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***Abstract:** The African Continental Free Trade Area Agreement (AfCFTA) which has established free trade area for African goods and services is entered in to force as of May 2019. Like any other economic integration agreements it is expected to bring various opportunities and challenges to members, which may differ in type and magnitude with each country specific contexts. Ethiopia has become member of AfCFTA which makes it the first free trade area agreement the country have ever signed and ratified. This membership presents on one hand various potential opportunities; and on the other hand diversified potential challenges depending on Ethiopia specific circumstances. Understandably, the potential opportunities may not be straightforward guaranteed by a mere membership. Potential challenges could bring additional burden to already weak economy. It follows that, unless potential opportunities and challenges are well identified, explored, understood and sufficiently addressed the membership may not be fruitful leading to undesirable results. This makes the study of main potential opportunities and challenges awaiting Ethiopia with regards to its membership in the AfCFTA very essential. Accordingly, through review and analysis of AfCFTA legal texts and documentary evidences the study has found acceleration of economic growth, predictable larger market access, attraction of FDI, increased competitiveness and consumer choice as main potential opportunities. The study has also found lack of public participation, conflict and instability, lack of competitiveness, product standard related problem, institutional problem, and others as main internal potential challenges. Similarly, erosion of sovereignty, revenue loss, adjustment costs, unemployment risk, and others as main potential external challenges. The study further has pointed out that success of Ethiopia membership is highly determined by the ability the government and businesses to overcome potential challenges before it is too late and to capitalize on potential opportunities. The study also argues that despite the presence of significant potential opportunities to catch up with, there is also a long way to get there and home works to be accomplished. Finally, the study has ended up by recommending possible solutions which can help to ensure potential challenges are minimized and potential opportunities are maximized to the interest of the country, the business community and the public at large.*

DEBREMARKOS UNIVERSITY SCHOOL OF LAW



**THE AFRICAN CONTINENTAL FREE TRADE AREA AGREEMENT: OPPORTUNITIES AND CHALLENGES
AWAITING ETHIOPIA**

**A Thesis Submitted in Partial Fulfillment for the Requirements of LLM Degree on Investment Law and Governance at
School of Law, Debre markos University, Debre markos.**

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July, 2020 Debre markos**

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Declaration

I declare that, “The African Continental Free Trade Area Agreement: Opportunities and Challenges Awaiting Ethiopia” is my own work, that it has not been submitted before for any degree or examination in any other university, and that all the sources I have used or quoted have been indicated and acknowledged as references.

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Statement of Certificate

This is to certify that Mr. Mohammed Abdu Hassen has carried out his thesis work on the topic titled ‘The African Continental Free Trade Area Agreement: Opportunities and Challenges Awaiting Ethiopia’ under my supervision. The work is original.

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Abbreviations and Acronyms

AGOA:	African Growth Opportunity Act
AfCFTA:	African Continental Free Trade Area
AfCFTA:	African Continental Free Trade Area Agreement
AU:	African Union
AUC:	African Union Commission
CEI:	Complete Economic Integration
CFTA:	Continental Free Trade Area
CFTA:	Continental Free Trade Area Agreement
CM:	Common Market
COMESA:	Common Market for Eastern and Southern Africa
CU:	Custom Union
DSB:	Dispute Settlement Body
DSM:	Dispute Settlement Mechanism
EI:	Economic Integration
EPRDF:	Ethiopian People Revolutionary Democratic Front
EIA:	Economic Integration Agreement
EU:	Economic Union
FDI:	Foreign Direct Investment
FTA:	Free Trade Area
GATT:	General Agreement on Tariffs and Trade
GATS:	General Agreement on Trade in Services
GDP:	Gross Domestic Product
GTP:	Growth and Transformation Plan
IGAD:	Intergovernmental Authority on Development
ISO:	International Standardization Organization
MFN:	Most Favored Nation
NT:	National Treatment
NTBs:	Non-Tariff Barriers
PTA:	Preferential Trade Agreement
PTG:	Protocol on Trade in Goods
PTS:	Protocol on Trade in Services
PU:	Political Union
REC:	Regional Economic Communities
REI:	Regional Economic Integration
RI:	Regional Integration
RTAs:	Regional Trade Agreement
TFTA:	Tripartite Free Trade Agreement
UNCTAD:	United Nations Conference on Trade and Development
UNECA:	United Nations Economic Commission for Africa
WTO:	World Trade Organization

Abstract

The African Continental Free Trade Area Agreement (AfCFTA) which has established free trade area for African goods and services is entered in to force as of May 2019. Like any other economic integration agreements it is expected to bring various opportunities and challenges to members, which may differ in type and magnitude with each country specific contexts.

Ethiopia has become member of AfCFTA which makes it the first free trade area agreement the country have ever signed and ratified. This membership presents on one hand various potential opportunities; and on the other hand diversified potential challenges depending on Ethiopia specific circumstances. Understandably, the potential opportunities may not be straightforward guaranteed by a mere membership. Potential challenges could bring additional burden to already weak economy. It follows that, unless potential opportunities and challenges are well identified, explored, understood and sufficiently addressed the membership may not be fruitful leading to undesirable results. This makes the study of main potential opportunities and challenges awaiting Ethiopia with regards to its membership in the AfCFTA very essential.

Accordingly, through review and analysis of AfCFTA legal texts and documentary evidences the study has found acceleration of economic growth, predictable larger market access, attraction of FDI, increased competitiveness and consumer choice as main potential opportunities. The study has also found lack of public participation, conflict and instability, lack of competitiveness, product standard related problem, institutional problem, and others as main internal potential challenges. Similarly, erosion of sovereignty, revenue loss, adjustment costs, unemployment risk, and others as main potential external challenges. The study further has pointed out that success of Ethiopia membership is highly determined by the ability the government and businesses to overcome potential challenges before it is too late and to capitalize on potential opportunities.

The study also argues that despite the presence of significant potential opportunities to catch up with, there is also a long way to get there and home works to be accomplished. Finally, the study has ended up by recommending possible solutions which can help to ensure potential challenges are minimized and potential opportunities are maximized to the interest of the country, the business community and the public at large.

Chapter I - Introduction

1.1 Background

Free trade agreement is a pact made between two or more countries to reduce and eliminate barriers to imports and exports among them as opposed to trade protectionism or economic isolation. Under a free trade goods and services can be bought and sold across country borders with little or no tariffs, quotas, subsidies, and prohibition to disrupt exchange.¹ The region in which a group of countries signed the free trade agreement to maintain little or no barriers mentioned above refers to free trade Area (FTA).² Free trade between members of the free trade area encourages growth and development by promoting and facilitating competitiveness, exports diversification, innovations, transfer of advanced technologies and skills. It contributes for the reduction of poverty. Moreover, the free flow of goods and services between member countries promotes social and political relations and enhances peace between nations.³

Since there is no single nation that has the natural resources, infrastructure, and human capital in sufficient quantity and quality to realize better standard of living, free trade is often recommended as the best economic strategy. Hence, the major economic benefits of free trade emanates from the inherent differences among trading partners, which allow any country a chance to compete in the global or regional market as per its economic strengths. In this regards, natural resources, access to cheap capital, availability of skilled workforce at low wage, and other fundamental variables play a role in determining what comparative advantage one country has over another in the regional or global marketplace.⁴

¹ Adam Barone, 'Free Trade Agreement (FTA)' (Investopedia, 29 January 2020). <www.investopedia.com/terms/f/free-trade.asp> accessed 11 June 2020

² Jim Chappelow, 'Free Trade Area' (Investopedia, 2 October 2019). <www.investopedia.com/terms/f/free_trade_area.asp> accessed 12 June 2020

³ Ebaidalla Mahjoubé Ebaidalla, 'Trade between Egypt, Sudan and Ethiopia: Prospects and Challenges for Trilateral Trade Integration' (Working paper No. 1057, the Economic Research Forum, Egypt 2016) 2. <https://www.researchgate.net/publication/309650381_Trade_between_Egypt_Sudan_and_Ethiopia_Prospects_and_Challenges_f_or_Trilateral_Trade_Integration> accessed 15 January 2020

⁴ Tatjana Dzaleva and Spire Lazaroski, 'Globalization, Trade and Business' (2011) 1. <<http://eprints.ugd.edu.mk/7495/>> accessed on 10 February 2020

By recognizing that free trade has a numbers of benefits countries often engage in establishing economic integration blocs. Such integration blocs take different formats/stages, such as preferential trade area, Free trade area, Customs union, Common market and Political union. Evidence indicates that practically in recent times most states of the world belong to one or more regional economic integration organization. Nearly all regions of the world have at least one of such organization, which aims at ensuring free trade among its members. Free Trade Area (FTA), a region in which a group of countries has signed agreement to remove barriers to the easiest exchange of goods and services, is the common form of economic integration.⁵ Thus, it is the focus area of this study with particular emphasis on the recently established African Continental Free Trade Area (AfCFTA).

On 21 March 2018, the Africa Continental Free Trade Area (AfCFTA) agreement opened for signature at an extra-ordinary summit of the assembly of African union heads of state and government in Kigali, Rwanda. At that summit, the forty-four African union member states have signed the agreement which is supposed to create single continental market for goods and services of Africans.⁶ The AfCFTA is the largest in the world in terms of participating countries since the establishment of the world trade organization. With a combined gross domestic product of about US \$3.4 trillion and more than 1.2 billion people, by 2022 it is estimated that the agreement will boost intra-African trade by 52 percent.⁷ The agreement was set to come in to force 30 days after ratification by 22 signatory states. Following the 22nd ratification by Sera Leone and Saharawi republic the agreement went/come in to force on May 30, 2019 and the operational phase has subsequently launched on July 7, 2019. And it has indicated that trading under AfCFTA is expected to begin on July 2020.⁸

The house of people of representative of Ethiopia (HPR) has approved on March 21, 2019 the membership of the country in to AfCFTA. The agreement together with all the accessories has become part and parcel of the national laws. On April 10, 2019 Ethiopia has deposited the ratification instrument. This has made Ethiopia the 19th country to have deposited instrument of ratification as well as the first ever free trade agreement Ethiopia has ever signed.⁹

Depending on country-specific context the AfCFTA is supposed to provide various potential opportunities, such as reduction of barriers, specialization on comparative advantage, and competition in the large market. It has potential to contribute for alleviating poverty, creating jobs and promoting equality and there by helps to the attainment of Africa's Agenda 2063.¹⁰ On the other hand, like any other trade agreements and economic integration, the AfCFTA do not necessarily lead to positive, fair and sustainable outcomes. The benefits of FTA are not straightforward. But, here also possibly there could be a wider range of challenges at different stages of the integration facing each partner states, including Ethiopia, depending on their context.¹¹ Therefore, carefully studying the potential opportunities and challenges surrounding membership in the AfCFTA is crucial to ensure that it positively adds to the interest of the country in the context of its economic and political circumstances. This approach of assessment is particularly important as many scholars, civil society and groups of the society are developing skepticism towards regional trade integration and liberalization trade agreements. This skepticism is mainly emanated from the fact that the benefits of trade and liberalization have not been fairly and equitably distributed.¹²

With this backdrop, the paper is devoted to identify and explore the main potential opportunities and challenges awaiting Ethiopia in relation to its membership. Appreciating the issue well and accomplishing the necessary reform measures as per the recommendation of this study will help to optimize potential opportunities and manage potential challenges. This in turn could place

⁵ Jim (n 2).

⁶ __, 'African continental free trade area (AfCFTA) legal texts and policy documents' (Trade Law Center/tralac/, 2019). <<http://www.tralac.org/resources/by-region/cfta.html>> accessed 17 August 2019

⁷ ibid

⁸ ibid.

⁹ __, 'Ethiopia Deposits Instrument of Ratification of AfCFTA' (African Union, 10 April 2019).

<<https://www.au.int/en/pressreleases/20190410/Ethiopia-deposits-instruments-ratification-afcfta>> accessed 15 January 2020

¹⁰ __, 'AfCFTA Agreement Secures Minimum Threshold of 22 Ratifications' (African Union, 29 April 2019) <au.int/en/pressreleases/20190429/afcfta-agreement-secures-minimum-threshold-ratification-sierra-leone-and> accessed February 2020

¹¹ Sarah Ellis Barnekow and Kishore G. Kulkarni, 'Why Regionalism? A Look at the Costs and Benefits of Regional Trade Agreements in Africa' [2017] 18(1) GBR 99, 104-106.

<www.researchgate.net/publication/3121930959_Why_Regionalism_A_Look_at_the_Costsand_Benefits_of_Regional_Trade_Agreements_in_Africa> accessed 12 June 2020

¹² United Nation Economic Commission for Africa (UNECA), 'the Continental Free Trade Area (CFTA) - A Human Right Perspective' (Gutenberg Beuys Feindruckerei GmbH, Germany 2017) 3.

<<https://www.uneca.org/publications/continental-free-trade-areacfta-africa---human-rights-perspective>> accessed 22 December 2020

the country in a better position to use the integration to the advantage of its citizens and infant domestic industries. The study also covers the concept and history of regional economic integration (REI) and as well as the AfCFTA itself.

1.2. Statement of the Problem

Recently, the African continental free trade agreement (AfCFTA) is signed and ratified establishing regional free trade area that intends to progressively eliminates tariff and non tariff barriers for the easiest movement of goods and services. Trading under the umbrella of the FTA was scheduled to begin as of July 2020.¹³ Our country Ethiopia has ratified and become member state of the AfCFTA with intention of benefiting from it.

The AfCFTA like any other economic integration agreements is expected to provide various potential opportunities like market access and increased competitiveness for members, including Ethiopia. The opportunities among others could differ depending on each country specific economic, political and social context. On the other hand, the AfCFTA membership is not an end by itself which necessarily lead to desirable and equitable outcomes. The potential opportunities are not always straightforward which is guaranteed by a mere membership. Rather, membership presents not only opportunity but also diversified potential challenges given the specific contextual circumstances on the ground.¹⁴ These potential challenges could be internal which emanates within the country and refers to the very weakness of the country or external which comes in to picture as a result of trading under the AfCFTA. The cost of integration could be high in different aspects. Especially the competition scale and adjustment cost are very high. In addition, there are also issues relating to allocating additional fund, loss of revenue, the need to make structural adjustments and other related issues that have to be sufficiently addressed.

Consequently, since Ethiopia as member of the AfCFTA is taking this route there is a need to carefully study the potential opportunities and challenges awaiting Ethiopia in the context of its prevailing economic and political conditions. All the issues that have been raised above have the potential to lead to an unbearable burden to the already weak economy. It follows that if the potential challenges and opportunities surrounding Ethiopia are not properly identified and managed, the AfCFTA could turn out to be an evil to the country in general, the business community and the public in particular. Hence, it is deemed essential to identify and explore some of the main potential opportunities and challenges so that the concerned stakeholders would take informed sound measure/step to ensure a scenario where the opportunity outweighs the challenges and that AfCFTA will not be additional burden to the weak economy.

Moreover, this approach of assessment is particularly important as skepticism is rising towards regional trade integration and liberalization due to the fact that the benefits have not been fairly and equitably distributed.¹⁵ In short, this study is necessary to carefully identify and assess in advance the potential opportunity and challenges awaiting Ethiopia and to suggest best solution to capitalize on the opportunities for greater benefit and to effectively manage the potential challenges.

As far as the researcher knowledge, there is no research study conducted with respect to neither opportunity or challenges associated with Ethiopia membership in AfCFTA. Not only this, there is no comprehensive study which adequately identify and explore potential opportunities and challenges of AfCFTA to members in general. However, there are few previous studies that provide a thorough and inadequate investigation of the impact of the AfCFTA in general. For instance, there is a study conducted under the guidance and supervision of UNCTAD.¹⁶ This study is qualitative in nature which aimed at calculating the cost and benefit of different modalities of tariff reduction as part of the AfCFTA commitment on member countries in general. It does not consider country specific circumstances. There is also a paper written under Global Economics Dynamics Institution.¹⁷ The main body of the

¹³ Jonathan Cannard, 'The African Continental Free Trade Agreement: Loss of Sovereignty, Lack of Transparency' (CADTM, 19 August 2019) <www.cadtm.org/The-African-Contienental-Free-Trade-Agreement-Loss-of-Soverignty-Lack-of-Transparency> accessed 12 June 2020

¹⁴ Sarah and Kishore (n 11) 104-106.

¹⁵ UNECA (n 12) 3. ; Andrea Cofelice, 'African Continental Free Trade Area: Opportunities and Challenges' [2018] No.3, Federalist Debate/FD/32, 34.

<https://www.researchgate.net/publication/329450723_African_Contenental_Free_Trade_Area_Opportunity_and_Challenges> accessed 22 December 2019; UNECA (n 10) 3.

¹⁶ Mesut Saygil, Ralf Peters and Christian Knebel, 'African Continental Free Trade: Challenges and Opportunities of Tariff Reductions' (2018), No. 15, UNCTAD Research Paper. <unctad.org/en/PublicationsLibrary/ser-rp-2017d15_en.pdf> accessed 12 June 2020

¹⁷ Lola Mariam, 'Focus Paper on Boosting Intra-African Trade: Hindrances, Opportunities and Continental Free Trade Area' (Global Economic Dynamics, 2017).

paper argues while the removal of tariff barriers may increase intra-African trade and reduces the cost of moving goods and services across borders; weak institutions, infrastructural deficiencies, and the lack of diversity in export products present greater impediments. In addition to its non-representative nature the paper does not adequately address opportunities and other internal and external potential challenges. Authors called Nwaodu Nnamdi and Ijeoma Edwin has written eight pages article with respect to the subject matter.¹⁸ The paper is written at regional level based on common regional context assumption. It totally excludes opportunity perspective and cover only four internal challenges in just two condensed pages. The last related study which is worth mentioning here is conducted under the guidance and support of the UN Economic Commission for Africa (UNECA) which focuses only on assessing the implication of the AfCFTA from human right perspective.¹⁹ It does not go further to assess the potential opportunities and challenges from other perspectives. The study simply has discussed the interdependency of trade and different human right aspects such as the right to food and work and suggested possible solutions to ensure the compatibility of the AfCFTA and human rights. Besides, there are studies conducted before the coming in to picture of the AfCFTA in relation to challenges and prospects of regional economic integrations (REIs) in general in Africa.²⁰ Though they have relevancy to the current study they does not have preclusion capacity from conducting an independent study. In sum, none of the above mentioned previous studies has addressed the main research question of this study directly, adequately and from the specific context of the country. Thus, this study is expected to come up with the main potential opportunities and challenges awaiting Ethiopia in relation to its membership in the AfCFTA directly with better adequacy.

Generally, the study is supposed to carefully identify and explore the major potential opportunities and challenges that Ethiopia as one of the partners of the CFTA could come across, given its specific contexts. Logical conclusion and recommendations which helps to capitalize on the opportunities for greater benefit and to effectively manage the potential challenges will be provided. In doing so, the study will also contribute to the existing literature and the general debate in relation to free trade area agreements.

1.3. Study Objectives

1.3.1. General Objective

The general objective of the study is to identify and explore the main potential opportunities and challenges that Ethiopia would come across as a member of the AfCFTAA.

1.3.2. Specific Objectives

The study has the following specific objectives:

- ✚ to analyze the legal regimes governing the AfCFTA;
- ✚ to study potential opportunities awaiting Ethiopia a head;
- ✚ to study potential challenges awaiting Ethiopia following membership;

1.4. Research Questions

The main questions of this study are:

- ✚ What main potential opportunities AfCFTAA ratification will bring about for Ethiopia?
- ✚ What main potential challenges Ethiopia could face/come across?
- ✚ What are the legal regimes governing the AfCFTA?

1.5. Significance of the Study

This research paper is intended to make contribution to the ongoing economic integration move of Ethiopia in the AfCFTA. To this end, it intends to:

<https://bertelsmannstiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/NW_Boosting_IntraAfrican_Trade.pdf>
accessed 16 January 2020

¹⁸ Nwaodu Nnamdi and Ijeoma Edwin, 'The African Union Continental Free Trade Area: the Challenges and Prospects' [2018] Vol.4, No.2, IJSDR 36. <<http://www.sciencepublihngroup.com/ijjsdr>> accessed 7 January 2020

¹⁹ UNECA (n 12)

²⁰ Some of the studies includes but not limited to: Martha Belete Hailu, 'Regional Economic Integration in Africa: Challenges and Prospects' [2014] Vol. 8, No.2, MLR 299. ; Tanyanyiwa and Others, 'Challenges and Opportunities for Regional Integration in Africa: The Case of Sadc' [2014] Vol. 19, Issue 12, IOSR-JHSS 103.; Teklit Yimesel Baraki, *Implementation of Trade Liberalization in the African Economic Community (AEC): Challenges and Prospects*, (LLM thesis, Addis Ababa University 2010).; Tesfaye Dinka and Walter Kennes, *Africa's Regional Integration Arrangements: History and Challenges*, (2007), Discussion Paper No. 74. ; and Solomon Gebreyohans Gebru, *Regional Integration in the Horn of Africa: States of Affairs and Challenges*, (WAI-ZEI Working Paper No.31, 2016).

- ✚ increase the awareness of the public, business community, and concerned government officials/organisations to ensure informed common understanding;
- ✚ contribute to the existing literatures and general debates with regards to regional economic integration in general and free trade area agreements in particular;
- ✚ provide specific information and useful recommendations on the subject at hand to the government organs and officials who are responsible to administer, implement and follow up the progress of the AfCFTA in Ethiopia, and to policy makers;
- ✚ serve as a stepping stone and a reference for potential researchers and students who wish to conduct further or related study.

1.6. Scope of the Study

Conducting a research which makes an assessment and discussion on the each and every potential opportunities and challenges related with Ethiopia ratification of the agreement establishing the CFTA can hardly be achieved owing to the time and budget limitations the researcher has. This study neither intends to go through sector by sector identification and assessment of potential opportunities and challenges nor intends to exhaustively quantify and cover all. The scope of the study is therefore, limited to more general and what is believed to be major potential opportunities and challenges in relevant literatures as well as in the eyes of the researcher.

Hence, for the purpose of the study, by opportunity it is intended to cover potential benefits and cons that the AfCFTA could offers for Ethiopia, which is mainly economic in nature. And, by challenges it is intended to cover internal and external potential hindrances and costs that Ethiopia could face under the AfCFTA. The former cover those challenges which have already existed within the country and may turn out to be a challenge during the integration and trading process to deny Ethiopia benefits of the AfCFTA or from maximizing the benefits to more advanced level. The later covers potential challenges which Ethiopia may face after trading under the AfCFTA begins in the near future.

1.7. Methodology

The study has adopted desktop qualitative method. It collected/ reviewed qualitative data from relevant documents and persuasively analyzed qualitatively in line with the research questions. The method is chosen based on the nature of the research problem, questions and objectives/intended results. It is qualitative method which enables to conduct in-depth studies of the potential opportunities and challenges from broader perspectives.²¹ The method also gives the researcher flexibility to decide which particular opportunities and challenges are significant, which are worthy of inclusion and how to order them.²² From the point of the research problem planned to be addressed using this method alone is sufficient. Besides, in addition to the study of the black-letters, study of the AfCFTAA is made in light of the specific economic, political and social contexts of the country. This somehow gives the study interdisciplinary flavour.²³

Accordingly, the AfCFTA establishing framework agreement and protocols has been surveyed. Relevant books, scholarly articles, unpublished materials, working papers, and reports are also explored and employed as secondary sources with the view to answer the research questions.

The qualitative data gathered from the documentary source are analyzed mainly in an exploratory manner by starting with the literatures builds up with analysis. The study first identifies potential opportunities and challenges; which is immediately followed by the exploration of why and how they have become so.

1.8. Limitation of the Study

The research has faced the following limitations:

Due to manageability issue owing to time and resource constraints the research has, interview with concerned government officials and the business community has not been made. Obviously, had such interviews have been made, the study would come up with more reliable outcomes.

Moreover, there are no adequate publications both from the library and internet sources on the particular subject matter: the potential opportunities and challenges of AfCFTA with respect to Ethiopia. It was hardly to find comprehensive source. Hence, there was no

²¹ Robert K. Yin, *Qualitative Research from Start to Finish* (Guilford Press, New York, 2011) 6.

<[https://iums.ac.ir/files/hshesoh/files/Robert_K._Yin_PhD_Qualitative_Research_from_Start_to_Finish__\(2010\(1\).pdf](https://iums.ac.ir/files/hshesoh/files/Robert_K._Yin_PhD_Qualitative_Research_from_Start_to_Finish__(2010(1).pdf)> accessed June 15 2020; John W. Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (3rd ed., SAGE Publications, California 2009) 18.

²² Robert (n 21) 12.

²³ Mike Mconville and Wing Hong Chui (eds), *Research Methods for Law* (Edinburgh University Press, Edinburgh 2007) 5.

choice than relying on the few sources that are available on the AfCFTA and other sources related to the notion of economic integration through analytic generalization.

Finally, the interdisciplinary nature of the study coupled with the complexity of the concept of economic integration, the research has faced some limitations of expertise.

1.9. Organization of the Thesis

The thesis is organized in to five chapters which are further divided into sections and subsections. Chapter one deals with the general background of the study with the view to introduce the readers to the context of the work. Chapter two addresses the conceptual overview of (regional) economic integration such as the meaning, stages/levels, and historical development. The feature of FTA is also dealt briefly under this chapter. The third chapter assesses three the African Continental Free Trade Area (AfCFTA) conceptual, legal and institutional framework. It discusses most relevant provisions of the agreement and its protocols. In the fourth and main chapter of the thesis, the potential opportunities and challenges awaiting Ethiopia is in focus. It starts with the discussion of prevailing economic, political and social context if the country. It identifies and critically assesses both aspects which Ethiopia potentially will be come across. The fifth and final chapter draws the conclusion of the study by summarizing the major findings and makes recommendations on the way forward.

Chapter II - General Overview of Economic Integration (EI) and Free Trade Area (FTA)

2.1. Meaning of Economic Integration (EI)

Since FTA is built up on the notion of economic integration (EI) to become the most common form, first it is necessary to appreciate what EI is. There is neither a clear definition nor consensus on its substantive content and forms. Such lack of clarity and consensus is perhaps one of the key factors for limited progress in some economic integration arrangements. In spite of this, various working definitions has been forwarded by different literatures. The term economic integration specifically refers either regional or international economic integration. International economic integration is synonymous with globalization, whereas, regional economic integration limits the economic integration to particular region.²⁴ In this context, the study focuses on the later aspect of integration and particularly African economic integration. Thus, by economic integration the study mainly refers to regional integration.

EI refers to the process of integration of various sovereign economies in a given area or region into a single unit for the purpose of regional economic development. This kind of integration occurs when two or more nations undertake certain activities and policies that results in greater mutual economic interdependence. It is characterized by the establishment of joint institutional mechanisms and a degree of shared sovereignty, but does not necessarily require member countries to be from the same regions or neighbors.²⁵ EI is an arrangement among nation that mainly includes the reduction or elimination of trade barriers and the coordination of monetary and fiscal policies with a view to increase trade and reduce cost for both consumers and producers. This is because when regional economies agree on integration, trade barriers fall and economic and political coordination increases.²⁶

EI is also defined as a process by which two or more states in a broadly defined geographic area reduce a range of trade barriers to advance a set of economic goals. The level of integration can vary from loose association to a sophisticated and deeply integrated. At one extreme, the mere existence of trade relations between independent national economies is considered as a form of economic integration. At the other extreme, there is complete unification. Thus, the unifying factor is the desire by the participating states.²⁷ EI is a process in which the economies of different countries become more connected.²⁸ Trade has certain restrictions and tariffs which can be issued in a very discriminatory manner. EI make sure that certain artificial trade barriers are reduced in the best way so that countries can be unified and connected to produce a larger economy.²⁹ EI is like a team where people from diverse backgrounds, with unique ways of thinking and differing personalities come together to work towards achieving a common goal.

²⁴ Manone Regina Madyo, *The Importance of Regional Integration in Africa*, (MA thesis, University of South Africa 2008) 11. <<http://uir.unisa.ac.za/bitstream/handle/10500/2075/dissertation.pdf?sequence=1&isAllowed=y>> accessed 16 January 2020

²⁵ *ibid* 12.

