Note

How can Africa Agenda 2063 leverage Trade Related Investment Measures (TRIMs)?

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Summary

Under Agenda 2063, African countries have committed themselves to accelerating industrialization, diversification and structural transformation with a view to achieve economic and sustainable development. Achieving this objective will require Africa to leverage Trade-Related Investment Measures (TRIMs), so as to put in place policy measures that promote its trade and investment flows. This note analyses the policy space available to undertake such measures, as well as special and differential treatment proposals on the table at the WTO.

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CUTS INTERNATIONAL, GENEVA

FUNDING SUPPORT
SWEDISH INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Introduction

African countries, both individually and collectively, possess enormous resources and the potential requisite to achieve rapid economic growth and development. However, they remain heavily plagued by challenges that have curtailed development efforts and manifested in high levels of poverty, as well as slow economic and trade growth. In response to these persisting challenges, African leaders, in 2015, collectively agreed and committed to implementing Agenda 2063, which is based on Pan-Africanism and aimed at encouraging a peaceful and harmonious Africa, one that is driven by its own citizens towards inclusive development and through the optimal use of the resources at hand. To that end, Agenda 2063 spells out seven aspirations that will be the basis for achieving the "Africa We Want by 2063".

The aspirations call for the following:

- A prosperous Africa based on inclusive growth and sustainable development
- An integrated continent, politically united and based on the ideals of Pan-Africanism and the vision of Africa's Renaissance
- An Africa of good governance, democracy, respect for human rights, justice and the rule of law
- A peaceful and secure Africa
- An Africa with a strong cultural identity, common heritage, shared values and ethics
- An Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children and
- Africa as a strong, united and influential global player and partner

Special emphasis, nevertheless, has been placed on aspiration one: "a prosperous Africa based on inclusive growth and sustainable development" (AUC, 2015a: 2), particularly because it focuses on attaining "economies that are structurally transformed through industrialization, manufacturing and value-addition, in order to create shared growth through private sector development, entrepreneurship and decent jobs for all" (AUC, 2015b: v).

Industrialization, therefore, is considered a priority required to drive economic growth and sustainable development, as it has the potential to significantly contribute to decreasing poverty levels whilst raising the Human Development Index (HDI). Moreover, it is also generally recognized that industrialization fosters rapid growth that increases employment, product diversification and encourages an improved system of income distribution. Countries such as the Republic of Korea, Taiwan, Province of China, Singapore and China, have all used industrialization as their tool in catching up to the west, thus, guaranteeing their strong economic position on the global stage (UNIDO, 2016). Importantly, the structural transformation of African economies through industrialization would also ensure actions that address other development challenges of the continent.

Development Challenges in Africa

The overdependence of Africa on the exportation of raw materials has adversely exposed the continent to various commodity price fluctuations, which have had a negative effect on its current accounts and financial markets, thereby having a profound impact on future African investments that would otherwise boost its competitiveness. Recent trends show that the collective macro-economic situation of Africa has degraded due to high levels of debt, high levels of public deficit and lower levels of savings. In 2016, UNIDO reported to the G20 Working Group on Industrialization in Africa and Least Developed Countries that Africa's manufacturing value added (MVA) accounted for only 1.6 percent of the global total in 2014, and its growth has been lagging far behind that of other regions since 1990. There are also technological and knowledge discrepancies in many countries and according to the Africa competitiveness report, the productivity of African countries is at a decline when compared to more advanced economies. At the moment, only one African country is transitioning into the innovative driven arena, whilst the rest are being left behind.

With respect to poverty on the continent, it has been observed that in 46 African countries, 54 percent of the population are still living in poverty; and whereas 10 to 12 million youths enter into the workforce every year, only 3.1 million jobs are being created. Also, from the 420 million youths in Africa, one-third are unemployed and without any foreseeable hope, an additional third are employed in volatile jobs, and only one in six are employed in jobs with steady or stable salaries (African Group, 2017).

