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GREENWICH



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**THE IMPACT OF RULES OF ORIGIN ON GLOBAL TRADE: ASSESSING IMPACT  
TO THE AFRICA CONTINENTAL FREE TRADE AREA**

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THE UNIVERSITY OF GREENWICH BUSINESS SCHOOL.**

## DECLARATION

I Tawila Anamela of Student Number 001121367 do hereby declare that I am the sole author of this dissertation and that to the best of my knowledge no similar work has been submitted to this University or any other, for the purpose of obtaining this award. Due acknowledgement has been given, where scholarly work of other authors has been relied on.

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Student signature

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## **DEDICATION**

I would like to dedicate this dissertation to my wife and daughter. To my wife, I thank you for your patience, understanding, sacrifice and consistent motivation, that you have shown and given me throughout my studies. Without your unwavering support, I would have not been able to complete my studies. To my daughter, as you grow may my efforts and pursuit of academic excellence motivate and drive you to do better and go further than I have. The both of you are the real Big Deals!

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## **ABSTRACT**

**Purpose** – The aim of this study is to identify the factors that affect the success of Regional Trade Agreements and the impact Rules of Origin on increasing intra-regional trade.

**Research design/methodology** – An interpretivist paradigm is adopted by the researcher to address the posed research questions. This is achieved through a qualitative inquiry, relying on secondary data for the adopted case study approach.

**Findings** - The author finds that various factors play a role in the success of RTAs and that if the Africa Continental Free Trade Areas is to be successful, due regard must be given to the specificity of the legal texts defining the RoO. Further, that in order for business originating from member-states to truly benefit, measure must be put in place both on the regional and national level.

**Limitations** – Being an academic study, Time is the highest limitation, coupled with the logistical challenges posed by the Covid-19 pandemic and made it difficult access key stakeholders, limiting this study to secondary sources. However, by no means did these limitations affect the accuracy and quality of the findings.

**Recommendations** – The study recommends that at national level, there must be policy changes that will facilitate the implementation of the AfCFTA and at regional level, there is need to enhance the legal backing of implementing institutions and to ensure that the concluded rules are easy to understand and result in a simplified certificate of origin to aid business growth and efficiencies.

**Value** – The findings of this study address the core challenges faced by RTAs in Africa and what must be done to ensure that the AfCFTA succeeds in achieving its core vision and mandate.

**Keywords** – Africa Continental Free Trade Area, Deep Agreements, Regional Trade Agreements, Rules of Origin, Spaghetti bowl, European Union

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## **1.0 CHAPTER ONE: INTRODUCTION**

### **1.1 BACKGROUND**

At the end of the Second World War, a number of states entered into reciprocal trade agreements, whether in goods or services that covered areas of mutual interests to the states involved. These agreements may be between or amongst states. If it is between states, they are referred to as Bilateral Trading Agreements (BIT) and those amongst states are referred to as Regional Trading Arrangements (RTA's). By their nature, these agreements were largely discriminatory, since they offered preferential treatment only to the member states. The aim of these agreements, was to reduce trade barriers between or among the member states, at the exclusion of those states that are not party to the agreement. These Agreements offered preferential treatment to goods and services originating from the member states(Cadot, 2006).

RTAs can be generally divided into five categories, depending upon their level of integration: Common Markets and Economic Unions, Customs Unions (CUs), Preferential Trade Agreements (PTAs), and Free Trade Agreements (FTAs)(Pal, 2004). PTA have been defined as “a union in which member countries impose lower trade barriers on goods produced within the union, with some flexibility for each member on the extent of the reduction” (Pal, no date). Whereas, A Free Trade Area (FTA) has been defined as “a special case of PTA where member countries completely abolish trade barriers (both tariff barriers and non-tariff barriers) for goods originating within the member countries”(Pal, 2004).

Based on the above, a majority of countries around the world entered into BITs and RTAs with the aim of, inter alia, meeting their trade objectives and advancing their economic regional integration. It is against this Background that African countries, through the African Union (AU), negotiated the establishment of the African Continental Free Trade Area (AfCFTA) that entered into force on 30 May 2019 for the 24 countries that had deposited their instruments of ratification(Tralac, no date).

It is reported by Tralac that “main objectives of the AfCFTA are to create a single continental market for goods and services, with free movement of business persons and investments, and thus pave the way for accelerating the establishment of the Customs Union. It will also expand intra-African trade through better harmonization and coordination of trade liberalization and facilitation

and instruments across the RECs and across Africa in general. The AfCFTA is also expected to enhance competitiveness at the industry and enterprise level through exploitation of opportunities for scale production, continental market access and better reallocation of resources.”

However, the only way in which businesses can benefit from Free Trade Areas and gain free market access across borders, is if they can prove that the goods being traded originated from within the member countries to the said agreement. In order to do so, they must fulfil the origin criteria conditions, this is what is referred to as the Rules of Origin (RoO)(Cadot, 2006).

Therefore, this paper will endeavour to analyse the approach taken by the AU in the creation of the AfCFTAs key document on Rules of Origin and what lessons can be learnt from other Regional Economic Communities like The European Union, to effectively deal with Africa’s challenges in regards to its inadequate Intra-Africa trade that has stagnated the development of African economies and limited the exposure of local business to the international markets.

## **1.1 Problem statement**

The AU currently recognises eight Regional Economic Communities (RECs) in Africa(Chiumya, 2009). Almost all African states are members to one or more RTAs that focus on increasing their economic integration through liberalised trade in goods and services, thereby, facilitating the growth of their economies by enabling local business to participate in cross border trade, at little to no added cost. However, despite the multiple RTAs that exist in Africa and the overlapping memberships (where a country is a member to multiple RTAs), statistic show that there have been little correlative developments in African countries based on the said RTAs and that there is still a low level of intra-Africa and intra-RTA trade. For example, a study by Songwe highlights that in 2017 intra-Africa exports amounted to a total of 17 percent which is significantly low in comparison to North American, Asia and Europe that recorded a 31 percent, 59 percent and 69 percent share respectively(Songwe, 2019). One of the reasons advanced for this low level of intra-Africa and intra-RTA trade is as a result of the cheap goods imported or dumped into the continent from developed or developing countries like china, that are then circulating within the African market and as a result, making it hard for local products to effectively compete due to the differences in factors of production and the cost of goods, thereby, impeding the growth of local producers/manufacturers and their access to international markets.

Therefore, this paper will analyse the current approach taken by the AfCFTA in creating the text governing the Rules of Origin (RoO), based on the bearing these rules have on business growth and attraction in Africa, by comparing with that taken under the European Union.

## **1.2 Research objectives**

To identify the factors that affect the effective operation of RTAs and whether RoO are central to the success of RTAs.

### **Specific objectives**

1. To identify the effects, benefits and advantages of being a member of a RTA
2. To identify the perceived benefits of being a member of the AfCFTA
3. To identify the factors that may affect the success of RTAs
4. To understand the role of RoO in the effectiveness of RTAs and how they have been applied in the EU

## **1.3 Research questions**

1. What are the effects, benefits and advantages of being a member of an RTA?
2. What are benefits of being a member of the AfCFTA?
3. What factors may affect the success of RTAs in Africa
4. What role do RoO play in the effectiveness of RTAs and how do have they been applied in the EU?

## **1.4 Explanatory Variables and Dependent Variables**

### **1.4.1 Explanatory Variables**

The independent or explanatory variables are ascertained from the various factors that may affect the success of the AfCFTA. The identified factors are Political will, cultural differences, access to finance, spaghetti bowl problem and rules of origin.

### **1.4.2 Dependant variables**

The identified dependant variable in this study, is the success of Regional Trade Agreements.