²⁶ Brian Abbott and Will Kenton, 'Economic Integration' (Investopedia, 23 August 2019). <<https://www.investopedia.com/terms/e/economic-integration.asp>> accessed 16 January 2020

²⁷ Sean Burges, 'Economic Integration' (Encyclopedia Britannica, January 2020). <<https://www.britannica.com/topic/economic-integration>> accessed 15 January 2020; Balassa Bela, *The Theories of Economic Integration*, (Macmillan, London 1961) <<https://link.springer.com/chapter/>> accessed 16 January 2020

²⁸ __, 'Cambridge Business English Dictionary' (Cambridge University Press, 2020). <<https://dictionary.cambridge.org/dictionary/english/economic-integration>> accessed on 20 February 2020

²⁹ Hitesh Bhasin, 'Economic Integration: Meaning, Types, and Benefits' (Marketing91, October 2018). <<https://www.marketing91.com/economic-integration/>> accessed 15 January 2020

The concept of EI can be viewed in the same way. Hence, it can be generally defined as the coming together of nations to attain a common goal.³⁰

EI involves transferring of loyalty from national to supranational organization and increasing of interdependence/cooperation between states. It is a movement away from nationalism towards regionalism, a movement away from fragmentation towards supranational unification. It may take various forms; starting from free trade area up to a more complex economic union which supplements the integration with agreement on custom, economic and currency policy.³¹ Moreover, it has been distinguished that EI is both a process and a state of affairs. As a process, it is concerned with the measures which aim at abolition of discrimination. As a state of affairs, it can be treated as an area comprised of different states with no discrimination.³²

Despite most of the definition for EI are limited in scope to show the whole concept we can summarize the general picture of what EI is by taking in to account some elements. Firstly, EI has to be formed, in most cases, among sovereign nations. Secondly, EI presupposes elimination of tariff and non-tariff barriers so as to encourage intra-community trade. Thirdly, though not claimed as absolute criteria, it bases on relative geographic proximity. Fourthly, relative balance of economic development is required. Fifthly, it is a process which has a peculiar nature in every level of integration.

Generally, it is important to note that EI is an agreement between groups of countries in a geographic region, to reduce and ultimately remove tariff and non-tariff barriers to the free flow of goods, services, and factors of production.³³

2.2. Stages of Economic Integration

As we can infer from the above discussed broad and narrow meanings, EI by definition is a collective term used to cover the loose as well as the more complex and strongest forms integration. As the EI level increases, the barriers between decreases. Each stage of higher rank contains both the characteristics of the lower and new that expand the scope/content of the integration. The transition from one stage to another higher stage means expanding the subject of integration. Thus, each stage can be regarded as step to ultimately achieve full integration. Each advanced form of integration is also implies giving more national sovereignty.

Some literature identify and distinguish the stages of integrations in to four, some make them five and others six. Though some detail discussion will be made later, shortly, free trade area is mostly the first stages of economic integration which intends to remove tariffs and quotas within the group; Custom Unions establish common tariffs for countries outside the group; Common Market lifts restrictions on the movement of factors of production within the region; and lastly in economic Union common macroeconomic policies are adopted within the group.³⁴

Preferential Trade Area (PTA)

A well-known economist Bela Balassa has suggested that the first step in EI is Free Trade Area (FTA). Unlike Balassa, other economists have suggested Preferential Trade Area (PTA) as the first step even though it is limited in scope. As a result, PTA is referred as the lowest level or form of REI arrangement between two or more countries in which goods produced within the union are subject to lower or reduced trade barriers than the goods produced outside the union. It is an agreement in which members apply lower tariffs to imports produced by other members than to imports produced by non-members. This means that the participants in a PTA reduce restrictions on trade between themselves; while maintaining a higher level of restrictions on goods imported from nations outside the agreement.³⁵

PTAs are basic form of economic cooperation and usually entail lower trade barriers among participating nations than with non-member nations. Hence, goods produced outside the union are subject to more trade barriers than goods produced within the union.³⁶

³⁰ Tanyanyiwa and Others, 'Challenges and Opportunities for Regional Integration in Africa: The Case of Sade' [2014] Vol. 19, Issue 12, IOSR-JHSS 103, 104. <www.iosrjournals.org> accessed 7 November 2019

³¹ Nwaodu and Ijeoma (n 19) 37.

³² Aahana S., 'Essay on Economic Integration' (Economic Discussion, 2019).

<www.economicdiscussion.net/essays/economic-integration/essay-on-economic-integration-macroeconomics/30472> accessed 19 January 2020

³³ Cole Kati, Lyons Russell and Cary Deborah, 'Regional Economic Integration' [1999] Vol. 2, Art.14, RJUSRJ 60, 70. <<https://fisherpub.sjfc.edu/ur/vol2/iss1/14>> accessed 20 February 2020

³⁴ ShujiroUrata, 'Globalization and the Growth in Free Trade Agreements' [2002] Vol. 9, No.1, APR 20, 21. <<http://www.tandf.co.uk/>> accessed 16 January 2020

³⁵ Manone (n 24) 16.

³⁶ Amr Sadek Hosny, 'Theories of Economic Integration: A Survey of the Economic and Political Literature' [May 2013] Vol. 2, No.5, IJEMSS 133, 134 <<http://www.waprogramming.com>> accessed 27 January 2020

A good example of PTA is the economic partnership agreements between the European Union and the African, Caribbean and Pacific countries.

Free Trade Area (FTA)

A free trade area (FTA), which is the focus area of the study, is an agreement between two or more countries to remove trade barriers such as tariffs and import quotas outrightly or by setting a date in the future. Unlike PTA it is a suppression or gradual elimination of all trade restrictions and discrimination in the field of commodity movements among member countries. In this form of integration each member countries are free to decide and impose any level of tariffs against non-member countries.³⁷ Thus, with free trade, all the barriers to the trade of goods and services among member countries are removed. However, each country can determine its own trade policies and the level of protection applied with regard to nonmembers.

FTA which is also called “Trade Integration” is formed when at least two states partially or fully abolish custom tariffs on their inner border. It is a type of trade bloc, in which a designated group of countries have agreed to eliminate tariffs, quotas on most (if not all) goods traded between them. To exclude the exploitation of minimized or zero tariffs within the FTA through re-exportation the countries use the system of certification of origin for the goods originating from the territory of a member state of an FTA most commonly called rules of origin, where there is a requirement for the minimum extent of local material inputs and local transformations adding value to the goods. Goods that do not cover these minimum requirements are not entitled for the special treatment envisioned in the free trade area provisions.³⁸

FTA is not only trade treaty between two or more countries but also between trade blocs that have agreed to eliminate tariffs, quotas and preferences on most (if not all) goods and services traded between them. Usually these agreements aim to give each other access to markets by lowering or removing border protection measures such as border taxes on exports and imports, and other barriers. FTAs aim to remove the barriers to trade and investment so that trade can grow as a result of specialization, division of labor, and most importantly via comparative advantage. They create a freer flow of goods, services, investment and people.³⁹ A good example is the North American Free Trade Agreement (NAFTA) formed by USA, Canada, and Mexico and the newly established African Continental Free Trade Area (AfCFTA).⁴⁰

FTA is also expressed as a Preferential Trade Area (PTA) in which member countries do not impose trade barriers (zero tariffs) on goods produced within the union. However, each country keeps its own tariff barriers to trade with non-members.⁴¹ More specifically, paragraph 8 of article (XXIV) of the General agreement on trade and tariffs (GATT) defines a free trade area understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce are eliminated on substantially all the trade between the constituent territories in products originating in such territories.

Custom Union (CU)

FTA usually evolves into a Custom Union (CU), which is regarded as a stronger form of cooperation since it eliminates all trade barriers among member states of the union and imposes a common tariff against non-member countries. It is normally expected that each CU should refrain from introducing any new customs duties among themselves that would have the effect of increasing duties to above the levels existing at the time of the agreement. Thus, it demands a firm commitment.⁴²

CU is one step closer to economic and political integration which eliminates trade barriers between member countries and adopts a common external trade policy.⁴³ It introduces unified tariffs on the exterior borders of the union which is known as common external tariffs. Shortly, CU is a type of trade bloc which is composed of a free trade area in which member countries apply a common external tariff on a good imported from outside countries. This common external tariff can, of course, differ across goods but not across union partners.⁴⁴

More specifically paragraph 8 of article XXIV of the GATT defines a Customs Union as the substitution of a single customs territory for two or more customs territories, so that duties and other restrictive regulations of commerce are eliminated with respect to

³⁷ Manone (n 24) 17.

³⁸ __, ‘*Economic Integration*’ (Michigan State University, 2016) 1.

<<http://www.calculemus.org/pub-libr/eu-integr/1-2econ-integr.pdf>>accessed 16 January 2020

³⁹ Economic Research and Training Foundation (IMC), *Paper on Free Trade Agreement*, 2. accessed 16 January 2020

⁴⁰ Eduard Marinov, ‘*Economic Determinants of Regional Integration in Developing Counties*’ [2015] Vol. 3, No.3, IJBM 22, 26.

<<http://www.iises.net/international-journal-of-business-management/publication-detail-164>> accessed 27 January 2020

⁴¹ Amr (n 36) 134.

⁴² Manone (n 24) 22-23.

⁴³ Cole, Lyons and Cary (n 33) 70.

⁴⁴ Amr (n 36) 134.

substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories, and, (ii) subject to the provisions of paragraph 9, substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union.

The most famous example of CU is the European Community (EC), formed in 1957 by West Germany, France, Italy, Belgium, the Netherlands, and Luxembourg.⁴⁵

Common Market (CM)

When the integration process extends beyond the elimination of trade barriers to the free movement of factors, this stage is called common market (CM) or “factor integration”. A common market is defined as a group of trading nations that permits the free movement of goods and services among member nations (*i.e.*, within the FTA); the initiation of common external trade restrictions against non-members (CU); and the free movement of factors of production across national borders within that given economic bloc.⁴⁶

A CM as a higher level of economic integration than FTA and CU ensures that member’s unity is strengthened and that there is harmonization and co-ordination of policies and activities. Thus, CM is mainly established because of the fact that the movement of goods and services among member states is restricted when these countries has adopted different trade and commercial policies and practices. The promotion of free factors mobility, such as labor/people, capital and technology under CM will leads to a more efficient allocation of labor and capital within the economic bloc. Labor, capital and technology will move from their least productive locations to their more productive locations. As a result, the bloc total level of production, income as well as welfare will be enhanced.⁴⁷ With full freedom of movement for all the factors of production between the member countries, the factors of production become more efficiently allocated, further increasing productivity. For both business within the market and consumers, a single market is a very competitive environment, making the existence of monopolies more difficult.⁴⁸

This means that inefficient companies will suffer a loss of market share and may have to close down. However, efficient firms can benefit from economies of scale, increased competitiveness and lower costs, as well as expect profitability to be a result. Consumers are benefited by the single market in the sense that the competitive environment brings to them cheaper products, more efficient providers of products and also increased choice of products. What is more, businesses in competition will innovate to create new products; another benefit for consumers.⁴⁹

Hence, we can see that absence of restrictions on emigration, and cross-border flows of capital between member-countries is important for creating beneficial single common market.

Economic Union (EU)

After becoming Common Market (CM), an economic bloc may develop into the next much deeper and stronger level of integration, which is Economic Union (EU). EU is a common market in which national economic policies of all member countries are harmonized in order to remove any discrimination which may result due to difference in these policies. Economic policies such as monetary, fiscal, social and other will be unified; a supra-national authority will be set up to administer the policies, and its decisions are binding for all member states in the bloc.⁵⁰

EU is the most advanced type of economic integration, where the monetary and fiscal policies of member states are harmonized and sometimes even completely unified. And it is usually referred to as “policy integration”. The extreme case and ultimate goal of EU is a Monetary Union (MU).⁵¹ It establishes a common exchange rate mechanism, which grows into a common currency that functions on the common market. There is common monetary policy and coordination of macroeconomic policies of the member states. An example of economic and monetary union is the Euro zone within the EU, which since 2001 has a common currency.⁵²

Complete Economic Integration/ Political Union (CEI/PU)

Hungarian economists Bela Balassa speaks of another stage of the integration process which is called the complete economic integration (CEI), that implies the unification of monetary, fiscal, social and anti-cyclical policies. It requires the complete

⁴⁵ Eduard (n 40) 26.

⁴⁶ Manone (n 24) 25-26.

⁴⁷ *ibid.*

⁴⁸ Michigan State University (n 38) 2.

⁴⁹ *ibid.*

⁵⁰ Manone (n 24) 28.

⁵¹ Amr (n 36) 134.

⁵² Eduard (n 40) 26.

establishment of supranational authorities whose decisions are binding on the member states of an economic union. Here the formulation and implementation of economic policy is an exclusive competence of the institutions of the integration community.⁵³ It also involves the transfer of political power and the integration of legislative, administrative and judicial processes under the auspices of a supra-national authority.

CEI is the highest and final form of economic integration. After CEI, the integrated units have no or negligible control of economic policy, including full monetary union and complete or near complete fiscal policy harmonization.⁵⁴

Some researchers state that there is another stage of the integration process, which however, is political. In it the ultimate political goal of integration is to achieve a political union (PU) where integration is carried out in areas that affect national sovereignty. According to them, so far, no integration community has achieved this stage of integration, although the EU makes efforts to deepen political integration in order to become a real political union with the introduction of the common citizenship and the attempts for implementation of common policies in foreign affairs, security, justice and internal affairs.⁵⁵

2.3. Historical Development of Regional Economic Integration (REI) and Free Trade Area (FTA) in Africa and the Experience of Ethiopia

2.3.1. Historical Development of Regional Economic Integration (REI) and Free Trade Area (FTA) in Africa

The creation of African FTA is an old idea having been conceived more than a hundred years ago when in the 1890s, during the colonial era, Cecil Rhodes and other British imperialists envisioned the making of a trade zone spanning the whole African continent from Cape to Cairo. This however was not realized given the conflicting interests of the imperialists in the scramble for Africa which further entrenched elements of disintegration in the continent through divide and rule system in different parts of the continent.⁵⁶ After independence, due to the fact that Africa is confronted with deep rooted level of poverty, minimal share of world trade, and low pace of development in infrastructure ensuring that regional EI succeeds in Africa is vital hoping it will help in enhancing and accelerating economic development and growth in the continent.⁵⁷

Consequently, the decolonization and independence of African states since late 1950s leads to the beginning of long journey towards African unity and integration. The founding fathers of independence including Kwame Nkrumah, Thabo Mbeki and Muammar Gaddafi, to name a few stressed the importance and advantage of aligning regional trade policies with wider national development strategies. They quickly realized that the way to improve their fragmented economies is to unify Africa's small markets that lacked economies of scale in the production and distribution of goods and services at a continental level. As a result, repeated attempts have been made to group themselves in several broad types of arrangements. However, the path to African integration has not been easy. It has been marked by a series of major initiatives and political decisions to accelerate it.⁵⁸

The formation of the Organization of African Unity (OAU) in 1964 by independent African states has helped to re-assert the vision of regional integration. However, only in the early 1980s was the vision of regional integration given substantive meaning and programmatic direction by the first executive secretary of the United Nations Economic Commission of Africa (UNECA), Adedeji Adebayo. His influential leadership led to the launch of the Lagos Charter in 1975 and the Lagos Plan of Action (LPA) in 1980.⁵⁹ The OAU Heads of State adopted the Lagos Plan of Action that called for the integration of the continent. However, the Lagos Plan of Action has been criticized for not having a detailed implementation strategy.⁶⁰

In 1991 the OAU address this gap or the failure of LPA in its regional integration strategy by adopting the Treaty Establishing the African Economic Community (AEC) which commonly known as Abuja Treaty that set out a step-by-step approach to regional integration in Africa through the creation of the Regional Economic Communities (RECs). The first stage, as outlined by the treaty is the elimination of tariffs within RECs the building blocks of the intended AEC, followed by the elimination of non-tariff barriers and the introduction of a common external tariff to form a customs union followed by common markets and monetary unions.⁶¹ The treaty also contains provisions under which the parties agree to ensure the free movement of capital within the community through

⁵³ *ibid* 27.

⁵⁴ Michigan State University (n 38) 2.

⁵⁵ Eduard (n 40) 27.

⁵⁶ Nwaodu and Ijeoma (n 18) 39.

⁵⁷ Tanyanyiwa and Others (n 30) 109.

⁵⁸ Dr Faizel Ismail, 'Working Paper Advancing the Continental Free Trade Area (CFTA) and Agenda 2063 in the Context of the Changing Architecture of Global Trade' (2016) 5.<www.tips.org.za> accessed 18 January 2020

⁵⁹ *ibid*.

⁶⁰ *ibid*.; Tanyanyiwa and Others (n 30) 103-104.

⁶¹ Lola (n 17) 17.

the elimination of restrictions on capital transfers in accordance with a timetable to be adopted. It also contemplates the progressive granting of rights of residence and establishment for nationals within the community.⁶²

By the early 2000s eight significant RECs were created advancing the process of regional integration. Together they present the frame for economic integration and regionalism in the various parts of Africa to ultimately conclude the formation of the African Continental Free Trade Area (AfCFTA). And the average applied tariff within each of these regional formations has been substantially reduced from 0 percent for the EAC to 7.4 percent for CENSAD.⁶³ However, these RECs which are the building blocks of the integration project faced a number of implementation challenges including inadequate financial and manpower resources to support their numerous integration initiatives. These challenges have contributed to slowing progress of the continental integration. In order to address them, the AU has undertaken a range of initiatives, including a Minimum Integration Program.⁶⁴

Later on, the above mentioned Africa's RECs were beginning to overlap due to membership to more than one REC and had committed to joining more than one Customs Union. To overcome this problem in the ongoing regional integration process, Ministers of Trade and Industry of the three RECs (SADC, EAC and COMESA) led the process of building a FTA between all three RECs. In June 2011 the Heads of State of the three RECs launched the Tripartite Free Trade Agreement (TFTA) negotiations at a Summit in Johannesburg. This Tripartite Free Trade Agreement was signed at Sharm el Sheikh, Egypt on 10 June 2015 by representatives of most of the 26 member states.⁶⁵

In January 2012 the Economic Commission for Africa made a strong case for a continental free trade area (CFTA) negotiation to be launched by the AU. The commission stated the fact that only about 10-12 percent of Africa's trade took place with other African countries and argued for enhanced efforts to boost intra-African trade, for the building of regional value chains, and diversification of Africa's economies.⁶⁶ The signing of the TFTA agreement has inspired the AU Heads of State to launch the most ambitious trade integration project. As a result, on 15 June 2015, the AU Heads of State meeting in Johannesburg launched the negotiations towards a Continental Free Trade Area which include trade in goods, services, investment, intellectual property rights, and competition policy.⁶⁷ The Agenda 2063 action plan has called for an integrated continent, politically united, based on the ideals of Pan-Africanism and the vision of Africa's renaissance and expresses its vision that Africa shall be a continent where the free movement of people, capital, goods and services will result in significant increases in trade and investments amongst African countries.⁶⁸

In 2010, the Trade Ministers of African states agreed to the establishment of a CFTA agreement aiming to eliminate tariffs and quotas on goods and services traded between the member countries. In 2012 at the 18th Ordinary Session, heads of states adopted the decision to create a Continental Free Trade Area (CFTA) by 2017 and endorsed the Action Plan on Boosting Intra-Africa Trade and a framework document for fast-tracking the establishment of the CFTA. This decision was the result of the AU's priority initiative under the AU Agenda 2063. The legal reasoning and the foundation behind the CFTA, is the Abuja Treaty. The CFTA establishment is one of the fundamental pillars for the successful implementation of Agenda 2063 to transform Africa into a prosperous Africa that is based on comprehensive and sustainable growth.⁶⁹ In an attempt to fast-track the CFTA, the AU adopted a Roadmap action-plan at the 2012 conference to fast-track the CFTA establishment. The CFTA had been expected to be active by 2017 based on a three-phased approach: Finalisation of the TFTA, Conclusion of other FTA's, merging of the TFTA and other FTA's into a CFTA initiative and the formal formation of the CFTA. The roadmap also included an outline that identifies the institutional architecture, monitoring and evaluation mechanisms and a dispute settlement system for the CFTA.⁷⁰

⁶²UNCTAD, *Investment Provisions in Economic Integration Agreements* (Geneva 2006) 24.

<[http:// unctad.org/en/pages/publicationArchive.aspx?publicationid=310](http://unctad.org/en/pages/publicationArchive.aspx?publicationid=310)> accessed 15 January 2020

⁶³ Dr Faizel (n 58) 6. ; SADC (Southern African Development Community); EAC (East African Community); COMESA (Common Market for Eastern and Southern Africa); ECOWAS (Economic Commission of Western African States); ECCAS (Economic Community of Central African States); IGAD (Inter-Governmental Authority on Development); AMU (Arab Maghreb Union); and CENSAD (Community of Sahel-Saharan States).

⁶⁴ UNECA, *Assessing Regional Integration in Africa (ARIA V): Towards an African Continental Free Trade Area* (5thed, Addis Ababa 2012) 13.

<https://www.uneca.org/sites/default/files/PublicationFiles/aria5_print_uneca_fin_20_july_1.pdf> accessed 7 February 2020

⁶⁵Dr Faizel (n 58) 6.

⁶⁶ *ibid.*

⁶⁷ *ibid* 7.

⁶⁸ *ibid.*

⁶⁹Andrew Brasington, '*Prospects of an African Continental Free Trade Area*' (2016) 1-2.

<https://www.academia.edu/29894882/Prospects_of_an_African_Contiental_Free_Trade_Area> accessed 20 January 2020

⁷⁰ *ibid* 6.

Negotiations on the AfCFTA were launched in 2015 and two phases were planned. The first phase to cover trade in goods, trade in services and dispute settlement; and a second phase cover investment, competition and intellectual property. While the 2017 deadline was missed, an Extraordinary Summit of the AU was organized in Kigali, Rwanda from 17-21 March 2018, where the AfCFTA Agreement was presented to African leaders for signature, along with the Kigali Declaration - a declaration signaling commitment to the AfCFTA and its principles and the Protocol to the Abuja Treaty relating to the Free Movement of Persons, Right to Residence and Right to Establishment. Out of 55 AU member states, 54 signed the AfCFTA Agreement.⁷¹ Following the 22nd ratification by Sera Leone and Saharawi republic the agreement went/come in to force on May 30, 2019 and the operational phase has subsequently launched on July 7, 2019. And it has indicated that trading on Goods under AfCFTA is expected to begin on July 2020.⁷²

2.3.2. Economic Integration Experience of Ethiopia

Ethiopia has engaged in number of economic integration agreements and negotiations both at the regional and international levels. Regionally, Ethiopia is a member of the Common Market for Eastern and Southern Africa (COMESA) since its foundation in 1993. It has already established free trade, custom union, supporting institutions that permit the free movement of labor, removal of tariff obstacles to free movements of goods, and the right of establishment and residence for investors in the COMESA region.⁷³ Trade within the COMESA FTA is on a duty and quota free basis for goods that are produced by COMESA member states. However, Ethiopia, a core state and one of the bigger economies in the region, has not yet acceded to the FTA.

Ethiopia is also a founding member to the Intergovernmental Authority on Development (IGAD) which was established in 1996. The IGAD has expanded its objectives to include economic integration and to have its own FTA, among others.⁷⁴ Harmonization of policies with regard to trade, customs, transport, communications, and agriculture, and promotion of free movement of goods, services, people and capital within the region is stipulated as one of the aims of IGAD. Its proposed FTA would follow the model of existing FTAs in Africa to ensure regional policy coherence and to gain an entry point into the tripartite FTA. In its 12th Assembly of Heads of State and Government of June 2008 in Addis Ababa directed the secretariat to develop regional integration policies and programmes to make IGAD relevant as a building block of the AU. Accordingly, the secretariat has completed the IGAD MIP.⁷⁵ To this end, IGAD's Heads of State and Government decided to implement the current Minimum Integration Plan (MIP) as a guiding and dynamic strategic framework for the economic and social integration. Under the Regional Strategy, IGAD will continue pushing ahead with its regional integration agenda by developing an IGAD FTA, taking into account existing harmonized frameworks such as the Tripartite Agreement and the continental FTA.⁷⁶

Internationally, among African countries in general and Sub-Saharan countries in particular, Ethiopia is the largest economy which has not yet signed WTO membership, but handed in the request for WTO accession on 13 January 2003. The process has taken longer than expected, and membership has not been achieved yet. Thus, Ethiopia remains an observer of the World Trade Organization (WTO) as the process of accession continued. With respect to market access, Ethiopia has wide opportunities which are far from being fully utilized. As one of a least developed country (LDC), it enjoys preferential treatment offered by many of its trading partners. By virtue of the European Union "Every but Arms" (EBA) Program and the United Nations African Growth and Opportunity Act (AGOA) Ethiopia is granted duty-free, quota-free access to the largest foreign markets for virtually all of its exports in Europe and US markets. The country also enjoys tariff preferences under the Generalized System of Preferences (GSP) in Australia, Canada, Japan, New Zealand, Norway, and Switzerland. Ethiopia also benefits from preferential market access in China, India, Russia, the Republic of Korea, and Turkey.⁷⁷

Lastly, and more recently the house of people of representative of Ethiopia (HPR) has approved on March 21, 2019 the membership of the country in to the African Continental Free Trade Area (AfCFTA), which aims to create the largest common market in the world, making Ethiopia the 21st country to ratify the agreement. Twenty days later, on April 10, 2019 the country has deposited its ratification instrument. This has marked Ethiopia the 19th country to have deposit the ratification as well as the first ever free trade

⁷¹ Sean Woolfrey, Philomena Apiko and Kesa Pharatlhathe, *Nigeria and South Africa: Shaping Prospects for the African Continental Free Trade Area*, (Discussion Paper No.242, 2019) 3. <<https://ecdpm.org/publications/nigeria-and-south-africa-shaping-prospects-for-the-african-contental-free-trade-area/>> accessed 15 February 2020

⁷² tralac, legal texts and policy documents (n 6).

⁷³ Lola (n 17) 18-19.

⁷⁴ ibid 20.

⁷⁵ UNECA 'ARIA V' (n 64) 18.

⁷⁶ Intergovernmental Authority on Development (IGAD), *IGAD Regional Strategy Volume 1: The Framework* (2016) 26. <www.igad.int> accessed 4 March 2020

⁷⁷ __, 'Ethiopian Investment Report' (Ethiopian Investment Commission, 2017) 80. <www.investethiopia.gov.et> accessed 20 February 2020.

agreement (FTA) Ethiopia has ever signed and ratified.⁷⁸ The Ethiopian Prime Minister's office has announced the approval of the country's membership to the AfCFTA, saying the common market would enhance regional integration and the decision is consistent with PM Abiy's vision of creating a closer and full regional integration where minds are open to ideas and markets are open to trade. The decision to establish the AfCFTA was initially arrived at in the 18th Ordinary Session of the Assembly of Heads of State and Government of the African Union in January 2012, with a tentative launch date of 2017.⁷⁹ On July 12/2019, Ethiopia has also announced her agreement to liberalize 90 percent of its tariff for members of AfCFTA, which will scale back within the coming 15 years. The tariff liberalization will commence from July 1, 2020, onwards, it was learned, and it will be based on law and regulation.⁸⁰

To conclude, even if Ethiopia has membership in IGAD, COMESA and acceding to WTO accompanied by bilateral investments, the country's progress in enhancing regional trade has been generally slow.

2.4. Characteristics of Free Trade Area

The concept of EI, its various stages as well as the sharp rise in the number of EI blocs in Africa since the mid-1990s has already been briefly mentioned above. Thus, it is possible to identify and summarize some of the specific characteristics or features of these regional arrangements.

The first characteristics can be the fact that they are getting bigger and bigger from time to time. In this regard, most of them are good examples, as the original members have been joined by others and the membership is bigger than before. And it will expand even further when the non-member states decide to join. As a result of these expansions, many of these economic integration groupings have diverse members in terms of their level of economic development and economic systems. Which means, within a given group, the per capita GDPs of one or more countries is the highest, while the other one or more countries are the lowest per capita GDP. The integration also could include countries with free market economies, mixed as well as socialist regimes.⁸¹ The countries brought together under the AfCFTA are diversified. The economic size ranged from less than \$1 billion in GDP in São Tomé and Príncipe to more than \$350 billion in Nigeria and South Africa in 2017. The largest population, Nigeria's, was 190 million in 2017, while the smallest, Seychelles's, was 94,000. GDP per capita ranges from over \$20,000 in Equatorial Guinea to under \$250 in South Sudan. There are 15 landlocked countries and six small island developing economies. Several countries have sizeable manufacturing sectors, while many have largely undiversified economies, dominated by a small number of agricultural, mineral or fuel commodities. Most economies in Africa remain poor compared with rest of the world including almost 70 per cent of the world's least-developed countries.⁸²

The second characteristic could be the increasing depth of these agreements. As mentioned above, some of the economic integration blocs began as a preferential trade area and progressively evolved in to free trade area, customs union and so on. Although this evolution may take a number of years to achieve, the transition from a one level to the next economic union has taken place since the 1990s so as to make the integration more deep and strong. In addition to the more traditional objective of removing trade barriers, many of these agreements are moving to include liberalization and facilitation of service trade and foreign investment, labor mobility, intellectual property, competition policy, agreements on dispute settlement, and the establishment of common fiscal and monetary policies.⁸³

The third characteristic is the increase in agreements between countries that are not necessarily neighbors or in close proximity. Traditionally, RTAs were between countries geographically close such as the members of the EU and NAFTA. More recently, however, geographically distant countries, such as Ethiopia to one of European, Asian and American countries, have entered into integration arrangements. Also relevant to this trend is the growing interaction between different RTAs. Typical examples of this trend are the Tripartite FTA concluded between SADC, EAC and COMESA.⁸⁴

⁷⁸ African Union 'Ethiopia Deposits of Ratification Instrument' (n 9)

⁷⁹ __, 'Ethiopia is the newest member of the Africa Continental Free Trade Agreement (AfCFTA)' (Semonega Ethiopia, 3 February 2019) <<https://semonegna.com/ethiopia-joins-africa-continental-free-trade-agreement-afcfta/>> accessed 5 January, 2020

⁸⁰ __, 'Ethiopia to Apply 90 Percent Tariff Liberalization for Members of AfCFTA' (Ethiopian Embassy in Brussels, 17 July 2019), <<https://ethiopianembassy.be/2019/07/17/ethiopia-to-apply-90-percent-tariff-liberalization-for-members-of-afcfta/>> accessed 25 February 2020

⁸¹ Shujiro (n 34) 23.

