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Gbadebo Odularu
Bamidele Adekunle *Editors*

Negotiating South-South Regional Trade Agreements

Economic Opportunities and Policy
Directions for Africa

 Springer

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Editors

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Directions for Africa

Editors

Gbadebo Odularu
Centre for Research on Political
Economy
Dakar-Yoff, Senegal

Bamidele Adekunle
University of Guelph & Ryerson University
Guelph & Toronto, Ontario
Canada

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Finally, we hope that our audience will be inspired and empowered beyond their comfort zones into the borderless world of unlimited South–South trade opportunities.

We would also like to express our hearty gratitude to our families, for their sustained support during the period we have devoted to writing this book.

Professors Gbadebo Odularu and
Bamidele Adekunle

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Introduction: Increasing Dynamics and the New Trading Ecosystem for the South

Gbadebo Odularu

1 Introduction

Regional Trade Agreements (RTAs)¹ represent a global economic and political phenomenon involving both developed and developing countries. This is partly due to the debate it generates, especially for the welfare gains that accrue to a developing country trading partner. In the past decade, Africa has been home to six of the ten fastest-growing economies in the world—a number that is often projected to grow further into the future. According to the World Bank, Africa could be ‘on the brink of an economic take off, much like China was about 30 years ago and India about 20 years ago.’ At the close of the twenty-first century, the World Trade Organization (WTO) the United Nations Cooperation for Trade and Development (UNCTAD) announced that the global Regional Trade Agreements (RTAs) have reached the 200 mark, and noted that the upward trend would most likely continue.

¹RTAs are used as a generic term for bilateral or plurilateral free trade agreements, customs unions or common markets. Non-reciprocal preferential trade agreements such as Generalised System of Preferences (GSPs) are excluded by definition. In fact, what all RTAs in the WTO have in common is that they are reciprocal trade agreements between two or more partners. In recent times, trade negotiations between developed (rich) and under-developed (poor countries) have moved to regional (between two countries) agreements; usually regarded as regional trade agreements (RTAs). They include free trade agreements and customs unions, notified under Article XXIV:7 of the GATT 1994, and paragraph 2 (c) of the Enabling Clause, and Economic Integration Agreements under Article V:7 of the GATS. In fact, most modern RTAs extend beyond traditional trade policy mechanisms and tariff-cutting preferential treatment to include regional rules on investment, competition, environment and labour; preferential regulatory framework for mutual service trade; and increasingly complex intra-trade regulations which include *inter alia*: standards, safeguard provisions, customs administration, etc.

G. Odularu (✉)

Centre for Research on Political Economy (CREPOL), Dakar-Yoff, Senegal

e-mail: gbadeski@gmail.com

Nearly all of the RTAs projections available to date suggest that a large part of the expected growth would occur in the developing world. The unrelenting increase in global RTAs and its attendant effects of trade flows, demand urgent remedial actions and solutions from policy makers, technocrats, researchers, and other relevant decision makers.

Looking at the main trends and characteristics of African RTAs kaleidoscope, the changing landscape of RTAs in Africa becomes increasingly relevant in the sense that if they are well utilized, RTAs policies could provide the formidable springboards for Africa's economic transformation. Though the numbers of RTAs have increased dramatically and the scope broadened over the past decades, the political economy of negotiating RTAs remains that some African governments have reluctantly signed them. However, fostering market access as well as preserving existing reciprocal preferences continues to remain the driving forces behind signing RTAs. These developments exist in parallel with the global liberalization of trade and commerce, thereby expanding the bouquet of RTA benefits to include strengthening of regional policy coordination, adoption of pro-poor policy reforms, and addressing foreign policy issues.

Based on this background, this book on negotiating South–South RTAs in Africa offers an introduction into the world of modern RTAs. It goes beyond the traditional paradigm of trade creation versus trade diversion to address the economic and legal aspects of the regulatory policies that are contained in Africa's RTAs today. This book provides a succinct description of the principles, rules and procedures of RTAs, as well as filling the yawning information gap on a political economy— informed discussion of how South–South RTAs are being used as instruments for economic transformation in Africa. Further, this book presents a roadmap for developing a more cohesive, effective strategy for negotiating selected RTAs with Africa in the traditional, emerging and modern sectors. The book also maps the landscape of RTAs, summarizes the theoretical arguments as well as the political economy of RTAs. It also proceeds to discuss the current practice in the main policy areas typically covered in RTAs (from agricultural policy, manufacturing policy, rules of origin, customs unions, trade remedies, product standards, technical barriers, to behind the border issues related to investment, trade facilitation, competition, environment, migration, and dispute resolution).