## **1.5 Research Contribution**

For decades regional integration in Africa has been a priority and the focus of various discussions. It is regarded as a tool that can play a pivotal role in bringing about economic growth and poverty reduction in African countries. Examples of regional integration like United States–Mexico–Canada Agreement (USMCA), Asian Free Trade Area (AFTA) and the European Union (EU) demonstration that Intra-RTA trade is at the centre of economic growth and development for their member states. However, despite African Countries being preview to this information and being members of multiple RTAs, they have not succeeded in increasing the amount of trade amongst themselves. This has resulted in the stifling and stagnation of businesses, mostly SME's, and this has led to negligible economic growth and development. Consequently, this paper aims to identify what role the RoO play in the promotion and effective implementation of Intra-Africa trade from a policy perspective and how businesses can benefit from the said rules by increase their market access, consequently leading to an increase in their trading capacity.

## **1.6 Research Design**

In order to achieve the research objectives outlined above, a qualitative research method shall be used. The Data will be collected from secondary sources for analytical purposes.

### **1.6.1 Research Method & Approach**

This research paper will adopt a qualitative research method through the use of legal texts, scholarly journals and articles, and books.

## **1.7 Dissertation Layout**

**CHAPTER 1** – Introduction

**CHAPTER 2** – Literature Review

**CHAPTER 3** – Research Methodology

**CHAPTER 4** – Research findings and analysis.

**CHAPTER 5** – Recommendations and conclusions

## **1.8 Chapter Summary**

Throughout history RTAs have been used as an instrument to increase trade amongst member states. However, in most Africa RTAs this has not been the case and this has been attributed to an array of issues, one of which is inoperative or complicated Rules of Origin that govern the nationality of products and this has affected trade efficiency and the growth and internationalisation of many businesses in Africa, consequently, hindering intra-continental trade.

## **2.0 CHAPTER TWO: LITERATURE REVIEW**

### **2.1 INTRODUCTION**

This chapter aims to review the literature that focuses on how RTAs are used to foster regional economic integration and market access for companies operating within the territories of the member states. As well as analysing literature that highlights the significance of the legal texts that govern the RTAs, and how they play a pivotal role in the overall success of RTAs. In doing this, the author endeavours to achieve the objectives stated in chapter one and identify existing literature gaps relating to the research topic.

### **2.2 Theoretical framework.**

(Virág-Neumann, 2009) refers to RTA's as a clear violation of the World Trade Organisation's General Agreement on Tariffs and Trade's (GATT) Most favoured nation principle of non-discrimination contained in **Article I of the GATT**, that proscribes contracting states from making any Preferential Trading Agreements. However, Article XXIV of the GATT provides for an exception that permits the creation of Regional Trade Agreements, provided they are in the form of Customs Unions or Free Trade Areas, and as long as essentially "substantially all trade" is fully liberalised, and that there is no overall increase in external protection (Virág-Neumann, 2009). Therefore, though in essence they negatively impact trade between some countries, they effectively work towards liberalizing trade amongst others and this has a direct effect on market access availed to local businesses.

Newfarmer (Newfarmer, 2006) observes that RTAs have fundamentally changed the world trading landscape, by highlighting that since the proliferation of RTAs, the majority of the world trade takes place between or amongst countries that are parties to one or more reciprocal RTAs.

#### **2.2.1 The RTA models and Definitions**

RTAs can be generally divided into five categories, depending upon their level of integration: Common Markets and Economic Unions, Customs Unions (CUs), Preferential Trade Agreements (PTAs), and Free Trade Agreements (FTAs) (Pal, 2004). PTA have been defined as "a union in which member countries impose lower trade barriers on goods produced within the union, with some flexibility for each member on the extent of the reduction" (Pal, 2004). Whereas, A Free Trade Area (FTA) has been defined as "a special case of PTA where member countries completely

abolish trade barriers (both tariff barriers and non-tariff barriers) for goods originating within the member countries”(Pal, 2004).

### **2.3 Gaps in the Literature**

Despite the multiple RTAs memberships by African countries, they have not succeeded in increasing the amount of trade amongst themselves. This has resulted in the stifling and stagnation of businesses, mostly SME's, and this has led to negligible economic growth and development. Consequently, this paper aims to identify what role the RoO play in the promotion and effective implementation of Intra-Africa trade from a policy perspective and how businesses can benefit from the said rules by increase their market access, consequently leading to an increase in their trading capacity.

### **Challenges caused by RTAs**

Jagdish Bhagwati (1995), states that FTAs are like "termites" devouring the world trading system. Preferential Trade Agreements, according to Bhagwati, undermine the core principles of non-discrimination that are the foundation of international trade law. He opines that this is achieved by causing trade diversion, it creates a challenge for the efficient operating of international and Multinational businesses. In addition, he believed that based on their very nature, they provide developed countries with an unfair opportunity to get unjustifiable concessions from Least Developed Countries (LDCs), being weaker trading partners, on trade matters, labour standards and intellectual property protection, that are essential in fostering economic growth and development.

The proliferation of RTAs has resulted is a spaghetti bowl of overlapping arrangements, each of which have differing rules of origin, tariff schedules, and periods of implementation. Those differences delay the passage through customs of goods covered by preferential arrangements, and longer processing times drive up the cost of trade (Newfarmer, 2006). Jagdish Bhagwati, who coined the spaghetti bowl term in 1995, states that PTA proliferation makes trade procedures more complicated by increasing the number of tariffs and rules of origin. Hence the concept is relevant for both Customs Unions and FTAs(Fergin, 2011).

This brings out the two distinct features of the spaghetti bowl: (1) different rules of origin and/or the exclusions of different lists of sensitive goods can result in trade not being fully free or



liberalised; and (2) bilateral cumulation as opposed to diagonal or full cumulation can distort the purchase pattern of intermediate inputs in a way that does not occur under the Most Favoured Nation (MFN) rule of free trade. For short, these two symptoms of the spaghetti bowl syndrome are referred to as non-harmonised RoOs and bilateral cumulation(Baldwin, 2006).

Perhaps, even more significant than the sheer quantity of RTAs is the scope of their coverage. While the focus of trade agreements in the 19th and early 20th century were on tariff reduction, in more recent times, trade agreements contain wide ranging and controversial obligations, ranging from intellectual property rights affecting access to medicines to investment provisions, protections for the environment and labour/human rights(Lester and Mercurio, 2009). While it is yet to be clear what the full impact of these agreements will be on domestic policy-making, it is evident, that a majority of agreements are going beyond the coverage of the WTO and earlier bilateral and regional agreements that where negotiated prior to 1999, and as such, reaching new levels of international policy-making(Mattoo, Mulabdic and Ruta, 2017; Lester and Mercurio, 2009).

## **2.4 Advantages and effects of RTAs**

Frankel & Rose (2000) Are of the view that RTAs can generally have a positive effect on intra-regional trade. Therefore, regional integration is regarded to be a path that guarantees easier market access for local business and improved levels of international trade, that leads to higher economic growth and development.

Pal, (2004) believes that RTAs lead to trade creation against the notion that they may lead to trade diversion. He states that RTAs could be trade creating as long as there is comprehension from the member states that there is a need to consider their individual comparative and competitive advantages, and import those products and services from member countries that have the relevant comparative and competitive advantages. This would guarantee efficiency in the production of good and services, and observance of quality.

## **2.5 Intra-Africa Trade**

The AUC/OECD(2018) report that “intra-continental merchandise exports account for less than 19% of total trade within Africa, in contrast to 63% in Europe and 58% in Emerging Asia”. The low percentage of intra-Africa trade has been partly credited to high trade barriers, ranging from

regulatory restrictions to capital and human resource challenges. Other contributing factors being insufficient infrastructure development and lack of access to finance, that impedes the efficiency of business activities. It stems from this background that the AfCFTA agreement was created with the aim of dealing with the said challenges and strengthening intra-African trade.

Jordaan(2014) suggests that the aptness of integration modalities might hinder the upsurge of regional trade because most countries are not at the same level of economic development. He further states that one of the main factors that hamper an upsurge in Intra-Africa trade is that the majority of African countries produce alike primary products, resulting in a lack of product diversity, the consequence of which is very few complementarities exist to improve intra-Africa trade.

