Above all else the private sector needs to help create a regional integration process in which it itself has full confidence.

Specific ways in which the private sector can contribute to the process of reforms and transition to an integrated Africa include the following:

1. Commitment to and propagation of the integration message

A declaration, treaty, or piece of legislation alone is not enough to ensure regional integration. The private sector has a key role in taking steps to make sure the benefits of integration are filtering down to the correct places – improving efficiencies and reducing costs. The private sector needs to have a single, unified and strong regional voice. It needs to ‘think regional’.

2. Information gathering and analysis

The private sector needs to have access to key facts and data on what is needed on the ground – and a mechanism to translate/adapt these into strong messages for policy-makers. This should include up-to-date trade statistics.

3. Creation of business opportunities and provision of services

The process of implementing an integration project is going to be one of great uncertainty and significant structural reform for the private sector. These challenges need to be turned into opportunities. Whilst most regional integration is politically driven, the private sector can still turn it into business driven integration.

4. Negotiations

The integration process is all about compromise and negotiation. These are skills that the private sector will have to ensure it has at a regional level. There will be compromise and negotiation within policies and sectors, but also between them – the private sector needs to identify its priorities very clearly so that it can advocate them coherently and consistently.

5. Advocacy

The private sector needs to gather information, plan, analyse and build long-term strategies for advocacy. The more coherent and consistent the private sector is the more credible a partner it is.

6. Engagement and Monitoring the process

Regional integration cannot survive without a strong, engaged and committed private sector. Integration has a vital element that is about creating opportunities for business – the private sector has a vital role to play highlighting where these opportunities are –



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and where they are not. The most difficult task for the private sector will be maintaining engagement in an uncertain process – but a strong, coherent and consistent business message will be a powerful tool to help the regional integration initiative.

The foregoing presumes that the private sector has the institutional and operational capacity as well as the resources to contribute effectively to the process of reforms and transition to an integrated Africa. Unfortunately, institutions representative of businesses in African countries have serious challenges. They are limited in coverage at the national level and are only now beginning to be formed at the regional level. In the main, these institutions face organizational weaknesses relating to (i) inadequate trained staff, (ii) lack of outreach capacity, (iv) lack of programme funds, (v) lack of information dissemination facility, and (vi) lack of institutional networking. They are, however, a potentially important component of the private sector as they can give voice to small-business owners, for example in contributing to policy formulation and also in educating and disseminating information about the regional integration process to their constituents as well as monitoring and reporting on the process. Thus, these institutions if sufficiently funded to allow the employment of professional staff and advocates can have a significant influence on the integration process in Africa. Clearly, this is an area where their more matured European counterparts can contribute to the process in Africa by partnering them in building their capacities either through various twinning arrangements or other schemes.

The integration processes by addressing factors that affect the business climate also create business opportunities for the private sector to contribute to the process of reforms and transition to an integrated Africa. Some of these opportunities will require significant levels of investment capital and technical know-how that European businesses may supply. Other business opportunities may also facilitate the formation of joint ventures between African and European businesses.

**Identify priority areas where reforms need to be accelerated,
in particular with the support of the private sector**

Important milestones have been achieved in the integration process in Africa. FTAs, Customs Unions and Investment Zones have been put in place and a number of



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countries have signed up to organizations that promote the harmonization of laws and standards. However the effectiveness of some arrangements is impeded by failure to ensure compliance or adaptation at the national level. For example, many countries have yet to take necessary measures to make OHADA² laws applicable. Also in spite of the promulgation of ECOWAS Protocol on Free Movement of Goods and Persons, its implementation is fraught with many challenges.

In effect, the non-implementation or poor implementation of common integration commitments has become a major area of concern. Literature on the subject of developing country RTAs cite the sources of this state of affairs to include domestic political sensitivities, lack of technical capacities in government agencies and cascading workload of implementation. Review of initiatives undertaken to implement recommendations on Trade issues following the Second EU-Africa Business Forum held 2007 also suggest the lack of resources as an additional reason for the non-implementation of common integration commitments.

