

Gender equality and women's empowerment in the African Continental Free Trade Area:

What lessons can be learnt from the SADC?

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Abstract

The Agreement Establishing the African Continental Free Trade Area (AfCFTA Agreement), which has been signed by 54 out of the 55 African countries, seeks to create a single continental market for goods and services and facilitate the free movement of people on the continent thereby enhancing the competitiveness of intra-African trade and boosting intra-African trade. This will generate employment and improve the welfare of mostly young men and women on the continent. However, whilst the AfCFTA Agreement, under Article 3(e), emphasizes that one of the general objectives of the AfCFTA is to promote gender equality, experiences in other African regional economic communities have proven that gender and gender equality have not been adequately mainstreamed in implementing free trade areas, which has resulted in gender inequalities in international trade and commerce. As a result of this, the majority of women have been left marginalized in trade and faced with serious challenges in accessing opportunities created by regional trade agreements.

This chapter seeks to examine the potential of the AfCFTA to promote gender equality and women's empowerment in Africa given the fact that the empowerment of women is a critical component of gender equality. Using secondary data sources, it draws from experiences of the Southern African Development Community (SADC) in mainstreaming gender in regional trade agreements in order to proffer recommendations for the AfCFTA. The concepts of gender equality, gender mainstreaming and trade liberalization are utilized for conceptual analysis. This chapter presents seven key recommends and lessons that the AfCFTA may draw from SADC experiences in promoting gender equality and women's empowerment in trade. These recommendations are key in presenting possible options for implementing gender-sensitive measures and strategic interventions that address the differentiated implications of the AfCFTA on both men and women such that the AfCFTA delivers more transformative, inclusive and sustainable economic growth and development in Africa.

Introduction

The Agreement Establishing the African Continental Free Trade Area (AfCFTA Agreement), which entered into force on 30 May 2019, seeks to create a single continental market for goods and services across the 55 states that make up the African Union. Whilst there were delays in reaching the implementation phase of the AfCFTA, mainly due to the effects of

COVID-19, which disrupted trade negotiations, trading under the AfCFTA finally started on the 1st of January 2021, although commercially meaningful trade is yet to commence.

One of the most fundamental aspects underscored in the AfCFTA is the explicit recognition of the importance of gender equality as a vital cog in ensuring that the key objectives of the AfCFTA in decent job creation, reduction of inequalities and promotion of sustainable and inclusive development are attained. As African countries prepare to trade under the AfCFTA Agreement, it is of paramount importance for all countries to mainstream gender equality and women's empowerment in their trade and investment in the AfCFTA. Drawing from experiences of the SADC in mainstreaming gender in regional trade agreements, this chapter seeks to critically examine the potential of the AfCFTA to promote gender equality and women's empowerment in Africa given the fact that the empowerment of women is a critical component of gender equality.

The AfCFTA: objectives, estimated impacts and implementation status

The AfCFTA, which is one of the flagship projects of the First Ten-Year Implementation Plan (2014-2023) under the African Union's Agenda 2063 that has been identified as key in accelerating the economic growth and development of Africa, was launched in March 2018 at the Extra-Ordinary Summit of the Assembly of AU Heads of State and Government in Kigali, Rwanda. It is a framework agreement that seeks to progressively reduce and ultimately eliminate tariff and non-tariff barriers (NTBs) to trade on goods and services in Africa.

The idea is to create a single and unified continental market for goods and services which lays the foundation for the establishment of a continental customs union, as well as facilitate the free movement of persons, capital, labour and investments (AfCFTA Agreement, Article 3). Central to the AfCFTA is the desired goal to expand intra-African trade through harmonizing and coordinating trade liberalization and trade facilitation on the continent and also enhance the competitiveness of industries and businesses in Africa through the utilization of opportunities for scale production, wider market access and more efficient resource allocation. This is part of the milestones agreed by AU member states as reflected in the Abuja Treaty Establishing the African Economic Community of June 1991, which entered into force on 12 May 1994.

Several empirical studies have attempted to estimate the AfCFTA impact using simulation models such as computable general equilibrium models and partial equilibrium models. These have pointed to the fact that the AfCFTA will significantly increase intra-African trade by between 33 per cent and 52.3 per cent from the current levels below 16 per cent (UNCATD, 2019; UNECA, 2018). At less than 16 per cent, intra-African trade is far lower compared to other regions such as North American Free Trade Agreement (47 per cent), Asia (61 per cent) and Europe (67 per cent) (UNCTAD, 2019). Empirical studies by the United Nations Economic Commission for Africa (UNECA, 2018) established that the AfCFTA – covering 54 states with a combined 1.2 billion people (expected to reach 2.5 billion by 2050) and making up US\$ 2.5 trillion GDP – will increase the value of intra-African trade by between 15 per cent (US\$ 50 billion) and 25 per cent (US\$ 70 billion) in 2040 compared to a situation with no AfCFTA in place.