Further, for most developing and least developed countries, the informal sector faces difficulties in conforming to the trade requirements applicable in the formal sectors, in particular women, leading to the avoidance of the customs controls, cumbersome regulatory requirements, rules of origin documentation and procedures necessary to formally register a business(UNCTAD, 2021). This is largely attributed to the typically low profit margins gained by traders in informal cross-border trade, so compliance or adherence with formal requirements that increase the costs of trading is not a viable option for most informal actors. Therefore, it has been recommended that there is a need to reduce or simplify the rigorous regulatory requirements that govern cross-border trade by, for example, reducing barriers to trade within member countries of RTAs through the simplification of customs document, a common list of goods and a simplified certificate of origin.

In order for businesses to benefit from the free market access provided by RTAs, they must prove that the goods being traded originate from within the jurisdiction of the member states(Dinh, 2018). This condition of satisfying the criteria for RoO was necessitated by the two main factors, the first was to protect the markets and businesses in the member states from free-rider problems, where for example a non-member state exports a product into a member state and uses that member state to gain free market access to the other member states. This defeated the rationale for the creation of the RTAs, as it is to increase trade in the products produced from the member states in order to grow their linkages, thereby, leading to the growth of industries and the internationalisation of businesses, resulting in economic growth and development. The second rationale being linked to the first, is the protection against Dumping. The emergence of the

antidumping laws as a key policy tool during the 1980s and 90s was mostly responsible for the rising interest in the use of RoO as a commercial policy instrument that can influence the interaction between the internationalisation of production and its location(Inama, 2008).

At national level, it is imperative to broaden the scope of conversation regarding the application of the rule of law beyond the role of governments in regional integration, but also to other stakeholders such as the private sector. While governments are charged with the responsibility of entering into Regional Integration Agreements (RIAs), the private sector is effectively responsible for the majority of economic decisions which are the fabric of regional integration. Therefore, it is important to have transparent and predictable rules as they are important in facilitating risk and cost management in the conduct of business(Hartzenberg, 2011). In Africa, private sector participation in the design of a regional integration agenda and in the negotiation of RIAs is the exception, rather than the rule. RIAs in Africa are to a large extent still state-driven, with limited input from the private sector or other stakeholders. It is without doubt that the private sector could provide very useful input in matters relating to, for example, technical issues such as Rules of Origin (RoO); the impact of which, can be quite severe at both international and firm level. As it is believed that a stakeholder driven RIA, is more likely to succeed in reaching its objective, than one created purely by politicians(Hartzenberg, 2011).

## **2.5 Chapter Summary**

This chapter, through the analysis of the literature provided, highlights the different perceptions authors have towards the effectiveness of Regional Trade agreements in advancing regional integration. It highlights the perceived benefits and challenges that are caused by the proliferation and multi-membership of these Regional or bilateral trade agreements. The next chapter will cover the methodology that will be used for this research paper.

### **3.0 CHAPTER 3: RESEARCH METHODOLOGY**

#### **3.1 Introduction**

Methodology is a term that is broadly used to refer to the research design, approaches, procedures and methods undertaken in an investigation that is adequately planned to discover something (Keeves, 1997). In other words, methodology may be defined as a structured plan for how research will proceed— combining theory and methods(Leavy, 2014).

Therefore, this chapter provides an overview of how the research was carried out and provides a justification for the techniques used for data collection and analysis throughout this study.

#### **3.2 Theoretical Framework**

##### **3.2.1 Research paradigm/Philosophy**

Research philosophy refers to a system of beliefs and assumptions about the development of knowledge(Saunders, Lewis and Thornhill, 2019). Alternatively, the term paradigm, in educational research, is used to describe a researcher's 'worldview'(Mackenzie & Knipe, 2006). In context, worldview refers to the thinking, or perspective, or beliefs, or school of thought, that informs the interpretation or meaning of research data. Over the years multiple paradigms have been proposed by researchers from around the world but Candy (1989), an authority in the field, proposes that they can all be clustered into three main taxonomies, namely Interpretivist, Positivist, or Critical paradigms.

Interpretivist or constructivist paradigm theorists are of the view that our understanding of reality is apprehended and sustained through social processes and interactions. In other words, this position recognises no singular all-encompassing truth, but a multitude of small truths that collectively are products of human subjectivity. Reality, mouldered by experience, hence, becomes something to be interpreted. Hence, contextual and cultural specifics are cardinal to aiding understanding(Leavy, 2014).

Positivist paradigm on the other hand, defines a worldview that is grounded in what is known in research methods as the scientific method of investigation(Kivunja and Kuyini, 2017). This paradigm relies on deductive logic, construction of hypotheses, testing those hypotheses, present

working definitions and mathematical calculations, expressions and extrapolations, to arrive at conclusions. All this is done with the aim of providing explanations and predictions based on measurable outcomes(Kivunja and Kuyini, 2017).

Whereas, the Critical or Transformative paradigm positions its research in social justice issues and seeks to address the social, political and economic issues, which lead to conflict, social oppression, struggle and power structures at whatever levels these might occur(Kivunja and Kuyini, 2017).

More recently, researchers such as Tashakkori and Teddlie (2003a; 2003b) have proposed a fourth known as the Pragmatic paradigm, that borrows elements from the three mentioned above. However, for this study, an interpretivist paradigm has been adopted by the researcher to address the posed research questions.

### **3.2.2 Research approach & justification**

This research paper will use a qualitative method approach.

Creswell and Creswell (2018) define a qualitative approach as one that is used for exploring and understanding the meaning groups or individuals attribute to a social or human problem. This is achieved by using a pragmatic worldview philosophy, that draws its conclusions from actions, consequences and situations instead of antecedent conditions.

In order to deal with the challenge associated with generating theory from historic evidence, the theory proposes a deductive logic. Therefore, this theoretical framework mandates strict comparative work, “explaining variation across regions, countries, cities, and other sites within the same mode of production within the world system”( Adams et al., 2005; Leavy, 2014).

This approach is described or referred to as deductive, based on the fact that the hypotheses are often ‘deduced’ or derived from existing theoretical models or frameworks. Therefore, enabling researchers to construct a specific research question, that later guides activities such as the initial engagement with the research context, method, sampling and analysis(Leavy, 2014).

Deductive reasoning, being a commonly used approach in quantitative studies, starts by examining or exploring what is already know about a given topic. Followed by the searching of literature to generate evidence on the subject matter or the research, as researchers collect data on the dependent and independent variables they wish to study. Thereafter, the researchers develop hypotheses that prudently suggest a relationship between variables to test that relationship, then gather and subject

data to extensive testing, and state their findings(Leavy, 2014; Saunders, Lewis and Thornhill, 2019).

### **3.2.3 Time horizon**

According to Saunders et al. (2019) a studies time horizon could either be cross-sectional or longitudinal. Longitudinal study has been defined as a one where a particular phenomena is studies at different time periods(Malhorta & Briks, 2007). Whereas, cross-sectional time horizon refers to a study examining a specific phenomenon at a particular period of time(Saunders, Lewis and Thornhill, 2019). Saunders et al. (2019) recommend the use of a cross-sectional approach for academic studies, due to the time constrain usually associated with such studies.

Therefore, this study will use a Cross-sectional time horizon approach.

### **3.2.4 Research strategy & design**

Research design has been defined as a procedural plan adopted by researchers to answer questions validly, objectively, accurately and economically. A research design therefore answers questions that would determine the path you are proposing to take for your research journey.

Further, Research design refers to types of inquiry within quantitative, qualitative, and mixed methods approaches that offer specific direction for procedures in a research study(Creswell and Creswell, 2018).