There is a clear and pressing need for increased global negotiations and engagement with Africa via the adoption of RTA tools and instruments. Increased global trade facilitates mutually beneficial growth, simultaneously strengthening global economy and market. There is an urgent need for other regions to accelerate and deepen strategic economic engagements with Africa.

Undoubtedly, RTAs are increasingly being signed by African countries due to its benefits such as spurring development, promoting trade opportunities and reducing poverty. While there is a growing body of evidence-based research, there still exists so much for leveraging available lessons and best practice for Africa's current and future regional trade policy agenda. Thus, prominent academics, business actors, development practitioners, policy-shapers, opinion leaders, researchers and decision makers from Africa and the rest of the world, largely recognize that the benefits derivable from RTAs are distinct and huge. There is a need to look at proven RTA practices, field-tested south–south RTA tools, and innovative RTA approaches that

can inform the development of higher impact and more scalable initiatives that lead to greater commercial opportunities in African countries.

Whether the RTAs that now exists can be sustained depends on how effective economies will be in undertaking and facilitating the adjustments that are permitted by WTO rules—such as antidumping, which has been increasingly used by many countries—but mostly they require domestic policies that target the affected groups directly. The growth of developing countries regional trade since the mid-1990s is both an example of the importance of WTO and RTAs. New trade powers will require greater attention to be given to addressing RTA concerns. The need for RTAs is greatest in agriculture where policies in rich countries impose significant negative spillovers of many developing countries—a central issue in the Doha Development Agenda (DDA), and the one that is largely responsible for the slow progress of the negotiations.

In Africa and other developing countries, South–South RTAs have become a dynamic feature fuelled by the unabated increase in economic activities along the regional and global value chains. Nevertheless, policy adjustments required to accommodate such a dynamic trend are not yet in place, partly because African policy makers do not seem to have the necessary information and tools to formulate and implement policies that will provide an enabling environment where RTAs will thrive and operate efficiently and profitably. This book will contribute to filling such information gaps, because it touches on trade facilitation, institutionalization, regional integration, international trade, and other policy issues.

Based on this background, one of the challenges in South–South RTAs is the mismatch between the high political ambitions by African leaders and the harsh continental economic realities. For instance, Africa boasts of not less than 14 RTAs trading blocs which are targeted at the pursuance of regional integration but the region is yet to show ‘a distinct reluctance to empower these institutions, citing loss of sovereignty and policy space as key concerns’ (Africa Renewal 2014). Consequently, ‘regional institutions remain weak, performing mainly administrative functions.’

Despite pressure from the European Union (EU) and the United States towards promoting and sustaining regionalization and globalization, the United Kingdom (UK) voted to exit the EU in a non-binding advisory referendum. Brexit has far-reaching implications for South–South RTAs. In other words, as the twenty-first century unwinds and more studies are provided on the outcomes of the ongoing mega-trade deals, south–south regional trade and corridors will continue to grow at an unprecedented pace and magnitude. As the United Kingdom has finally exited the EU, with its seemingly adverse implications for Africa within the North–South trade relations, it becomes increasingly imperative to assess the evolving trade paradigm that is emerging due to the arrival of new global Southern countries such as China, India, Brazil and South Korea.

Within the economic policy space of South–South RTAs, Asia and Africa are spatially far apart by thousands of miles and separated by vast oceans. However, enabling trade and market access relations have grown gradually over time, and this could be consolidated upon, especially that South Korea is one of the technologically advanced economies in the world. S-S RTAs will further strengthen the trade

and business relations between African countries and the rest of the countries in the global South. South–South RTA is peculiarly crucial for Africa’s trade, business and market access agenda because it is not unidirectional and it also provides two-way benefits. Further, trade and market access deals between Africa and the largest emerging global Southern countries—China, India and Brazil—are upping the S-S geopolitical and economic game in Africa’s favor.