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The elimination of both tariffs and NTBs – through the Online NTBs Reporting, Monitoring and Eliminating Mechanism – as envisaged under the AfCFTA will also help to facilitate smooth trade and vastly benefit African economies. The United Nations Conference on Trade and Development (UNCTAD) study concluded that whilst African countries could gain US\$ 3.6 billion per year by completely removing applied tariffs, they however stand to gain US\$ 20 billion annually by eliminating NTBs (Vanzetti *et al.*, 2018). Other instruments of the AfCFTA such as the Pan-African Payment and Settlement System (PAPSS) – being implemented in collaboration with the African Export–Import Bank – which seeks to facilitate timely processing, clearing and settling of intra-African trade and commerce payments, will address issues of currency convertibility challenges. The African Trade Observatory, on the other hand, will provide a portal for African trade information and trade statistics which is key for trade policymaking, and identification of markets for goods and services (Apiko *et al.*, 2020).

In terms of implementation status, the AfCFTA has now been signed by 54 out of the 55 AU member states¹. With 54 members, the AfCFTA becomes the world's largest free trade area since the formation of the WTO in 1995. AfCFTA entered into force on 30 May 2019 after 24 countries ratified it. This is in line with Article 23 of the AfCFTA Agreement, which states that it enters into force 30 days after ratification by 22 parties. As of 20 February 2023, a total of 46 countries out of the 54 signatories, have ratified the AfCFTA Agreement (AfCFTA Secretariat, 2023a). The operational phase of the AfCFTA was launched in July 2019, which included the launch of the five operational instruments that will govern the AfCFTA. The five operational instruments are the rules of origin (which governs the conditions and criteria used to confer the origin status of products), the Online Negotiating Forum (an online platform for tariff concessions and negotiations by parties), the AfCFTA Online NTBs Reporting, Monitoring and Eliminating Mechanism (a virtual platform for reporting, monitoring and resolving NTBs), PAPSS (a digital system to facilitate timely processing, clearing and settling of intra-African trade and commerce payments) and the African Trade Observatory (a portal for African trade information and trade statistics).

The AfCFTA negotiations were structured into three phases. Phase One negotiations focused on the framework agreement establishing the AfCFTA and negotiations on trade in goods and services as well as dispute settlement. Phase Two negotiations were dedicated to negotiations on investment, competition policy and intellectual property rights, whilst Phase Three will focus on digital trade, women and youth in trade. Although it was envisaged that Phase One negotiations would be concluded by July 2020, whilst Phase Two negotiations would be complete by June 2021; and Phase Three negotiations to commence in the end, there were delays in negotiations which were worsened by the outbreak of COVID-19, which restricted both domestic and international travel due to national lockdown measures implemented by almost all African countries. As of October 2022, the negotiating institutions had agreed rules of origin that cover approximately 87.7 per cent of total tariff lines, with outstanding rules of origin being those for sugar, textiles and clothing and automotive products (Trade Law Centre, 2022). The aim is to liberalize 90 per cent of tariff lines over five years, and least-developed

countries will have to implement their agreed tariff reductions over ten years. In terms of tariff offers, 43 tariff offers have been submitted by members of the Economic Community of West African States (ECOWAS), the Southern African Customs Union (SACU) and the Economic and Monetary Community of Central Africa (CEMAC), and other individual countries, with the other AfCFTA parties now at an advanced stage of submitting their tariff offers (Trade Law Centre, 2022).

With regard to negotiations on trade in services, whilst AfCFTA members are expected to offer commitments in services sectors through schedules of specific commitments and develop cross-cutting sectoral regulatory frameworks; a total of 46 states and non-states parties have submitted their offers whilst other countries are at various stages of preparing their offers (Trade Law Centre, 2022). The Online NTBs Reporting, Monitoring and Eliminating Mechanism is now fully operational, whilst PAPSS was officially launched in January 2022 and now comprises eight central banks, 28 commercial banks and six switches, with plans underway to expand into the five regions of Africa by the end of 2023 (AfCFTA Secretariat, 2023b).

As trading under the AfCFTA Agreement officially commenced on 1 January 2021, it is against this background that policymakers need to consider the contribution of trade and trade liberalization envisaged under the AfCFTA Agreement to the promotion of gender equality and women's empowerment, as women are active in trade as small-scale traders, informal cross-border traders, entrepreneurs, workers and consumers. Women make up the largest share of informal traders across the world, and in some countries they represent between 70 per cent and 80 per cent (Zarrilli and Linoci, 2020). Informal cross-border trade in Africa, which represents around 40 per cent of regional trade, is dominated by women and almost 90 per cent of employed women are working in the informal sector (Zarrilli and Linoci, 2020). Women also make up 58 per cent of Africa's self-employed population and women-led businesses account for around 40 per cent of Africa's small and medium-sized enterprises (SMEs).