⁸² UNECA, *Assessing Regional Integration in Africa IX, Next Step for African Continental Free Trade Area*, (Economic Commission for Africa, Addis Ababa 2019) 42.< <https://www.uneca.org/publications/assessing-regional-integration-africa-aria-ix>> accessed on 15 January 2020

⁸³ Shujiro (n 34) 24.

⁸⁴ *ibid.*

The fourth characteristic is that economic integration agreement including free trade area is mainly an instrument designed to liberalize trade between the parties by removing barriers. It is not an instrument for managing their trade or isolating sensitive sectors. Such arrangements have to meet not only the WTO rules and discipline but also many other international requirements contained in multilateral conventions. The internationally agreed rules for the content of regional trade agreements fall mainly under the purview of the World Trade Organization (WTO). Due to this fact most of RTA more or less has similar contents. But, this does not mean that they are similar at all. The parties to the economic integration agreement can in fact determine what the content of the agreement should be to a considerable extent themselves, as long as the outcome is in conformity with the WTO rules.⁸⁵ When the countries negotiating PTA, FTA or custom union are members of the WTO they must notify these agreements to the WTO where they are examined by the Committee on Regional Trade Agreements (CRTA). The aim of this examination is to promote RTAs that are fully consistent with the WTO rules and disciplines.⁸⁶

The fifth feature of economic integration, in particular RTAs is the creation of a mechanism in the form of rules of origin for deciding what goods will be considered by the participating member states as products originating in the other member state. This is because; tariff and other restrictions will only be eliminated in respect of goods originating within a member. In other words, rules of origin have to be drafted to enable the easy identification of such goods and to avoid evasion through re-exportation. Thus, there is a requirement for the minimum extent of local material inputs and local transformations adding value to the goods. Even if the exact rules vary from one to another, commonly, one of these four methods, or criteria, will establish the origin of a good that is manufactured in, assembled in, or using materials originating in, more than one country: one-using the concept of substantial transformation as a rule; two-using an ad valorem percentage test; three-listing specific manufacturing or processing operations which confer or do not confer origin upon the goods; and four-requiring a specified change in tariff classification. Whichever method is employed to determine origin, the goal is to prevent simple assembly and packaging operations from conferring origin. Each of the four methods has pros and cons.⁸⁷

Generally, even if each and every regional economic integration agreements concluded by African countries or other regions vary depending on their unique circumstances, we can conclude that most of them however, more or less share the above mentioned common features.

Thus, the mentioned characteristic equally applies to the newly established African Continental Free Trade Area (AfCFTA).

Chapter III - The African Continental Free Trade Area Agreement (AfCFTA): Conceptual, Legal and Institutional Framework

This chapter is devoted for discussion and analysis of the African continental free trade area agreement adopted for establishing the AfCFTA. In doing so, among other things the objectives, the guiding principles, the conceptual framework and main legal regimes governing the FTA will be dealt briefly.

3.1. The AfCFTA: the Conceptual Framework

3.1.1. What the AfCFTA is All About?

The African Continental Free Trade Area (AfCFTA) is an agreement concluded by Africa countries to establish free trade area through the reduction or/and elimination of tariff and non-tariff barriers that existed between themselves. As mentioned in the previous section of the study, it was in 2012, the African Heads of State and Government, by recognizing the promotion of intra-African trade as a fundamental factor for sustainable economic development, employment generation and effective integration of Africa into the global economy, decided to establish the Continental Free Trade Area (CFTA) by 2017. On 21 March 2018, the establishment of the AfCFTA was signed in Kigali, Rwanda, by 44 Heads of State and Government of the 55 African Union (AU) Member States. Following the 22nd ratification as of May 30, 2019 it has entered in to force and the operational phase has subsequently launched on July 7, 2019. And it has indicated that trading under AfCFTA will begin on July 2020.⁸⁸ The continental free trade area (CFTA) is established as per Article 2 of the framework agreement which read as; “the AfCFTA is hereby established”.

With regards to intra-African trade, Africa has faced a number of challenges including the absence of a continental framework for facilitating such intra-regional trade, high tariffs between AU Member States, overlapping membership in the regional economic

⁸⁵Australian Government Department of Foreign Affairs and Trade (AGDFAT), *Negotiating Free Trade Agreements: A Guide*, (2005) 24. <publications.apec.org /-/ media/APEC/Publications/2005/12/Negotiating Free-Trade-Agreements-A-Guide-2005/2005-negotiating-free-trade-area- agreement-a-guide.pdf.> accessed 14 January 2020

⁸⁶ ibid 31.

⁸⁷ ibid 25.

⁸⁸ Andrea Cofelice (n 15) 32.

communities (RECs), and lack of diversity in the exports base. Thus, the creation and implementation of the AfCFTA is expected to help for addressing some of these challenges such as cutting off tariffs on goods traded within the continent and bring the intra-African trade to the next higher level.⁸⁹

The AfCFTA will cover a market of 1.2 billion people and a gross domestic product (GDP) of more than \$2.5 trillion, across all 55 member States of the African Union. In terms of numbers of participating countries, it represents the world's largest free trade area since the formation of the World Trade Organization. The population of Africa is projected to reach 2.5 billion by 2050, at which point it will comprise 26 per cent of what is projected to be the world's working age population, with an economy that is estimated to grow twice as rapidly as that of the developed world. Currently, with average tariffs of 6.1 per cent, businesses face higher tariffs when they export within Africa than when they export outside it. AfCFTA will progressively eliminate tariffs on intra-African trade, making it easier for African businesses to trade within the continent to benefit from the growing African market. Consolidating this continent into one trade area provides great opportunities for trading enterprises, businesses and consumers across Africa.⁹⁰

Many view the CFTA as more than a free trade agreement. It is perceived as a platform that can facilitate a process of inclusive structural transformation of African countries, contributing to meeting Africa's Agenda 2063 vision and helping Africa to progress towards implementing the Sustainable Development Goals. The CFTA present a unique and increased opportunity to millions of African citizens. Generally, it can play a key role in increasing integration, combating poverty, and achieving African countries development goals.⁹¹

On the other hand, the African Continental Free Trade Area Agreement (AfCFTAA) is a framework agreement and legal document which established the CFTA⁹² and serves as a starting point for more detailed negotiations on trade in goods, services and other trade related issues such as competition, investment and intellectual property rights (IPRs).⁹³ The agreement has seven parts and 30 articles covering various aspects of the FTA. Due to the wide scope of the agreement, the negotiation has been divided into two phases. The first already concluded phase has focused on: cutting off tariffs on 90% of goods exchanged between African countries; the elimination of non-tariff barriers such as the excessively long customs procedures, costly sanitary and phytosanitary measures, complex and heterogeneous rules on product standards and licensing requirements; the definition of rules of origin; a deal on customs cooperation and trade remedies. Any decision on the elimination of tariffs related to the remaining 10% of goods, represented by "sensitive products", as well as on other issues such as investments, competition policies and intellectual property rights, has been postponed to the second phase of negotiations, which is already started. The agreement is also supplemented by the African Union Protocol on Free Movement, with which the signatory states grant visa waiver, the right of residence and the right of establishment for professional or work reasons to their citizens.⁹⁴

As far as the fate of the existing Regional Economic Communities (RECs) is concerned, they will not disappear for the foreseeable future. Member states will continue to trade under their respective REC trading regimes since in the AfCFTA agreement, the member States reaffirm their existing rights and obligations under other trade agreements of which they are members. Similarly, two of the principles outlined in Article 5 refer to the 'RECs' Free Trade Areas as building blocks for the AfCFTA and that best practices in the RECs are recognized. Another principle mentions the "preservation of the *acquis*", which means that what has already been achieved as part of the implementation of REC obligations will have to be respected. The Agreement also states that 'State Parties that are members of other regional economic communities, regional trading arrangements and custom unions, which have attained among themselves higher levels of regional integration than under this agreement, shall maintain such higher levels among them'.⁹⁵ A similar formulation is used in the goods protocol with respect to the elimination of customs duties and trade barriers suggesting that REC members shall maintain higher levels of liberalization and where possible improve upon them among themselves.⁹⁶

3.1.2. Objectives and Core Principles of the AfCFTA

⁸⁹ International Trade Centre (ITC), *A business guide to the African Continental Free Trade Area Agreement* (Geneva, 2018) 3. <<http://www.intracen.org/itc/policy/impacting-trade-policy/>> accessed 16 February 2020

⁹⁰ UNECA, African Trade Policy Center (ATPC) and African Union (AU), *'African Continental Free Trade Area: Questions and answers'* (2019) 1. <www.uneca.org/atpc> accessed 27 January 2020

⁹¹ UNCEA 'AfCFTA and Human Right' (n 12) 20-21.

⁹² *Agreement Establishing the African Continental Free Trade Area*, (adopted 21 March 2018, entered in to force 30 May 2019), AEAfCFTA, Art. 2.

⁹³ Andrea (n 15) 32.

⁹⁴ *ibid.*

⁹⁵ AEAfCFTA (n 92) Art.19.

⁹⁶ __, *'African Continental Free Trade Area (AfCFTA) FAQs Questions & Answers'* (tralac. 2018), Issue No. 1, 7. <<https://www.tralac.org/resources/by-region/cfta.html>> accessed 13 December 2020

Part two of the framework agreement establishing the AfCFTA set out a number of objectives, principles and scope according to which the free trade area will be governed or administered and the African economy will be integrated through a period of time. The Agreement has been articulated in a manner that enables member countries abide by them. Consequently, member countries has already affirmed and declared their adherence. The main objectives of the AfCFTA are interesting. Generally, by removing tariff and non-tariff barriers on goods and services, member states intend to: facilitate intra-African trade; promote the integration of the African continent into the global economy; boost industrialization, competitiveness and innovation, ultimately contributing to Africa's economic development.

General objectives

The general objectives covered under article 3 of the agreement set out the vision for the AfCFTA. Some of them are to:⁹⁷

- Create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the continent and in accordance with the Pan African vision of 'an integrated, prosperous and peaceful Africa' enshrined in Agenda 2063;
- Create liberalized market for goods and services by successive rounds of negotiations;
- Contribute to the movement of capital and natural persons and facilitate investments
- Lay the foundation for the establishment of a Continental Customs Union at a later stage;
- Promote and attain sustainable and inclusive socioeconomic development, gender equality and structural transformation of the State Parties;
- Enhance the competitiveness of the economies of State Parties;
- Promote industrial development

Specific objectives

The specific objectives which are necessary to realize the above mentioned general objectives are stipulated under article 4. They are provided as a means to achieve the above mentioned general objectives rather than an end by themselves. Some of the means to the end includes:⁹⁸

- Progressive elimination of tariffs and non-tariff barriers to trade in goods;
- Progressive liberalization of trade in services;
- Cooperation in all trade-related areas including investment, intellectual property rights and competition policy;
- Cooperation on customs matters and the implementation of trade facilitation measures;
- Establishment of a mechanism for the settlement of disputes; and
- Establishment of an institutional framework for the implementation and administration of the AfCFTA.

Core principles

While striving to achieve the objectives set out in the framework agreement, the AfCFTA is expected to be governed and dictated by 12 core principles which are in listed under the agreement. These core principles set out the rules for the current and future negotiations of the AfCFTA. Some of these principles include:⁹⁹

- RECs' FTAs as building blocks for the AfCFTA;
- Transparency and disclosure of information;
- Preservation of the *acquis*; the already existing obligations and commitments that AU Member States have with other regional and international organizations including the WTO will be maintained. The FTA will be building on existing levels of integration; tariffs must be lowered beyond what has already been agreed.
- Most favoured nation (MFN) treatment; trade between African countries must be on terms better than offers made to third parties.
- National treatment; require Member countries to accord the same treatment to products manufactured in other member countries once imported into their territory as that accorded to similar locally manufactured products.
- Reciprocity;
- Substantial liberalization (tariff rates should be at zero);
- Consensus in decision-making; and
- Best practices in the RECs, in the State Parties and International Conventions.

3.2. The AfCFTAA: the Legal Framework

⁹⁷ AEAfCFTA (n 92) Art.19.

⁹⁸ *ibid* Art. 4.

⁹⁹ *ibid* Art. 5.

The AfCFTA, the legal texts upon which the continental free trade area is going to be implemented and administered has comprised three frameworks. The first is the main framework agreement that establishes the AfCFTA itself, defines the purposes of the agreement, establishes its primary definitions and outlines its scope.¹⁰⁰ The framework agreement also creates the institutional framework for implementing the AfCFTA and outlines procedures for administering it. This layer also provides overarching principles and relates the agreement to other relevant international and regional instruments. It sets out the vision to create a single liberalized market for goods and services, facilitated by movement of persons which is to be achieved through successive rounds of negotiations towards the elimination of tariffs and non-tariff barriers to trade in goods, and progressive liberalization of trade in services.¹⁰¹

The second framework is the protocols to the agreement, which cover trade in goods, trade in services, rules and procedures on the settlement of disputes, protocols to investment, competition policy and intellectual property rights. The protocols constitute the main substantive and operative components of the agreement, including obligations of member states, intentions, objectives, exceptions and institutional provisions. The first three protocols were the subject of the first phase of AfCFTA negotiations, while the three others postponed to the second phase.¹⁰²

The third layer of the framework contains the annexes, guidelines, lists and schedules to the protocols. These articulate the provisions of the protocols in a very detail. For instance, while articles 7 and 8 of the protocol on trade in goods oblige State parties to progressively eliminate import duties, annex 1 detail out the exact tariff schedules to be used for such liberalization. In some instances, this third layer goes deeper by appending additional documents, such as appendices to the annex on rules of origin, or guidelines to the annex on trade remedies. The annexes itself may establish further institutional arrangements, including sub-committees, dedicated to administration and implementation. In their totality, they create a rules-based legal system for governing the practices of preferential trade between the State parties.¹⁰³

In parallel with the adoption of the AfCFTA, the Protocol to the Abuja Treaty relating to Free Movement of Persons, Right of Residence and Right of Establishment was opened for signature at the 2018 AU Summit in Kigali. The Protocol recognizes that the free movement of persons in Africa will facilitate the establishment of the AfCFTA. Its objective is to facilitate the implementation of the African Economic Community by providing for the progressive implementation of the free movement of persons, right of residence and right of establishment. The protocol in its provisions has included the intention to abolish visa requirements, introduce the African Passport, and oblige State Parties to mutually recognize academic, professional and technical qualifications.¹⁰⁴

Since the texts of the AfCFTA agreement and its protocols on trade in goods, trade in services and on rules and procedures on the settlement of disputes were concluded in less than three years, the AfCFTA surpassed expectations with the pace of its negotiations. By the June 2018 Summit of the African Union Assembly, in addition to the framework agreement and the three protocols, most of the annexes for the protocol in trade in goods, such as Trade Remedies; Customs Cooperation, Trade Facilitation and Transit; Rules of Origin; Sanitary and Phyto-Sanitary Measures; Technical Barriers to Trade and Non-Tariff Barriers as well as the annex to the protocol of trade in services related with Transparency of service regulations, Mutual recognition of standards, licensing and certification of services suppliers, Progressive liberalization of services sectors, Provision for general and security exceptions had been negotiated and added. By April 2019, only one year and ten days after the signature, the 22 countries ratifications required for entry into force of the agreement had been reached.¹⁰⁵

The next main expected steps required in terms of the legal framework to bring the AfCFTA in to effects is State Parties must develop and submit schedules of concessions for trade in goods and specific commitments for trade in services. The schedules of concessions will details out, the particular 90 per cent of products that are to be liberalized for each State Party; the 10 per cent sensitive products that are to be liberalized over a longer time period as well as the excluded products that are to be temporarily exempted from liberalization. A related complement to the schedules of concessions for trade in goods is the list of product specific rules of origin, which alongside the general rules of origin will enable the application of preferences under AfCFTA. The list of product specific rules of origin is being developed. For trade in services, the schedule of commitment will call for a deep review of the regulatory framework of the identified sectors, subsector by subsector, mode by mode, the initial market access offers, which will then be subject to negotiations.¹⁰⁶

¹⁰⁰ They are enshrined in the Agreement starting from its preamble up to Art.7

¹⁰¹ International Trade Centre (n 89) ix.

¹⁰² UNECA 'ARIA IX' (n 82) 43.

¹⁰³ *ibid* 43- 44.

¹⁰⁴ International Trade Centre (n 89) ix.

¹⁰⁵ UNECA 'ARIA IX' (n 82) 42.

¹⁰⁶ UNECA, ATPC and AU (n 90) 9.

Generally, the legal framework instruments which are relevant for the agreement establishing the AfCFTA can be categorized into two. One - those instruments adopted under phase one negotiation and two- those instruments to be adopted under phase two negotiation. Under the first phase, the protocol on Trade in Goods and Services including their several annex are agreed up on. The third protocol which is covered under phase one negotiation is the protocol on dispute settlement. Under phase two negotiations intellectual property rights, investment and competition policies are expected to be negotiated and agreed.¹⁰⁷

To better understand the CFTA and the agreement thereof, it is useful to further consider the legal and institutional patterns of the agreement.

Protocol on Trade in Goods

A Protocol on Trade in Goods consist of ten essential parts with 32 articles, nine annexes as well as provision for national schedules of tariff concessions. The protocol is not an independent legal document, but part and parcel of the framework agreement establishing the CFTA. The main objective of the protocol is to create a liberalized market for trade in goods through the progressive elimination of tariffs and non-tariff barriers; enhanced efficiency of customs procedures, trade facilitation and transit.¹⁰⁸ As far as the scope of the protocol is concerned, it applies to trade in goods between the state parties.¹⁰⁹ When we look at the substantive part of the protocol we can see that it is more or less similar with the General Agreement on Tariffs and Trade (GATT) of the World Trade Organization (WTO).

Part two of the protocol has stipulated the non-discrimination principles: Most Favored Nation Treatment (MFN) and National Treatment (NT). Thus, member states are expected to provide no less favorable preferences to goods of other member than those given to third parties. However, the MFN rule recognized both in the protocol and the agreement has deviated from the traditional rules of MFN enshrined under the WTO system in a way that MFN is mandatory on each member states only when other member states are committed to do the same on reciprocal basis. Therefore, member state is not under obligation to extend MFN treatment to other fellow member state as long as that member state is not willing to do the same.¹¹⁰ The state parties are also committed themselves to give no less favorable treatment for goods imported from other member states to the agreement as compared to like domestic products.¹¹¹ Furthermore, general obligation of state parties with regards to liberalization of trade in goods through progressive elimination of import duties, quantitative restrictions and non-tariff barriers is covered.¹¹² For trade in goods, the agreement sets the path for eliminating tariffs on 90 percent of product categories. Countries can implement tariff reductions over a longer period in the case of sensitive goods, or maintain existing tariffs where the products are excluded for the remaining 10 percent of product categories (tariff lines).¹¹³ To ensure that the tariff preferences derived from the AfCFTA benefit only goods made in member States, the rules of origin specify the criteria and conditions for a product to be considered "made in" an AfCFTA state party.¹¹⁴ Rules of origin are designed to prevent tariff circumvention by member and non-member States, to deepen the continental market integration, and boost intra-Africa trade. Thus, the functionality of rules of origin requires close cooperation between the State parties. Due to this fact, annex 3 and art. 14 of the protocol which is focused on customs cooperation and mutual administrative assistance help to addresses origin verification of imported products.

Non-tariff barriers (NTBs) are generally considered to inhibit intra-African trade more than tariffs. Accordingly, the agreement as well as the protocol pays considerable attention to eliminating NTBs, as well as to common disciplines that affect trade such as sanitary and phytosanitary measures and technical regulations. The provisions on sanitary and phytosanitary measures and technical regulations seek to reduce the burden of difference in norms by promoting cooperation between State parties' standards bodies, by encouraging the mutual recognition of different standards and the harmonization of norms/standards. The annex on NTBs further provides a mechanism for reporting, monitoring, categorizing and eliminating them. Annexes on trade facilitation (annex 4) and transit (annex 8) require State parties to cooperate on simplifying and harmonizing trade procedures and giving fair treatment to goods in transit.¹¹⁵ The protocol as well as the annex on trade remedies set out all the means and procedures available for State

¹⁰⁷ *ibid.*

¹⁰⁸ *Protocol on Trade in Goods*, (adopted 21 March 2018, entered in to force 30 May 2019), PTG, Art. 2.

¹⁰⁹ *ibid* Art. 3.

¹¹⁰ *ibid* Art. 4. and AEAfCFTA (n 92) Art.18.

¹¹¹ *ibid* Art. 5.

¹¹² *ibid* Art. 7-12.

¹¹³ Lisandro Abrego and Others, *'The African Continental Free Trade Agreement: Welfare Gain Estimates from a General Equilibrium Model'* (IMF Working Paper, 2019) 5.

<<https://www.imf.org/~media/Publications/WP/2019/WPIEA2019124.ashx>> accessed 15 January 2020

¹¹⁴ PTG (n 108) Art. 13. The criteria and conditions are set out in Annex 2 on Rule of Origin, and in accordance with the appendix being developed on general and product specific rules.

¹¹⁵ UNECA 'ARIA IX' (n 82) 46-47.

parties to apply remedial import duties as anti-dumping and countervailing measures. The measure can be applied for instance to respond to damaging import surges or dumping or unfair competition causing material injuries to the economy of the importing state party.¹¹⁶

Finally, free trade generates economic welfare indispensable for the effective promotion and protection of the societal values and interests. On the other hand, trade liberalization and its principles of non-discrimination often conflict with the important societal values and interests, such as the promotion and protection of public health, consumer safety, the environment, employment, economic development and national security. In order to protect and promote these societal values and interests, governments frequently adopt legislation or take measures which constitute barriers to trade and inconsistent with the rules of AfCFTA. The Protocol on Trade in Goods provides rules to reconcile trade liberalization with these important societal values and interests. These rules take the form of exceptions to the basic AfCFTA framework. The protocol has recognized 3 main categories of these exceptions: general exceptions, security exceptions, and balance of payment exceptions.¹¹⁷ The rules provided for in the protocol to reconcile trade liberalization with other societal values and interests allow members to adopt trade restrictive legislation and measures that pursue these societal values and interests.

These exceptions clearly allow members, under specific conditions, to give priority to certain societal values and interests over trade liberalization, and its principles of non-discrimination and rules on market access.

Protocol on Trade in Services

The Protocol on Trade in Services is classified by six parts and 29 articles which provides for progressive liberalization of services sectors, mutual recognition of standards, transparency in service regulations, licensing and certification of services suppliers among African states. It comprises a framework of general obligations with Annexes (sectoral and cross-cutting) and national schedules of specific commitments. The general objective of the protocol is to progressively liberalize trade in services by eliminating barriers on the basis of equity, balance and mutual benefit and to create single liberalized market for trade in services. In addition to this objective, a number of specific objectives are listed out.¹¹⁸ The Protocol is based on the structure, principles and obligations set out in the WTO General Agreement on Trade in Services (GATS), there are strong parallels between both agreements. Negotiating guidelines are also drafted based on the (GATS).¹¹⁹

There is no definition for what service is, but Trade in services is defined as ‘as the supply of a service by one of four ‘modes of supply’ (i.e., Cross-border supply, Consumption abroad, Commercial presence, and Movement of natural persons).¹²⁰

The general obligation and disciplines, which are to be followed by all State Parties to the AfCFTA such as MFN, transparency, special and differential treatment, are stated from Articles 4-17. One of the key obligations is that of most-favored nation (MFN) treatment under Art 4. As per this obligation, if a measure introduced by one State Party provides a benefit to services and service suppliers of any third country that benefit should be extended to all State Parties. With pre-existing preferential agreements, a State Party is not obliged to extend preferences agreed with any third party prior to the entry into force of the Protocol. However, the State Party may afford opportunity to the other State Parties to negotiate the preferences granted therein, so long as this is on a reciprocal basis. With regard to new preferential agreements, any State Party may enter into a new such type of agreement with a third country, provided that such agreements do not impede or frustrate the objectives of the Protocol and should also be extended to all State Parties on a reciprocal and non-discriminatory basis.¹²¹ Another general obligation of member state is to ensure transparency of measures, international and regional agreements, any new laws, regulations or administrative guidelines by immediately notifying the Secretariat and making it accessible by publishing on widely circulating medium of communication.¹²² The obligation of transparency is more related with that of the right of member states to regulate trade in services as recognized under Art.8 and 9 of the protocol. Since regulation is necessarily accompanied by new measures, laws or guidelines, it follows that it needs to be disclosed well. However, this obligation has exceptions in case of emergency situation or when the disclosure would affect effective law enforcement or affect public interest or the legitimate commercial interest of a particular business enterprise. The third important obligation of AfCFTA member state is the duty to provide special and differential treatment in order to make the trade in services beneficial to all parties through different mechanisms such as granting of transitional period, provision of technical assistance and capacity building support.¹²³

¹¹⁶ PTG (n 108) Art. 17-20, and Annex 9

¹¹⁷ *ibid* Art. 26, 27, and 28 respectively.

¹¹⁸ *Protocol on Trade in Services*, (adopted 21 March 2018, entered in to force 30 May 2019), PTS, Art.3.

¹¹⁹ International Trade Centre (n 89) ix.

¹²⁰ PTS (118) Art. 1 (p).

¹²¹ *ibid* Art. 4.

¹²² *ibid* Art. 5.

¹²³ *ibid* Art. 7.

Art.10 deals with mutual recognition of standards or criteria for the authorization, licensing or certification of services suppliers. In particular, it provides that a State Party may recognize the education or experience obtained, technical requirements met, or licenses or certifications granted in another State Party, so long as this is not recognized in a manner that would constitute a means of discrimination between State Parties. As far as the exceptions to the general obligation of state party is concerned, like that of the protocol on Trade in Goods, the service Trade protocol has also recognized three exceptional situations whereby state party may set aside its obligation under the protocol giving priority for its societal values or interests such as economic/financial, security, health or environmental interests. The exceptions concept and content wise are more or less similar with the exceptions provided under the protocol of Trade in Goods: these are balance of payment, general, and security exceptions.¹²⁴

Part five deals with the main subject of the protocol, which is progressive liberalization of trade in services across the continent. Accordingly, the protocol requires state parties to undertake successive rounds of negotiations based on priority of sectors which will lead progressively towards liberalization of trade in services.¹²⁵ The protocol seems to have used the term “successive” deliberately to refer that full liberalization will not be achieved in a single round due to lack of willingness or capacity.

Following the coming into force of the agreement, member countries have agreed to a request and offer approach based on seven identified priority sectors: logistics and transport, financial services, tourism, professional services, energy services, construction, and communications.¹²⁶ The main negotiation is on sector-specific as well as cross-sectorial specific obligations that will be set out in the form of national schedules of specific commitments. Each schedule of commitment needs to contain terms, limitations (on the number of service suppliers, on the total quantity of service, on the total number of natural persons, on specific types of legal entity and on the participation of foreign capital in terms of maximum percentage) and conditions on market access; conditions and qualifications on national treatment; if any, additional commitments (other than market access and national treatment) and the time frame for implementation of such commitment.¹²⁷ The schedule of commitment lists limitations. Thus, ‘None’ means no limitations, thus the subsector and mode of supply is fully liberalized. ‘Unbound’ means that the State Party has reserved its position entirely to introduce new, possibly more restrictive regulations, and has made no binding commitment. When only a specific limitation is listed in schedule of commitment, it is taken as the sector is liberalized except to the extent of the limitation listed.¹²⁸ The protocol provides for detailed specific schedule of commitments by countries in each service sector and for each mode of service delivery. Beyond these commitments, countries have also agreed to complement their commitments in all service sectors with common sectoral regulatory cooperation frameworks.¹²⁹

To conclude, as compared to the Protocol on Trade in Goods, there is much unfinished work to be carried out under the Protocol on Trade in Services.

Protocol on Dispute Settlement

Trade relations often involve disputes. A dispute arises when a member government believes another member government is violating an agreement or a commitment that it has made. The most harmonious way to settle these differences is through some neutral procedure based on an agreed legal foundation. Thus, it is hard if not impossible to ensure that states comply with what they have agreed without a practical Dispute Settlement mechanism (DSM). So, it is important for trade blocs to have a well-organized and functioning Dispute Settlement Mechanism (DSM).