Other challenges that are impediments to Africa's industrialization and competitiveness include the lack of its connectivity, in terms of physical and soft infrastructure. Regarding physical infrastructure, Africa's poor infrastructure remains a hindering factor to development and the fact that there exists very little connectedness between its countries essentially shows that the region is failing to benefit from the numerous untapped potentials that exist at the national and regional levels. Unlike other regions where railways are an inexpensive and fast form of transportation, the development and advancement of road and railways networks has been slow in Africa. Additionally, if railway infrastructure does exist, they have poor technical standards and are mostly not in use anymore. Africa's road infrastructure is also in a very poor state, with it being only at 34 percent compared to 50 percent in some parts of the world. The African continent also faces massive challenges in its energy sector, including high cost, instability, low capacity and efficiency, which makes it impossible to effectively support industrialization on the continent. (AUC, 2015b).

It is also noteworthy that in addition to the focus on industrialization as a tool for economic transformation under Agenda 2063, SDG 9 of the United Nations Sustainable Development Goals (SDGs) aims to "build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation". This goal, therefore, encourages the incorporation of small-scale industries, increased research, the advancement of technology and innovation (UNIDO, 2015). From the foregoing, in aligning its Agenda 2063 with SDG 9, Africa is on the right course in effectively implementing and achieving its industrialization goals. Leveraging trade related investment measures (TRIMs) would, therefore, be a means in attaining these noble targets for the region.

In the midst of these regional and global objectives, it is now critical for African countries to initiate policies that promote the creation of conducive business environments that can support industrialization, structural transformation and the diversification of their economies. It is in this respect that the World Trade Organization (WTO) Agreement on Trade Related Investment Measures (TRIMs) should entail flexibilities that are needed to achieve Africa's industrialization objectives under Agenda 2063 and Goal 9 of the SDGs.

Leveraging TRIMs towards Industrialisation

In general, TRIMs cover a wide range of performance requirements that Governments may place on foreign investors, and these can also be used as means in pursuing different aims such as, a) promoting exports from the host country (export performance requirements and trade balancing requirements); b) decreasing imports by the foreign investors (local content requirements); c) improving social objectives including the creation of local jobs; and d) the transfer of technology (UNCTAD, 2007). For instance, local content requirements oblige foreign investors to procure their production inputs from local sources, which in turn leads to an increase in local jobs and the transfer of technology. However, some of these restrictions were in direct violation of Article III and XI of the General Agreement on Tariffs and Trade (GATT), as they were seen to distort and restrict trade. Additionally, foreign investors were also opposed to these restrictive measures as they were greatly interfering with their investments (UN, 2007).

To address these concerns and mitigate the challenges, the WTO Agreement on TRIMs was negotiated and came into force in 1995, as part of the Uruguay Round negotiations. The TRIMs Agreement seeks to "promote the expansion and progressive liberalization of world trade and to facilitate investment across international frontiers so as to increase the economic growth of all trading partners, particularly developing country Members, while ensuring free competition" (Archana, 2013:1). As a consequence, the Agreement identified and provided an illustrative list, which recognized those measures that obstruct the flow of trade and are in direct violation of Article III and XI of GATT, 1994. These include, for example, requirements and restrictions relating to local content, domestic sales, foreign exchange etc.

Additionally, in the TRIMs agreement, there also exist some transitional arrangements and flexibilities, which allowed Members to keep notified TRIMs for a limited time period after the entry into force of the WTO, in 1995. These flexibilities encompassed granting two years to developed countries, five years to developing and seven years to least-developed countries (LDCs). Furthermore, upon request, there also exists the opportunity to extend an elimination time period as long as developing countries and LDCs can demonstrate the issues and difficulties they have faced in trying to implement the provisions of the Agreement. Furthermore, the agreement also created the Committee on TRIMs, which acts as the general overseer in the operationalization and application of stated obligations (UN, 2007). Whilst such flexibilities are vital and essential to the development process of developing countries and LDCs, they are rigid and do not sufficiently address the needs of developing countries and LDCs that are at different stages of development. It is therefore important for the Agreement to be cognizant of specific members needs such as the drive towards industrialization of Africa as articulated in both Agenda 2063 and SDG 9.