A Case Study approach will be used. Du Plooy-Cilliers et al (2014), state that “the case study recounts a real-life situation by rigorously describing the scenario in which the phenomenon occurs”. Therefore, it is an effort to understand a singularity within precise settings. The case study method offers a deeper investigation within a natural situation, hence providing a comprehensive understanding of the particular experience(Latham and Kawakatsu, 2006).

## **3.3 Data Collection**

Traditionally, there are two main categories of data collection methods. These being primary and secondary methods. According to Kothari (2004) primary methods have been defined as a method used to collect information for the specific purpose of a study, through the use of primary sources such as, interviews, questionnaires or observations(Kumar, 2011). While secondary methods rely

on already existing data that has been collected from secondary sources for the purposes of one's research. For example, a case study.

Based on the nature and subject matter of the study, secondary data has been used for this research collected from secondary sources, such as, institutional records, journals, books and legal texts or articles.

### **3.4 Chapter Summary**

This chapter has highlighted the methodology that was used throughout this study. it has stated that the research adopted an interpretative research paradigm to address the research questions highlighted above. It has further provided information regarding the type of data collection and analysis style and rendered a justification as to why such a style was adopted.

Chapter four bellow will provide an in-depth analysis of the data and interpretation of findings by utilising the methodological technics highlighted in this chapter.

## **4.0 CHAPTER FOUR: RESEARCH FINDINGS AND ANALYSIS**

### **4.1 Introduction**

This chapter aims to analyse the collected data regarding the factors that affect the effective operations of Regional Trade Agreements (RTAs) in Africa and why intra-Africa trade remains minimal in comparison to Intra-EU trade, for example. An emphasis has been placed on Rules of Origin and their impact in advancing or promoting intra-Africa or intra-RTA trade. The Chapter will then proceed to discuss the findings of the research.

### **4.2 The role of RTAs**

Regional integration in Africa has been a top priority and talking point for decades. It has been viewed as a tool that could be used to bring economic growth and poverty reduction in the respective African countries. There are currently eight Regional Economic Communities (RECs) in Africa that are recognised by the AU (*Regional Economic Communities (RECs) / African Union*, no date). All African countries are members to one or more RTAs that is aimed at increasing their trade and economic integration, thereby, facilitating the growth of their economies through private sector cross border participation, or in other words, by allowing their industry players to participate in international trade at little to no added cost. Globally we have examples of regional integration like the United States–Mexico–Canada Agreement (USMCA), the European Union (EU) and Asian Free Trade Area (AFTA), That show that at the center of economic growth and development is Intra-RTA trade. However, despite being cognisant to this information, African countries fail to effectively trade amongst themselves despite being members of Various Regional Trade Agreements (RTAs), the latest of which being the Africa continental Free Trade Area (AfCFTA). This has led to the stifling of businesses, most of which being Small and Medium Enterprises (SMEs), and has resulted in minimal economic growth and development.

### **4.3 Research Question 1 (RQ1): What are the effects, benefits and advantages of being a member of an RTA?**

In order to appreciate the role that RTAs and other Preferential Agreements play, it is imperative that one understands the impact of trade on economies. A most common and general trade-led hypothesis places an emphasis on the dynamic and positive effects of a country's increased national income from moneys earned from exports. The said export earnings could also be directed



towards economic growth, as the gained foreign exchange provides the foreign currency required for the importation of essential commodities not produced locally(Wang'ombe, 2013). Further, the export earnings help governments service or finance their external debt. In Africa specifically, external debt has proved to be crippling for their economies, and has been cited as the single biggest obstacle to the continent's development(Spencer, 2011). For example, in eastern and southern Africa alone, the debt burden nearly tripled from an estimated US\$131 billion in 2000 (in current prices) to US\$557 billion in 2019(UNICEF, 2021).

Further, the vary hypothesis emphasis impact trade has on mandating countries to allocate their resources in areas or industries where they have a competitive or comparative advantage, with spill-over effects as a result of the said trade, leading to interactive exchanges of technical know-how and technologies(Wang'ombe, 2013). This is particularly the case for smaller economies that have a higher likelihood to benefit from economies of scale, advancing towards the enhancement of their labour and capital productivity. The exposure caused by trade liberalisation leads to increased competition. An increase in competition has two main effects, the first being an enhancement in production and/or services quality, and the second being a drop in the cost of commodity prices that is determined by market forces, thereby mandating producers to be efficient in the production process. This, collectively motivates the development of new technologies(Romer, 1986).

#### **4.3.1 Trade diversion or trade creation**

Newfarmer (2006)observes that RTAs have fundamentally changed the world trading landscape, by highlighting that since the proliferation of RTAs, the majority of the world trade takes place between or amongst countries that are parties to one or more reciprocal RTAs. This, therefore, has the effect of either facilitating trade resulting in trade creation between or amongst member states, which is regarded as a positive; or could lead to trade diversion, were trade is diverted from a more efficient exporter towards a less efficient one, or in other words, where products previously imported from a nun-member state are substituted for those coming from member states because of the creation of a customs union or Free Trade Area(Mattoo et al., 2017).

The effects of RTAs being trade creating or diverting has become even more topical in the recent years due to the extended scope of their coverage going beyond the traditional tariff reduction, to

cover policy areas such as services, investment, intellectual property rights and competition(Mattoo et al., 2017). Resulting into what are now termed as ‘Deep Agreements’.

Lester and Mercurio (2009) provide the following hypothetical analogy of what trade creation and trade diversion is under RTAs:

*“The argument is based on the comparative advantages of member countries, relative to each other and to the rest of the world. The basic point can be simply made. Suppose that countries differ in their endowments of skilled and unskilled labour, and that these differences form the basis of their comparative advantage. Take two countries that are unskilled labour abundant relative to the rest of the world (say ‘Uganda’ and ‘Kenya’) and suppose that one of them, Uganda, is also unskilled labour abundant relative to the other, Kenya.”*

*“Uganda therefore has an ‘extreme’ comparative advantage and Kenya an ‘intermediate’ one. If these two countries form an RIA, what do we expect to happen? The comparative advantage of Kenya relative to Uganda will cause Kenya to export the skilled labour intensive good (say manufactured) to Uganda, which will export the unskilled labour intensive good (agriculture) in return. The first of these flows is trade diverting: Uganda is getting its imports of manufactures from Kenya, not from the rest of the world, in line with intra-union comparative advantage, not global comparative advantage. The second is trade creating: by increasing imports of agriculture from Uganda, Kenya is trading with the global, not just intra-union, lowest cost supplier”.*

This example highlights the potential impact or effect that RTAs have on international business, in the sense that, businesses operating in in Kenya and Uganda will be availed better market access in these countries than businesses originating from outside these jurisdictions. Or in other words, businesses originating from non-member states would potentially lose their export markets in Uganda and Kenya, not based on their efficiencies or product qualities, but due to the policy changes in Uganda and Kenya based on the established RTA, that has the effect of rendering products originating from outside the agreement uncompetitive, as a result of the preferential treatment/market access accorded to products originating from the member-states.

According to Mattoo et al.,(2017), the impact of deep agreements on non-member states is complicated. The rules governing RTA may either be implemented to reduce costs for members by, for example, exempting them from cumbersome regulatory requirements, or on the part of non-members, by simplifying customs procedures for all trading partners. Where the rules are implemented in a discriminatory fashion, they effectively enhancing the competitive disadvantage

on non-member countries. This being attributed to member countries being exempt from paying tariffs and other frictional costs, leading to increased sales in their markets, lowering prices and hurting exports of non-member states. However, if frictional barriers are removed in a non-discriminatory way, non-member states also benefit from the reduction in associated costs (Mattoo et al., 2017).