Dispute settlement systems play a key role in international economic integration. An independent, efficient and reliable dispute settlement mechanism is essential to settling disputes between the state parties and to develop relevant jurisprudence that will guide the single market economy objective of the constituent trade agreement.

In the AfCFTA context, the Protocol on Dispute Settlement which provides the rules and procedures for the settlement of disputes within the AfCFTA is one of the important features. The AfCFTA Dispute Settlement Mechanism (hereinafter the DSM) is based on the WTO Dispute Settlement Understanding. While there is nothing inherently wrong in the transplantation of dispute systems of the WTO model, the success of such transplants depends on the extent of the adaptation to the socio-political realities of Africa.¹³⁰

¹²⁴ *ibid* Art. 14, 15, and 16, respectively.

¹²⁵ *ibid* Art. 18.

¹²⁶ Lisandro and Others, (n 113) 5.

¹²⁷ PTS (n 118) Art. 22.; as far as what the substantive of the commitments in service liberalization should look like with respect to market access, national treatment and any additional commitments and the limitation thereof, art 19-21 has something to say.

¹²⁸ International Trade Centre (n 89) 36.

¹²⁹ UNECA ‘ARIA IX’ (n 82) 47.

¹³⁰ Olabisi D. Akinkugbe, *Dispute Settlement under the African Continental Free Trade Area Agreement: A Preliminary Assessment* (2019) 2-3. <<https://ssrn.com/abstract=3403745>> accessed 10 March 2020

Article 20 of the AfCFTA agreement establishes the DSM which is going to be administered in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes (“Dispute Protocol”). The Dispute Protocol establishes a Dispute Settlement Body (DSB) and provides for the settlement of dispute in a transparent, accountable, fair, and predictable way.¹³¹ The DSB comprise of the representatives of the AfCFTA State Parties and have a Chairperson to be elected by the State Parties. It has the authority to establish Dispute Settlement Panels; and an Appellate Body; to adopt Panel and Appellate body reports, to maintain surveillance of implementation of the rulings and recommendations of the Panels and the Appellate Body; and to authorize the suspension of concessions and other obligations under the Agreement. Decisions to be taken by the DSB are by consensus. The procedure for the settlement of disputes under the AfCFTA consists of Consultations (Good Offices, Conciliation or Mediation); Arbitration; Panels; and an Appellate Body.¹³²

Except when the disputing parties decided to go for arbitration, the first step towards resolution of disputes between State Parties is Consultations.¹³³ As an exception to a rule based dispute settlement system, the State Parties recognize a preliminary step that aims to reach an agreement without invoking the formal DSM. Consultations needs to be confidential and without prejudice to the rights of any State Party in any further proceedings.¹³⁴ A request for Consultations needs to be notified to the DSB through the Secretariat in writing, giving the reasons for the request, including identification of the issues and indication of the legal bases for the complaint.¹³⁵ Whenever consultation is completed by failure, the formal step towards the resolution of disputes is initiated by the constitution of a dispute settlement Panel. Upon the request of a Complaining State Party, a Panel shall be established by the DSB.¹³⁶ The primary function of a Panel is to assist the DSB in discharging its responsibilities under the AfCFTA.¹³⁷ The deliberations of the Panel are confidential, and the opinions expressed in the panel report by individual panelists are anonymous.¹³⁸ Panels are empowered to examine, based on the relevant provisions of the AfCFTA, the matter referred to the DSB by the Complaining Party; and to make such findings as will assist the DSB in making recommendations or in giving the rulings provided for in the Agreement.¹³⁹ The Panel has a total of five months for general matters, and one and a half months for perishable goods to issue a final report. Once the initial panel report is ready and has been circulated to the parties, they have the opportunity to raise their objections in writing. Except when a party decides to appeal, or the DSB by consensus decides not to adopt the report, the final panel report must be considered, adopted and signed at a meeting of the DSB convened for that purpose within sixty days from when it was circulated. Where an appeal has been notified, the DSB cannot consider the report for adoption until after the completion of the appeal. The decision of the DSB is final.¹⁴⁰

A standing Appellate Body composed of seven persons, with three forming quorum on any case is to be established by the DSB to hear appeals from panel cases.¹⁴¹ The proceedings of the Appellate Body in principle does not exceed sixty days calculated from the date a party to the dispute formally notifies its decision to appeal to the date the Appellate Body circulates its report. The body may uphold, modify or reverse the legal findings and conclusions of the Panel and shall produce a report reflecting the views of the majority of its members. Where the Panel and Appellate Body conclude that a measure is inconsistent with the AfCFTA, they are expected to recommend the State party concerned to bring the measure into conformity with the Agreement. The Dispute Protocol also contains provision on surveillance of implementation of recommendations and rulings such as compensation, suspension of concessions or any other Obligations, and arbitration.¹⁴²

Protocol on Other Areas

When the African Union Heads of State and Government launched the AfCFTA negotiations in 2015, they established a mandate beyond negotiations on trade in goods and services to deeper levels of integration in investment, competition policy and intellectual property rights. They envisaged not just a traditional free trade area agreement, but one that could integrate these further areas of policy. Accordingly, the AfCFTA negotiations limits the phase one to focus on a framework agreement establishing the AfCFTA and negotiations on protocols on trade in goods and services and dispute settlement. The second phase was dedicated to negotiations

¹³¹ *The Protocol on the Rules and Procedures of Dispute Settlement*, (adopted 21 March 2018, entered in to force 30 May 2019), PRPDS, Art 2.

¹³² *ibid* Art. 27.

¹³³ *ibid* Art 6 (1) and 7.

¹³⁴ *ibid*, Art 7(7).

¹³⁵ *ibid* Art 7(3).

¹³⁶ *ibid*, Art 9.

¹³⁷ *ibid*, Art 12(1-3).

¹³⁸ *ibid*, Art 17.

¹³⁹ *ibid*, Art 9(2).

¹⁴⁰ *ibid*, Art 19.

¹⁴¹ *ibid* Art 20.

¹⁴² Olabisi (n 130) 10. ; PRPDS (n 131) Art 23.

on investment, competition policy and intellectual property rights. As the phase one negotiating issues draw to a conclusion, phase two negotiations have begun after the July 2019 African Union Summit that operationalizes the AfCFTA.¹⁴³

At the Extraordinary Summit in Kigali in March 2018, the Assembly of Heads of State and Government directed African Ministry of Trade to conclude the negotiations on Competition Policy, Investment and Intellectual Property Rights, and submit the draft legal texts to the January 2020 Session of the Assembly for adoption through the Specialized Technical Committee on Justice and Legal Affairs. This deadline is not met. There are no WTO reference points in these areas, apart from the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs).¹⁴⁴

3.3. The AfCFTA: the Institutional Framework

The practice of states that have successful economic integration affirms that institutions created by the agreement play significant role in realizing economic integration schemes. By the same talking, making the AfCFTA work effectively requires the creation of institutional structures and its implementation is dependent on the efficiency of such organs of the free trade area.

The framework agreement of the AfCFTA has clearly identified five basic activities and provides the responsible institutions to discharge such responsibility. In addition to the agreement, the protocols and annexes has detailed out additional institutional framework. According to the agreement to make the FTA work effectively it must be implemented, administrated, facilitated, monitored and evaluated. Accordingly, four main institutional structures, committees and sub-committees are established. These are the Assembly, the Council of Ministers, the Committee of Senior Trade Officials and last but not the least is the Secretariat.¹⁴⁵

The Assembly of Heads of State and Government of AU (“the Assembly”) is the highest decision making organ/ authority and provides oversight and strategic guidance on the AfCFTA. It is at the apex of the implementing institutions. The Assembly’s membership may extend beyond the AfCFTA membership, since it may include African Union members which are not yet party to the AfCFTA agreement. This inclusion reflects the centrality of the AfCFTA to the African Union’s integration agenda, ensuring that the project maintains the political commitment of all member States of the African Union and the intention that all African Union member States will eventually be part of the AfCFTA. It also ensures that AfCFTA institutions are firmly rooted within and aligned with the African Union’s institutions.¹⁴⁶ In addition to being the highest decision making organ, the Assembly is empowered with exclusive authority to adopt interpretations of the agreement based on decision reached by consensus.¹⁴⁷

Under the Assembly, the Council of Ministers of Trade has the authority to take decisions on all matters under the AfCFTA Agreement, and works in collaboration with the relevant AU organs and institutions. Its mandate is to establish and supervise the AfCFTA Secretariat and committees, issue directives and regulations related to the agreement and consider and propose legal, financial and structural decisions for adoption by the Assembly. The Council of Ministers is also expected to promote broader trade policy harmonization beyond the AfCFTA.¹⁴⁸ Unlike the Assembly, the Council of Ministers includes only the State parties to the agreement, ensuring that the AfCFTA is administered only by the States that have signed and ratified the agreement. This structure puts pressure on the remaining African Union member States to ratify and become State parties to the agreement so they are not left out of important technical decisions.¹⁴⁹

The Committee of Senior Trade Officials is the third level at the institutional structure and it is a high level working group of the AfCFTA consisting of permanent, principal secretaries or other officials designated by each member state. It is responsible for the implementation of the decision of the council of minister; the development of programmes and action plans for the implementation of the Agreement. Besides, it establishes other committee or working groups and directs the secretariat to perform specific commitments.¹⁵⁰ The main responsibility of the council can be summarized in to two: acting as a clearing house for technical decisions submitted to the council and ensuring the implementation of Council decisions by assigning relevant sub-committees.¹⁵¹

In order to support the council and committees as well as to coordinate the implementation of the AfCFTA, the agreement provides for the establishment an administrative organ by the Assembly, the Secretariat. Until its establishment however, the African Union Commission (AUC) is directed to serve as the interim or transitional secretariat. The secretariat is to be functionally and legally

¹⁴³ UNECA ‘ARIA IX’ (n 82) 63-64.

¹⁴⁴ International Trade Centre (n 89) 41.

¹⁴⁵ AEAfCFTA (n 92) Art.9. Each institution, their composition and mandate is stipulated from Art. 10-13 of the Agreement.

¹⁴⁶ UNECA ‘ARIA IX’ (n 82) 44.

¹⁴⁷ AEAfCFTA (n 92) Art.10(2).

¹⁴⁸ *ibid* Art.11(3).

¹⁴⁹ UNECA ‘ARIA IX’ (n 82) 45.

¹⁵⁰ AEAfCFTA (n 92) Art.12(2).

¹⁵¹ UNECA ‘ARIA IX’ (n 82) 46.

autonomous institution within the African Union system with a budget derived from the AU.¹⁵² Thus, its status is equivalent to that of other African Union organs, such as the Pan African Parliament, and the African Court. Being functionally autonomous, the secretariat have the power to make administrative and operational decisions, including its own recruitment and human resources activities, without seeking approval from the African Union headquarters. But, since it is financed from the African Union budget, it will follow the African Union's financial and procurement rules. The secretariat is an intergovernmental institution, so decision-making powers are held by the hierarchy of committees, ensuring that State parties retain ownership and sovereignty over the agreement's execution.¹⁵³

A Dispute Settlement Mechanism (DSB) and Body (DSB) which will be applied to settle disputes arising between members of the AfCFTA is also established under Art.20 of the Agreement. Following the establishment the overall dispute settlement mechanisms are governed by the Protocol on Rules and Procedures on the Settlement of Disputes which has been already discussed in the above sections of the study. The protocol generally elaborates the institutional arrangements for the DSB and the procedures.¹⁵⁴

In addition to the above mentioned institutional arrangements other committees are established. Some of them include Committee on Trade in Services, Committee on Trade in Goods, Committee on Rules of Origin, and Committee on Sanitary and Phytosanitary Measures.¹⁵⁵ At the national level, it will be critical to have an AfCFTA strategy and dedicated institutional arrangements in place to carry out implementation and fully utilize opportunities of AfCFTA.¹⁵⁶

Therefore, it is based on all the above mentioned institutions and institutional framework that the AfCFTA is going to be implemented, administrated, facilitated, monitored and evaluated. One institution is established by the other higher institutional structure. One is accountable and required to submit periodic report to the next higher institution. One is entrusted with more general tasks and mandate while the other is concerned with more specific aspects of the FTA. But here it is also important to note that these regional AfCFTA institutions are not enough to put the regional integration on the ground successfully. Rather it should be supported by appropriate independent or subordinate national AfCFTA institutions established within each member country among other things with the responsibility of administering and implementing the rules and regulation of AfCFTA.

Chapter IV - The African Continental Free Trade Area Agreement (AfCFTAA): Opportunities and Challenges Awaiting Ethiopia

It has been shown in the foregoing part that one of the major pillars entertained in AfCFTA Agreement is trade liberalization and market access. It is accepted fact that such trade integrations have ample benefits and cost. But such benefits and costs of trade expansion may not be evenly distributed across all state parties depending on the various contextual circumstances of each country. Similarly, the success and failure story of Ethiopia AfCFTA integration highly depends on its social and economic development. The economic integration can only be effective if and only if it is joined by taking sufficient account of the actual economic, political and social realities of the country. Ethiopia integration cannot get far let alone benefiting from it unless it deals effectively with their prevailing domestic conditions. This makes plain that unless some preconditions fulfilled regional economic integration cannot be effective and a member cannot be benefited as expected. Thus, for better appreciation of the issue at hand the discussions of economic, political and social context of Ethiopia are made in first section of the chapter. The second section identifies and explores the main potential opportunities and challenges awaiting Ethiopia, which is the main focus of the study.

4.1. The Prevailing Context of Ethiopia

As mentioned before, the failure and success of Ethiopia membership to AfCFTAA among other things is dependent on Ethiopia's ability to take full advantage of the opportunities and to reduce the challenges created by trade liberalization. Hence it is important to understand Ethiopia's economic, political and social conditions, including its resource endowments, infrastructures, the characteristics of its sectors and so on. The section provides a general overview of some key issues pertaining to the economic, political and social context of Ethiopia in perspective hoping that this will provide a good background for easy handling and understanding of the later and main discussions by providing necessary country specific information.

Economic Context

¹⁵²Trade Law Center (tralac), *The African Continental Free Trade Area, A tralac guide* (5th ed., June 2019), 6. <www.tralac.org> accessed 17 September 2019

¹⁵³UNECA 'ARIA IX' (n 82) 46.

¹⁵⁴ tralac) (n 152) 6.

¹⁵⁵ ibid.

¹⁵⁶ UNECA, ATPC and AU (n 90) 7.

Ethiopia is among the poorest and the second most populous country in Africa after Nigeria with a population of above 100 million countries in Africa.¹⁵⁷ Despite some disputes over exact figures, there is consensus that Ethiopia has achieved impressive economic growth over the past decade with ambition of lifting Ethiopia from being among the poorest in the world to a middle-income country by 2025.¹⁵⁸ During the GTP I period (2010/11–2014/15), significant economic and social progress is recorded.¹⁵⁹ As a result, Ethiopia is among the few countries in sub-Saharan Africa (SSA) on track to meet nearly all MDG targets. To that end, the government has launched the second five-year GTP II, which spans 2014/15–2019/20 as a continuation of GTP I.¹⁶⁰ Ethiopian economy is predominantly agriculture based, where most of the GDP averagely has come from agricultural sector and creates employment opportunities for about 85 percent of the population. Similarly, most of Ethiopian exports are primary agricultural products such as coffee, oilseeds and pulses, chat, hides and skins, gold, leather and leather products, and live animals generating large percent of export earnings. As the main driver of the economy, agriculture greatly influences economic performance as well as future potential.¹⁶¹ However, the agriculture is also the least developed sector which is still dominated by rain fed subsistence production, and is highly vulnerable to variations in climate. The technologies used are resource demanding and outdated, with heavy dependence on livestock power for most farming activities and peasants cultivating the land with hoes and ox. Moreover, the traditional way of producing exportable items influences the quality of these commodities and their price in international market. As a result, let alone its export competitiveness droughts continue to make food security a critical issue for millions of smallholder farming households.¹⁶²

The industrial sector in Ethiopia is found at an infant stage in spite of decades of attempts to industrialize. The manufacturing sector has played limited role in export and creating employment opportunities. Moreover, it contributes little percent to foreign exchange earnings with no significant change in industrial value added. Rather it is the service sector registering high annual average growth rate.¹⁶³ Major import items of Ethiopia include capital goods such as machinery and equipment; intermediate goods for agriculture and industry such as fertilizer and fuel as well as food items.¹⁶⁴ Regarding the trade performance, Ethiopia has registered a continuous increase in its exports and imports with high growth rates. However, the trade deficit remains high reflecting a huge gap between the low values of exports and increasing imports of the country. Moreover, the trade-GDP ratio is also low reflecting the importance of export in the Ethiopian economy.¹⁶⁵

Ethiopia has sustained an average growth rate of around 10 percent over the past decade, leading to a significant reduction in poverty. This strong and sustained growth performance contributed to a decline in the poverty rate from 44 percent in 2000 to 23.5 percent in 2016.¹⁶⁶ The country is specializing on its comparative advantage which is one of the classical factors in regional integration performance. The country is endowed with rivers, lakes, forests, livestock, and high agricultural potential, including untapped potential of petroleum, salt, hydro-power and natural gas.¹⁶⁷ To this end, Ethiopia has been investing hugely on energy which is a huge potential driver for regional development and is now exporting electricity to neighboring countries such as Djibouti and Sudan.¹⁶⁸ The government has also continued its rapid infrastructure investments, building industrial parks and factories, dams for

¹⁵⁷ Ethiopian Investment Commission (n 77) 80.

¹⁵⁸ Jon Harald Sande Lie and Berouk Mesfin, *Ethiopia: A political economy analysis* (Norwegian Institute of Foreign Affairs, Oslo 2018) 3.

<https://www.researchgate.net/publication/325869690_Ethiopia_A_Political_Economy_Analysis_Ethiopia> accessed 5 March 2020

¹⁵⁹ African Development Bank Group, *Federal Democratic Republic of Ethiopia Country Strategy Paper 2016-2020*, (2015) 1.

<https://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/ETHIOPIA_CSP_BPPS_EN.pdf> accessed 4 March 2020

¹⁶⁰ *ibid.*

¹⁶¹ Dejene Aredo, Belay Fekadu and Sindu W. Kebede, *Trade Liberalization and Poverty: A macro-micro Analysis in Ethiopia* (January, 2011) 8-9. <https://www.econstor.eu/bitstream/10419/48283/1/44_kebede.pdf> accessed 4 March 2020

¹⁶² Jon and Berouk (n 158) 22.

¹⁶³ Dejene, Fekadu and Sindu (n 161) 9.

¹⁶⁴ *ibid* 10.

¹⁶⁵ Ebaidalla (n 3) 4.

¹⁶⁶ Paul Brenton, Stephan Dreyhaupt, and Mamo Mihretu, *Country Private Sector Diagnostic: Creating Markets in Ethiopia, Sustaining Progress Towards Industrialization* (2019) 8.

<<http://documents.worldbank.org/curated/en/410541567678527988/Country-Private-Sector-Diagnostic-Creating-Markets-in-Ethiopia-Sustaining-Progress-Towards-Industrialization>> accessed 8 April 2020

¹⁶⁷ Solomon Gebreyohans Gebru, 'Regional Integration in the Horn of Africa: States of Affairs and Challenges' (WAI-ZEI Working Paper No.31, 2016) 11. <https://www.zei.uni-bonn.de/dateien/wai-zei-paper/wai-zei-paper_no_31_gebru> accessed March 2020

¹⁶⁸ *ibid* 9-10.

hydroelectricity production, power lines and real-estate development. Government investments range from building road networks to expanding social services, and constitute the main engine of growth.¹⁶⁹

Despite the significant presence of the public sector, FDI has been on a strong upward trend for the past five years. According to the UNCTAD World Investment report (2018), Ethiopia became the destination for the largest amount of FDI in Sub-Saharan Africa, with an inflow of \$3.6 billion in 2017. The country is perceived as an attractive investment destination, and major investors have seized the opportunity to set up production facilities in the industrial parks.¹⁷⁰ As far as the role of the private sector in the economy is concerned, in official government policies it is accorded a prominent place, but this is not meaningfully reflected in practice. It is only recently that private actors have become regarded as important development actors.¹⁷¹ The government continues to play a heavy role through state-owned enterprises (SOEs) in key areas of the economy, including telecommunications, finance, energy, logistics and transport, as well as in manufacturing. Public sector investment still accounts for a significant share of the country's overall investment.¹⁷² In a major recent policy change, the government announced that domestic and foreign private sector participation would be permitted in telecoms, power, logistics, and air transportation.¹⁷³ The government has recently endorsed reforms that foster competition and allow foreign investment in the telecoms and ICT sectors. The reforms aim to generate more competition and innovation, leading to more players entering the market, while establishing a new and independent regulatory body. For instance, international bid is on air for private sector participation in Ethio-Telecom.¹⁷⁴

Under a new Prime Minister and government, greater political freedoms are being accompanied by recognition of the need to provide greater space for private sector involvement in the economy. The government is seeking a shared vision with the private sector toward achieving the primary economic goal of structural transformation through industrialization with attention to reforming priority sectors, especially those that have the greatest potential to drive job creation and poverty reduction.¹⁷⁵ The structure of the economy is shifting slightly from agricultural dominance towards the service sector in terms of the contribution to GDP. To this end, the government has focused on infrastructure development such as transport and energy facilities, investments in health and education, urban and rural development and creating industrial clusters.¹⁷⁶

Ethiopia has a number of advantages that it can leverage to attract the investment needed for job creation. These include rapidly improving transport and energy infrastructure, low labor costs, a large and growing domestic market, cheap power, and ideal climate, and preferential market access to the European Union, the United States and other major markets. Ethiopia is also pursuing a more active approach to regional economic integration, through the Common Market for Eastern and Southern Africa (COMESA) and the Intergovernmental Authority on Development (IGAD), and has recently signed the Framework Agreement of the African Continental Free Trade Area. Greater stability in the Horn of Africa, enhanced by the recent peace deal between Ethiopia and Eritrea, will further increase the size and attractiveness of the regional market centered on Ethiopia.¹⁷⁷

Generally, Ethiopia today is characterized by two contrasting aspects; poverty and economic growth. These aspects are spatially distributed. Poverty is more pronounced in and characteristic to the rural lands, whereas the economic growth taking place in Ethiopia is more concentrated in central and urban areas. The urban minority seeks work in the industrial or service sectors, but unemployment is a challenge, further exacerbated by an increasing rural urban migration.¹⁷⁸

Political Context

If we look at the political economy of Ethiopia in history, it was under the feudal political economic relation for thousands of years that advocate for the existence of feudal lords in the countryside and centralized feudal monarchy. This system was quite oppressive and exploitative by nature. Emperor Haile Selassie introduced modern bureaucracy in the country, but he was not good at expanding trade and facilitating regional economic integration. There were rebellions throughout the country. Students, soldiers, teachers, and

¹⁶⁹ Jon and Berouk (n 158) 3.

¹⁷⁰ Paul, Stephant, and Mamo (n 166) 15.

¹⁷¹ Jon and Berouk (n 158) 4.

¹⁷² Paul, Stephan, and Mamo (n 166) 14.

¹⁷³ *ibid* 31.

¹⁷⁴ *ibid* 40.; Samuel Maireg Biresaw, 'WTO Accession: the Possible Benefits for Ethiopia' [2018] Vol. 10, Issue 11, IJCR 75217, 75297. <<https://www.researchgate.net/publication/329360158>> accessed 4 March 2020

¹⁷⁵ Paul, Stephan, and Mamo (n 166) 2.

¹⁷⁶ Ejigayehu Sisay Tefera, 'Ethiopia's Accession to the World Trade Organization: Implications on Market Access and Balance of Payment Disequilibrium' (LLM thesis, Addis Ababa University 2016) 29. <<http://wiredspace.wits.ac.za/jspui/bitstream/10539/22212/1/Final%20Draft%20Thesis.pdf>> accessed April 2020; Jon and Berouk (n 158) 25.

¹⁷⁷ Paul, Stephan, and Mamo (n 166) x.

¹⁷⁸ Jon and Berouk (n 158) 3.

peasants were in the forefront of fighting against the regime.¹⁷⁹ The imperial regime was later put down by the military junta that declared itself the Provisional Military Administrative Council (Derg), which unleashed a Marxist-Leninist ideology starting in 1974. The Derg declared Ethiopia a communist state. There was no room for any political party or independent press, and opposition to the regime was brutally repressed. His government did not encourage free trade and private property. The country was unstable because of civil war which finally leads to the regime end in 1991 by the alliance of rebel forces, the Ethiopian People's Revolutionary Democratic Front (EPRDF) which is now changed in to coalition of parties by the name "Prosperity Party".¹⁸⁰

Ethiopia now is a federal democratic republic comprising the federal and regional states each with legislative, executive and judicial powers. The federal parliament is bicameral, consisting of the Federal Council and the House of Peoples' Representatives, which is the highest authority.¹⁸¹ The Ethiopian Government at both federal and regional levels is formed on the basis of multiparty elections conducted every five years. The longevity of EPRDF has produced a strong and stable party state apparatus that historically has been largely uncontested by both domestic and external actors. Meles Zenawi was Ethiopia's prime minister from 1991 until his death in 2012, and often described as the EPRDF strongman and political architect behind the revolutionary democracy and the developmental state. Up on his death, there was a smooth transition of power to Hailemariam Desalegn by the party appointment as well as through election, and on February 2018, he announced that he would resign. His resignation was hardly a surprise which leads to the transfer of power to the current prime minister Dr. Abiy Ahmed .¹⁸²

Ethiopia is a relatively peaceful and stable country with an experienced and politically strong government under EPRDF, now Prosperity Party arguably until 2015. After then, the country's political stability is threatened by, among others, internal conflict, regional insecurity and their resultant spill-over effects.¹⁸³ Democracy at the initial stage of the current government seems to have gained ground because printing media and political parties came into being. But some argues the government of Ethiopia simply has tried to fool the people of Ethiopia and the international community by conducting nominal elections. Democracy has become a luxury in the country. The Ethiopian People's Revolutionary Democratic Front (EPRDF) tries to control the people by multiple laws that forbid the fundamental human rights enshrined in the national constitution.¹⁸⁴ In line with this argument, Freedom House ranks Ethiopia as 'not free', due to the result of a downward trend in 2016 to control the anti-government protests in the Amhara and Oromia regions, leading to the state of emergency which further deprived civilians of their rights.¹⁸⁵

After the coming into power of the new Prime Minister, the government has taken a number of measures to widen the political sphere of the country and to ensure real democracy. But, recently a domestic problem such as ethnic conflict, political conflict and internal displacement has boiled over to affect the current integration tendency. Political and ethnic conflict contributed a lot for the uninterrupted oppositions across the country at this point, and the way of handling this crisis has become increasingly criticized. Unless this predicament is handled in well studied manner, the economic transformation that Ethiopia is experiencing now might fade away. It also shadows on the role of the country regional economic integration activities.¹⁸⁶

The horn of Africa region where Ethiopia is located is known for inter-state and intra-state conflict and various forms of transitional security threats such as terrorism, human trafficking, and piracy.¹⁸⁷ As a result, coupled with the fact that Ethiopia shares a common border with the neighboring countries, other than Uganda peace and security is a big concern for Ethiopia.¹⁸⁸ Though EPRDF, the now "Prosperity Party" received some internal hate and challenges, the country has developed a good relationship with neighboring countries including Eritrea and overseas countries. It has been seen as an island of fairly stable country in a troubled region. This situation has contributed to the government's improved bargaining power since external actors seem to prefer a stable regime. Moreover, as the seat of the African Union, Ethiopia has significant influence in Africa's regional and international affairs. It also has the region's most powerful and best equipped military which made the US and EU to regard Ethiopia as a reliable and relatively stable force to work with.¹⁸⁹

¹⁷⁹ Dawit Ayalew Alemneh, 'Economic Integration in East Africa: The Case of Ethiopia and Kenya' (MA thesis, Syracuse 2017) 73. <<https://surface.syr.edu/cgi/viewcontent.cgi?article=1170&context=thesis>> accessed 4 March 2020

¹⁸⁰ *ibid*; Tewodros Mekonnen and Halellujah Lulie, *Ethiopia, Regional Integration and the COMESA Free Trade Area* (2014), Occasional Paper No 198, SAIIA, 6.

< <https://dash.harvard.edu/bitstream/handle/1/33493328/WARNER-DISSERTATION-2016.pdf> > accessed 15 April 2020

¹⁸¹ Ethiopia Investment Commission (n 77) 7.

¹⁸² Jon and Berouk (n 158) 4-5.

¹⁸³ African Development Bank Group (n 159) 1.

¹⁸⁴ Dawit (n 179) 74.

¹⁸⁵ Jon and Berouk (n 158) 20.

¹⁸⁶ *ibid* 5.

¹⁸⁷ Solomon (n 167) 11.

¹⁸⁸ Dawit (n 179) 72.

¹⁸⁹ Jon and Berouk (n 158) 27.