Studies have shown that developing countries and LDCs continue to fall behind in the multilateral trading system mainly because they are still not at an industrialized level. Particular emphasis is put on their low production of value-added and competitive manufacturing goods. It is, therefore, necessary for governments to take economic decisions without the fear of violating WTO rules. In order to achieve this, African countries need flexibilities and the accommodation of the WTO, in order to implement measures that are vital for industrialization and development. It is in this spirit that developing countries and LDCs have raised numerous constraint concerns regarding the operationalization of Special and Differential Treatment (S&DT) provisions at the WTO, and although Paragraph 44 of the 2001 Doha Ministerial Declaration reasserts that S&DT are central in WTO agreements and as such, there needs to be a "reviewing of all S&DT provisions in order to strengthen them; making them more precise, effective and operational" (WTO, 2001:1), these objectives are yet to be realised. Hence, now more than ever, there is a growing need to revisit existing S&DT provisions in order to foster Africa's industrialization goals in Agenda 2063.

In this context and with the dramatic impacts of globalization and the emerging of cumulative challenges in the global economy, it has become increasingly obvious that flexibilities under the TRIMs Agreement, in terms of timelines and extensions alone, are hardly sufficient in facilitating the required policy space towards redressing challenges that are currently impeding developing countries and LDCs (categories in which African countries belong to as well) (African Group, 2017). The way forward, as proposed by the African Group in the WTO, is to strengthen S&DT provisions of the TRIMs Agreement by allowing developing countries to deviate from obligations of Article 2 of the TRIMS agreement so as to introduce investment measures related to trade in goods, as well as allowing for a permanent derogation of LDCs from the TRIMs agreement, as long as they remain LDCs.

The TRIMs Agreement is, therefore, restraining Africa's policy space and its ability to industrialize. As a consequence, the same flexibilities should be made and kept available to developing countries as this can help in their journey to industrialize. Therefore, fairness needs to be applied as African countries deserve to be given flexibilities and policy space in order to increase their chances of contributing towards global value chains. Their chances are being greatly narrowed as instruments which were once legal and used by developed countries are now being made illegal thus, decreasing their industrialization and economic growth.

In essence, the TRIMs Agreement has created economic problems for countries in Africa as it has failed to consider their needs for industrialization and development. Hence, although talks remain difficult and protracted, there is no doubt that an understanding in creating new flexibilities in favor of developing countries and LDCs under the TRIMs Agreement would no doubt enhance the capacity of African countries in using trade as a mobiliser of both domestic and foreign resources and in turn, successively achieve Agenda 2063 and SDG 9. Therefore, the proposal being put forward offers a resolution that will allow developing countries to initiate new TRIMs, which will successively enhance their industrial/manufacturing capabilities and promote their competitiveness (South Centre, 2017). This is an excellent standpoint as Africa has too many diverse resources that are currently not being completely utilized.

Conclusion

To effectively respond to the persisting challenges of high poverty levels, inadequate infrastructure, poor governance, as well as high levels of unemployment, slow economic growth and development, African countries have committed themselves to accelerating industrialization, diversification and structural transformation, with a view to achieve economic and sustainable development, under Agenda 2063 and the SDGs, also known as Agenda 2030. However, it is recognized that in addition to the substantial financial resources needed both from domestic and foreign means in order to achieve the targeted industrialization and economic diversification objectives, there is also the need for Africa to leverage TRIMs, so as to put in place policy measures that promote its trade and investment flows.

Well as the TRIMs disciplines prevent WTO members from imposing certain trade-related investment measures, exceptions and flexibilities/S&DT will be critical for Africa to attain its Agenda 2063. This would entail negotiating and agreeing to the G90 proposal on SDT for TRIMs, which is also in line with the WTO Marrakesh Agreement and its objective to continue to create positive outcomes, which ensure that developing countries, especially LDCs are able to secure a share of growth in international trade, which is proportionate with the needs of their economic development.

Against this backdrop, S&DT provisions are a central part of the workings of the WTO and flexibilities in the TRIMs Agreement are crucial in Africa's attainment of Agenda 2063 and industrialization. Paragraph 44 of the Doha Ministerial Declaration to "review and strengthen all S&DT provision, making them more precise, effective and operational" needs not to be forgotten as its goals have not been realized yet. Also, with the global commitments of the SDGs, African countries need industrialization in order to transform themselves, their economies and mitigate stated challenges thus, raising the living standards of their citizens and most importantly, not being left behind, which is the principle maxim of the SDGs. (TWN, 2017).

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