Empirical evidence suggests that there is a correlation between the upsurge of Deep Agreements and the increasing significance of production fragmentation (Lawrence, 1996; Baldwin, 2010; WTO, 2011; Antràs and Staiger, 2012). Naturally, the unbundling of stages of production across borders generates new forms of cross-border policy spill-overs and time consistency challenges that deeper forms of integration aid in solving. For example, provisions like intellectual property rights and investment protection safeguard the intellectual and physical capital used in production sites overseas, Sanitary and Phytosanitary (SPS) measures and Technical Barriers To Trade (TBT) measures facilitate trade in intermediate goods used in complex production processes, and Visa provisions facilitate the movement of technical and managerial staff to oversee production (Mattoo, Mulabdic and Ruta, 2017). To provide evidence of this hypothesis, Mattoo et al., (2017) conducted an investigation using industrial level data to ascertain the impact deep agreements have on trade in goods involving more fragmented production chains. They used Fally (2011) definition of Fragmentation being “the number of production stages embodied in each product” while controlling for ‘upstreamness’ - being “the number of stages to final demand” (Antràs et al., 2012; Costinot et al., 2013).

The findings of the study suggest that deep agreements provide a disproportionate benefit to industries that are more vertically fragmented regardless of their upstreamness (Mattoo et al., 2017). The use of industry data enabled the researchers include additional controls for sector level characteristics, thereby, increasing the accuracy of their estimates, and to identify the effects of deep agreements on different industries. The overall results of their study, confirm the positive impact of deep agreements on trade flows.

To go a step further, in regard to trade creation, Mattoo, Mulabdic and Ruta, (2017) analysed and calculated the trade impact of three trade agreements that are characterised by different levels of integration/depth, and the following were their findings:

Member countries to the Free Trade Area (FTA)	Year Signed	Level of Depth (integration)	Findings (Intra-FTA Trade Data)
Peru-Chile FTA	2009	<i>Low</i> - 11 legally enforceable provisions	FTA increased members' bilateral trade between 10% and 30%
United States-Korea (KORUS FTA)	2007	<i>Medium</i> - 15 provisions <b>Includes provisions on:</b> 1. state trading enterprises 2. public procurement 3. intellectual property rights	Find a larger effect, trade increased between 14% and 40%
European Union (EU)	1993	<i>High</i> - comprises eight agreements, Treaty of Rome and successive enlargements, which cover 43 legally enforceable provisions. <b>Includes provisions on:</b> 1. all depth core provisions 2. 25 other provisions spanning from taxation and money laundering to labour market regulation and visa and asylum	Trade increased between 44% and 164%

This shows that RTAs with deeper agreements are significantly more trade creating for the member-states than those with the traditional level of integration (simple agreements).

Mattoo et al., (2017) continued the study by analysing the industrial level data of the 3 trade agreements and what impact they had on non-member countries. The findings were as follows:

Member countries to the Free Trade Area (FTA)	Year Signed	Level of Depth (integration)	Findings (Non-Member Trade Data)
Peru-Chile FTA	2009	<i>Low</i> - 11 legally enforceable provisions	had a negligible negative impact on non-members trade.
United States-Korea (KORUS FTA)	2007	<i>Medium</i> - 15 provisions <b>Includes provisions on:</b> 4. state trading enterprises 5. public procurement 6. intellectual property rights	increased exports from excluded countries to members by around 4%
European Union (EU)	1993	<i>High</i> - comprises eight agreements, Treaty of Rome and successive enlargements, which cover 43 legally enforceable provisions. <b>Includes provisions on:</b> 3. all depth core provisions 4. 25 other provisions spanning from taxation and money laundering to labour market regulation and visa and asylum	Estimates suggest that exports from non-EU countries would be around 30 percent lower in the absence of the agreement.

The positive impact on non-members' trade flows is driven by the inclusion of Most Favoured Nation (MFN) provisions (non-discriminatory rules), while preferential provisions have a negative effect.

#### 4.4 Research Question 2 (RQ2): What are benefits of being a member of the AfCFTA?

The AUC/OECD(2018) report that “intra-continental merchandise exports account for less than 19% of total trade within Africa, in contrast to 63% in Europe and 58% in Emerging Asia”. The

low percentage of intra-Africa trade has been partly credited to high trade barriers, ranging from regulatory restrictions to capital and human resource challenges. Other contributing factors being insufficient infrastructure development and lack of access to finance, that impedes the efficiency of business activities. It stems from this background that the Africa Continental Free Trade Area (AfCFTA) agreement was created with the aim of dealing with the said challenges and strengthening intra-African trade.

The Economic Commission for Africa (UNECA) estimates that the removal of tariffs and non-tariff barriers among countries has the potential to significantly boost intra-African trade by over 50 percent. This stems from the fact that The African Continental Free Trade Area agreement will create the largest free trade area in the world measured by the number of countries participating. The pact connects 1.2 billion people across 55 countries with a combined gross domestic product (GDP) valued at US\$3.4 trillion (Tralac, 2022).

It is reported by Tralac(2019) that the;

*“main objectives of the AfCFTA are to create a single continental market for goods and services, with free movement of business persons and investments, and thus pave the way for accelerating the establishment of the Customs Union. It will also expand intra-African trade through better harmonization and coordination of trade liberalization and facilitation and instruments across the RECs and across Africa in general. The AfCFTA is also expected to enhance competitiveness at the industry and enterprise level through exploitation of opportunities for scale production, continental market access and better reallocation of resources.”*

The AfCFTA offers a unique opportunity for states in Africa to reduce poverty, promote inclusion and competitively integrate into the world economy. Despite Africa's progress in reducing poverty and raising living standards in the last few decades, an increase in trade will result in policy reforms that will boost productivity and job creation, hence, further reducing poverty (Maryla Maliszewska and Michele Ruta, 2020). It has been estimated that by 2035, the implementation of the AfCFTA will have the effect of facilitating the elevation of 30 million people from extreme poverty and another 68 million from moderate poverty. Full implementation of the agreement could increase real income gains by about US\$450 billion, or 7 percent. As the world economies struggle to manage the consequences of COVID-19, the implementation of the AfCFTA could be an anchor

for African countries long term reform and integration(Maryla Maliszewska and Michele Ruta, 2020).

Regarding AfCFTA impact on international business, it's implementation would significantly boost African trade, particularly intra-regional trade in manufacturing and limit the impact of commodity price volatility on the players. It is estimated that by 2035, that total exports volumes would increase by almost 29 percent relative to business as usual. Intra-Africa exports are also expected to increase by more than 81 percent, while exports to non-African countries would rise by 19 percent. This would create new opportunities for African workers and the continents manufacturing industries(Maryla Maliszewska and Michele Ruta, 2020).

#### **4.5 Research Question 3 (RQ3): What factors may affect the success of RTAs?**

In order to address the question of what factors may affect the success of RTAs, reference is made to the independent variables identified in chapter one of this paper.

##### **4.5.1 Political will**

The decision to enter into RTAs is the preserve of a state's government. Political will refers to the desire or motivation for a countries government to join or establish an RTA. There have been various reasons advanced as to why governments enter RTA agreements. For the purpose of this study, we will look at two, the first being for political factors as highlighted by Pal (2004)and the second is the domino theory as espoused by Baldwin (2006).

With the deepening of RTAs, governments use RTAs as a tool to strategically increase regional security and consolidate peace among member states. This is possible because trade linkages improve cross-border cooperation and can increase the cost of conflict. RTAs have the ability to build up diplomatic ties and forge geopolitical alliances(Pal, 2004). By their traditional nature, they provide discriminatory access to larger markets and garners increased support on the political front. RTAs created on this premise are often not driven by economics, therefore, where larger developed countries are involved, it is often the case that the interests of the developing or least developed countries would be of secondary concern(Pal, 2004).

On the other hand, the domino theory of regionalism begins with a positive model of membership in a RTA and proceeds in two stages – the beginning being the idiosyncratic deepening of integration in the RTA, and the knock-on impact implied by bloc-enlargement(Baldwin, 2006).

