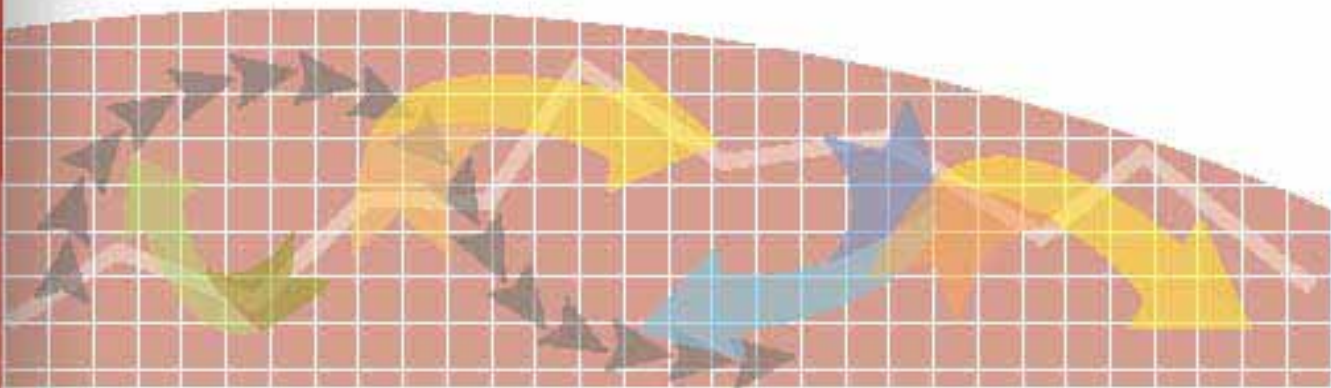


Towards an African common market for agricultural products



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Suffyan Koroma
Economist (Trade), FAO

Victor Mosoti
Development Law Officer, FAO

Henry Mutai
Consultant

Adama Coulibaly
Consultant

Massimo Iafrate
FAO

Trade Policy Service
Trade and Markets Division

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
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Acronyms and abbreviations

ACP	African, Caribbean and Pacific
AEC	African Economic Community
AGOA	African Growth and Opportunity Act
AoA	Agreement on Agriculture
AMU	Arab Maghreb Union
AU	African Union
AUC	African Union Commission
CAP	Common Agricultural Policy
CAR	Central African Republic
CEMAC	Economic and Monetary Community of Central Africa
CEN-SAD	Community of Sahelian States
CET	Common external tariff
CTN	Common Tariff Nomenclature
COMESA	Common Market of Eastern and Southern Africa
CMAP	Common Market for Agricultural Products
CU	Customs Union
DRAS	Democratic Republic Arab Saharaoui
DSBM	Dispute Settlement Body and Mechanisms
EAC	East African Community
EBA	Everything but Arms
EC	European Community
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
EEC	European Economic Community
EFTA	European Free Trade Association
EMU	Economic and monetary union
EPA	Economic Partnership Agreement
ESA	Eastern and Southern Africa
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FTA	Free Trade Agreement
FTA	Free Trade Area
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
GNI	Gross National income
GSP	Generalized System of Preferences
HS	Harmonized System
ICT	Information, Communication and Technology
LDC	Least Developed Country
MFN	Most Favoured Nation
NIS	Newly independent states
NIN	Newly Industrialized Nations (NIN)
OECD	Organisation for Economic Co-operation and Development
RoO	Rules of origin
RoW	Rest of world
REC	Regional Economic Communities
RIA	Regional Integration Agreement
RTA	Regional Trade Agreement
SACU	Southern African Customs Union

SADC	Southern African Development Community
SDT	Special and differential treatment
SP	Special Product
SPS	Sanitary and Phytosanitary Standards
TBT	Technical Barriers to Trade
TCP	Technical Cooperation Programme projects
TDCA	South Africa Trade, Development and Co-operation Agreement
TRAINS	Trade Analysis and Information System
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TRQ	Tariff Rate Quota
UEMOA	Western African Economic and Monetary Union (in French)
UNECA	United Nations Economic Commission for Africa
UNCTAD	United Nations Conference on Trade and Development
UR	Uruguay Round Agreement on Agriculture
US	United States of America
WAEMU/UEMOA	West African Economic and Monetary Union
WITS	World Integrated Trade Solution
WTO	World Trade Organization

Acknowledgements

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Text formatting and layout:

Emily Carroll, Trade Policy Service, Trade and Markets Division, FAO

Rita Ashton, Commodity Markets, Policy analysis and Projections Service, Trade and Markets Division, FAO

Claudio Cerquiglini, Commodity Markets, Policy analysis and Projections Service, Trade and Markets Division, FAO