Social Context

In this section, by social context it mainly encompasses the health and education aspects of the country. The beginning of basic health care services in Ethiopia began during the Imperial regime. However, access and utilization of modern health care is very limited until today. As a consequence, ensuring adequate health care has received an increased government attention in Ethiopia.¹⁹⁰ In this respect, a closer look at the country's health problems could indicate that the problem is associated with both supply-side and demand-side factors. The major supply side factors include the limited availability of health facilities (hospitals, health centers, clinics, pharmacies, drug stores), human resources (physicians, nurses), and inappropriate policies and strategies of the past governments. On the demand side (as will be discussed later), low level of income and education, location and cultural factors contribute to inadequate utilization of health services in the country.¹⁹¹

Ethiopia has achieved progress in improving health outcomes, but the sector continues to face many challenges. As a result of successive health sector development programs implemented since 1997, infant and maternal mortality is declining. Many health facilities do not have basic equipment and there are large disparities in availability of services, and quality across regions and income groups. There is a severe shortage of medical personnel in almost all facilities.¹⁹² Significant gains in terms of key health indicators are achieved by implementing a health extension strategy, which saw over 33,000 health extension workers trained and deployed in rural health centers, new public hospitals were built. Although these achievements are impressive, when measured as a proportion of the population it is clear that much more remains to be done.¹⁹³ To this end, the Health Sector Transformation Plan (HSTP) 2015-2020 sets ambitious goals to improve equity, coverage, and utilization of essential health services, improve the quality of health care, and enhance the implementation capacity of the health sector at all levels.¹⁹⁴

Concerning the other aspect of social context of the country, education, while Ethiopia has one of the highest school enrollment rates in Sub-Saharan Africa, it ranks among the lowest in overall literacy, with weak learning outcomes and high dropout rates. According to the UN's Education for All Development Index, Ethiopia came second only to Mozambique in terms of its improvement in primary enrollment over the past decade. A particular challenge is the low primary school completion rate. High drop-out rates from primary education translate into lower transition rates to secondary education.¹⁹⁵ School quality is a concern, as most primary and secondary schools currently fail to meet national standards. About 26 and 16 percent of primary and secondary schools, respectively, are rated at the lowest level.¹⁹⁶ The ratio of student to teachers has worsened. This has happened despite consistent training of more teachers.¹⁹⁷ In general, all the above briefly discussed Ethiopian country specific economic, political and social contextual circumstances are relevant factors in identifying and assessing the possible potential opportunities and challenges which the study intended to address.

4.2. Potential Opportunities and Challenges Awaiting Ethiopia

4.2.1. Potential Opportunities Awaiting Ethiopia

It is obvious that countries will not decide to form or join regional economic integration for nothing. Rather they become member to exploit the opportunities presented by the integration so as to transform the economy. Ethiopia is no exception. When we talk about Ethiopian membership in to the AfCFTA the key question is whether the membership and trade under the free trade area (FTA) will present opportunity that can improve the countries overall welfare. For a country with large and diverse resource base, greater participation in the regional trade through the AfCFTA potentially would provide additional opportunities to address the challenging issues of economic growth and poverty reduction and transform a largely peasant agricultural economy in to modern economy. Knowing and understanding potential opportunities that will be presented by the newly established CFTA in advance helps to work on it and to capitalize for greater benefits. Then, it is up to the government and other private stakeholders including the business community to work for ensuring the viability and effectiveness of Ethiopia participation by developing internal strengths and reducing weaknesses to create enabling environments to strengthen prospects for expanded trade and investment. To this end,

¹⁹⁰ Ethiopian Economics Association, *Report on the Ethiopian Economy: Development, Prospects and Challenges of the Energy Sector in Ethiopia* (Addis Ababa 2009), Volume VII, 147-148

<https://www.eaecon.org/sites/default/files/publications/REPORT%20ON%20THE%20ETHIOPIAN%20ECONOMY_Volume%20VII_2007_08_DEVELOPMENT%20%20PROSPECTS%20AND%20CHALLENGES%20OF%20THE%20ENERGY%20SECTOR%20IN%20ETHIOPIA_0.pdf> accessed March 2020

¹⁹¹ *ibid.*

¹⁹² Paul Brenton, Stephan Dreyhaupt, and Mamo Mihretu (n 166) 50.

¹⁹³ Deloitte Touche Tohmatsu Limited (DTTL), *Ethiopia: A Growth Miracle*, (Deloitte Touche Tohmatsu Limited (2014) 14.

<https://www2.deloitte.com/content/dam/Deloitte/na/Documents/strategy/za_ethiopia_growth_miracle_july2014.pdf> accessed February 2020

¹⁹⁴ Paul Brenton, Stephan Dreyhaupt, and Mamo Mihretu (n 166) 50.

¹⁹⁵ *ibid* 53.

¹⁹⁶ *ibid* 54.

¹⁹⁷ Deloitte Touche Tohmatsu Limited (n 193) 14.

this section aims at identifying and assessing the major potential opportunities that Ethiopia would come across as a result of its membership in to the AfCTAA. Based on the review of available literatures and the researcher judgment the study has identified predictable larger regional market access, increased competitiveness, attraction of more foreign direct investment, consumer choice and the sum of all acceleration of economic growth and development as main potential opportunities. It would therefore be worthwhile to explore each of the above mentioned potential opportunities.

4.2.1.1. Predictable Larger Market Access

Creating a liberalized market for goods and services is among one of the main general objectives of the AfCFTA as it is stipulated under Art. 3(b)(a) of the framework agreement. And such predictable larger market access which gives Ethiopia greater access to other African countries markets and larger export opportunities for Ethiopian domestic industries is the first main potential opportunity awaiting.

Tariffs and non tariff barriers are trade measures that allow countries to control the prices, speed, and volumes with which imports enter their domestic markets. Market access is directly related with such kind of tariff regimes of members in the regional economic integration. When there are high levels of tariff rates and non tariff barriers to enter the market of another country it is not possible to say there is market access for imports. On the other hand, when this are substantially reduced or eliminated there will be meaningful market access. The AfCFTA with its market liberalization and progressive tariff elimination rules has contained potential market access opportunity. These rules are enshrined with independent title both on the protocol on trade in goods and trade in services. For instance Art.7, 8, and 9 of protocol for trade in goods and Art. 18 and 19 of the protocol on trade in services can be mentioned as main provisions.

So far Ethiopia has no significant market access in the African country market. The country is not member of COMESA FTA, while IGAD has not succeeded to establish FTA.¹⁹⁸ Even if Ethiopia has access to USA and European market for most of its exports, Ethiopia does not successfully exploit the market since AGOA and EBA has high non tariff barriers such as stringent/unreachable sanitary and psychosanitary (SPS) requirements, rule of origin and transportation cost. Besides, they are temporary unilateral market access for limited period of time which could be withdrawn unilaterally at the whims of those countries; hence they are too unpredictable for any businessperson to base their decisions on.¹⁹⁹ Products exported by Ethiopia generally face higher tariffs and quantitative restrictions in both developed and developing countries and remains relatively small and very concentrated in terms of markets.²⁰⁰

The AfCFTA grants potential opportunity for larger and predictable market access for Ethiopian industries and exporters in different ways. The first and main tool designed to achieve this is ensuring progressive tariff liberalization. According to the protocol on trade in goods import duty is defined as any duty or charge of any kind including any form of surtax or surcharge imposed on or in connection with the importation of goods from any state party to another state party. In line with this definition Art.7 of the protocol imposes binding obligation on members to progressively eliminate import duties or charges on goods originating from the territory of other member states in accordance with their schedules of tariff concessions. Similarly, at least in principle, it is not possible to impose new import duties and charges.²⁰¹ State parties are required to set out the products to be subject to liberalization and the import duties that will be applied to those products that are not fully liberalized. State Parties are committed to apply preferential tariffs to imports from other State Parties in accordance with its Schedule of Tariff Concessions, which are to be in conformity with the adopted tariff modalities. This ultimately opens new and predictable market for Ethiopia domestic industries. To expand the market access further for trade in goods, the protocol has imposed another important obligation on member states which is an obligation not to impose quantitative and quota restrictions on imports and exports among state parties.²⁰² In this case, at least in principle the market access will be larger to accommodate larger quantity of exportable products of Ethiopia as long as our production capacity allows.

The AfCFTA protocol on trade in services has also incorporated various provisions with binding obligations that contributes to potential opportunity for predictable larger market access for Ethiopia services and service suppliers. The protocol provides that state parties are obliged to undertake successive rounds of negotiations leading progressively towards liberalization through the progressive elimination of the adverse effects of measures on trade in services as a means of providing effective market access with

¹⁹⁸ tralac 'tralac Guide' (n 152) 18.

¹⁹⁹ Geboye Desta Melaku, 'Accession for What? An Examination of Ethiopia's Decision to Join the WTO' [2009] Vol. 43, No. 2, JWT 339, 357.

<http://www.bkp-development.com/et-tcbu-docs/1a/D1%20Melaku%20Geboye%20Desta_2009.pdf> accessed 5 March 2020

²⁰⁰ Bereket Bashura Alaro, 'The EU-ACP (African, Caribbean and Pacific) Economic Partnership Agreements and their Implications for Ethiopia' (LLM thesis, Addis Ababa University 2010) 53.

<<http://etd.aau.edu.et/bitstream/handle/123456789/17720/Bereket%20Bashura.pdf?sequence=1&isAllowed=y>

²⁰¹ PTG (n 108) Art. 7(2).

²⁰² ibid Art 9.

a view to increase trade in services.²⁰³ The Protocol under Art.19 with the heading 'Market Access' further impose obligation on member states to accord services and service suppliers of any other state party treatment no less favorable than that provided for under the terms, limitations and conditions agreed and specified in its schedule.²⁰⁴ Thus, states are obliged to make preferential market access commitment to the benefit of service and service suppliers of other member states and to respect the commitment. Once commitment is made, state party cannot take measures that limit the number of services suppliers, total number of service operations, total number of natural persons, whether in numerical quotas, monopolies, and the total number of service transaction or assets.²⁰⁵ The Protocol also provides that in sectors where specific commitments are undertaken each party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective, transparent and impartial manner.²⁰⁶

The key obligation of most-favoured nation (MFN) treatment under Art.4 of both the protocol on trade in goods and services as well as the national treatment under Art.5 of the protocol on trade in goods and Art.20 of protocol on trade in services also plays important role in ensuring predictable and larger market access for Ethiopia in to another member country domestic markets. This is because the aim of these obligations and the underlining rules is to extend any preferences including market access preferences between State Parties. Thus, if a measure introduced by one State party provides a market access benefit to products or services and service suppliers of any third country other than Ethiopia and other members that benefit should be extended to all members including Ethiopia. Similarly, the national treatment obligation where by each state party is under obligation to accord to products or service and service suppliers of any other state party treatment no less favorable than that it accords to its own like products or services and service suppliers as per the agreed up on schedule commitments so that fair playing ground can be established in the market is essential to make the market access meaningful.

Moreover, the rules incorporated under Annex 5 on Non-Tariff Barriers which calls for the identification and elimination of NTBs that exist within each member state; the rules incorporated under Annex 4 on Trade Facilitation which call for the simplification of trade procedures, logistics and expedite movement, clearance and release of goods; the rules incorporated under Annex 6 on Technical Barriers to Trade which calls for facilitation of trade by the elimination of unnecessary and unjustifiable technical barriers as well as the rules enshrined under Annex 7 on SPS, annex 8 on Transit and annex 3 on Custom Cooperation directly and indirectly are relevant for the potentially larger and predictable market access for Ethiopia following its membership in the AfCFTA.

The predictability of the AfCFTA market access opportunity for Ethiopia can also be inferred from the duty related with transparency imposed on each member states by the framework agreement and services. The framework agreement has stipulated obligation of publication and notifications.²⁰⁷ Art. 16 requires member state to immediately publishes and make publicly available through Gazette, Newspaper or websites in one of African Union language all its laws, regulations, procedures and administrative rulings that has general application on trade matters. This obligation is concerned not only domestic laws but also international commitments made before. The notification requirement enshrined under Art.17 is expected to be made through the secretariat of AfCFTA. The provision also binds state party to notify to the secretariat any actual or proposed measure that might affect the operation of the FTA or other state party's interest. The general transparency obligations under Art.5 of the protocol on trade in services essentially imposes the obligation to publish promptly all relevant measures which have implications on trade in services in a medium that is accessible, such as through national gazettes, newsletters, or websites. The protocol further on trade in services under Article 9 also provides that in sectors where specific commitments are undertaken each State Party shall ensure that all 'measures of general application' affecting trade in services are administered in a reasonable, objective, transparent and impartial manner.²⁰⁸ All this mandatory rules which aimed at making all domestic laws, regulations and measures of each member state transparent and known or familiar to other member states are important mechanisms to in ensuring the predictability of the larger market encompassing more than 1.2 billion population and 2.5 trillion GDP.

When seen from its objectives and governing rules as preceded above, the AfCFTA is just opening the borders of African countries for African businesses and allowing the free movement of goods and services from one country to another. It allows an Ethiopian trader with small or large volume of goods to transport and sell in Kenya or South Sudan or beyond immediate neighboring country and easily repatriate his money legally.²⁰⁹ This access to African market is an opportunity for Ethiopia as it is linked to poverty reduction and economic development in a number of ways. Ethiopia will have huge market for its agricultural products including coffee, oil seeds and pulses, hides and skins, textiles and apparel and will also be able to export food items like vegetables, wheat, animal products, and manufactured goods. Greater market access allows a higher level of export growth and therefore income growth

²⁰³ PTS (n 118) Art. 18.

²⁰⁴ *ibid* Art. 19(1).

²⁰⁵ *ibid* Art. 19(2).

²⁰⁶ *ibid* Art 9.

²⁰⁷ AEAfCFTA (n 92) Art. 16 and 17.

²⁰⁸ PTS (n 118) Art. 9.

²⁰⁹ Andualem Sisay Gessesse, 'How continental free trade deal benefits Ethiopia' (New Business Ethiopia, 7 April 2019) <<https://newbusinessethiopia.com/nbe-blog/how-continental-free-trade-deal-benefits-ethiopia/>> accessed 10 February 2020

both in average income and income for the poor. Ethiopia can exploit several of its comparative advantages as it joins the CFTA. The geographical location of Ethiopia, its potential of diverse energy resources, the diversity of its commodities for exports, its growing infrastructure and transport facilities in railroad and air transport provides a comparative advantage. Ethiopia also has a better diplomatic standing and modern foreign policy objectives that the country can use to boost its role in AfCFTA.²¹⁰ Efforts of Ethiopia to address poverty and raise general living standards will not be fully realized if it faces market access constraints employment, foreign currency, and macroeconomic concepts. Thus, what Ethiopia need to secure as potential opportunities from the AfCFTAA is market access for its products and adequate capacity by addressing supply and demand side constraints to effectively utilize that market access.²¹¹ AfCFTA membership grants Ethiopian products not just a market access but also predictable, transparent, secured and expanded market with 1.2 population and more than 2.5 trillion GDP.

Generally, the AfCFTA will progressively eliminate tariffs on intra-African trade and stipulates various binding legal obligations, making it easier for Ethiopian businesses to trade within the continent and benefit from the growing African market. A commitment made within the AfCFTA framework is legally binding and predictable, and its breach will have legal consequences. Breach of a commitment within the FTA will not be as easy as withdrawing a privilege granted unilaterally, at least because there is the threat to resort to the dispute settlement mechanism. It will allow a higher level of export growth and therefore income growth. Hundreds of small manufacturing companies in Ethiopia can easily transport their products to Kampala or Nairobi. Likewise Kenyan or other African country traders and entrepreneurs can easily come to Ethiopia to buy from Ethiopian leather manufacturers to distribute in their country.²¹² Thus, the AfCFTAA with its market liberalization and progressive tariff elimination rules has contained potential market access opportunity. It is also a golden opportunity to establish trade ties with African countries. And it is up to the government and private stakeholders to create enabling environments to maximize and exploit this opportunity to the interest of the private sector and public at large.

4.2.1.2. Increased Competitiveness and Specialization

Enhancing the competitiveness of the economies of each member state within the continental and global market is recognized as one of the general objectives of the AfCFTA.²¹³ And this is mainly to be achieved through liberalization. Trade liberalization both in terms of trade in goods and trade in services is recognized as one of the most important obligations of member states of the AfCFTAA. This key obligation mainly enshrined among others under part three of the protocol on trade in goods Article 7, 8, 9 and the following provisions. Similarly, it is enshrined under part five of the protocol on trade in services Article 18, 19 and the following provisions. Within the framework of trade liberalization import duties and charges will be progressively eliminated.²¹⁴ Other non-tariff and technical barriers to trade, unjustifiable Sanitary and phytosanitary measures, and unnecessary custom procedures will be regulated very well.²¹⁵ The sum of this tariff liberalization and elimination of unjustifiable barriers leads to easy access to the other member countries market with high quality and low priced products. Hence, membership in to the AfCFTA means opening up of one's domestic market for foreign competition. As a result domestic industries of Ethiopia whether infant or well developed will be subjected to stiff competition from foreign firms. On the other hand, they will have access to large and predictable regional market potential. In both scenarios, there is a potential opportunity to increase competitiveness and specialize on one's own comparative advantage and economic strengths. In order not to be pushed out of the market domestic producer naturally will take every step at their disposal. At the same time accessing new and big African market encourage them for using their 100 percent production capacity to meet the demands through larger export and even by expanding their capacity beyond.²¹⁶

One of the most frequently mentioned potential opportunity of regional integration like the AfCFTA is that it serves as a learning platform for competition to produce quality products at quantity that can meet the demand in the larger market at lower price.²¹⁷ It is believed regional economic integration makes African economy competitive, and production increases in quantity and quality. Economic integration favours competition among industries while it forces some inefficient undertakings and industries to improve

²¹⁰ Solomon Dibaba, 'Ethiopia's benefits, challenges in joining AfCFTA' (Ethiopian Press Agency, 21 February 2019) <<https://www.press.et/english/?p=8575#>> accessed 14 January 2020

²¹¹ Bereket (n 200) 53.

²¹² Andualem (n 209).

²¹³ AEAfCFTA (n 92) Art. 3 (f).

²¹⁴ PTG (n 108) Art. 7.

²¹⁵ The detail rules and regulations are prescribed under Annex 5, 6, 7, 3 of the Protocol on Trade in Goods respectively. The proper implementation of all the annexes on non-tariff barriers, customs cooperation, technical barriers and SPS understandably facilitates easy access to domestic market of another state party with low priced quality products which begs market competition.

²¹⁶ Andualem (n 209).

²¹⁷ Tesfaye Dinka and Walter Kennes, 'Africa's Regional Integration Arrangements: History and Challenges' (2007) No. 74 ecdpm Discussion Paper, 20. <<https://ecdpm.org/wp-content/uploads/2013/11/DP-74-Africa-Regional-Integration-Arrangements-History-Challenges-2007.pdf>> accessed 5 March 2020

their system of doing business or to fade away.²¹⁸ The AfCFTA serves both as a carrot and stick mechanism to domestic firms. It serves as a carrot because it offers great market opportunities for firms to sell their products regionally. On the other hand, it serves as a stick because it forces firms to be regionally competitive or die out.²¹⁹ In other words, the AfCFTA can combine regional markets to enable firms to expand and markets to be more competitive. More competition and the increased possibility of bankruptcy may motivate firms to eliminate internal inefficiencies and raise productivity. More intense competition can increase worker productivity.²²⁰

At this junction, it is understandable that Ethiopia government being aware of the role of competition to ensure competitiveness and specialization in the economic development has opened up the business sphere to foreign competition from other AfCFTA members. Hence, it can be said that Ethiopia membership in AfCFTA has additional potential opportunity to ensure increased competitiveness and specialization. Following the announcement of Ethiopia willingness to apply 90 percent tariff liberalization for AfCFTA member states, Ambassador Woinshet Tadesse, Ethiopia's Permanent Representative to the African Union, remarked that being part of AfCFTA will help Ethiopia develop strong industries which might even be competitive in the international market.²²¹ Such increased commercial competition in local market will help to improve the quality of Ethiopian export commodities,²²² increases productive efficiency and economic growth of Ethiopia in general.²²³ However, the key to benefiting from AfCFTA membership emanates from establishing domestic competitive capacity to make use of the increased market access in addition to the domestic market.

In addition to increased competitiveness another potential opportunity awaiting Ethiopia out of liberalization and market openness in the AfCFTA is that it will stimulate specialization according to the country comparative advantage. The AfCFTA can enable Ethiopia to produce products which has enough resources to specialize this product in taking competitive advantage and be the only or major supplier to other African countries at lower costs. Specialization will in turn improve competitiveness, increase trade and economic growth.²²⁴

Ethiopia can exploit several of its comparative advantages as the country joins the AfCFTA. The Ethiopia potential diverse energy resources, the diversity of its commodities for exports, its growing infrastructure and transport facilities in railroad and air transport provides a comparative advantage for specialization at the disposal of the country.²²⁵ With different agro-ecological zones, Ethiopia enjoys a suitable climate for growing over 146 types of crops. Nearly half of the potentially cultivable land is still available for use. Besides, Ethiopia is among the richest African countries in livestock including cattle. The country also has commercially viable mineral resources that include gold, gemstones (diamonds and sapphires) and industrial minerals including potash, and other precious and base metals. Developing these mineral resources is a potential foundation for specialization. Due to its terrain and geographical location, Ethiopia is endowed with vast energy resources (water, wind, geothermal, solar, biomass, and fossil fuels). Renewable energy resources are another potential basis for transforming the country into a climate resilient, green and inclusive economy.²²⁶ All this natural resources gives Ethiopia comparative advantage to specialize, increase productivity at low cost and maximize its exports in the market of other AfCFTA member countries. Ethiopia also has abundant low cost labour, which gives it a comparative advantage in less-skilled labour intensive sectors such as light manufacturing.²²⁷

4.2.1.3. Attraction of Foreign Direct Investment (FDI)

Another main opportunity that the AfCFTA could potentially offer for Ethiopia as a member state is attraction of more foreign direct investment (FDI) in different ways than otherwise. Ethiopia as a member of the AfCFTA is obliged as per Art. 7 of the protocol on trade in goods to start progressive liberalization of tariffs which are operating in the form of import duty and charges, to apply

²¹⁸ Teklit Yimesel Baraki, 'Implementation of Trade Liberalization in the African Economic Community (AEC): Challenges and Prospects' (LLM thesis, Addis Ababa University 2010) 26.

<<http://etd.aau.edu.et/bitstream/handle/123456789/17813/Teklit%20Yimesel.pdf?sequence=1&isAllowed=y>> accessed 20 January 2020

²¹⁹ Shujiro (n 34) 30.

²²⁰ UNECA, *Assessing Regional Integration in Africa, A Policy Report* (Economic Commission for Africa, Addis Ababa 2004) 12. <<http://hdl.handle.net/10855/5513> > accessed 4 March 2020

²²¹ __, Ethiopia to Apply 90 Percent Tariff Liberalization (n 66)

²²² Solomon Dibaba (n 210).

²²³ UNECA, *Assessing Regional Integration in Africa (ARIA IV)* (Economic Commission for Africa, Addis Ababa 2010) 2. <www.uneca.org/sites/default/files/PublicationFiles/aria4full.pdf> accessed 14 January 2020

²²⁴ Tesfaye and Walter (n 217) 27.

²²⁵ Solomon Dibaba (n 210).

²²⁶ African Development Bank Group (n 159) 12.

²²⁷ *ibid.*

preferential tariffs to imports from other member countries in line with its schedules of commitment once made,²²⁸ and to remove non-tariff barriers that are in place as per the rules provided on Annex 3, 4, 5 and 6 of the protocol on trade in goods. When Ethiopia as a member of the FTA starts to discharge the above mentioned and other treaty obligations, then cost of input for raw materials and costs of production will be lower for industries which produces within the country. Then more companies will be willing and encouraged to invest in that country for maximization of profits which leads to more flow of FDI.²²⁹ Besides, membership of Ethiopia in the AfCFTA will send a strong signal that the country is committed to various obligations and rules with respect to trade that also has effect on investment and thus would be a factor in attracting FDI. The attraction of more investment in turns is a tool for Ethiopia to take greater advantage of market opportunities offered by AfCFTA and to achieve the aspired economic growth.²³⁰ Obviously, the concessions and specific commitment given as part of the membership process which is part and parcel of the protocol on trade in goods and services²³¹ may appeal to foreign investors' interests who worry about the level of protection given to their property and the political stability of a country. Mainly the tariff rates, import restriction and market access related policy reforms which are required by the AfCFTA as per Art.7, 9, and 12 of the protocol on trade in goods and Art. 18, 19, and 20 the protocol on trade in goods services as well as the annexes which calls for the elimination of all unjustified and unnecessary barriers to trade stimulates a stable and open policy environment under which the rules of the game are transparent and reduces uncertainty regarding possible future policy changes.

Ethiopian membership in the AfCFTA can also attract FDI by making the country trading regime predictable and transparent through the making of domestic laws, regulations and measures related to trade and investment predictable and transparent. The protocol under Art.2 (c) has also stated fostering of FDI as one of the specific objectives of AfCFTA. To this end, Art.16 and 17 of the framework agreement stipulates obligation of publication and notification on member states respectively. Art. 16 requires member state including Ethiopia to immediately publishes and make publicly available through Gazette, Newspaper or websites in one of African Union language all its domestic laws, regulations, procedures and administrative rulings that has general application on trade matters. This obligation is concerned not only domestic laws but also international commitments made before. The notification under Art.17 is expected to be made through the secretariat of AfCFTA. Sub article 2 of the provision also binds state party to notify to the secretariat any actual or proposed measure that might affect the operation of the FTA or other state party's interest. Similarly, the general transparency obligation under Art.5 of the protocol on trade in services essentially imposes the obligation to publish promptly all relevant service related measures in a medium that is accessible, such as through national gazettes, newsletters, or websites. Thus, this rule of the AfCFTA play important role in making the domestic trade and investment related regime predictable and transparent thereby promoting investment and attracting investors to come and invest.

Moreover, Ethiopia membership in the AfCFTA coupled with the AfCFTA rules on dispute settlement mechanisms can help to assure potential investors that Ethiopia's and other African country trade and investment policy regime will remain open and will not be subjected to arbitrary reversals.²³² In line with this argument the protocol on disputes settlement under Art 4(1) states that the dispute settlement mechanisms of the AfCFTA is essential in providing secured and predictable market access by preserving the right and obligations of state parties. Further, as per Art.24 of the protocol on dispute settlement state parties are obliged to promptly comply with recommendations and rulings of the DSB. However reasonable period may be given when deemed necessary. Art. 25 of the protocol also have strongly pointed out the duty of the state parties to fully implement the recommendations and rulings of the DSB. Compensation and suspension of concessions or other obligations are also there to the aggrieved party in the event that the recommendations and rulings of the DSB are not implemented. All this rules and regulations of the AfCFTA together with other factors such as natural resources, absence of corruption and rigid entrance formalities has potential to contribute in attraction of FDI for Ethiopia.

In general, Ethiopian membership in the AfCFTA has potential opportunity to attract FDI in different ways. The first is by making the country trading regime predictable and transparent.²³³ AfCFTA membership can serve as a tool to tie the hands of the government from reversing trade related laws and polices arbitrarily. Despite counter argues that there are more important factors foreign investors will consider to invest in the country like transport and communication infrastructure, reliable energy supply, and

²²⁸ PTG (n 108) Art. 8.

²²⁹ Keith Miller, '19 Advantages and Disadvantage of Free Trade' (FutureofWorking, the Leadership and Career Blog, 2015) 2. <<https://futureofworking.com/6-advantages-and-disadvantages-of-free-trade/>> accessed 15 November 2019

²³⁰ Samuel (n 174) 75298.

²³¹ PTG (n 108) Art. 8(1). ; PTS (n 118) Art. 22(4) respectively.