The positive model's assertion is that a country's decision to join an RTA is guided by its domestic 'political equilibrium' that balances its anti-membership and pro-membership forces. The pro-membership usually being the nation's exporters that benefit from preferential market access if the country joins and suffer from discrimination if it doesn't. whereas, the anti-membership forces are often the import-competing industries that would be disadvantaged from the liberalisation that is associated with being a member of an RTA, coupled with some other non-economic objections to membership. In this instance, taxpayers and consumers are regarded as interest groups of secondary importance for the usual "Oslen's Asymmetry" reasons(Baldwin, 2006).

In the domino theory, the pressure to join the RTA rises as the membership in the block expands, due to the threat of market loss posed to businesses originating from outside the RTA. Therefore, as more nations join the RTA, those that may have been politically motivated to stay out will be triggered to request membership based on the shift in the political equilibrium(Baldwin, 2006).

In the African context, for decades there has been overwhelming political will to regional economic integration. This is evidenced through the various RTAs that are on the continent, more so since 2012 when there was an agreement to speed track the establishment of the AfCFTA, as it would be key in the realisation of the agreed continental vision as enshrined in Agenda 2063(Hartzenberg, 2011; UNCTAD, 2021). Therefore, the question may not be whether there is political will for regional integration, it is whether their experience shows a solid commitment to rules-based governance; specifically, whether RTAs are viewed as rules-based dispensations by member-states(Hartzenberg, 2011).

It is common to note delays in the ratification or domestication of regional legal instruments by member-states across RTAs and their failure in the implementation of specific provisions, such as negotiated tariff reductions. Further, in a number of RTAs there are no provisions that focus on dispute resolution or ramifications of breaches. Where they exist, there is no actual application or enforcements of sanctions for lack of implementation(Hartzenberg, 2011).

It is evident that RTAs and the established regional institutions mandated to contribute to their implementation, do not play a robust role as an agency or external anchor to ensure national compliance and the institution, legal and policy development necessitated by the RTA(Hartzenberg, 2011). An example would be the case of Zimbabwe that was handled by the SADC Tribunal. A decision was passed that Zimbabwe, in its actions, had breached Article 6 of



the SADC Treaty. Zimbabwe then expressed its dissatisfaction with the decision and this led to the suspension of the SADC Tribunal at the August 2010 summit( Bösl, 2010; Saurombe, 2012).

#### **4.5.2 Cultural differences**

In order for regionalisation to be successful in this modern era of global political economy, it must be a product of member-states adaptation to globalisation, with particular dynamics determined by the interaction of norms, culture, national interest and geopolitical context(Murray, 2010). Therefore, one of the main governance challenges that may affect regional integration is the management of interdependence and shared sovereignty where countries do not have the same degree of cultural homogeneity(Murray, 2010; Lombaerde, 2017).

From a business perspective, cultural difference may affect the cost of doing business, and where the cost of business is high, the lesser the volume of trade. Factors such as language barriers often escalate the cost of doing business and are captured in what is called the ‘cultural distance argument’. This argument suggest “that the greater the physical distance, the greater the chances that there will be many cultural difference”, that result in the escalation of trade transactional costs, as factors such as the buying and selling cultures could differ, or language barriers, causing misunderstandings and delays(Wang’ombe, 2013). For example, in most countries bargaining is part of everyday business culture, while in others, this is highly frowned upon.

In the African context, a regional integration study was carried out by Geda (2009) that used statistical data to analyse the challenges that lead to low intra-Africa trade. Geda found that although given Africa’s proximity, geographic, economic and cultural affinity, There is a large potential for intra-Africa trade. However, it is contrained by the lack of product diversification and competitiveness of potential African export suppliers(Geda, 2009). This posing a challenge to intra-Africa trade in the short term.

#### **4.5.3 Access to finance**

This variable is more specific to businesses originating from RTAs signed by developing or LDCs. As was earlier stated, a studies by the AUC/OECD(2018) report that “intra-continental merchandise exports account for less than 19% of total trade within Africa, in contrast to 63% in Europe and 58% in Emerging Asia”. The low percentage of intra-Africa trade has been partly credited to high trade barriers, ranging from regulatory restrictions to capital and human resource

challenges. Other contributing factors being insufficient infrastructure development and lack of access to finance, that impedes the efficiency of business activities.

In addition, the lack of sufficient infrastructural development hinders business progression and market access. Unfortunately, Africa is facing a challenge in securing finance to meet its infrastructure needs. It has been estimated that currently the continent needs infrastructure investment amount to USD 68-152 billion per year, which is roughly 3-7% of GDP, over the coming decades (EIB, 2018; OECD, 2019).

Therefore, factors such as high cost of borrowing, inconvertibility of currencies, insufficient capital investments, and poor road networks and other infrastructural challenges pose a real threat on firms' abilities to truly benefit from their nation's membership of various RTAs in Africa (Geda, 2009).

#### **4.5.4 Spaghetti bowl problem**

The proliferation of RTAs has resulted in a spaghetti bowl of overlapping arrangements, each of which have differing rules of origin, tariff schedules, and periods of implementation. Those differences delay the passage through customs of goods covered by preferential arrangements, and longer processing times drive up the cost of trade (Newfarmer, 2006). Jagdish Bhagwati, who coined the spaghetti bowl term in 1995, states that PTA proliferation makes trade procedures more complicated by increasing the number of tariffs and rules of origin. Hence the concept is relevant for both Customs Unions and FTAs (Fergin, 2011).

This brings out the two distinct features of the spaghetti bowl: (1) different rules of origin and/or the exclusions of different lists of sensitive goods can result in trade not being fully free or liberalised; and (2) bilateral cumulation as opposed to diagonal or full cumulation can distort the purchase pattern of intermediate inputs in a way that does not occur under the Most Favoured Nation (MFN) rule of free trade. For short, these two symptoms of the spaghetti bowl syndrome are referred to as non-harmonised RoOs and bilateral cumulation (Baldwin, 2006).

#### **4.5.5 Rules of origin.**

In order for businesses to benefit from the free market access provided by RTAs, they must prove that the goods being traded originate from within the jurisdiction of the member states (Dinh, 2018). In order to do so, they must fulfil the origin criteria conditions, this is what is referred to as

the Rules of Origin (RoO)(Cadot, 2006). This condition of satisfying the criteria for RoO was necessitated by the two main factors, the first was to protect the markets and businesses in the member states from free-rider problems, where for example a non-member state exports a product into a member state and uses that member state to gain free market access to the other member states. This defeated the rationale for the creation of the RTAs, as it is to increase trade in the products produced from the member states in order to grow their linkages, thereby, leading to the growth of industries and the internationalisation of businesses, resulting in economic growth and development. The second rationale being linked to the first, is the protection against Dumping. The emergence of the antidumping laws as a key policy tool during the 1980s and 90s was mostly responsible for the rising interest in the use of RoO as a commercial policy instrument that can influence the interaction between the internationalisation of production and its location(Inama, 2008).

Though the role of RoO is to avert trade deflection, they can become the fine print in the agreement that restricts the potential market integration of the RTA. The goal in the design of RoO is to find a balance that allows only businesses originating from member-states to benefit from the preferential market access, while allowing for flexibility in input sources, to promote efficiency in the cost of production and competitiveness(Hartzenberg, 2011). To find this balance is not an easy task, as RoO may be used as a tool to provide effective protection to the domestic industry. RoO may also pose a supply-side issue that can affect business-level decisions, thereby, affecting a firm's competitiveness.

In the African context, RoO on the trade in goods agenda has proved to be a very contentious issue, and the different standards set across RTAs clearly demonstrates the impact RoO have on intra-regional trade. An example can be drawn from the different RoO under the COMESA and SADC RTAs. The Rules of Origin under SADC follow a product or sector approach: accommodating the specific interests of a state to protect a sector or an industry, but effectively frustrating intra-regional trade opportunities (Naumann 2011). In contrast, The COMESA RoO took a more generic approach with across the board rules, with minimal exceptions(Hartzenberg, 2011).