Private sector support in addressing this implementation challenge could be in the form the sector mobilising itself to pressurize responsible agencies to perform. In the specific instance of integration commitments requiring investment finance, businesses could be courted within a PPP framework to finance such projects after the necessary due diligence and the projects' viability have been established.

Another priority area of concern where the private sector could use its influence would be the issue of overlapping membership of regional bodies. The burden of any duplication or conflict arising out of this state of affairs will fall on the private sector. Hence, the sector should also be interested in using its influence in addressing the situation.

Thus with the foregoing in view, priority areas where reforms need to be accelerated, in particular with support of the private sector would include:

1. The enforcement of all integration-enabling laws, regulations and protocols
2. Engagement of civil society in the integration process
3. Identification, preparation and implementation of integration-facilitating infrastructure projects.

² *In French-speaking Africa, the Organization for the Harmonization of Business Law in Africa (OHADA) governs business laws in 16 African countries*



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4. Review of business-impeding legislation.



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Conclusion

The results of the discussions and debates on the four key topics set out above will be summarised and taken into account in preparing the Declaration that will be issued at the end of the Business Forum. So it is very important that we have very good in depth discussions and debates on all the issues included in these four key topics regarding improving trade and regional integration, as well as actions to be taken to advance the implementation of those parts of the earlier recommendations not yet achieved.

In addition, there will be a summary of the proceedings of the Business Forum and a new set of Recommendations or focus in key areas made and agreed by the delegates at this Business Forum, for actions to be taken and reviewed at the Fourth Business Forum to be held in two year' time, covering both the advancement of implementation of the earlier recommendations were necessary and the implementation of the new recommendations.



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Annex 1: Status of implementation of EU-Africa Business Forum recommendations.

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WORKING GROUP: Trade & Regional Integration				
Overall Goals	Encourage regional African market integration (intra- and inter-regional trade)			
"ACCRA RECOMMENDATIONS"	PUBLIC SECTOR RESPONSIBILITY	PRIVATE SECTOR RESPONSIBILITY	TIMEFRAME/CONCLUSION	ACHIEVEMENTS BY 2009
The four African EPA regions must deepen their regional markets to create more trade and investment opportunities through improved trade-related governance	Enabling laws, regulations and protocols. Transparency of procedures and regulations. Transit rules and benchmarks. Fines for countries that cause transit problems. Coordination of WTO negotiations and rules..	Regional communities and national governments to reduce border delays by 50% in average. Private sector to monitor the progress. AU to assist as appropriate	End 2008	<ul style="list-style-type: none"> • <i>Regional Strategy Papers and Indicative Programmes of the 10th EDF, focusing on regional integration were signed with ECOWAS, SADC, and COMESA. The programme for Central Africa will be signed shortly.</i> • <i>Signs of deeper integration in Africa include (a) ECOWAS moving towards completion of its Customs Union (b) COMESA and SADC have made progress towards their respective free trade areas (c) EAC has consolidated its custom union. (d) COMESA, EAC, SADC have launched "Tripartite Process" for a free trade agreement</i>
	Develop capacity of law enforcement in terms of trade infringements. Set up training programmes for customs & police officials. Launch public awareness programmes	National governments to set up training programmes for customs and police officials and to launch public awareness programmes. Private sector to monitor.	End 2008	
	Establish Alternative Dispute Resolution, e.g. SOLVIT-like systems, to facilitate intra- & inter-regional trade.	Regional communities to launch feasibility study with the support of the AU and in consultation with private sector	Mid-2008	<i>Study conducted and Kick-off Workshop held for representatives of ECOWAS Member States.</i>
	Strengthen organisation & capacity of African private sector at regional and continental level (improve advocacy / better representation).	African business groups to form regional platforms	Mid-2008	<i>Private ECOWAS Financial Improvements Board (PEFIB) has been established</i>