²³² ibid

²³³ As noted in the discussion made, such predictability and transparency of the trade and investment regime of the country will be achieved among other through the key obligation under Art.16 and 17 of the framework agreement which stipulates obligation of publication and notification on member states respectively. Similarly, the general transparency obligations under Article 5 of the protocol on trade in services has importance in this respect.

availability of skilled manpower than membership into FTA, it is not without any contribution.²³⁴ Secondly, when we say Ethiopia's joining the AfCFTA can serve as a commitment device to attract FDI it means that the country has only limited policy space in terms of how much it can vary its tariff rates and other import and export regulations. This commitment provides stability and predictability for external investors and will lead to increased FDI flow. To elaborate on this point further, suppose a foreign firm invests in Ethiopia based on the assumption that the country will continue to give free access to markets as a result of being AfCFTA member. Once firms are in the domestic market the government may want to impose an export tax. In the absence of any retaliatory measures from other member countries as per and the AfCFTA framework agreement, the government may exercise the option. Thus, membership in the AfCFTA signals to potential investors that the rules of the road will be relatively stable.²³⁵ Thirdly, Ethiopian membership to AfCFTA will contribute to speedy policy change on those sectors which are attractive to foreign investors, such as telecoms and finance. What this means for Ethiopia's purposes is that foreign investment is not happening today in these sectors mainly because of government policy to keep the sectors closed to foreigners rather than the country's non-membership in the regional economic integration. If the membership and integration process forces the Ethiopian government to change such policies as it has already began in the telecommunication sectors, it is likely that foreign investment into these sectors may start to flow quickly.²³⁶ Fourthly, with the formation of the regional integration the market size will increase and studies have indicated that market size and growth attract foreign investors. Fifthly, membership of Ethiopia in AfCFTA may attract more foreign investment by offering opportunity for foreign investors to engage in tariff jumping which is investing in one member country in order to trade freely with all AfCFTA members.²³⁷

In its totality, AfCFTA membership is a credible means of gaining enhanced regional reputation, which in turn will help the country to attract solid investment by providing powerful guarantees against unfavorable government's policy directions to foreign and domestic investment.²³⁸

4.2.1.4. Consumer Choice

As a fruit of tariff liberalization rules, non tariff and technical barriers elimination rules and a firm commitments made by member states, the AfCFTA has potential to provide larger African consumer with wider selection of goods following liberalization and more competition.

Ethiopia as member of the AfCFTA is expected to progressively eliminate its import duties and charges on imports from other member African countries.²³⁹ Not only this, the country is also required to generally eliminate quantitative restrictions and quotas on imports from other state parties.²⁴⁰ Furthermore, Ethiopia is under obligation to identify and eliminate all unjustifiable non-tariff barriers²⁴¹ and to take all appropriate measures to facilitate the cross border trade.²⁴² Similarly with regards to trade in services, Ethiopia is obliged to make preferential market access commitment to the benefit of service and service suppliers of other member states and to respect the commitment once made. And once commitment is made, Ethiopia cannot take measures that limit the number of services suppliers, total number of service operations, total number of natural persons, whether in numerical quotas, monopolies, and the total number of service transaction or assets.²⁴³ The binding commitment made by Ethiopia guarantees that access to its market will be no more restrictive than as set out in its Schedule of Specific Commitments.²⁴⁴

As a result of the above mentioned rule and commitment under the framework of the AfCFTA different African countries producer will at liberty to come together in Ethiopia domestic market and supply a variety of quality goods at lower price that were previously unavailable to the domestic consumer. The lowering of tariff and duties associated with imports and exports reduce the cost of production for domestic producers and the cost of entering in to the domestic markets for other African country products respectively

²³⁴ AmdissaTeshome, *The Compatibility of Trade Policy with Domestic Policy Interventions in Ethiopia* (2007) 19.

<<https://pdfs.semanticscholar.org/7cf5/fd040cb3ace9a6d0e494ce47cce067a80dfa.pdf>> accessed 4 March 2020

²³⁵ Berihu Assefa and Andualem Telaye, 'What shapes Ethiopia's foreign economic policy? The case of Ethiopia's accession to the WTO' (2014) Paper No. 69684, MPRA, 14. <<https://mpra.ub.uni-muenchen.de/69684/>> accessed 4 March 2020

²³⁶ Geboye (n 199) 357.

²³⁷ Martha Belete Hailu, 'Regional Economic Integration in Africa: Challenges and Prospects' [2014] Vol. 8, No.2, MLR 299, 306. <www.ajol.info/index.php/mlr/article/view/117543> accessed 15 April 2020

²³⁸ Mamo Esmelealem Mihretu, Preparation for WTO Accession: the Case of Ethiopia, *Preparing for WTO Accession: Insights from Developing Countries* (2005) 136.

²³⁹ PTG (n 108) Art. 7.

²⁴⁰ *ibid* Art. 9.

²⁴¹ *ibid* Art. 12 and Annex 5 on Non-Tariff Barriers

²⁴² *ibid* Art. 14-16.; Annex 3 on Custom Cooperation, Annex 4 on Trade Facilitation and Annex 8 on Transit.

²⁴³ PTS (n 118) Art. 18.

²⁴⁴ *ibid* Art. 19.

and ultimately low priced goods for consumers This will understandably encourages the buying and consumption of more goods and services by the private individual, government and business. Since the distance between member countries is short, the transportation cost of goods will also be lower and this further boosts more transaction and consumption.²⁴⁵ For Ethiopian consumers in general the AfCFTA means more options for consumer products in terms of quality and price and quantity. With imported products coming from exporting countries with lesser or reduced tariffs, consumer can have opportunity to choose from variety of products unlike the case of monopoly or absence of liberalization in the market. Moreover, with no or limited barriers like high tariffs, products are offered at reduced prices for advantage of consumers.²⁴⁶

Generally, as competitive African companies will be able to enter the Ethiopian market the Ethiopian poor consumers will benefit from lower prices and increased choice of products. The liberalization import tariff will results in more flows of imports of manufactured goods than what has been before. The introduction of new producer and products means expensive goods whatever their origin will be replaced by cheaper goods due to the competitive situation. In a country like Ethiopia where poverty and limited purchasing power is the reality of many part of society, the AfCFTA presents potential opportunity for consumer to get quality product at lower price and desired amount among many available choices.

4.2.1.5. Acceleration of Economic Growth and Development

The last main potential opportunity that would be on the table for Ethiopia as a member of the AfCFTA relates to economic growth and development. Such economic growth and development opportunity is not to mean it is direct and independent opportunity in itself. But it is the result of effective exploitation of the above explored and discussed opportunities like market access, increased competitiveness and specialization.

Free trade areas (FTAs) in general and AfCFTA in particular provide opportunity for acceleration of economic growth as a result of greater competition in the new markets and increased efficiency. The framework agreement cognizance of this fact has stipulated under Art.3(e) the promotion and attainment of sustainable economic development as one of general objectives of the CFTA.

Trade liberalization is seen as an important step in achieving economic development. The assumption behind is that trade liberalization promote and facilitate free trade which in turn can help to advance development agenda and decrease poverty. This is achieved by means of generating growth through widening of the productive base, increased investment and commercial opportunities and overall private sector development. Free trade whether international or regional permits countries to specialize in producing commodities where they have a comparative advantage and this is assumed to enable a net gain in economic welfare. For instance, it is recognized that liberalization of trade and investment, deregulation and removal of domestic regulations have facilitated high economic growth and development in the developing countries of East Asia, as well as industrial nations such as the USA and the UK. This is mainly because strong competition pushes inefficient companies out of the market, while at the same time creating the opportunity for companies with competitive strengths to realize their full potential to produce and sell more.²⁴⁷ Moreover, the free trade agreement in North America helped the U.S. economy to grow by an average of 0.5 % per year more than it would have otherwise.²⁴⁸ Proponents of FTA argue that member countries will have a richer and good economy by being able to specialize in products they have plenty of materials and increase productivity to import products at lower prices.²⁴⁹ Economic theories and research also show that cross-border trade is beneficial for economic growth, competitiveness and welfare improvement by affecting specialization, production and consumption. Trade leads to improved industry performance, innovation and reduction of inefficiencies in developing countries thereby improving productivity. Trade improves productivity by enabling reallocation of market shares toward more profitable firms and forcing less profitable firms to go out of business; and by making individual firms to reallocate more resources toward more profitable products and adopt better managerial practices. Owing to tariff reductions on intermediate goods, local companies gain access to many new inputs, invest in new technologies and research to create new products and boost innovation. Exposure to foreign competition also leads local businesses to reduce inefficiencies and existing resource misallocations.²⁵⁰

Regional economic integration such as AfCFTA has been introduced as a viable option for mutual economic development of member countries. It may lead to stronger economic growth and overall development through the main incentive of to greater access to

²⁴⁵ Dawit (n 179) 20.

²⁴⁶ Crystal Ayres, '12 Important Pros and Cons of Free Trade' (2015) 2.

²⁴⁷ Shujiro (n 34) 26.

²⁴⁸ Keith (n 229) 2.

²⁴⁹Crystal (n 246) 2-3.

²⁵⁰ Dr. Bell Ihua and Others, *An Independent Study on the Potential Benefits of the African Continental Free Trade Area (AfCFTA) on Nigeria* (May 2018) 11. <<https://www.tralac.org/documents/resources/by-country/nigeria/2029-an-independent-study-on-the-potential-benefits-of-the-afcfta-on-nigeria-study-report-may-2018/file.html>> accessed 15 April 2020

market. By the same token, regional trade arrangements has been the prospect of enhanced economic growth which allows economies of large scale production, encourage specialization, attract foreign investment and promoting regional security. Generally, it is believed that economic integration changes economic outcomes for the better.²⁵¹ In line with this argument, UNECA has outlined the potential economic growth and development opportunity of regional integration in general and FTA in particular as scale of economies, competition, investment, knowledge sharing, development of infrastructure, employment, peace/security and enhancing democratic and other human right values.²⁵²

With regards to Ethiopian context, as mentioned in the previous section the country is one of the poorest both in Africa and in the world. Despite its abundant resource base and comparative advantage, its export products are in competitive in terms of quality and quantity which is primarily dependent on traditional agricultural products. The unemployment rate is high. Poverty is still prevalent. Hence, accelerating economic growth and development is for sure one of the objectives for AfCFTA membership. The AfCFTA as FTA provides potential opportunity for Ethiopia to reduce the poverty level and bring economic growth in long term provided that all stakeholders including the government, business community and the public at large strives to discharge what is expected from them. This is because even if there is strong evidence that suggests that freer trade tends to lead to greater growth, no one seriously claims that it necessarily leads to this. The relationship between trade liberalization and economic growth/development could however be a complex.²⁵³ For Ethiopia, market access issues are linked to poverty alleviation in a number of ways as greater market access allows a higher level of export growth and therefore income growth.²⁵⁴

Therefore, Ethiopian membership process in the AfCFTA is about finding the right point of balance between what is supportive of the country development and which could be damaging to development. While it is clear that AfCFTA membership can play a significant role in facilitating economic development of Ethiopia, it is totally dependent on national commitment. It is internal commitment that has played the decisive role in the economic development of many WTO countries.²⁵⁵ Similarly, if the Ethiopian government is determined to take firm commitment to discharge its responsibility under the AfCFTA rules and regulation, take reforming countries, and build the capacity of the private sector, the AfCFTA could potentially provides the opportunity to bring the desired economic growth and development so as to make the country middle-income by 2025.²⁵⁶ In its totality, it can be said that the AfCFTA membership of Ethiopia provides a framework which speed up economic growth.

4.2.2. Potential Challenges Awaiting Ethiopia

While trade between AfCFTA member states will generates growth continentally, there are no guarantees that its aggregate benefits are distributed equitably among trading partners. Trading partners all may gain differing degrees. Some may benefit better than the others, while at the same time there could be total losers of the trading relationship. Countries may have or may face challenges which could minimize or avoid its benefits. It could benefit some industries/sectors and hurt others. All in all many factors determine the extent to which a country may benefit from a trading relationship.

With regards to Ethiopian scenario, the effectiveness of Ethiopian membership to AfCFTA is ultimately determined by the internal strengths and weaknesses of the country and other stakeholders as well as the extent to which they are prepared to meet their obligations. This is because concept and design of integration assumes that member countries would have both the capacity and disposition to fulfill their obligations and live up to commitments undertaken. Ethiopian performance on AfCFTA could fall short of expectations due to various shortcomings and costs which generally termed as potential challenges.

It is also plausible to broadly categorize the interrelated main potential challenges awaiting Ethiopia while striving to benefit from the AfCFTA given its prevailing economic and political situation as internal and external. The internal challenges cover those challenges which have already existed within the country as country level issue and will turn out to be potential challenge during the integration and trading process to deny Ethiopia benefits of the AfCFTA or from maximizing the benefits to more advanced level. The external one on the other hand refers to potential challenges which may face Ethiopia when and after trading under the AfCFTA has begun in the near future. Some of those challenges are general, while the others are specific. Moreover, a single factor can contribute to multiple challenges. Such potential challenges presuppose doing home assignment properly. Otherwise, the potential challenge will appear to be real challenge to negatively affect the country integration process and the benefit to be enjoyed. It is

²⁵¹ Teklit (n 218) 22.

²⁵² UNECA, *Main Streaming Regional Integration at National Level*, (Economic Commission for Africa, Addis Ababa 2009) 2. ;
ibid 23.

²⁵³ Geboye (n 199) 353.

²⁵⁴ Mamo (n 238) 135.

²⁵⁵ Geboye (n 199) 355.

²⁵⁶ ibid 356.

important to identify and assessing the two categories of challenges since all of them have potential to affect the process of exploiting AfCFTA opportunities. The internal challenges will be explored first as follows.

4.2.2.1. Potential Internal Challenges

4.2.2.1.1 Lack of Public/Domestic Participation and Consensus

The first potential challenges awaiting Ethiopia within relates to public participation and national consensus. A country which has become or is becoming member of economic integration agreements like that of the AfCFTA, whether inspired by economic or political reasons needs to secure popular participation or the active participation of the public at large. Most of the time economic integration created by African is criticized for being a top down scheme of integration which is "elite driven" and lacks public participation. In Africa, member countries usually fail to make the integration agenda as a public concern due to the limitation on involving other stakeholders such as private sector and civil society. The idea of integration is widely known only by higher official's. As a result, such integration that lack popular participation, involvement of private sector and civic society has limited success in collecting expected benefit.²⁵⁷

One study conducted on success and failure of integration in Africa explain that the noticeable reason for the lack of success for regional economic integration efforts in Africa is insufficient involvement of the civil society and other stakeholders. It mentions the situation of East Africa Community (EAC) countries which do not involve and inform their population about integration. In Burundi, only 40 % of the population knows about the very existence of EAC. The people oppose unfair distribution of benefits and free movement. In Tanzania the people oppose the settlement of other people from other EAC member. Tanzanians are not happy with the initiative taken by EAC for a free movement of people in the region in fear of Kenya's economic superiority, the spread of ethnic animosity, and the possible loss of land. This opposition ultimately contributed for lack of success.²⁵⁸

Ensuring public participation at country level is essential prerequisite to make membership in AfCFTA effective. Top down model of integration is against mainstreaming of the idea and benefit of the integration. In practice member countries did not consult their people on the benefits and costs of integration.²⁵⁹

A study conducted by Stefan et al. on success and failure if integration in Africa explain that the noticeable reason for the lack of success for regional economic integration efforts in Africa is insufficient involvement of the civil society. He Stefan mentions the situation of East Africa Community (EAC) countries which do not involve and inform their population about integration. In Burundi, only 40 % of the population knows about the very existence of EAC. The people might oppose unfair distribution of benefits and free movement or settlement of other people from the EAC as was seen in Tanzania. Tanzanians are not happy with the initiative taken by EAC for a free movement of people in the region in fear of Kenya's economic superiority, the spread of ethnic animosity, and the possible loss of land. Similarly a study conducted in relation to Ethiopian accession to the WTO, the researcher has concluded that in Ethiopia, the WTO is not fully understood. Many section of the society seems to have chosen to take the view that accession to the WTO would adversely affect the economy. And when asked to elaborate on that, they say that domestic industries will be closed when they find it difficult to compete with their foreign counterparts and increase the unemployment rate. It is obvious that they formed these opinions without doing any research on the matter, or obtaining adequate information. In short, there is widespread apprehension among the stakeholders. Consequently, many of stakeholders are not strongly supportive of the accession bid, at this point in time.²⁶⁰

As far as the case of Ethiopia with regards to its membership to the AfCFTA is concerned, there is no evidence which shows the fact that Ethiopia membership to the CFTA is debated or discussed in public or views of the general public and business community is consulted except discussion prepared by FDRE Custom Commission in 2012 for government stakeholders about what to be done. Even in this discussion there is no representative from the business community and the public. As a result, some participants have criticized there exclusion and noted there inclusion in the future similar discussion so as to alert them to be well prepared for more export.²⁶¹ Besides, from my observation or experience of people around workplace, friends and neighbors little is known about the establishment of CFTA, Ethiopian membership as well as about the benefits and costs thereto. There is information gap between the

²⁵⁷ Teklit (n 218) 73-74.

²⁵⁸ Dawit (n 179) 44.

²⁵⁹ Teklit (n 218) 73-74.

²⁶⁰ Wossen Alemye, *Ethiopia: How to Optimize Advantages of Accession to the World Trade Organization and Measures to Be Taken to Meet Possible Challenges* (2005) 22. <<http://ethiopianchamber.com/Data/Sites/1/psd-hub-publications/how-to-optimize-advantages-of-accession-to-the-world-trade-organization-and-measures-to-be-taken-to-meet-possible-challenges.pdf>> accessed 5 March 2020

²⁶¹ ___, 'Ethiopia and the African Continental Free Trade Area' (Fana Broadcasting Corporation, February 2020).

< <https://m.youtube.com/channel/> > accessed 11 March 2020

government and the people. The general public may probably become fully aware of it when trading under the FTA begins and touched by it, either positively or negatively. Hence, it is possible to conclude that in the Ethiopia integration process in the AfCFTA; there are missed elements mainstreaming and public participation which potentially have significant adverse effect in the integration agenda and the benefit to be derived from it. The process in Ethiopia is going very quietly, without any meaningful participation by the very people who will be directly affected. If the public including the business community or private sector are not included as part of this massive project of AfCFTA, it is hard to exploit the opportunities presented by it, as desired.

Therefore, the prevalence of such kind of lack of public participation which is characterized by low awareness, lack of understanding and support for integration at the national level with the business community, civil society and the society on the integration issues as well as confining it only to discourse and debate between members of the parliament or concerned officials will be one of the potential challenges awaiting Ethiopia in the long way of its membership in the AfCFTA. Accordingly, it is essential for the government to regularly and actively involve private sectors and civil society representatives at varying degrees through discussion, consultations and by making them part of the national committee. Consensus needs to be developed not only among stakeholders in government, but also private sector, civil society and the general public. Such national consensus will help advance the integration agenda at the country level and will contribute in the process of maximizing the benefit of trading under AfCFTA.

4.2.2.1.2. Lack of Political Commitment and Consistence

Ethiopia as a member state of the AfCFTA has expressed its determination to strengthen its economic relationship with other African countries under the preamble of the agreement establishing the AfCFTA.²⁶² However, lack of political commitment and will from the government in general and concerned body in particular could potentially be a challenge for Ethiopia successful integration process. Lack of determination by political leaders can be mentioned as a potential challenge to the success of Ethiopian membership in the AfCFTA. Understandably, at the country level taking necessary measure to implement the decisions of the council of ministers of the AfCFTA,²⁶³ going regular participation in meetings and active involvement in all aspects/decisions of the FTA operation,²⁶⁴ discharging obligations related to transparency, notification,²⁶⁵ tirelessly conducting successive negotiations to wind up preparation of tariff concession and specific commitments,²⁶⁶ taking significant steps towards liberalization in terms of progressive elimination of tariff, quantitative restrictions and other forms of non-tariff barriers,²⁶⁷ closely supporting the private sectors, adopting consistent policies with the objectives being pursued by membership to the FTA, establishing strong implementing and monitoring institutions,²⁶⁸ among others requires political will and commitment so as to cop up with the pace of the AfCFTA and to secure all aspired opportunities of the integration. The exercise of determined political will can leads to making necessary compromises regarding national sovereignty and other national interests. Conversely, the failure to do the same can leads to loss of national interest.

However, in developing and LDC countries including Ethiopia sovereignty remains highly prized and jealously guarded. In practice, economic nationalism is obstacle of regional integrations in Africa. The combination of military priorities and economic nationalism is likely to prove a stronger driving force than the effective realization of regional integration under the AfCFTA.²⁶⁹ Unwillingness of states to give up their sovereignty to supra national institutions and to be abide by rules and regulations of the FTA are a challenge for collecting the fruits integration. In line to this proposition G.Naldi argues that the traditional emphasis on sovereignty and domestic jurisdiction by African states directly or indirectly is problematic.²⁷⁰

In Ethiopia, the WTO accession and the COMESA and IGAD membership is a clear example of lack of political commitment from the Ethiopian government side. Accession of WTO was interrupted for long period of time and initiated recently. In COMESA, even if the country is founder still it is not member of the free trade area (FTA) created. There is no useful progress in the economic integration objectives of the IGAD. These are simple manifestations of lack of political will and commitment from part of Ethiopian government. Even though Ethiopia is a member of COMESA, it is not abiding by the rules and regulation of this economic grouping because the country never wants to lose its income by reducing taxation or importing quality and cheap goods from these countries at the expense of local industries. The government particularly fears Kenya and a few other competitors from COMESA countries.²⁷¹ Ethiopia once again appears to be a reluctant player even here, which can be seen from its non-membership of the COMESA Free

²⁶² AEAfCFTA (n 92) Preamble paragraph 3.

²⁶³ *ibid* Art. 11(6).

²⁶⁴ *ibid* Art. 11(4), 12, and 14.

²⁶⁵ *ibid* Art. 16 and 17. ; PTS (n 118) Art. 5.

²⁶⁶ *ibid* Art. 18. ; PTG (n 108) Art. 8. ; PTS (n 118) Art. 22.

²⁶⁷ PTG(n 108) Art. 7, 9, 12 and annex 5, 3, 4. ; PTS (n 118) Art. 18 and 19.

²⁶⁸ Fana Broadcasting Corporation (n 261).

²⁶⁹ Solomon (n 167) 29.

²⁷⁰ Teklit (n 218) 74.

²⁷¹ Dawit (n 179) 67- 68.

Trade Area, the lack of progress in the economic integration objectives of the IGAD and the absence of any other serious bilateral or regional integration initiatives to which Ethiopia is a party. The lack of political commitment of the Ethiopian government which has shown in case of COMESA and WTO is also potential challenge in case of the new AfCFTA.

Political commitment is expected from the Ethiopian government all the way throughout the economic integration process mainly because unless the government on its own part lacks the level of commitment required and failed to discharge its treaty obligation or any obligation under the tariff concession or schedule of concession, then it has its own counter effects, which is the other member states reciprocally will not discharge their obligation to the determinants of Ethiopian interest. And, ultimately the country cannot benefit from the opportunities provided by the CFTA. Not only this, the government could be liable to pay huge amount of damages for any other state whose interest is protected under the legal frameworks of the AfCFTA. These interns will seriously affect the country economy. From another perspective, if the government fails to play its expected role in building the capacity of the private sector, organizing strong national implementing and monitoring institutions or fails to solve infrastructural problems, the country not only unable to benefit from the opportunities but also let domestic infant industries to be dominated by foreign producers and surge of imports. Thus, as member state, the government should not lack political commitment towards the AfCFTA and should discharge obligation prescribed under since it is very essential to benefit from the newly established free trade area. Furthermore, it has to make sure that its decisions and actions are coherent.

4.2.2.1.3 Lack of Peace and Stability

For any country which is member to a given economic integration to successfully integrate itself and benefit from, there should be peace and stability internally among various ethnic, political and religious groups as well as externally with neighboring countries. These kinds of problem should be solved. Hence, the AfCFTA can only be effective in a peaceful environment. The free movement of goods and services from one member African country in to the domestic market of other member state, the import and export activities and generally the discharge of treaty obligations, among other can smoothly function only in the prevalence of peace and stability.

In this respect, the Africa Union directory states that conflict is one of the causes for failure of member states to implement Abuja Treaty obligations. The cost of instability and conflict is beyond expectation. It is a zero sum game which hinders development.²⁷² Conflicts and instability hinder integration process by curtailing economic activities destroying infrastructure and constituting a serious barrier to the flow of trade and investment by motivating people to move asset out of the country or not to bring asset in to. Assessment made by UNECA on the process of integration made it clear that wide spread conflict and instability hinders the process of integration scheme.²⁷³ Market access which is the heart of any economic integration such as the AfCFTA cannot be successfully realized and exploited in the absence of peace and stability in the domestic markets of member states.

Similarly, Ethiopia can benefit from its membership to the AfCFTA if and only if it can maintain peace and security or stability of the country in and outside. As described in the first section of this chapter, in the past five and six years, the peace and stability of the country is at stake. Here and there almost throughout all the regions of the country there is some sort of conflict and instability as a result of religion, ethnic and politics. It is known fact that Ethiopia is recently losing its trend of maintaining peace and stability, either by force or by peace even after the appointment of Dr. Abiy Ahmed who was enjoying mass public support as Prime Minister. If such instability and conflict continues as trading under the AfCFTA is planned to begin in the near future, potentially the situation will be a challenge which prevent Ethiopia as a country as well as the general population and the business community from exploiting the opportunities presented by the FTA. Domestic industry cannot operate and produce with their full capacity. Investors, both domestic and foreign will not be attracted to open new business or expand the existing one. Rather they hold back where and when there is ongoing or potential conflict and instability. Import and export trade will not be smooth as the same as in the presence of peace and stability. The domestic market will not be accessible for other member states exporters.

To sum up, Ethiopian membership and integration process cannot exceptionally be exempted from the influence of the political, ethnicity and religious tensions arising within the country and political instability in the region provided that Ethiopia shares boarder with East African countries. As a result, it is possible to conclude that the current lack of peace and stability in Ethiopia is a potential challenge awaiting Ethiopia as trade under the AfCFTA is planned to begin in the near future to pose obstacle in the process of full integration and mitigate the benefit the country might drive out of the potential opportunities. It is therefore of paramount importance to resolve conflicts and ensure the long term maintenance of peace and security within the country as well as across the neighborhood by solving the root causes.

4.2.2.1.4 Lack of Competitiveness

²⁷² Teklit (n 218) 76.

²⁷³ *ibid* 77.

One of the major potential internal challenges that Ethiopia may face as a result of its membership in the AfCFTA might come from within as the result of elimination of tariff and non-tariff barriers as per the binding governing rules of the CFTA and concession/commitments made by the country.

The main objective of the AfCFTA is ensuring liberalized market/trade for goods and services in the continent. In order to achieve this objective, the AfCFTA under its protocol on trade in goods and services has stipulated different key obligations on member states. Among others, Art. 7 of the protocol on trade in goods imposes binding obligation on member states to progressively eliminate import duties or charges on goods originating from the territory of other member states and to commit themselves to apply preferential tariffs to imports from other State parties to accordance with their schedules of tariff concessions. In addition, as per Art.7 (2) at least in principle it is prohibited to impose new import duties and charges. The protocols under Art.9 further impose on member states another core obligation which is not to impose quantitative and quota restrictions on imports and exports within state parties. Lastly, the annexes to the Protocol on trade in goods also concerned themselves with the identification and elimination of standards and measures that constitute non-tariff barriers to trade in goods so that true and meaningful market liberalization can be realized.²⁷⁴

Similarly, with the view to attain trade liberalization within the AfCFTA, the protocol on trade in services under it Art.18 (1) binds state parties to undertake negotiations to progressively liberalize as a means of providing effective market access to boost trade in services. In addition, Art. 19 of the protocol titled with 'Market Access' impose obligation on member states to accord services and service suppliers of any other state party treatment no less favorable than that provided for under the terms, limitations and conditions agreed and specified in its schedule.²⁷⁵ Thus, states are obliged to make preferential market access commitment to the benefit of service and service suppliers of other member states and to respect the commitment once made. And once commitment is made, state party cannot take measures that limit the number of services suppliers, total number of service operations, total number of natural persons, whether in numerical quotas, monopolies, and the total number of service transaction or assets.²⁷⁶ Besides to the above discussed market or trade liberalization rules of the AfCFTA, the national treatment and MFN treatment obligations which are provided under art 4 and 5 of the protocol on trade on goods and Art. 4 and 20 of the protocol on trade in services have central importance in ensuring predictable and secured market access for each member states in to another member domestic market. The rules on MFN and NT helps to secure market access by binding each member to treat the product service or service suppliers of other members in the domestic market fairly/reasonably with no less favorable treatment than that it accords to its own like products or services and service suppliers and by granting any preferential market access opportunity which is granted for any third party to ultimately ensure fair playing ground in the market so that the market access will be meaningful.

At this junction, it is important to note that trade liberalization under the AfCFTA through all the above discussed mechanisms of ensuring true liberalization leads to an increased competition between imported and domestically produced goods and services. It will result the opening of one's economy and domestic markets to external competition. The removal of export taxes, duties and non-tariff barriers create new market destinations. Hence, while such trade liberalization is beneficial to countries and sectors that are efficient, competitive and able to adjust to new market situations, the reverse is true for countries and sectors which lack the capacity to adjust to new competitive environments created by the AfCFTA. Only firms that can compete effectively can draw tangible benefits from access to new markets.