Executive Summary

This study is carried out in the context of an FAO/African Union project whose objective is to provide an analysis of the feasibility of establishing an African Common Market for Agricultural Products. The study examines the key legal and economic issues involved in establishing an African Union Common Market in Agricultural Products (CMAP). In particular, it examines how national and regional policies and instruments can be used to foster trade in strategic products and recommends strategies as to how the goal of a continental common market might be attained. It does this by first discussing the legal dimension of cooperation and revisiting the rationale for the commitments made by African states. It then examines the multilateral requirements for the establishment of preferential trading arrangements as well as the measures that have been agreed upon at regional and international levels relating to market integration. The study then reviews the principles underpinning the Constitutive Treaty of the African Union and within the context of the various regional trade agreements pursued by Africa's Regional Economic Communities (RECs), focussing on provisions that impact on trade in general and agricultural trade in particular. In doing so, it examines both the economic and institutional arrangements that currently exist for harmonising trade and proposes measures that could be taken to strengthen these arrangements.

The analysis reveals that there already exists a broad consensus that increased intra-regional trade liberalisation will be beneficial for the continent and that indeed, a roadmap to this effect already exists in the form of the Treaty Establishing the African Economic Community. However, due to the poor performance of Africa's agriculture and food security situation and developments in the global trading environment, the need to fast track intra-regional trade liberalization has been the subject of several declarations and decisions by African Heads of State to move this process forward without prejudice to the overall objectives of the Treaty of African Economic Community.

In particular, it has increasingly been recognised that enhanced intra-regional trade through strengthened regional integration arrangements (RIAs) holds the key to Africa's agriculture and food insecurity problems. The preferred strategy rests on the common notion that African food and agricultural markets are extremely fragmented along sub-regional, national and even sub-national levels, resulting in segmented markets of sub-optimal size which hinders the profitability of sizeable private investment in the different stages of the commodity chain. These gaps between regional/national production and regional demand are increasingly being filled by imports of non-African origin, even in cases where tradable surpluses exist.

A practical solution to this problem evolved during the 2004 AU Meeting in Sirte, Libya and subsequently in the December 2006 AU/NEPAD Summit on Food Security in Africa¹. The idea is that to achieve significant economies of vertical integration and scale in African agriculture, emphasis should be placed at the regional/sub-regional level on a limited number of Strategic Commodities without prejudice to ongoing efforts at sector-wide developments. Thus, for selected strategic commodities, a Common African Market that transcends national and sub-regional borders would offer an appropriate

¹ Summit on Food Security in Africa, December 2006, Abuja Nigeria, AU/NEPAD

economic space to foster private investments at the level of regional economies. This implies that, for the selected strategic commodities, there is a need to move market integration beyond the current pace of reform to create a Free Trade Area (FTA) at the continental level. The strategic commodities would be those commodities that:

- represent an important weight in the African food basket;
- weigh significantly in the trade balance in the region through their contribution to foreign exchange earnings or are imported in large quantities to make up the gap between Africa's production and demand; and
- have considerable unexploited production potential in Africa, owing mainly to internal supply-side constraints as well as external impediments such as agricultural subsidies and support measures used by Africa's trading partners.

In the light of these developments, the Abuja 2006 Food Security Summit, calls on African countries to: *"promote and protect rice, legumes, maize, cotton, oil palm, beef, dairy, poultry and fisheries products as strategic commodities at the continental level, and cassava, sorghum and millet at subregional level, without prejudice to focused attention being given also to products of particular national importance²."*

The analysis observed that for the identified strategic products, significant trade already takes place amongst the various Regional Economic Communities (RECs) although at low levels compared with trade from outside the continent. Further, the set of strategic products listed above are compatible with those identified as Special Products under the framework of the WTO and are also amongst the sensitive products in many of the RECs. Thus, while African countries strive to fast track the common market for agricultural products, these strategic products should be amongst the first set of products to be liberalized at the continental level. However, caution should be exercised by African regions negotiating Economic Partnership Agreements (EPAs) with the European Union (EU) to ensure that full liberalization of the designated strategic products under the EPAs should be deferred until such time into the transition period agreed to under the EPAs that a proper assessment of their impact due to the common market at the continental level could be made. Unless this is done, it is likely that early liberalization of these products under the EPAs will undermine the regional integration efforts amongst African countries rather than strengthen it – thus, further undermining a key objective of the EPAs, i.e. strengthened regional integration and trade.

However, for African countries to realise the benefits of the common market the study suggests some key areas for action: improve the existing physical infrastructure and create new opportunities for market access; undertake reforms that bring down the costs of trade - including by strengthening the legal and regulatory framework. The best way to create a favorable environment for agricultural trade growth will, however, vary from country to country. Each country should formulate its plan in line with its national CAADP Agreements and in terms of its own poverty reduction and growth strategy. The focus should be on tackling supply-side constraints and responding to shifting regional and global demand.