This study is being produced at a critical moment and now is the time to invest in economic engagements and trade negotiation with Africa, by adopting a long-term, enhanced, workable regional trade agreement which will foster joint growth and generate mutual benefits. The opportunities and mutual benefits are vast and huge and this is the time to ensure that Africa hones its negotiation tactics and implements a coordinated, comprehensive, sustainable and effective RTA. In view of the foregoing, this study has attempted to document selected south–south RTAs opportunities and challenges associated with specific sectors of the African economies such as agriculture, manufacturing and services. Some of the questions being addressed in this book include inter alia:

- What are the innovative approaches for improving the quality, relevance and outcomes of South–South RTAs in Africa?
- How can African countries be more effectively integrated in their negotiated South–South RTAs?
- What are some of the broad trends that are being observed in Africa’s RTAs, and what implications do those trends have for economic opportunities for Africa today and in the future?
- How are different stakeholders in African countries preparing themselves to benefit from the increasing number of negotiated south–South RTAs?
- What approaches have proven to be effective for Africa to benefit maximally from south–south RTAs?
- How are African Governments engaging in south–south RTAs-related policies and programmes that affect them at national, sub-regional and regional levels?
- What has proven not to work when developing, implementing or evaluating south–south RTA programmes in Africa?

With increases in global trade being shaped by innovative trade policy developments, as of February 2016, some 625 notifications of RTAs (counting goods, services, and accessions separately) had been received by the GATT/WTO. These WTO figures correspond to 419 enforced RTAs, 454 physical RTAs² (counting goods, services and accessions together), of which 267 are currently in force.

It is important to note that one of the most frustrating issues in multilateral trade agreements and negotiations is the increasing trend in bilateral and regional trade

²Within the WTO context, RTAs are generally referred to as agreements concluded between countries not necessarily belonging to the same geographical region. Specifically, RTAs could be defined as agreements which are negotiated within the WTO provisions that relate specifically to conditions of preferential trade liberalization with RTAs.

agreements (RTAs).³ However, RTAs are very crucial for the multilateral trading system but they do not substitute for it. Of course, these non-multilateral trade agreements have been in existence and practice for decades, even in the pre-GATT era, they continue to co-exist with the multilateral system. RTAs could bolster the multilateral trade agreements because the global system of rules forms the basis for the RTAs. Indeed members of RTAs still and mostly rely on the WTO's dispute system. However, RTAs continue to blossom, and increasing number of WTO Members continue to engage in new RTA negotiations. The ongoing negotiations include the Asia-Pacific Region for a Trans-Pacific Partnership (TPP) Agreement, currently between 12 parties, in Asia between ASEAN Members and six other WTO Members with which ASEAN has agreements in force (the Regional Comprehensive Partnership Agreement RCEP); the Pacific Alliance in Latin America, currently between Chile, Colombia, Mexico and Peru; and the Tripartite Agreement between parties to Community of Eastern and Southern Africa (COMESA), Eastern African Community (EAC), and Southern African Development Community (SADC) in Africa; and the African Continental Free Trade Agreement (CFTA). It is globally believed that as these plurilateral agreements are in force, they have the potential to reduce the spaghetti bowl of RTAs especially if they supersede existing bilateral agreements and develop common rules (such as for rules of origin) to be applied by all the parties to the agreement (WTO 2016). Invariably, as the numbers and membership of RTAs rise within the multilateral trade space, its evolution in Africa, and the global trade agenda will contribute to a balanced, harmonious and inclusive growth trajectory.

The number of South–South RTAs continue to increase in response to the economic opportunities within the multilateral trading system. In fact, south–south RTAs have allowed groups of countries across geo-political boundaries to negotiate trade rules, standards and commitments beyond the traditional multilateral confines. In addition to abolishing or reducing tariff and non-tariff barriers (NTBs) on trade within the groupings, South–south RTAs encompass services, intellectual property, environmental standards, trade facilitation, investment and competition policies.