To this end, the AfCFTA serves both as a carrot and stick mechanism to domestic firms. It serves as a carrot because it offers great market opportunities for firms to sell their products regionally. On the other hand, it serves as a stick because it forces firms to be regionally competitive or die out.²⁷⁷

When we look at the Ethiopian scenario, membership to the AfCFTA may create more access to new foreign markets through the mechanisms discussed above. But, the main problem with Ethiopia's export is not lack of market access. Keeping the limitations in mind, Ethiopia has access to European and North American markets under the General System of Preference (GSP), the African Growth and Opportunity Act (AGOA) and Every but Arms (EBA) arrangements. Rather the main problem is lack of capacity to produce export products in quantity and quality due to wide range of supply and demand side constraints.²⁷⁸

As briefly discussed in the first section of the chapter, Ethiopia's industrial and agricultural sectors lack competitiveness in terms of product diversification or export base, quality and quantity of export products, economies of scale, technology, distribution and

²⁷⁴ Art 12 of the PTG and Annex 5 on Non-Tariff Barriers, Art 14 of the PTG and Annex 6 on Technical barriers to trade and Article 15 of the PTG and Annex 7 on Sanitary and phytosanitary measures.

²⁷⁵ The schedule of specific commitment is required to be made by each member states as stipulated under Art.22 of the protocol on Trade in Service. Once the commitment is made, it forms the integral part of the protocol.

²⁷⁶ PTS (n 118) Art. 19(2).

²⁷⁷ Shujiro (n 34) 30.

²⁷⁸ Amdissa (n 234) 19.

marketing system. In spite of the fact that Ethiopia has comparative advantage of abundant labour and land, it has not been fully utilized. The land is largely degraded and fragmented. Both the agricultural and manufacturing sector labour is unskilled and produces under the pain of high production cost.²⁷⁹ The private sector and the business community at large lack the entrepreneurial skills for the establishment of competitive and growth oriented private business. The capacity required for identifying and initiating viable investments, for building technological can be acquired through education and training including learning by doing, or interacting, or by going to school. The capacity of the private sector in this regard is limited.²⁸⁰ Ethiopia has small economy, and is highly dependent on exports of primary commodities. There is high overlap with other African countries in its key export products including coffee, livestock and oil seeds.²⁸¹ Due to this, opening of domestic market or liberalization for competitive African companies such as companies from South Africa, Kenya and Nigeria and taking away of the protection mechanisms employed by the government for infant domestic industries could wipe them out of the new continental market.

Ethiopia, in order to fully benefit from the opportunities offered by the AfCFTA, has to strengthen the competitiveness of its domestic industries and increase the export capacity of its products. To that end, building the capacity of existing manufacturers to improve their efficiency and productivity is crucially important. It is imperative that the various flexibility rules of the AfCFTA should thoroughly explore during the negotiations.²⁸²

At this junction, it should be raised that there is argument advocating that greater exposure to competition from imports can lead to greater innovation and efficiency gains. This however is dependent on the assumption that domestic firms are able to adapt the new situation of liberalization and will be able to compete with imports from outside. But this may not be true for all local industries. Hence, necessary capacity building works have to be done to enhance their competitiveness and to make their products of good quality, and are delivered in a timely manner in the required quantities.²⁸³ By recognizing the challenge of lack of competitiveness of Ethiopian sectors, the FDRE Custom Commissioner Ato Debbele Kebeta has affirmed the necessity accomplishing the above tasks.²⁸⁴ In the absence of these conditions, it is very likely that competition from imports will wipe out all the domestic industries from the market leading to unemployment, revenue loss, and macroeconomic instability and will be added to the already existing problems of poverty of the country.²⁸⁵

In general terms, as it stands today it is important to note the fact that Ethiopian industrial and agriculture sectors lack competitiveness when the liberalization is practically materialized is a potential likely challenge awaiting and which will seriously hinder not only Ethiopia's ability to benefit from the AfCFTA but also its economic stability at large. Thus, the very important message is that Ethiopia needs to enhance its competitiveness so as to survive the tough competition that is coming together with the membership of the AfCFTA from fellow developing countries such as Nigeria, South Africa and Egypt. As a result, the potential challenge of lack of competitiveness has to be effectively dealt with or addressed.

4.2.2.1.5. High Costs of Doing Business and Trade Facilitation Limitation

The ability of countries to deliver goods and services on time and at the lowest possible cost is a key determinant of success in integration into the regional economy. Improving trade facilitation is essential to improving trade outcomes. Transport costs, delays, port efficiency, customs and boarder procedures can in some cases have bigger impact on the trade of goods than any tariffs.²⁸⁶ Standing on this premise another potential challenge for Ethiopia in relation to the integration process and extraction of as much benefits as possible from the opportunities is trade facilitation related limitations of the country. It is a limitation on the services associated with import and export activities which is determinant of competitiveness. And in Ethiopian context which is land locked, trade facilitation has particular significance so as to make Ethiopian export products competitive enough by reducing cost and maintaining low product price. High cost and low quality logistics ultimately undermine exports.

Recognizing the importance of effective trade facilitation mechanisms and low cost of doing business for successful membership, the AfCFTA has noted the need to cooperate on custom procedures, transit, and other technical non-tariff barrier matters, and the need to implement trade facilitation measures as its specific objectives for realizing the general objectives set out under Art.3 of the framework agreement.²⁸⁷ Under the preamble of the protocol on trade in goods member states has also expressed their determination to take necessary measures for reducing the cost of doing business and creating conducive environment for the private sector.

²⁷⁹ *ibid* 20.

²⁸⁰ Wossen (n 260) 20.

²⁸¹ Solomon (n 167) 30.

²⁸² Wossen (n 260) 10 and 60.

²⁸³ Bereket (n 200) 136.

²⁸⁴ Fana Broadcasting Corporation (n 261).

²⁸⁵ Solomon Dibaba (n 210) 136.

²⁸⁶ *tralac 'tralac Guide'* (n 152) 22.

²⁸⁷ AEAfCFTA (n 92) Art. 4(e). ; PTG (n 108) Art. 2(b) - (e).

Accordingly, the AfCFTA has come up with a number of binding rules and regulation that requires member states to take all the necessary and appropriate measure to identify and eliminate all forms of unjustifiable non-tariff barriers and trade facilitation related problems that existed between them. In this regard, some of the main rules are includes Art.12 of the protocol on trade in goods cumulative with Annex 5 on non-tariff barriers, Art.14 cumulative with Annex 5 on custom cooperation, Art.15 cumulative with Annex 4 on trade facilitation and Art 16 cumulative with Annex 8 on transit. The annexes make cross-references to the WTO rules of the same. In their totality, the AfCFTA trade facilitation and lowering cost of doing business rules calls for taking all the necessary measures, on one hand to eliminate any unreasonable and unjustifiable barriers that existed and on the other hand, to facilitate import and export trade of all member states to ensure effective utilization of the market access opportunity offered by the AfCFTA. At this point, it is important to explore the Ethiopian scenario with regards to trade facilitation and the cost of doing business putting in mind the above discussion.

One of the main trade facilitation hurdles against Ethiopian export trade relates to a combination of bad geography and poor infrastructure rather than tariff based protectionism in potential markets. The country landlockedness and distance from the nearest sea port involves high cost of infrastructure and high overall transaction costs for import-export trade making exports unprofitable and imports unaffordable in Ethiopia.²⁸⁸ Despite the fact that Ethiopia has invested heavily in transport infrastructure, the cost of transportation and shipping is much higher than most of comparator African countries. Logistics services, such as distribution, packaging, warehousing and inventory management, which are necessary to serve modern manufacturing and agricultural supply chains, are missing or inadequate in Ethiopia undermining export competitiveness of the country products. Logistics facilities like dry ports and container freight stations areas are so inefficiencies tend to be compounded throughout the economy.²⁸⁹

The competitors of Ethiopia in traditional agricultural exports, as well as manufactures, are more advanced in trade facilitation and efficiency of service delivery than Ethiopia through continuous implementation of policy reforms and removing barriers to trade. Most of them also enjoy advantages of location and easy access to regional markets. As compared to them, the nominal transport cost rate relative to merchandise exports and imports is very high for Ethiopia highlighting the need to pay attention to facilitation which is much higher than similar ratios of other developing countries in Africa.²⁹⁰

Another main trade facilitation problem relates to custom procedure. Customs procedure including tax procedures, clearances and cargo inspections require attention since it is a major factor in causing unnecessary transit delays. Customs delays in turns act as trade barrier on both exports and imports.²⁹¹ Ethiopia is one of the countries with the highest set of challenges in cross border trade and high cost of doing business. In the World Bank study of trading across borders ranking the longest delays in the region are in Ethiopia where the average trader has to wait more than 30 days for customs to clear goods.²⁹² Ethiopia has one of the most restrictive logistics regimes with a complete dominance of the state monopoly with almost no private competition in arranging shipping and freight services and insurance is not conducive to a competitive environment. The Chemin de fer Djiboutie Ethiopien (CDE) is not performing satisfactorily and plays a negligible economic role in transit services. There is also shortage of telecommunication services in Ethiopia due to the monopoly of Ethiopian Telecommunication Corporation, despite recent movement to sell some of the shares for domestic and foreign business. This delays the development of efficient internet services which is essential for modern international commerce.²⁹³

All in all, adequacy of physical infrastructure and its overall efficiency is critical prerequisites for the successful functioning of cross-border economic activities. Hence investment in essential infrastructure should be a key component of a trade facilitation programme. Addressing these and other factors that affect the business climate in Ethiopia will in principle facilitate increased production and export. Such infrastructural challenges can be overcome by a determined effort of the country. On the other hand, problems of transit and access to the sea require the consent and cooperation of other sovereign states within the limit of international law. This leaves Ethiopia's vital national interests in the hands of sometimes unfriendly, often unpredictable, and possibly unstable, regimes in the

²⁸⁸ Geboye (n 199) 361-362.

²⁸⁹ Paul, Stephan, and Mamo (n 166) xiv.

²⁹⁰ FDRE Ministry of Trade and Industry, *The Ethiopia: Trade and Transformation Challenges: Diagnostic Trade and Integration Study* (2004), Vol. 2: Synthesis, 65.

<<http://documents.worldbank.org/curated/en/879971468023442425/Synthesis>> accessed 4 March 2020

²⁹¹ *ibid* 67.

²⁹² Tilahun Esmael Kassahun, 'Trade Facilitation in Ethiopia: The Role of WTO Accession in Domestic Reform' [2014] Vol. 8, No. 1, MLR 145, 146.

<<https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/8830/Tilahun%20Esmael.pdf?sequence=1&isAllowed=y>> accessed 25 February 2020

²⁹³ *The Ethiopia: Trade and Transformation Challenges* (n 290) 67.

region. The only solution for this potential trade facilitation challenge is not to be reluctant in regional economic integration arrangements which could play an important part in building regional political stability and a cooperative spirit.²⁹⁴

Generally, while there is a recent progress made with respect to infrastructure particularly in road, rail way and air transportation as well as on improving custom procedures Ethiopia nonetheless has much work ahead to bring its overall trade facilitation standards in line with the AfCFTA trade facilitation rules to ensure expedite movement, clearance, and release of goods including goods in transit, increase in Ethiopian export effectively and lower the cost of doing business to the possible minimum level.

4.2.2.1.6. Product Standards

Trade liberalization under the AfCFTA is mainly expressed through the opportunity to land in the markets of all other member states. There will be market access for Ethiopian exports and other member countries import in the land of Ethiopia. Despite the predictable and transparent market access the AfCFTA membership present, Ethiopia's exports might be confronted with other non-tariff barriers especially technical barriers and Sanitary and Phytosanitary measures.²⁹⁵ This leads to the idea of product standards that certain product whether manufactured or agricultural needs to fulfill in order to be accepted in to other member countries market.

The main legal rationality for the need of standard is for the protection of consumers, animals and plant life which is an inherent responsibility of each government.²⁹⁶ That is why exceptions are stipulated under AfCFTAA like that of the WTO system and other economic integration. This shows that the AfCFTAA like GATT authorizes the setting of product standards in the regional trade regime as long as the motive is legitimate. The product standards can be established as of mandatory or voluntary nature. However, for the purpose of this paper only issues related to mandatory standards are treated as potential challenge awaiting Ethiopia.

The AfCFTAA legal framework which is concerned of product standards is found in the protocol on trade in goods (including annex 6 on technical barriers and annex 7 on SPS)²⁹⁷ and services.²⁹⁸ The protocols talks about measures member countries may possibly take in order to protect human, animal, or plant life or health. This issue is further elaborated by SPS and TBT annexes which make cross reference to the WTO SPS and TBT agreements. The former emphasis on food safety standard relating to human, plant and animal health while, the later covers all sorts of other products. These agreements generally guide on how standards shall be implemented within the AfCFTA. When we look at them closer, the annex on SPS under Art.4 confirms the member states rights to adopt trade restrictive measures, such as setting standard to grant access to the market, to safeguard human, plant and animal life while facilitating trade at the same time by ensuring that SPS measures do not become unjustifiable barriers to trade. The annex also encourages the use of harmonized international product standards than national. On the other hand, the annex 6 on technical barriers under Art.4 urges member states to facilitate trade by eliminating unnecessary and unjustifiable technical barriers to trade by employing international standards and best practices in standard setting than adopting original national standards.

Product standards are one of the main potential challenges awaiting Ethiopia in two ways. The first is lack of capacity to put such standard measures in place at home for regulating imports from other member and the second is challenges of complying with standards set by other member countries. This is because standard requirements are of the nature which requires not only the availability of money but also technical capacity and technological innovations.²⁹⁹ In other words, there is a task of setting standards products, improving and controlling the quality and standard of domestically produced products/export products; and on the other hand there is a need to examine the quality and standard of imported products in light of the domestic or internationally applicable standards. Such product standards matter will be huge problems for Ethiopia.³⁰⁰ Accomplishing this task will potentially pose challenge to Ethiopia due to the lack of adequate human, financial and technological resources to cope up with high-tech standards and technical requirements.

In Ethiopia still now a quite considerable number of Ethiopian exporters handle their business far below the international standards. They have limitations in organizing modern logistics, packing, and forwarding, handling modern financial systems and planning of

²⁹⁴ Geboye (n 199) 362.

²⁹⁵ Ejigayehu (n 176) 43.

²⁹⁶ Binnyam Ahmed, 'WTO Accession and Required Product Standards: the Case of Ethiopia' (LLM thesis, Addis Ababa University 2010) 82 <<https://chilot.me/wp-content/uploads/2013/05/wto-accesion-and-required-product-standards-the-case-of-ethiopia.pdf>> accessed 10 January 2020

²⁹⁷ PTG (n 108) Art. 21, 22 and 26.

²⁹⁸ PTS (n 118) Art. 15.

²⁹⁹ Gashahun Lemessa, 'Ethiopia's Accession to the WTO: Implications for the Agricultural Sector' (LLM thesis, University of Western Cape 2007) 24 <<https://www.worldcat.org/title/ethiopias-accession-to-the-wto-implications-for-the-agricultural-sector/oclc/228096670>> accessed 15 February 2020

³⁰⁰ Amdissa (n 234) 20.

their business.³⁰¹ The attitude of both producers and consumers is not at satisfactory level when it comes to product standards. The primary concern for the producers is to profit while most consumers' emphasis on lower prices prior to any thing when they trade. Recently, since issue of standards is becoming a mandatory requirement in many aspects of products, producers have a better understanding on the issue. But it is still far from being ready for the coming regional competition.³⁰²

The ability of Ethiopian products to compete on the regional market highly depends on their quality and standards as per accepted regional, international other member countries standards, not necessarily as per national standards which are adopted by concerned government organ. If domestic products fail behind such standards the export market for Ethiopian product in to other AfCFTA members market will diminish and standards can act as import barriers for Ethiopian exporter. This will negatively impair domestic industry of Ethiopia from the field of competition.

Furthermore, the meeting of regional, international or other countries specific standards increase costs and could be an impediment to Ethiopian exports. The existence of differing standard requirements between AfCFTA member countries can result in substantial additional cost for Ethiopian producers. For instance, relatively strong African economies such as South Africa, Nigeria and Egypt nations may craft standards which impose a high cost on competitors of AfCFTA members to protect their domestic producers and making it an impediment of trade for the economically weak countries like Ethiopia.³⁰³ Product standards could potentially challenge Ethiopian product in two ways. They could be banned from entering market for not meeting regional, international or national standards; or it increases the price of Ethiopian export product due to additional costs incurred and makes them uncompetitive either way it is a challenge.

In Ethiopia there is national quality and standard control authority which is established by proclamation with the primary objective of promoting standardization and quality control activities. The organ is given a power promoting quality assurance and certification at the national level.³⁰⁴ The organ has been involving itself in the development of Ethiopian standards based on three ways which is by setting a new standard which is originally Ethiopian; by modifying an already existing international, regional or national standard of other country to the specific need or situation of Ethiopia; and through Adoption or taking of standards existing international, regional or national standard of other country as it is. Among the three methods, adoption or taking of standards existing particularly at international level as it is from the perspective of membership to AfCFTAA is best as legal instrument on standards are recommended to be in line with internationally accepted standards and guidelines. This will helps for cost reduction of compliance and to avoidance of double standardization.³⁰⁵

Therefore, it is important to stress that lack of meeting required international product standards and examining the standards of imported products is potentially a challenge for the Ethiopia. Unless a strong measure is taken, the market access opportunity from membership of the AfCFTAA will be meaningless since our export products cannot access it due to SPS measures and other technical barriers. In order to make Ethiopian export product compatible with all AfCFTAA member countries standard to avoid double standardization and reduce the cost of export and decrease the price of export products at the regional market, it is better to set up a system which will enhance the quality of its exports, and set the standards mainly by adopting the standards of International Standardization Organization (ISO). And it is also better to revise those standards originally seted. In parallel, it is important to curb backward technologies, poor infrastructure, and institutional challenges in assessing the standard of imported products.

4.2.2.1.7. Lack of Effective Institutional and Implementation Set up

The other potential challenge awaiting Ethiopia is related to institutional capacity of the existing concerned government offices. For obvious reason the success of membership in the AfCFTAA, will among other things, depend on the success of the government ability to properly manage the transition in to the AfCFTA with appropriate institutions. Efficient, transparent, and impartial institutional system which is equipped with adequate competent human resource is key requirement. Activities of import and export cannot be implemented only through political decisions. Rather it needs competent organ and implementation mechanisms. In order to ensure that trade integrations such as the AfCFTAA facilitates growth and development, there is a need for a well structured national institutional framework that not only formulate and analyze trade policy, but also ensure the implementation, monitoring and evaluation of the policy and rules of the integration. In line with this statement the framework AfCFTAA has obliged member states to establish and maintain an institutional framework for the implementation and administration of the AfCFTA.³⁰⁶

³⁰¹ Solomon Dibaba (n 210).

³⁰² Binnyam (n 296) 51-52.

³⁰³ ibid 37.

³⁰⁴ ibid 54.

³⁰⁵ ibid 56-57.

³⁰⁶ AEAFCFTA (n 92) Art. 4(g).

Specifically, this institutional set up is needed to ensure effective policy making; provide effective support for export development and promotion; ensure the policy and rules of AfCFTA is properly implemented and study the impact on producers and consumers.

Ethiopia potentially may face the challenge of putting in place effective institutional framework to manage trading under the newly established CFTA. Ethiopia is likely to face lack of adequate skilled manpower which can fully implement and cop up with the integration process, which can effectively regulate, administer and manage the AfCFTA operation in the country land. As Fantu has pointed out African governments have ignored the institutional requirements necessary for regional integration at national level.³⁰⁷ There are a number of stakeholder public institutions involved with AfCFTA implementation and monitoring but their effectiveness is historically limited. The Ministry of Trade and Industry; the Custom Commission, the Ministry of Foreign Affairs, and Investment Commission are the most important public institutions. The Ministry of Trade and Industry (MOTI) is the main institution responsible for trade and trade policy matters. The Ministry of Foreign Affairs (MFA) is responsible for signing agreements including trade related agreements, with other countries. The Custom Commission is responsible to control and facilitate import and export trade.

The potential challenge awaiting Ethiopia in relation to the institutional framework can be explained in different ways. Firstly, Ethiopia's capacity to formulate a sound trade policy and strategy framework is limited. And there is also lack of involvement of all stakeholders including private sector and the civil society. Secondly, Ethiopia's ability to analyze trade related information is hampered by the limited access to such information and lack of experienced trade analysts. Thirdly, Ethiopia is involved in a number of trade agreement and negotiations. The main one is the AfCFTA. In this regard, Ethiopia's representatives at these forums lack the appropriate skills and experience as compared to other countries that has experience of negotiation in regional and global integration groupings.³⁰⁸ Strong institutions that are needed to monitor anti-competitive practices, including informal quotas and trade barriers; efficient judicial systems which ensure rule of law and enforce property rights are all needed to support the regional integration and for Ethiopia to be benefited from it. However, this institutional readiness is more or less missing in the country.³⁰⁹ The business community has also identified a number of issues that contribute for the weakness of the public institutions in supporting trade. These issues include the bureaucratic nature of the institutions, lack of adequate mechanisms for monitoring and evaluating their effectiveness, lack of information on markets and foreign trade opportunities as well as difficulty in complying with international standards.³¹⁰

Therefore, in order to fully implement and administer as well as cop up with the integration process Ethiopia should establish or at least reorganize relevant organ which is responsible to the integration agenda well accompanied by adequate and skilled manpower. The training of officials on trade negotiating skills is also crucial if Ethiopia is to actively participate in AfCFTA. Ethiopia's representatives at this forum need to have appropriate skills and experience on trade negotiations, adequate understanding of agreement and trade issues as well as knowledge of Ethiopia's interests/concerns. In addition, coordination between all the concerned government institutions is crucial. Even though it is not possible to conclude as to whether it needs a specific ministry or department, it is possible to conclude well empowered and responsible institutions are needed.³¹¹

4.2.2.1.8. Lack of Adequate Financing of AfCFTA the Integration Process

Government developmental expenditure is determined by the financial capacity of the country where the finance is collected from tax and non tax sources of revenue. Inadequate financing of governmental institutions and infrastructural or other development projects has been one of a major constraint for Ethiopia as it can be seen from the news and governmental reports. The government sources of financing have not enabled to go much beyond the coverage of staff salaries of government institution and other operating expenses. It is known fact that a number of institutions and project programs depend on aid or loan from countries and international organizations.

Trading under the umbrella of AfCFTA is a vast developmental project which demands huge finance to be a success for Ethiopia. Among other things adequate finances are required for employing skilled and expertise personnel, organizing or reorganizing appropriate implementing, monitoring and evaluating specialized institutions as per Art. 4 (e) of the agreement, compensating revenue losses which results due to the tariff liberalization as per Art.7 of the protocol on trade in services, attending meetings regularly as per Art.11 (4), 12(3) of the agreement and in many other aspects.

Generally speaking, when we look at the current economic reality of the country it is expected that lack of adequate finance for AfCFTA overall operation or lack of commitment for adequately financing it would be a potential challenge for Ethiopia in the

³⁰⁷ Teklit (n 218) 81.

³⁰⁸ The Ethiopia: Trade and Transformation Challenges (n 290) 69.

³⁰⁹ Solomon (n 167) 29-30.

³¹⁰ The Ethiopia: Trade and Transformation Challenges (n 290) 70.

³¹¹ Teklit (n 218) 81.

process of trading under the AfCFTA and could prevent from maximizing the benefits which the country can drive from it. The country may not have enough financial resources to finance the integration projects and this makes adequately financing of the integration project a potential challenge.

4.2.2.1.9. Multiple Memberships

Regionally, Ethiopia has been a member of two economic integration groupings, namely COMESA and IGAD and recently AfCFTA. Internationally, Ethiopian is acceding to the WTO since 2003. These resulted multi-membership in which Ethiopia as a country become member to more than one economic community agreements which are legally binding and has their own legal consequences. The crucial issue here is to what extent such arrangement affects the implementation of the country treaty obligations under each grouping and to what extent it can able to extract/drive the expected benefit or opportunities from each grouping. To put it simply, multiple memberships to economic integration groupings for a poor country like Ethiopia potentially has a challenge in terms of implementing its treaty obligations under the AfCFTA and benefiting from it. At this point it is important to mention the fact that the AfCFTA itself has acknowledged the eight regional economic communities as building blocs of the FTA³¹² instead of dismantling them and get replaced by the new continental level integration.

Multiple memberships have various implications which make it potential challenge for Ethiopia. Accordingly, it may results increased cost such as cost of participating in different meeting, contradictory obligation, duplicated efforts and it reduce the ability of the country to pursue coherent and effective integration programmes. This all will affect the capacity of the country to adequately finance the integration in to AfCFTA.³¹³ The potential challenge of multiple membership of Ethiopia can also be seen from different perspectives. First, in addition to administrative costs of integration different membership fees are expensive to pay and difficult to maintain paying on a monthly basis. Second, the government failure to meet its financial obligations makes it less committed to its obligations. Third, there is inadequate preparation before meetings to discuss important matters in depth and in length. Fourth, multiple membership make members careless and it is confusing in fulfilling obligations.³¹⁴

Here it is clear that becoming an effective member of AfCFTA requires investment of time, money, manpower and other resources. If Ethiopia continues participating in more integration groupings than what its resources afford, eventually that will negatively affect its performance on AfCFTA. Moreover, if all of the integration groupings have similar goals, there is no point in investing in all of them.

In conclusion, Ethiopia membership in the AfCFTA added with its membership in IGAD which also is trying to create its own FTA and the country attempt to join COMESA FTA and WTO poses challenge to fulfill the country obligation arising from the different treaties and threatens the integration process and speed of not only AfCFTA but also others. This is mainly because multiplicity of membership adds a burden on the financial obligations and policy decision making of the members. A country that belongs to two or more RECs will face multiple financial obligations, and at the same time must cope with different meetings, policy decisions, and harmonization of policies, procedures, and schedules. Moreover, there is a possibility for more or less partially conflicting membership obligations, different strategies and internal liberalization objectives, inconsistent external liberalization goals, different timetables, different coverage, different and conflicting rules and administrative procedures which will ultimately hinder the integration process. In addition, multiplicity of membership subjects traders to numerous legal regimes inviting for forum shopping and generating conflicting results.³¹⁵ Thus, it is possible to conclude that multiplicity of membership in various economic integration groupings may pose potential challenge for Ethiopia as the country moves on the integration process aspiring to benefit from it.

4.2.2.2. Potential External challenges

4.2.2.2.1. Erosion of Sovereignty

The concept of sovereignty has a broader meaning to include each countries power to adopt its own economic and trade related laws as well as policies without any interference or intervention from outside third party. On the other hand, economic harmonization with other countries implies restrictions on the ability of individual governments to determine the economic activities of their country define their goals and adopt new laws or measures. This will interfere on government's freedom of action and touches on the question of sovereignty.

Historically, many regional economic integration initiatives are failed due to economic nationalism, which means lack of readiness to lose some part of national sovereignty. Hence, the success of economic integration through trade liberalization obviously requires

³¹² AEAfCFTA (n 92) the preamble paragraph ten and Art. 5.

³¹³ Teklit (n 218) 79.

³¹⁴ Dawit (n 179) 46.

³¹⁵ Martha (n 237) 320.

limiting/loosing of once own sovereignty and transferring it to supra-national institutions.³¹⁶ By the same taken, trade liberalization under the newly established AfCFTA presupposes willingness to lose some sort of sovereignty in different aspects. The first and main scenario is transferring of some portion of sovereignty to the Assembly, the council of ministers and the dispute settlement body and respect their decisions.³¹⁷ For instance, particularly when we look at Art 11 (5) of the framework agreement decisions taken by the council of ministers of the AfCFTA while acting within its mandate whether the decisions have legal, structural or financial implications is binding on state members. Moreover, Art 11(6) of the agreement has imposed a clear obligation on state parties to take all measures that are necessary to implement the decisions of the Council of Ministers. Hence, when member states committed themselves to look after and respect the decisions of the council obviously this act of the member state involves loosing or transferring of some portion of its sovereignty.

The membership cannot be effective without accepting the rule and regulations that empowers institutions of the FTAA. The transferring of sovereignty to the organs of the AfCFTAA empower them to implement words and spirit of the establishing agreement, all the accessory protocols and annexes to tackle tariff and non-tariff barriers as well as to solve commercial disputes at continental level. If political leaders jealously guard their sovereignty, it will make the integration ineffective, as before.

Another instance of potential erosion of sovereignty can be seen from the duty to make domestic trade and investment related laws, regulations and measures compatible with the objectives of the AfCFTA. Art, 16 and 17 of the agreement stipulates obligation of publication and notification respectively. Accordingly, member state including Ethiopia are required to immediately publishes and make publicly available through Gazette, Newspaper or websites in one of African Union language all its laws, regulations, procedures and administrative rulings that has general application on trade matters.³¹⁸ This obligation is concerned not only domestic laws but also international commitments made before. Notification is also expected to be made through the secretariat of AfCFTA.³¹⁹ Any state party has given a full right to request Ethiopia to provide information and respond to the questions with regards to the new change in laws, measures and administrative rulings relating to trade matters covered under the AfCFTA.³²⁰ The general transparency obligations under Article 5 of the protocol on trade in services essentially imposes the obligation to publish promptly all relevant measures in a medium that is accessible, such as through national gazettes, newsletters, Hansard or websites. The Protocol on trade in services under Article 9 also provides that in sectors where specific commitments are undertaken each State Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective, transparent and impartial manner. This all rules and regulations evidence that Ethiopia as a member of the AfCFTA is not at liberty to come up with whatever laws, policies and measures it deemed necessary. Rather the country has limited and regulated policy space than before. This and other limitations implicate the slow erosion of state sovereignty.