#### **4.6 Research Question 4 (RQ4): What role do RoO play in the effectiveness of RTAs and how have they been applied in the EU?**

As earlier stated, the main goal of RoO is to ensure that only products originating from countries that are members of the RTA are beneficiaries to the preferential tariffs and market access. Therefore, in the context to RTAs, RoO serve to regulate the trade patterns of the members (Inama, 2009). However, it must be mentioned that RoO are often designed to respond to industrial policy objectives of domestic industries.

Historically, there are two major players that have formed the blueprint of drafting and developing models of rules of origin; these being the Pan-European rules of origin – that adopted the Change of Tariff Heading (CTH) criterion of RoO that defines the concept of “substantial transformation” coupled with a list of product-specific RoO, requiring CTH with or without exceptions, specific working or processing, or maximum import content percentages (Inama, 2009); and the United States model of rules of origin - mainly uses an across-the-board percentage criterion (Inama, 2009). A visual representation of the use and adoption of these models is provided in Figure 1 below. This study examines the Pan-European model, as it has been the most consistent and overtime has resulted in the highest level of intra-regional trade as highlighted earlier in this study. This is ideal as the AfCFTA aims to create a deep agreement that will reach a similar level of regional economic integration and trade success (Maryla Maliszewska et al., 2020).

Another reason as to why the Pan-European model is ideal for this case study analysis is because of the rationale behind its creation. Just like the current case in Africa, Europe had various RTAs in place that had conflicting RoO, such as the European Community (EC), European Free Trade Area (EFTA), Central and Eastern European countries (CEEC), and the European Economic Area agreement (EEA). These conflicting RoO caused challenges for manufacturers and opened loopholes that led to circumvention and trade deflection. Therefore, in order to address the tangle of regional and sub-regional agreements, the Pan-European RoO were introduced to harmonising and simplifying the Rules (Inama, 2009).

According to the Pan-European rules of origin, the origin criterion is habitually defined as follows: “a product shall be considered as originating in a country if it has been either wholly obtained or undergone sufficient working or processing in that country.” (Inama, 2009). Key points to note

under this definition is what would be regarded as ‘wholly obtained’ or what amounts to ‘undergone sufficient working or processing’ in that country.

#### **4.6.1 Wholly obtained**

Wholly obtained should be regarded in its natural meaning, denoting that the entirety of the product and its inputs should be originating from a member state, in the absence of any external importation(Inama, 2009). An example of the application of this definition is contained in *Figure 2* below, being an extract from the EC and Morocco trade agreement. The degree of specificity in the provisions highlights the intended effect or impact of the RoO on businesses and products originating from member states. In the above example, it is evident that the RTA promotes the need for the preferential market access and economic benefit to be enjoyed by the citizens and businesses from the member-states. This is achieved by specifying the definition of a national ship or vessel to include, not only its place of registration but to the detail of the nationality of its crew members.

This very approach is used by the EU in relation to trade amongst its member-states. Specificity of this nature, though restrictive to third-countries, is cardinal in promoting intra-RTA trade and encouraging the development of industries within the member states. Thereby, leading to advancements in technology and infrastructural development.

Figure 1

TABLE 3.1. *Comparative table of GSP rules of origin*

Country/group of countries	Origin criteria	Requirements	Numerator	Denominator	Percentage level	Administrative requirements
European Community (EBA) Japan	Product-specific rules for all products  CTH as a general rule and single list of product-specific rules	Change of HS heading with or without exemptions, specific working or processing requirements and/or maximum percentage of imported inputs or combinations of requirements	Customs value of imported inputs, or the earliest ascertainable price paid in the case of materials of unknown, undetermined origin	Ex-works price (FOB price in the case of Japan)	Maximum imported inputs 5 percent, 20 percent, 25 percent, 30 percent, 40 percent, 47.5 percent, 50 percent where used in the Single List.	GSP- Form A compulsory for all products (EBA). Form A to be stamped by officially designated government authority. (Chamber of Commerce accepted in the case of Japan.) CSP – Form A needed only for certain products (Japan)
Former Cotonou Partnership Agreement	Product-specific rules for all products	Same as above	Same as above	Same as above	Same as above	Form EUR.I needed. Self-certificating procedures available.
Canada	One single rule across the board, 40 percent for DCs, 60 percent for LDCs, for all products except textile and apparel articles	Maximum import content requirement	Import content	Ex-factory price	Maximum import content 60 percent for LDCs. Product-specific rules of origin for textiles and clothing	GSP-Form A not required. Self-certification possible. Special certificate of origin for textiles and clothing
United States	One single percentage (35 percent) rule across the board for all products <sup>4</sup>	Minimum local content requirement	Cost of materials produced in preference-receiving country plus the direct cost of processing carried out there	Ex-factory price or appraised value by U.S. Customs	Minimum 35 percent	No certificate of origin required.
ACOA	All products as above except apparel articles <sup>5</sup>	Same as above	Same as above	Same as above	Same as above Special rules for textiles and clothing	Special visa requirements apply for textiles and clothing

*Note:* Developing Countries (DCs), Everything But Arms (EBA), Free On Board (FOB), Harmonized System (HS), Least-Developed Countries (LDCs).

<sup>4</sup> See Section 3.12.2.2.

Source: (Inama, 2009)

**Figure 2**

- “1. The following shall be normally considered as products “wholly obtained” in the Community or in the Morocco:
  - (a) Mineral products extracted from their soil or their seabed;
  - (b) Vegetable products harvested there;
  - (c) Live animals born and raised there;
  - (d) Products from live animals raised there;
  - (e) Products obtained by hunting or fishing conducted there;
  - (f) Products of sea fishing and other products taken from the sea outside the territorial waters of the Community or of Morocco by their vessels;
  - (g) Products made aboard their factory ships exclusively from products referred to in (f);
  - (h) Used articles collected there fit only for the recovery of raw materials, including used tyres fit only for retreading or for use as waste;
  - (i) Waste and scrap resulting from manufacturing operations conducted there; products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil; goods produced there exclusively from the products specified in (a) to (i).
2. The Terms ‘their vessels’ and ‘their factory ships’ in paragraph 1 (f) and (g) shall apply only to vessels and factory ships:
  - (a) Which are registered or recorded in an EC Member State or in Morocco;
  - (b) which sail under the flag of an EC Member State or of Morocco;
  - (c) which are owned to an extent of at least 50 percent by nationals of EC Member States or of Morocco, or by a company with its head office in one of these States, of which the manager or managers, Chairman of the Board of Directors or the Supervisory Board, and the majority of the members of such boards are nationals of EC Member States or of Morocco and of which, in addition, in the case of partnerships or limited companies, at least half the capital belongs to those States or to public bodies or nationals of the said States;
  - (d) of which the master and officers are nationals of EC Member States or of Morocco; and
  - (e) of which at least 75 percent of the crew are nationals of EC Member States or of Morocco.”

Source: (Inama, 2009)

#### **4.6.2 sufficient working or processing**

This requirement refers to the amount (usually in the form of a percentage) of value addition that must be added to a product in order for it to meet the origin requirement. Thus, where a product is not wholly obtained in a member-country, it can be regarded as sufficiently worked or processed if it meets specific conditions pertaining to the said product, as outlined by the agreement (actions

contained in what is referred to as a ‘single list’). However, certain actions regardless of their sophistication are regarded as insufficient or irrelevant and will not qualify a product to originating status (actions contained in a ‘common list’). In other words, the Pan-European model of rules of origin relies on the adoption of a Single List containing identical product-specific rules of origin and common rules applicable to all products(Inama, 2009; Murray, 2010).

Key for this study is to identify the processes that are regarded as irrelevant or insufficient in the Pan-European Model. This will allow businesses in the manufacturing or packaging industries to ensure that the general amount of value addition to the products goes beyond what is contained in such a list, before examining the single list that contains specifics regarding their products. For consistency purposes, an extract is collected from the EC and Morroco RTA of an example of a common list in *figure 3* below.