² It is important to note that the Special Products flexibility under the market access pillar of the ongoing WTO negotiations is also available to Africa countries. Special products are products that are relevant for developing countries food security, livelihood security and rural development concerns. They should be identified by indicators that link them to the three criteria (food security, livelihood security and rural development) and they will be given flexible treatment in terms of tariff reduction. Although the criteria for the identification of the AU strategic products are not quite identical, studies undertaken by FAO for the identification of special products for African countries identified all the strategic products (except fish) as special products

To reduce the risk of trade diversion arising from the creation of a common market for agricultural products, African countries need to continue with their ongoing reform of their MFN tariffs and NTBs especially those that impede cross-border trade. Some RECs need to simplify their rules of origin and make them more transparent. Similar clear rules should also be incorporated into EPAs. The current EPA negotiations with the EU offer a unique opportunity to streamline or rationalize RECs. The African Union has on its agenda the streamlining or rationalization of the RECs. Although trade liberalization entails adjustment costs for local industries, it can also improve economic efficiency over the long term, which should outweigh the costs, particularly if other domestic reforms are also carried out. Improving customs administration would also lessen potential revenue losses from tariff reductions, including in the context of the EPAs. Broadening the tax base by eliminating exemptions will be particularly important.

Concerted efforts are needed to harmonize the external tariffs, especially as all the RECs will be customs unions in a few years time. Such efforts are particularly important because of the current impasse in the WTO negotiations. As part of broad trade reforms, African countries should continue to facilitate trade at customs points, simplify customs procedures, and improve trade logistics particularly in transport and storage.

Within the context of the WTO, commitments in the Doha Round will be made by individual Member states. In doing so, however, some likely implications arising in a few years time when the CUs are formed needs to be considered at this stage. In the case of the Agreement on Agriculture, there are some areas where this will be important. One is in committing new bound tariffs as this has implications for the common external tariff (CET)³. Bound tariffs have to be high enough to provide adequate space for the CET. This requires some coordination and analysis of the current tariff cutting formulae and how those impact on the individual members. A second and related consideration would be in designating Special and Sensitive products. Some coordination is essential even at this stage among the potential members of an eventual CU because it is essential that the members of the CU designate identical, or almost identical, lists of products as Special and Sensitive. This is necessary to prevent trade diversion through other Members, which may not only undermine the utility of the Special Product modality but also create tension amongst Member with the CUs. A third consideration to take would be to coordinate the designation of tariff lines for the proposed Special Safeguard Mechanism (SSM) if it is decided in the negotiations that the SSM will only be available for selected products. Aside from these three cases, commitments made on export competition and domestic support measures are unlikely to have any serious implications for the eventual CU and intra-trade.

Given the state of the African agriculture, the successful implementation of an undertaking like the CAADP remains the most important contributor to enhanced regional integration and intra-African trade. Successful regional integration, even where the priority initially may be on strategic product markets, requires deeper integration in other markets also, notably inputs and factor markets (various inputs, capital and investment, labour etc).

African countries and their development partners should make sure that, Aid-for-Trade be increased and targeted to help Africa reduce trade bottlenecks and capital flight (including regional ones) while trying to revive the WTO negotiations. A4T in the form of technical assistance, project finance, and adjustment support for trade reforms

³ Note that LDCs do not have to reduce their bound tariffs and so there is very little for them to do on this