Due to its modalities which emphasize productive sectors and provisions, South–South RTAs is particularly well-suited for developing countries, including African countries. In this South–South RTAs book, the authors explore the gaps in ongoing Africa's RTAs. It discovers that Africa's RTAs could further guide the continent to higher growth and transformation in a rapidly-growing global economy. It is the firm belief of the authors that the data and policy recommendations

³Based on the fact that preferential trade agreements (PTA) activities have transcended regional boundaries, the term 'regional trade agreements' (RTAs) and PTAs are often used interchangeably in the literature, and the rise of 'regionalism' is often used to describe the spread in PTA activities.' (WTO Trade Report 2011). However, selected numbers of PTAs are currently enforced outside their strictly defined regions in that they include countries from other geographical areas, according to the regional definitions. It is crucial to note that the coverage and depth of preferential treatment varies from one RTA to another.

provided in the South–South RTAs book provides an enlightening prism at the changing trends in RTAs in Africa, and how Africa can greatly benefit from preparation for the opportunities emerging for RTAs.

This 10-chapter book, is the outcome of a well-thought through study which brought together relevant expertise in trade, finance, economics, policy, development, environment, and food issues, to share and exchange information on RTAs. The book is divided into three sections. The first section insightfully presents the big picture of South–South RTAs policy instruments within the context of multi-lateral trading system. There is a need for African governments to continue to implement RTA follow-up measures providing support in various forms with an aim to boost the economic development policy utilization rate in these agreements. Institutional advancement in RTA promotion within the developing countries has been an important policy goal for the African government. The groundwork needs to be laid, as South–South RTAs should include provisions on institutional advancement such as streamlining, enhancing transparency and aligning regulations. This will help to promote stronger competition by boosting trade and investment, and further on the higher competitiveness of African enterprises, Africa must continuously monitor whether this linkage remains firmly connected.

The second section of this book complements the first part by providing concrete South–South RTAs that are of relevance to Africa's economic transformation agenda. It also discusses the RTA issues including the fact that the soundness of a South–South RTA can be assessed by how much deeper the economic relations with the RTA partners have become since effectuation. An analysis of RTA achievements from the perspective of bilateral trade shows that almost all South–South RTAs have led to a positive effect. This third section presents striking policy recommendations on deploying innovative South–South RTA policy tools in advancing trade and investment interests between Africa on one hand, and its trading partners in the Global South: China, Brazil, India, and South Korea. Depending on the RTA partner, industries were affected in different patterns, and in some cases the RTA has no impact whatsoever. RTA-backed export surges generally occurred in terms that were already being actively exported, thus on occasions resulting in a concentration in certain items. This implies that while RTAs were overall beneficial for exports and economic growth, there were some limitations in diversification export markets for items. Thus, Africa should go beyond its focus on the trade of competitive goods to reflect the counterparts' market or growth potential in RTA negotiation strategies.

This final section of this book presents a number of African-based RTAs and some of the latest issues on the tripartite free trade agreement (TFTA) and Economic Community of West African States (ECOWAS) trade facilitation tools. It also recommends the need for an effective, cohesive, workable and comprehensive strategy towards increasing economic engagement with Africa via strategic South–South RTA instruments. However, there is a need to identify actionable and timely steps that can be taken to improve the role of RTAs as tools for increasing South–South trade and investments opportunities. Implementing these recommendations will strengthen two-way trade relationships, open new markets, support

domestic economic growth, create jobs, and ensure that Africa does not continue to ceding political and economic leadership on the continent to other non-regional competitors. Given the increasing pressure on African SMEs to export and the global South rapidly becoming an arena with a multitude of quality-related regulations, standards, and other market-access requirements, there is an urgent need for an effective transfer of knowledge and know-how to businesses on best practices in quality management; and also reinforcing local quality-related support institutions to offer new or enhanced services to SMEs; facilitating the sharing of best practices and success stories and creating a global network of service producers committed to supporting SMEs in the South.

In conclusion, this book does not provide a detailed (negotiating) history—who did what and when—although the results of negotiations and ministerial meetings are discussed at some length, including the subjects that were on the table in the DDA. Being an introduction, this book cannot be more than a starting point. Guides to further reading are provided at the end of each chapter. Readers interested in pursuing specific subjects in greater depth should consult the references stated in the respective chapters. This book will provide useful information to trade practitioners, researchers, policy makers, and commercial experts, and contribute to meeting some of their expectations with regards to this dynamic issue of great relevance to Africa's transformation agenda. Although the discussions in this book is nontechnical, the publication will assist students of international relations, economics, business and politics, to relate basic economic concepts and analytical frameworks to RTAs policy instruments.