**Figure 3**

- “1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 6 are satisfied:
- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
  - (b) breaking-up and assembly of packages;
  - (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
  - (d) ironing or pressing of textiles;
  - (e) simple painting and polishing operations;
  - (f) husking, partial or total leaching, polishing, and glazing of cereals and rice;
  - (g) operations to colour sugar or form sugar lumps;
  - (h) peeling, stoning and shelling of fruits, nuts and vegetables;
  - (i) sharpening, simple grinding or simple cutting;
  - (j) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
  - (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
  - (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
  - (m) simple mixing of products, whether or not of different kinds;
  - (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
  - (o) a combination of two or more operations specified in (a) to (n);
  - (p) slaughter of animals.
2. All operations carried out either in the Community or in Morocco on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.”

**Source:** (Inama, 2009)



## **4.7 Chapter Summary**

This chapter highlighted the various motivations behind a government's decision to join an RTA and how these decisions have implications on international trade. It found that the RTAs can be trade creating or trade diverting if the contents of the constituting documents are not well defined. Further, the findings show that various factors may affect the success of RTAs and that countries should carefully consider which model of Rules to adopt between the Pan-European Model and The US model, as this decision may lead to successfully integrating the member countries or frustrate the business, leading to trade diversion or deflection.

## **5.0 CHAPTER FIVE: CONCUSSIONS AND RECOMMENDATIONS**

### **5.1 INTRODUCTION**

This chapter provides an overall summary of the research findings and conclusions. It further highlights the extent to which the research objectives were achieved and provides recommendations based on the conclusions.

The research was guided by the following objectives:

RO1: To identify the effects, benefits and advantages of being a member of a RTA

RO2: To identify the perceived benefits of being a member of the AfCFTA

RO3: To identify the factors that may affect the success of RTAs in Africa

RO4: To understand the role of RoO in the effectiveness of RTAs and how they have been applied in the EU

### **5.2 CONCLUSIONS**

#### **5.2.1 RO1: To identify the effects, benefits and advantages of being a member of an RTA**

The data collected shows that being a member an RTA has a positive impact on a countries trade data and results in an increase in intra-regional trade. Trade necessitated by an RTA places a mandate on member-countries to allocate their resources in areas or industries where they have a competitive or comparative advantage, with spill-over effects as a result of the said trade, leading to interactive exchanges of technical know-how and technologies(Wang’ombe, 2013). This is particularly the case for smaller economies, as is the case for most African countries, that have a higher likelihood to benefit from economies of scale, advancing towards the enhancement of their labour and capital productivity. The exposure caused by trade liberalisation leads to increased competition. An increase in competition has two main effects, the first being an enhancement in production and/or services quality, and the second being a drop in the cost of commodity prices that is determined by market forces, thereby mandating producers to be efficient in the production process.

However, evidence does suggest that there is a need to balance the rules governing RTAs as they may result into either trade creation or trade diversion, and this may pose a threat to businesses

originating from non-member states. This threat, however, has been minimised by the deepening of RTAs, where overall results confirm the positive impact of deep agreements on trade flows (Mattoo, Mulabdic and Ruta, 2017).

### **5.2.2 RO2: To identify the perceived benefits of being a member of the AfCFTA**

Evidence suggests that estimates that the removal of tariffs and non-tariff barriers among countries has the potential to significantly boost intra-African trade by over 50 percent. This stems from the fact that The African Continental Free Trade Area agreement will create the largest free trade area in the world measured by the number of countries participating. The pact connects 1.2 billion people across 55 countries with a combined gross domestic product (GDP) valued at US\$3.4 trillion (CENTRE, no date).

Regarding AfCFTA impact on international business, its implementation would significantly boost African trade, particularly intra-regional trade in manufacturing and limit the impact of commodity price volatility on the players. It is estimated that by 2035, that total exports volumes would increase by almost 29 percent relative to business as usual. Intra-Africa exports are also expected to increase by more than 81 percent, while exports to non-African countries would rise by 19 percent. This would create new opportunities for African workers and the continent's manufacturing industries (Maryla Maliszewska and Michele Ruta, 2020).

### **5.2.3 RO3: To identify the factors that may affect the success of RTAs in Africa**

Historical data has proved that factors such as political will, cultural differences, macro-economic conditions, the spaghetti bowl problem and Rules of Origin, all play a role in the ineffective operation of RTAs in Africa (Geda, 2009; Wang'ombe, 2013). Other factors that were identified were poor infrastructural development and lack of product diversity and competitive positioning by producers on the continent (Hartzenberg, 2011; Baldwin and Evenett, 2015).

### **5.2.4 RO4: To understand the role of RoO in the effectiveness of RTAs and how they have been applied in the EU**

Evidence shows that two models form the blueprint upon which Rules of Origin are developed and drafted; these being the Pan-European rules of origin – that adopted the Change of Tariff Heading (CTH) criterion of RoO that defines the concept of “substantial transformation” coupled with a list of product-specific RoO, requiring CTH with or without exceptions, specific working or

processing, or maximum import content percentages(Inama, 2009); and the United States model of rules of origin - mainly uses an across-the-board percentage criterion (Inama, 2009).

From these models, the Pan-European model is the appropriate models best on its results of having the highest level of integration and intra-regional trade. This is ideal as the AfCFTA aims to create a deep agreement that will reach a similar level of regional economic integration and trade success(Maryla Maliszewska et al., 2020). Another reason being the historical similarities between the proliferation of RTAs in Europe and Africa, and their conflicting RoO. And how these conflicting RoO cause challenges for manufacturers and open loopholes that led to circumvention and trade deflection(Inama, 2009).

### **5.3 RECOMMENDATIONS**

The following are the recommendations based on the findings of this paper:

#### **5.3.1 National level**

1.National level policy reforms – There is a need for African states to reform their non-tariff and trade facilitation measures. As challenging as it may be, the perceived opportunities presented by the AfCFTA will aid the member-states in making these difficult decisions. Only through the implementation of substantive reform on national level, can the AfCFTA be as competitive as the EU.

2. Quality assurance – beyond the rules of origin, at national level, member-states must heighten their product standards requirements. This will ensure that products entering their markets though trade diversion or deflection do not negatively affect the competitive environment within the state, by flooding the market with cheap low standard good dumped from more developed third countries.

#### **5.3.2 Regional Level**

1. Dispute Resolution and Institutional strengthening – The regional institutions established to implement the Agreement must empowered through the legal texts of the agreement to allow them to play a more robust role in ensuring compliance on a national level and the provision of sanction for non-conforming members must be provided. Further a comprehensive dispute resolution

mechanism must be created that will balance the interest of the member-states and local industry players

2. Well defined Rules of Origin – the rules must be design to find a balance that allows only businesses originating from member-states to benefit from the preferential market access, while allowing for flexibility in input sources, to promote efficiency in the cost of production and competitiveness. This can be done my ensuring that there is clear and simple to understand common list as is the case in the Pan-European model, and a simplified certificate of origin. Making the RoO more business friendly rather than penalising SMEs in their complexity. It can further be achieved by clearly defining what amounts to ‘sufficient working or processing’ for products under the single list, considering the competitive or comparative advantage of producers originating from the member-states.

## **5.4 LIMITATIONS AND DIRECTION FOR FUTURE RESEARCH**

### **5.4.1 Limitations of the study**

Being an academic study on regional integration, the author faced some challenges with regard to time limitations and the authors inability to collect primary data – due to stakeholder accessibility and logistical challenges caused by the Covid-19 pandemic and financial constraints. Thereby, limiting the study to secondary data sources.

### **5.4.2 Future Research Direction**

The negotiations on RoO are scheduled to conclude before the end of the second quarter of 2022. This provides an opportunity to review the final approach taken by the member-states and a future study on the actual business implications of the enforcement of the AfCFTA.

## **5.5 CHAPTER SUMMERY**

This chapter provided an overall summary of the research paper and concluded by providing recommendations based on the findings of the study.

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