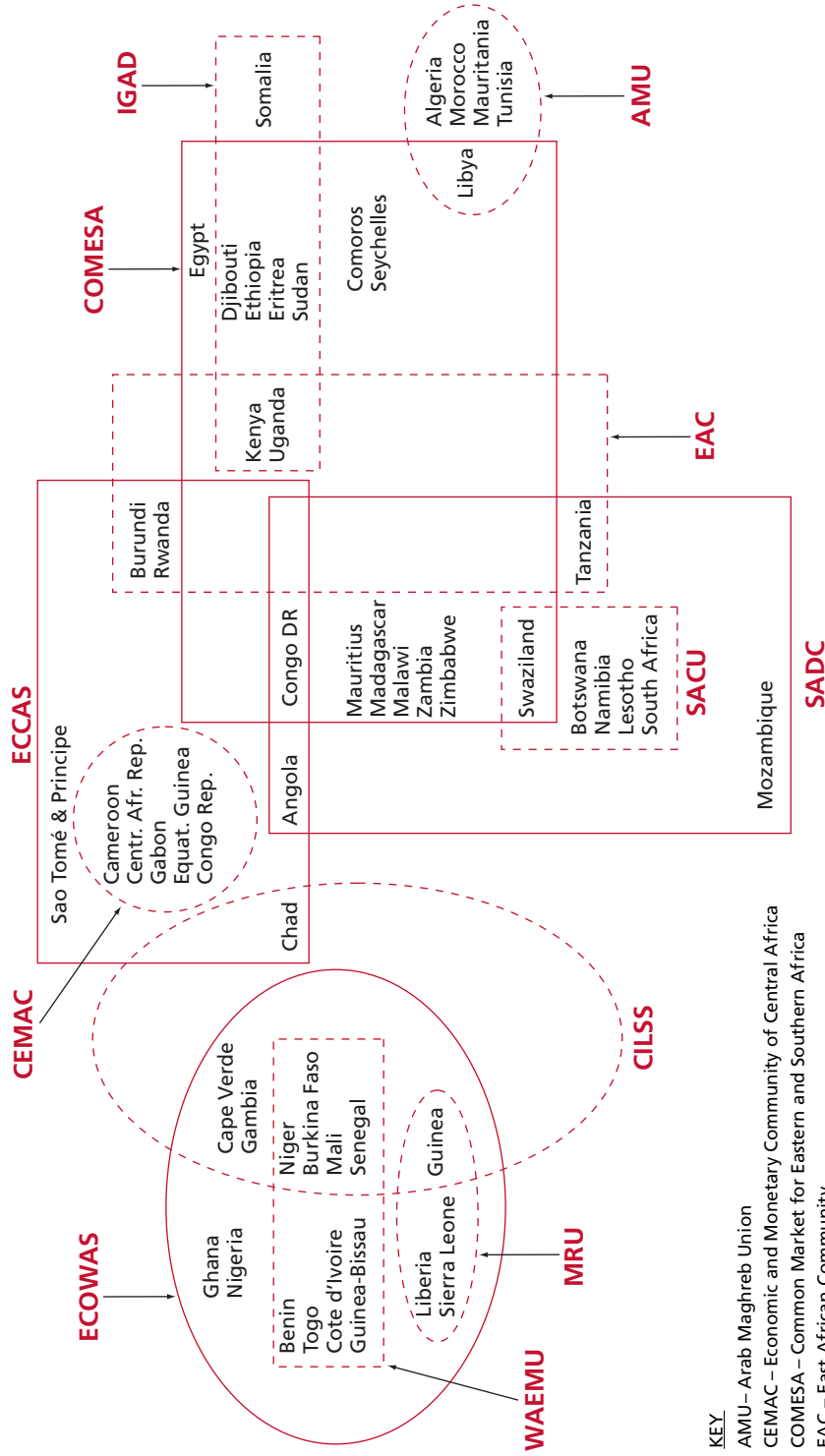
will allow African countries to respond more swiftly to the opportunities created by trade reforms. Such aid could also facilitate regional cooperation in addressing gaps in infrastructure, coordinating the regulation of public goods, and achieving economies of scale.

Finally in relation to the framework for the common market, some [key] specific recommendations are offered:

- an incremental approach to the creation of the Common Market based on the gradual elimination of tariff and non-tariff barriers to trade in agricultural products be adopted;
- the Rules of Origin regarding the products eligible for preferential treatment be defined as simply as possible in order to facilitate and not obstruct trade;
- special provision be made to cater for least-developed and landlocked countries;
- permitted SPS measures should conform to international standards to the fullest extent possible;
- members be provided with technical assistance to comply with reporting requirements;
- the AU Committee on Rural Economy and Agricultural Matters and the Committee on Trade, Customs and Immigration Matters be strengthened to enable them to monitor and assist in the implementation of the Protocol;
- the Protocol concerning Non-Tariff Trade Barriers contemplated in Article 31 of the Abuja Treaty be concluded;
- the Protocol concerning the Rules of Origin contemplated in Article 33 of the Abuja Treaty be concluded and designed to complement the Rules proposed herein for use in the CMAP;
- the Protocol concerning Simplification and Harmonisation of Trade Documents and Procedures contemplated in Article 40 of the Abuja Treaty be concluded;
- the Protocol concerning Standardisation, Quality Assurance and Measurement Systems contemplated in Article 67 of the Abuja Treaty be concluded;
- the 1967 Phytosanitary Convention for Africa should be revised and implemented.

Annexed to this Report is an [indicative] draft Protocol capturing the essence of the obligations that Members of the African Union would probably have to implement if they wish to create a Common Market in Agricultural Products.

THE AFRICAN TRADE ARCHITECTURE



KEY

- AMU – Arab Maghreb Union
- CEMAC – Economic and Monetary Community of Central Africa
- COMESA – Common Market for Eastern and Southern Africa
- EAC – East African Community
- ECCAS – Economic Community of Central African States
- ECOWAS – Economic Community of West African States
- SADC – South African Development Community
- SACU – South African Customs Union
- WAEMU – West African Economic and Monetary Union
- IGAD – Permanent Inter-State Committee for Drought Control in the Sahel
- MRU – Inter-Governmental Authority on Development
- MRU – Mano River Union