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The Big Picture: South–South Regional Trade Agreements within the Context of the Multilateral Trade Systems

Gbadebo Odularu, Mariama Deen-Swarrray, and Ciliaka Gitau

1 Introduction and Background

Globally, the number of bilateral and regional trade agreements (RTAs) have increased rapidly within the last seven decades. This unprecedented and astronomical rise could be attributable to the a number of factors, inter alia: the signing of the General Agreement on Tariffs and Trade (GATT) in 1947; rounds of trade negotiations to lower tariffs; increased scope of the Agreement including expansion of membership; and the creation of the World Trade Organization (WTO) in 1995 (WTO 2016a). Consequently, trade, investment and economic development issues have continually attracted insightful policy analytics at both within regional and multilateral levels. A strikingly relevant policy case is the Trade Facilitation Agreement (TFA) which was struck in 2013 during the 9th WTO Ministerial Dialogue in Bali, Indonesia.

Most global trade problems require global solutions, while regional trade issues demand for regional answers. The role of the WTO is essentially to negotiate on global trade rules, monitor adherence to those rules, and help to resolve disputes between nations when they arise. Over time, WTO members have continually realised that mounting domestic economic challenges should not result in the

G. Odularu (✉)

Centre for Research on Political Economy (CREPOL), Dakar-Yoff, Senegal
e-mail: gbadeski@gmail.com

M. Deen-Swarrray

Research ICT Africa, The Studios, Old Castle Brewery, 6 Beach Road, Woodstock 7925, Cape Town, South Africa
e-mail: mdeen-swarrray@researchictafrica.net

C. Gitau

School of Economics, University of Nairobi, Nairobi, Kenya
e-mail: ciliakag@gmail.com

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adoption of protective measures. Rather, countries are being bound by the WTO rules and obligations, thereby providing the global confidence that others also play the game by the rules (WTO 2016b). Countries have also realised that improper unilateral trade actions could have significant legal and economic consequences. For instance, as stated in its 2000 WTO Trade Report, Japan did not belong to any preferential RTAs but was concerned that some RTAs raised barriers to trade with non-member countries, thereby weakening the free, non-discriminatory, and open multilateral system formed under the WTO, according to the 2011 WTO Trade Report (TR).

In general, all RTAs are reciprocal trade agreements between two or more partners. In order to respond to some of the challenges and opportunities of RTAs, the WTO Committee on Regional Trade Agreements (CRTA)¹ was established by the General Council on 6 February 1996 (WTO TR 2011). Its purpose is to examine all the RTAs notified to the WTO, and also ensure that there is consistency by all WTO rules and members. However, in December 2006, WTO members adopted a mechanism which allows members to provide an ‘early announcement’ of their involvement in negotiations for a RTA. This system also requires members to promptly notify a newly concluded RTA, and sets out a schedule for its consideration by WTO members (WTO TR 2011). Thus, this mechanism permits notified RTA to be concluded within a year from the date of notification. By implication, RTA parties are required to submit certain data to the WTO Secretariat, such as tariff concessions, most favoured nation (MFN) duties, rules of origin and import statistics. Based on this data, mainly the text of the agreement and information from other sources, the WTO Secretariat prepares a factual presentation that is intended to assist members in their consideration of the notified RTA. According to the WTO (2016a, b), as of February 2016, 625 notifications of RTAs (counting goods, services, and accessions separately) had been received by the GATT/WTO. These 625 notifications correspond to 419 RTAs of which were in force at February 2016, 454 physical RTAs (counting goods, services and accessions together), of which 267 are currently in force.

Based on this background, this chapter provides a comprehensive review of the nature of RTAs, and how they influence Africa’s trade interests within the context of South-South RTAs and the multilateral trade system. This chapter concludes by emphasizing the growing importance of South-South RTAs in advancing Africa’s trade and economic interests.

¹The CRTA’s purpose also include the examination of how regional arrangements might affect the multilateral trading system, and the likely consequences of the relationship between regional and multilateral arrangements.