Moreover, as a member of the AfCFTA the country is obliged to grant preferential market access, national treatment and most favoured nation treatment for products, services or service suppliers of member African countries under Art.4, 7 and 8 of the protocol in goods and Art.4, 18 and 19 of the protocol on trade in services. These concepts obviously are against the traditional notion of sovereignty since states has full power to determine what should happen within their territories. Similarly, as per Art.24 of the protocol on dispute settlement state parties are obliged to promptly comply with recommendations and rulings of the DSB. However reasonable period may be given when deemed necessary. Art 25 also strongly states that it is the duty of the state parties to fully implement the recommendations and rulings of the DSB. Compensation and suspension of concessions or other obligations are also there to the aggrieved party in the event that the recommendations and rulings of the DSB are not implemented.

Since the very meaning of State sovereignty is non-intervention in the affairs of another state, membership to AfCFTA poses a potential challenge to the sovereignty of Ethiopia and affects the policy space of the country which enables it to come up with whatever policies and rules to achieve social and economic developmental objectives deemed necessary. Ethiopia is legally expected to accept and implement decisions made by the super national institution of the CFTA and required to alter domestic legislation in order to comply with the AfCFTA authority or supremacy over states decision making processes. The potential challenge of Ethiopia membership to AfCFTA can also be seen from the service sector. In regards to this, the Ethiopia financial sector specially the banking service sector is reserved for Ethiopia national and registered share company in which the whole shares are owned by Ethiopia nationals.³²¹ The AfCFTA rules and regulations demand the progressive liberalization of the sectors for every member.

The potential challenge that membership of Ethiopia to the AfCFTA could pose on Ethiopian sovereignty can be summarized in different ways. The most important includes: the country is expected to carry out whether significant or insignificant changes in its

³¹⁶ Dawit (n 179) 22.

³¹⁷ AEAfCFTA (n 92) Art. 10(2), 11 (5) (6), 20.

³¹⁸ AEAfCFTA(n 92) Art. 16.

³¹⁹ *ibid* Art. 17.

³²⁰ *ibid* Art. 17(3).

³²¹ Yoseph Alemu, 'Accession to the WTO and its Impact on Ethiopia National Sovereignty' ((LLM thesis, St. Mary University 2010) 34. <<http://hdl.handle.net/123456789/1386>> accessed 5 March 2020

policies and institutions to ensure full compatibility of the domestic legislation with the AfCFTA rules and regulations; and to ensure the implementation of the commitments made. One of the duties of AfCFTA member is the obligation to notify all trade related legislation, policies, and practices. Each country has to submit to AfCFTA all legislation trade policies it has adopted, replaced or modified. All information will automatically be transmitted to the other members to make them know about changes in regulation so as to prevent the appearance laws and regulatory action that contradict AfCFTA.³²² Membership has potential challenge leading to reduced policy autonomy for the Ethiopian government, with possible negative impacts on national development policies and priorities.

4.2.2.2. Revenue Loss

Many literatures written on economic integration identifies specific challenges of membership. The fiscal costs of reducing tariffs which could be too high in terms of revenue loss is one of such potential challenges of integration.

As discussed in the previous chapters' one of most important element of trade liberalization is efforts of governments to reduce or eliminate tariff and non tariff barriers on external trade. By acknowledging this fact, the under the preamble of the agreement the need to reduction or progressive elimination of tariffs is stated.³²³ Progressive elimination of tariffs is the objectives of both the agreement and the protocol on trade in goods as enshrined under Art.4 (a) and Art. 2 respectively. Most importantly under Art.7(1) of the protocol on trade in goods all members including Ethiopia is under mandatory obligation to progressively eliminate import duties and charges of any kind imposed on or in connection with the importation of goods from other member states. In addition to the progressive elimination of the already operating import duties and charges, the protocol prohibits the imposition of any new duties and charges which have effects on trade in goods.³²⁴ Furthermore, Ethiopia while negotiating schedule of tariff concessions as per Art. 8 of the protocol, it is expected to offer preferential tariffs to imports from other member state and to apply according to it once the schedule has entered in to force.

Hence, all the above mentioned mandatory obligations of reduction or elimination of tariffs on imports from other member African countries will leads to potential challenge of revenue loss for Ethiopia government. However, this potential challenge does not stop there, but in turn will reduce government spending on pro-poor development projects and make it increasingly more dependent on aid.³²⁵ This revenue loss from tariff collection from import or custom duties has the potential to cripple the government's major source of revenue to finance health, education, infrastructure and so many other governments' expenditures. It threatens the fiscal stability of the country and may lead to a great chaos in the whole system if there is no other alternative way taking its place to cover all these.³²⁶

In Ethiopia a significant portion of government revenue which is necessary to finance various government expenditures is derived from customs duties.³²⁷ And the liberalization or lowering of tariff rates as per Art. 7 of the protocol on trade in goods and the objectives enshrined in the agreement would reduce it. On the other side, the CFTAA requires elimination of tariffs on substantial percent of trade items. Accordingly, Ethiopia has committed itself to liberalize 90 percent tariff for members of AfCFTA. Hence, one of the concerns and potential challenges of Ethiopia with regards to membership to the AfCFTA is that tariff reductions may lead to fiscal revenue losses and budget pressures.³²⁸ The problem will also be further aggravated when it is added to the already existing weakness and administrative difficulty in collecting and administration of internal taxes in the country.³²⁹ Historically, such challenge was seen. Following the reduction of the maximum tariff rate on import duties from 230% to 35% due to the proposal of the World Bank and IMF Ethiopia has witnessed massive loss of revenue as well as huge rate of unemployment in the history of the country.³³⁰ So, the government has responsibility to make sure that this will not happen again by adopting different viable mechanisms.

In this regard, study conducted by UNECA which assesses the consequences of Economic Partnership Agreement on the Ethiopian economy clearly demonstrates the concern of revenue loss due to economic integration and liberalization. The research indicates that following the liberalization with EU, that the country will suffer huge amount of the tariff revenue losses, which are estimated

³²² *ibid* 19.

³²³ AEAfCFTA (n 92) the Preamble paragraph five.

³²⁴ PTG (n 108) Art. 7(2).

³²⁵ Amdissa (n 234) 20.

³²⁶ __, *The TFTA: A step towards trade integration in Africa* (2016) 53.

<<https://pdfs.semanticscholar.org/9ac1/dd444f53cf34b04e66c82407fcaa3daca6b0.pdf>> accessed 10 April 2020

³²⁷ Bereket (n 200) 131.; Amdissa (n 234) 20.

³²⁸ __, 'Nation to Apply 90 Percent Tariff Liberalization for Members of AfCFTA' (Ethiopian News Agency, 6 February 2020)

<<https://www.ena.et/en/?p=8646>> accessed on 5 march 2020; __, Ethiopia to Apply 90 Percent Tariff Liberalization (n 80).

³²⁹ Bereket (n 200) 131.

³³⁰ *ibid* 115.

to be more than \$55 million.³³¹ This loss would increase the dependency of Ethiopia on international aid. The finding was that they are significant share of the public resources, which is all very detrimental given the fact that Ethiopia has not been able to balance its public budget over the last ten years by the time when this assessment was made.³³²

The above figure shows how much disastrous loss can result from liberalization in terms of tariff loss and is a warning signal to the country to make all the necessary preparations and safeguards before getting in to any binding commitment for the implementation of the agreement. The most important message it conveys is that eliminating this government's source of revenue will reduce the country's spending ability on social sectors such as health and education and institutional capacity.³³³ One may argue that the amount of revenue loss is exaggerated and alleges that the revenue loss will be compensated by the increase in the internal taxes as a result of a high volume of trade following the elimination of tariff. Even if the net trade flow increases, there will still be a net loss showing negative and only a quarter of the loss can be recovered as has been witnessed in various revenue liberalizations.³³⁴ Alternative solutions to limit the public deficits such as reducing expenditures, increasing rates of other taxes, broadening domestic tax bases, improving the tax administration and securing financial support could be considered, but will not be easy to achieve.

4.2.2.3. Adjustment Costs

As a matter of fact when Ethiopia become member of the AfCFTA and liberalizes its market, things will change interims of trade direction, revenue, employment, economic stability, institutional structure and the like. For a country like Ethiopia which continues to struggle to provide basic public service for majority of its citizens and has no significant experience of regional integration, the administrative cost of implementing AfCFTA rules and to cop up with the above mentioned changes will likely be a challenge demanding significant adjustment costs. Although there could be a technical/ financial support during the transition period, at the end of the day the country is left with shouldering the burden. Thus, for Ethiopia, a country aspiring to highly benefit from membership of the AfCFTA, it is important to ensure the benefits outweigh these costs.³³⁵

To cope up with the above mentioned changes, the country needs to make some necessary adjustments before and after the liberalization takes place in order not to cause the whole system to be disrupted. This, however, is not something which a country like Ethiopia can simply implement. Rather it poses a big challenge in relation to the adjustment costs associated with the necessary tax policy, administration and other reforms. The reforms in the restructuring, by nature, are not only financial, but also involve human resources.³³⁶

Generally, the structural adjustment costs Ethiopia will face from membership of AfCFTA include the costs of fiscal and other reforms; the creation of social safety nets to address employment loss; adjustment measures for losses in competitiveness; the restructuring and staffing of responsible institutions,³³⁷ modernizing customs administration, ensuring smooth cross-border transport of goods and to reducing/eliminating delays and unnecessary additional transport costs, and capacity building dedicated to allowing Ethiopian exporters to be able to fulfill the conditions required to access African markets. At the government level, there is a need to strengthen or adjust the existing institutions like the Ethiopian Revenue Commission, Investment Commission, the Quality and Standards Authority of Ethiopia and other institutions that are major players during the operation of the AfCFTA or/and creating new ones. On the other hand, at the private level, enhancing competitiveness at different levels, dedicating funds to increase productivity, and quality, are necessary.³³⁸ All this begs the issue of additional financial and technical burdens for Ethiopia. Thus, it is possible to argue that substantial adjustment costs are one of potential challenge that Ethiopia will face as a result of its membership to the CFTA.

4.2.2.4. Risk of Unemployment

Another potential challenge which can be raised with regards to Ethiopian membership and trading under the AfCFTA is unemployment. Evidence indicates that regional economic integration does have linkages to employment. the increase or decrease in employment opportunities as a result of the economic integration is dependent on a variety of factors such as competition, advancement in comparative advantage, capital intensiveness and use of technology, works qualification/skills and their ability to move into more productive and competitive sectors.³³⁹

³³¹ *ibid* 131.

³³² *ibid* 132.

³³³ *ibid* 133.

³³⁴ *ibid* 134.

³³⁵ Amdissa (n 234) 20.

³³⁶ Bereket (n 200) 142-143.

³³⁷ *ibid* 144.

³³⁸ *ibid* 146.

³³⁹ Joanna Buckley, *Jobs and Regional Economic Integration in East Africa* (Oxford Policy Management, 2014) 1.

Trade liberalization under the AfCFTA framework is about reduction or/and removal of tariff and non-tariff barriers and opening of one's own market for foreign competition. Due to the increased competitive environment in the market which may come from other member countries producer which has the capital, technology and free from supply side constraints, some domestic industries may have the fate of close down. This will in turn lead to loss of employment for many Ethiopian workers to the detriment of not only the worker himself but also to the families of the worker. This unemployment mainly may arise in agriculture and industry sector which are in a direct competition with other member African countries with better comparative advantage.³⁴⁰ In other words, competition from cheap and better quality imports, is likely to lead to reduced demand for domestic goods and, consequently to possible contraction of domestic manufacturing industries and to shrinkage of labor market in manufacturing industries.³⁴¹ Even in the presence of employment opportunity in another sector or firm workers who are displaced from declining or uncompetitive industries or firms may not necessarily be able to move into newly created jobs may be due to the requirement of different qualifications, skills or they may be located in different regions.³⁴² Similarly, due to the increase of employment opportunities in competitive exporting African countries workers from less competitive or importing countries like Ethiopia may be displaced to exporting countries.³⁴³

One study conducted on the effect of trade liberalization on Sudan economy concludes that Sudanese jobs were lost in the industrial and agricultural sector due to the intense competition faced by domestic industries from others COMESA countries and China especially in textile sector. As trade barriers were lowered, many small-scale farmers become unable to compete with cheaper imports so left their land and migrated to urban areas.³⁴⁴ By the same token, given that Ethiopia manufacturing and agriculture sector lacks competitive advantages, the sectors in general or specific firms would probably contract or be out of competition when tariffs are reduced by member countries. When the sectors contract some workers will lose their jobs. Such loss of employment also may not be totally offset or compensated by the employment gains in expanding sectors like the service sector.³⁴⁵

In addition, there could be a shift of employment due to investor's preference for low wage. Investors usually prefer to establish their companies in a lower wage area to maximize their profit. As a result, there might be a shift of employment from a high wage to a low wage area. If Ethiopian employment wage is found to be high in the eyes of other African companies, then potentially it will result in employment loss in Ethiopia and causes employment gain in another member country. This outsourcing of jobs may hurt Ethiopia.³⁴⁶

Generally, it has to be recognized that the links between trade liberalization and employment are complex, and trade liberalization under the AfCFTA potentially will contribute to Ethiopia on one hand a welfare gain and employment loss on the other hand. Employment is both created and destroyed as economic development takes place. Thus, Ethiopia economic integration through AfCFTA should be complemented by appropriate policies. These complementary policies are needed to ensure that workers can benefit from the new opportunities generated by the integration while adjusting to the disruptions caused by its destructive side of the integration. The policies are also important to ensure that workers displaced from uncompetitive industries or firms may be able to move into newly created jobs by acquiring the required qualifications and skills through training. To the extreme, the government should also think of social payments to workers and their families who are not able to catch up with the speed of the integration.³⁴⁷

4.2.2.2.5. Dichotomy of the MFN Provisions

One of the core obligations of AfCFTA member states is the obligation to extend most-favored treatment to other member states. The MFN clause in the agreement Article 18(2) provides that with respect to the subject matter covered by the agreement, the signatory States shall accord to the other party any more favorable preferential treatment applicable to or given to third parties.³⁴⁸ The protocol on trade in goods and services while recognizing the right of state parties to enter into new preferential agreements with a third party it mandatorily requires that any country within the group which has concluded such preferential trade agreement in the

<http://assets.publishing.service.gov.uk/media/57ecfc60e5724a0eb7000010/Jobs_and_Regional_Economic_Integration_in_East_Africa.pdf> accessed 19 April 2020; *ibid* 12.

³⁴⁰ Crystal (n 246) 2.

³⁴¹ Dejene, Belay and Sindu (n 161) 22.

³⁴² Joanna (n 239) 8.

³⁴³ Economic Research and Training Foundation (IMC) (n 39) 5.

³⁴⁴ Mohamed, Issam A.W., 'The Effects of Trade Liberalization and Partnerships on the Sudanese Economy: Analysis of COMESA' [2011] Vol. 3, No. 50, ITJ 1, 8-9. <<http://ssrn.com/abstract=1774513>> accessed 17 March 2020

³⁴⁵ Tewodros and Halelujah (n 180) 20.

³⁴⁶ Dawit (n 179) 23.

³⁴⁷ Joanna (n 339) 8.

³⁴⁸ AEAFCFTA (n 92) Art. 18(1).

future must automatically extend or grant to the other parties to AfCFTA any more favorable treatment it has given to the third party in the form of deeper market access or other privileges as the case may be.³⁴⁹

This MFN arrangement may potentially create potential challenge and be an impediment to Ethiopia's future negotiations that it might wish to negotiate with any other third party country. The inclusion of this provision in the agreement may potentially tie the hands of both Ethiopia and the third party countries developing such as China, Brazil, India and US by discouraging them from concluding any free trade agreement with Ethiopia since on the basis of the NFN provision, other big economy members such as Nigeria and South Africa will automatically jump in. This obviously denies Ethiopia an opportunity to take part in emerging developing country markets such as Brazil, India, and China etc. In addition, it will also undermine the policy space of Ethiopia and curtail her negotiation rights in the future bilateral negotiations as other trading countries would not be fully willing to make a concession in exchange for concessions that will be extended to other member state of the AfCFTA including relatively the big economies.³⁵⁰

Thus, since the MFN provision of the AfCFTA blocks the Ethiopian best interest which can be secured from other future bilateral free trade agreements, it is potentially a challenge awaiting Ethiopia. Otherwise, Ethiopia could be punished by the principle of reciprocity which can legitimately resorted by other member states.

4.2.2.2.6. Cultural Centralization

The member states of AfCFTA are also members of the African Union which comes from the west, east, north, south and central part of Africa which have their own unique as well as some shared culture. In the process of integration, there will be movement of culture, values, norms, languages, and even religions. When the culture of these member African countries cross boarder and enter the territory of other member country it may leads to the acceptance of new cultural and there might be a loss of unique minority cultures or other unique cultural manifestations might be affected since the dominant cultures increasingly overshadow others. This situation is called cultural centralization.³⁵¹ This situation ultimately may result loss, diffusion, dominance of the unique national identify.

For instance, in EU, the major working languages are Spanish, French, and German. As a result, minority languages of other EU member countries might be repressed as they will no longer function for official communication.³⁵²

The Ethiopian case is not different. Following the beginning of trading under the CFTA, many new cultures and values as much as the number of member countries of the FTA, will be imported to the country to diffuse the unique Ethiopian culture and affect the deep rooted norms of the society which have tourism attraction values and other economic manifestation. In terms of language also many unfamiliar African language will be familiar to the Ethiopian business community and society in general. Official working languages of the AfCFTA might penetrate easily and dominate or suppress not only minority languages of Ethiopia, but also the majorities such as Amharic and Oromifa.

Cultural centralization is one of the potential challenges awaiting Ethiopia as a result of its membership to the AfCFTA. Thus, the country if it desires to maintain the unique cultural heritages and societal norms a lot is expected to be done starting from awareness creation up to building a society which is proud of its culture and committed to keep it intact.

Chapter V - Conclusion and Recommendations

5.1. Conclusion

The study generally has focused on the newly established regional economic integration grouping in Africa, the AfCFTA. Particularly, the main theme of the paper has been devoted on identifying and exploring the main potential opportunities (mainly economic) and challenges (internal and external) awaiting Ethiopia throughout the integration process and trading. Despite the fact that economic integration matters such as the AfCFTA is complex which is difficult to reach a consensus conclusion is provided based on the major findings of the study.

In the study, it is observed that even if Ethiopia is founding member of COMESA and IGAD and acceding to the WTO, evidence shows that the country has signed and ratified the first ever free trade area agreement to become the member of the AfCFTA. The AfCFTA is a regional free trade area established by African countries by concluding CFTA agreement. The agreement covers trade in Goods, trade in services, rules and procedures for settlement of disputes, investment, competition policy and intellectual property. While on the first three areas the legal texts almost completed and negotiations are taking place the last three areas are postponed to

³⁴⁹ PTG (n 108) Art. 4(2).

³⁵⁰ Bereket (n 200) 107.

³⁵¹ Dawit (n 179) 22.

³⁵² *ibid*

the second phase. The main objective of the AfCFTA is to create single continental market through reduction and elimination of tariff and non-tariff barriers that existed between African countries. To this end, trading in Goods is set to begin as of July 2020.

It is stated that Ethiopia as a member of the AfCFTA has announced its commitment to make 90 percent tariff liberalization and is preparing to benefit from the free trade area. At this junction, the study has questioned as to what are the potential opportunities and challenges awaiting Ethiopia following its membership. This research questions are not raised based on superficial assumption that the FTA has no opportunities and/or challenges for Ethiopia. Because there are extensive list of evidence which proves regional economic integration such as free trade area has both opportunities and challenges for members. On the contrary, what makes the research questions of this study worth to be raised and considered is that potential opportunities and challenges and their magnitude varies depend on country specific economic, political and social contextual circumstances.

The paper has revealed the main potential opportunities and challenges that Ethiopia could come across with respect to its membership in the AfCFTA. Not only this, the paper has also justified why and how the opportunities are identified as potential opportunity and the challenges are identified as potential challenge taking in to account the country prevailing specific context. Accordingly, based on the review and analysis, the study has revealed access to predictable larger market as the first main potential opportunity. Ethiopian membership in the AfCFTA can potentially help the country constraints arising from small domestic markets by opening up new large market access so as to reap the benefits of scale economies. Secondly, the AfCFTA membership potentially creates fertile ground for stronger competition and specialization which in turns helps to increase productivity and diversification for more export to meet the larger market demand. It serves as a carrot by providing an opportunity for enhancing the competitiveness and specialization of domestic industries by encouraging the taking of different positive measures of survival as a response to stiff foreign competition. Thirdly, the fact that the country cannot change its domestic laws and measures arbitrarily and that it is legally bounded by common regional integration laws makes the domestic market and business environment transparent and predictable. This in turns has potential to contribute for attraction of new FDI or expansion of the already existing. Fourthly, consumer especially those with low purchasing income also will be provided with wider opportunity for selection of products with better quality and low prices as consequence of market competition between Ethiopian and foreign products or between foreign products which has got access in to the domestic market of Ethiopia. Finally, acceleration of economic growth and development is identified as main potential opportunity. The AfCFTA membership is an essential tool for Ethiopia to bring economic development and to solve many poverty related problems of the country. This is mainly because the free trade area is a large market and there is creation of new trade, investment and job opportunity. Many studies on regional economic integration which are discussed in one way or another in the previous chapters assert that integration could be a viable option to address socio-economic problems of a region and Ethiopia is not different.

As far as the main potential challenges Ethiopia would face in relation to its AfCFTA membership are concerned, the study has revealed two main categories of potential challenges: internal and external. The internal challenges cover those challenges which have already existed within the country and will turn out to be potential challenge during the integration and trading process to deny Ethiopia the expected benefits or create a bottle neck against maximizing the benefits to more advanced level. The external one on the other hand refers to potential challenges which may face Ethiopia when and after trading under the AfCFTA has begun in the near future. From the internal perspective; the lack of competitiveness of Ethiopian domestic industries (low export diversification, low production quality and quantity, lack of technology), lack of public participation (public at large, civic society and private sector has not been made main actor which may leads to lack of support), lack of political commitment (reluctance to implement protocols, to allocate sufficient operational budget, to surrender some portion of sovereignty), instability and conflict, product standard issue, the lack of adequate finance to support the integration process, trade facilitation (non-tariff barriers) limitations, institutional (lack of professionals, finance, commitment) limitations and multiple memberships (both present and future membership of Ethiopia in economic integration groupings) are the main potential challenges awaiting Ethiopia. From the external perspective which directly emanate from the integration itself; loss of revenue, adjustment costs, loss of portion of sovereignty, unemployment issues, cultural centralization and MFN dichotomy are main potential challenges.

Altogether, these findings indicate that there are necessary minimum conditions to be fulfilled for Ethiopia integration in the AfCFTA to be successes and reach at its irreversible stage. Among these: national consensus/public participation, peace and stability, political will to implement treaty obligations, physical integration (infrastructure, logistics, energy, etc), efficient institutions, and adequate source of finance.

Finally, it is important to note that though there are significant potential opportunities to catch up with, there is also a long way to get there and a lot of home works to be accomplished from the part of all stakeholders of the AfCFTA including government and the private sector. Unless the challenges are dealt with properly and timely the potential opportunities from AfCFTA membership in terms of increased market access, increased competitiveness, and so on would likely to be narrow. Thus, it is very important that the potential challenges and opportunities of AfCFTA is clearly understood and treated side by side. The success and failure of Ethiopian membership among other things will depend on its ability to properly manage the integration process with appropriate policies and institutions together with building the capacity of the business community to ensure adequate competitiveness.

5.2. Recommendations

In the light of the above conclusions, the following recommendations should be taken into account to ensure that the potential challenges surrounding Ethiopian membership to the AfCFTA are reduced to the minimum possible and potential opportunities works to the maximum possible benefit of Ethiopia. The recommendations hereunder are mainly forwarded for policy makers, government organs which are in trusted with the task of administering, implementing and monitoring the AfCFTA; government organs with responsibility of supporting the private sector; and solving the supply and demand side constraints associated with import and exportation activities. This institutions among others includes; Ministry of Trade and Industry, Custom Commission, Ethiopia Shipping and Logistic Enterprises and Quality and Standard Authority. Accordingly, it is recommended that:

In order to curb the potential challenge in relation to lack of public participation/consensus particularly the above mentioned concerned government organs should work closely with the business community, civil society and the public at large. Regular forum in which the business community and civil society can present their concerns, views, and problems to the public authorities should be established. To this end, the organs should also work to ensure public awareness and participation about all potential opportunities and challenges of the REI and the role expected. Besides, the government in general and concerned officials which are in trusted with the task of AfCFTA should not lack political commitment/will in various dimensions of the FTA. Particularly, the commitment should start from the attendance of meeting regularly, allocating sufficient budget and human resources and reasonably fighting for the interest of domestic industries, and so on. As part of the commitment the government should also organize or reorganize necessary institution and human resources to implement the rules of AfCFTA in a way that promotes and protects trade and development interests of the country to ultimately make full use of the AfCFTA potential opportunities.

The AfCFTA integration to be a success it is noted that peace and stability internally among various ethnic, political and religious groups is essential. Thus, the government should work hard to address ethnic and political tensions among other things by facilitating national reconciliation, bringing controversial matters to table, and stopping propoganda that preaches enemy. Ensuring rule of law should also be government priority.

Concerning competitiveness of domestic industries, the main economic rationale of the integration is closely linked to the benefits to be derived from increasing market access opportunity. Ethiopian economy is less competent, less diversified and agriculture based. Thus, it is recommended that in addition to the efforts of the private sector in itself for survival the government should exert all efforts towards strengthening the competitiveness of the domestic industries so as to increase their production capacity both in quality and quantity and improve diversification of export capacity. Capacity building measures should be taking. It is also recommended that necessary safeguard measures should be crafted and implemented effectively. Ethiopia should always be ready economically, in terms of skilled manpower and resource to identify and investigate situations of dumping, subsidization, imports surges and to take necessary trade remedies in the form of anti-dumping measures, countervailing measures and safeguard measures as to protect domestic industries. The government has to secure adequate policy space and flexibility for implementing economic development programs, in particular to address supply side constraints and to promote stable long-term sustainable investment.

With respect to potential revenue loss following tariff liberalization it should be complemented by domestic policies and mechanisms addressing the challenge. The process of reducing customs duties has to be done step by step with carefully planned programmes. Domestic revenue mobilization policies and measures need to be taken to mobilize revenues to mitigate the expected revenue losses. Reform on the tax system to broaden the tax base should be made in a way that compensates the losses from import duty. A new mechanism to get a new source of revenue to fund the integration could also be introduced. Similarly, reforms should be made to improve the overall tax administration and collection system and capacity.

Policies and measures should also be put in place to address the adjustment costs that integration may entail. It is critical that the AfCFTA has to provide some support needed for structural adjustments so that the overall economy can withstand the challenges of liberalization. In other words, the Ethiopia government essentially needs to make sure that the adjustment costs of the reform and integration process is to some extent covered by AfCFTA and other sources than government such as donors' support.

Concerning trade facilitation and cost of doing business, it is recommended that improving poor trade facilitation services: logistics, such as custom practices, boarder process (clearance procedures), infrastructure (road, railway and maritime transportation), dry ports and container freight stations and other non-tariff barriers should be at the center of the effort of the government. Overall, improvements in infrastructure and basic trade logistics are particularly important for the landlocked country to exploit the potential opportunities of tariff reductions. Unnecessary and unjustifiable barriers should be eliminated. The government generally should work hard to facilitate trade while safeguarding human, animal and plant life or health. It is also important to make sure that product standards assessment does not become unjustifiable barriers to trade. The government should also enhance its cooperation with other member states in the development, setting and implementation of custom matters, technical regulations and standards.

In relation to product standards, it is suggested that to avoid rejection, double standardization and to make Ethiopian export product compatible with all AfCFTA countries standard it is better to set standards by adopting international standards and best practices. The concerned authority need to provide wider awareness creation programs, strong monitoring and supervising activities than before with the purpose of making Ethiopian product compatible with member African countries international or regional standards than national standards. Besides, for the purpose of assessing the standards of import and export products, well-equipped modern testing laboratory and expertise needs to be put in place. .

As far as the MFN related issue is concerned it is essential that Ethiopia take the MFN issue wisely. Thus, Ethiopia should consider not looking in to its MFN obligation especially against big African economies and go for any arrangements or dealings with non-member third countries as long as it carries incomparable special economic and developmental interest which prevails the possible loss following reciprocity, on the case by case basis.

Finally, to the potential challenge of multiple memberships it is suggested that Ethiopia should think of strengthening its regional integration through the AfCFTA and step by step withdraw its membership from other REC; COMESA and IGAD and avoid future membership of the same.

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