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<p>With the EPAs, work towards effective liberalisation of goods and services with business support for asymmetrical trade liberalisation between EU and Africa</p>	<p>Urgently conclude EPAs on terms ensuring that liberalisation contributes to development.</p>	<p>EU and regional communities</p> <p>African negotiators to ensure close consultation with African business, and</p> <p>African business to make concrete proposals to identify priority and sensitive sectors.</p>	December 2007	<ul style="list-style-type: none"> • <i>Interim EPAs with basic features of full-blown EPAs concluded with Ghana, Cote d'Ivoire, Cameroon, members of the SADC and COMESA EPA groups</i> • <i>Negotiations towards comprehensive regional EPAs designed to foster development and regional integration, while respecting WTO rules ongoing.</i>
	<p>Clear and achievable rules of origin that facilitate trade and investment</p>	<p>EU and regional communities</p>	September 2007	
	<p>With aid for trade, support African exporters in meeting SPS, TBT measures</p>	<p>Donors, regional communities and national authorities to conduct needs assessments involving private sector.</p>	December 2007	<p><i>The European Commission has launched an initiative towards regional "aid-for-trade packages" on the basis of the strategies and programmes of the 10th EDF</i></p>
	<p>Identify non tariff barriers (NTBs), gather information and delivery effectiveness of taxation policies and trade-facilitation programmes</p>	<p>Set up or consolidate business networks in each region</p>	Mid-2008	<p><i>Draft action plan aimed at facilitating trade through the removal of NTBs developed for ECOWAS.</i></p>
<p>Create the conditions to increase investments generating local added value in Africa through harmonised legislative and regulatory frameworks and better governance</p>	<p>EPA rules for investment should include right of establishment, national treatment, non-discrimination and address the incentives/disincentives for investment and include bilateral dispute settlement. They should include bilateral dispute settlement.</p>	<p>EU and regional communities</p>	December 2007	<p><i>Common Investment Policy Framework & Draft Community Investment Code for ECOWAS developed.</i></p>
	<p>African regions should establish pro-competitive service market regulations in development priority sectors</p>	<p>Regional communities to identify, in collaboration with the AU, strategic priority areas in consultation with private sector</p>	Mid-2008	<p><i>Supplementary Act on Investment Rules, competition and establishment of a competition agency adopted by the Authority of ECOWAS Heads of State and Government</i></p>



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	<p>African countries should establish or strengthen the capacities of investment promotion agencies to assist investors in meeting administrative requirements</p>	<p>National governments to review current situation in close cooperation with private sector and with assistance of the AU</p>	<p>Mid-2008</p>	<ul style="list-style-type: none"> • <i>Selected African countries have revised their investment codes/laws</i> • <i>Many African countries have developed, or are in the process of developing a 'Single Window' environment that aims to expedite and simplify information flows between trade and government</i> • <i>Countries in Africa have decided to form a Pan-African Alliance to develop a network across the continent to simplify the electronic exchange of cross border trade data, to help share experiences and to promote paperless trade</i> • <i>COMESA RIA best practices in Investor Relations and Servicing Project launched</i>
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Annex 2: Agenda for breakout sessions on infrastructure

28th September 2009 (Part 1)

Time	Speaker	Topic
14:30 – 14:35	Moderator	
14:35 – 14:45	Co-Chairs	Introduction & welcoming
14:45 – XX.XX	Discussion	<p><u>Topic No. 1:</u></p> <p>How to make the integration efforts more effective and integration a reality:</p> <p>a) XXXX</p> <p>b) XXXX</p>
XX.XX	Discussion	<p><u>Topic No. 2:</u></p> <p>Ways the African and European private sector can contribute to the process of reforms and transition to an integrated Africa</p>
XX.XX		<p><u>Topic No. 3:</u></p> <p>Identify priority areas where reforms need to be accelerated, in particular with the support of the private sector</p>
XX.XX – 18:00	Moderator	Preliminary Conclusions



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29th September 2009 (Part 2)

Time	Speaker	Topic
10:30 – 10:40	Moderator	Résumé of Preliminary Conclusions
10:40 – 10:50	Co-Chair 1	Comments
10:50 – 11:00	Co-Chair 2	Comments
11:00 – 11:20	Participants	Discussion
11:20 – 11:30	Moderator	Final Conclusions