All in all, around 90 per cent of women in Africa are in informal employment compared with about 83 per cent of men (Popova and Özel, 2018). Women informal cross-border traders and other small-scale traders, as revealed in a study by Zarrilli and Lopez (2020) on women traders in Eastern and Southern Africa, face challenges that include cumbersome border processes, weak governance at border posts, corruption and bribery, harassment, poor border facilities, payment of undue fees, misinformation about customs procedures and regulations, lack of access to capital and assets, and limited entrepreneurial skills and literacy, among others. The AfCFTA will therefore have differentiated impacts on both men and women given the obtaining gendered trends and patterns in production, labour, employment and trade on the continent. An understanding of this background assists to sufficiently contextualize the AfCFTA potential to promote gender equality and women's empowerment on the continent.

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Conceptual framework and methodology

In terms of methodology, this chapter utilizes secondary data sources in the form of books, journal articles, analytical pieces, policy briefs, reports from regional economic communities (RECs) – mainly the SADC, the African Union, the United Nations – and other institutions, as it examines the AfCFTA potential to promote gender equality and women's empowerment in Africa. It also makes use of national reports from governments of countries that are SADC members.

The concepts of gender equality, gender mainstreaming and trade liberalization are utilized for conceptual analysis in critically examining the AfCFTA potential to promote gender equality and women's empowerment in Africa.

Gender equality is often traced back to the gender equality movement that began as part of the Western culture in the late 19th century with the suffrage movement (Banaszak, 1996; McCammon *et al.*, 2001; Ramirez *et al.*, 1997; Wheeler and Spruill, 1993). The movement gained momentum and swept across different countries, leaving a trail of significant changes with regard to addressing historical and social disadvantages that prevented women and men from being equal. For instance, the United Kingdom enacted the Married Women's Property Act of 1882, which empowered married women with the rights to own and control property (Ramirez *et al.*, 1997; Wheeler and Spruill, 1993). This gender equality movement gained traction following the rise of gender egalitarianism, which propagated the ideology that men and women should attain equality within the public and private realms of the society, economy and politics (Corrigall and Konrad, 2007; Inglehart, 1997). The movement broadened to fight against traditional and historical barriers that perpetuated unequal access between men and women to opportunities and services such as: workplace remuneration, promotion and benefits; health (such as harmful traditional practices, maternity, sexual and reproductive rights-related discrimination); education; information; and participation in politics and decision-making processes; as well as gender stereotypes, gender biases, gender discrimination and other gender-based constraints.

The post-World War II era saw the gender equality movement gaining currency across the globe, with the United Nations and other international organizations adopting several conventions and declarations that recognized women's rights and promoted gender equality.² Gender equality and women's empowerment has been encapsulated in the United Nations Sustainable Development Goals (SDGs) as part of SDG 5, and this cuts across the 2030 Agenda for Sustainable Development. In Africa, the African Union has its Solemn Declaration on Gender Equality in Africa of 2004. It also has the African Charter on Human and People's Rights, which recognizes gender equality and women's rights, and this is reinforced by the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa. The continental body also has in place a Gender Policy and Action Plan (2010), Strategy for Gender Equality and Women's Empowerment (2018-2028) and the AU Gender Mainstreaming Strategic Plan.

Whilst gender is generally referred to as the social, economic and cultural attributes and opportunities associated with being female and male, and the social relations between men and women, boys and girls, the UN Women defines gender equality as "equal rights, responsibilities and opportunities of women and men and girls and boys".³ Thus, gender

equality implies that the “interests, needs and priorities of both women and men are taken into consideration, recognizing the diversity of different groups of women and men”.⁴ On the other hand, gender mainstreaming – which is often argued to have first appeared in international texts after the 3rd UN World Conference on Women, held in Nairobi, Kenya in 1995 – is defined as that process of assessing the implications on men and women of any planned action, including laws, policies, projects and programmes such that the special needs, interests and concerns of both men and women are made integral to the planning, designing, execution, monitoring, evaluation and review of these policies, programmes, projects and plans.⁵ This process of gender mainstreaming is often preceded by systematic gender analysis. The object of gender mainstreaming is to achieve gender equality.

There is, however, a conceptual confusion between gender equality and gender equity. The latter denotes targeted and mostly temporary special measures (usually in the form of laws, regulations, policies, programmes or projects) that aim at compensating historical and social disadvantages that prevent men and women from being equal. In essence, gender equity is a means to achieve gender equality. The widespread misconceptions and common myths associated with gender equality and gender mainstreaming has been that these two relate to women, and that they are an end in themselves. Fundamentally, gender equality and gender mainstreaming ultimately seek to empower both men and women by creating a society where men and women have similar opportunities, rights and obligations in all spheres of life such that sustainable, inclusive and broad-based development is attained. When gender inequality exists, women tend to be disempowered, excluded and disadvantaged as economic, social and political players in the society as their access to social and economic resources and opportunities is compromised. Empirical evidence has proven that countries that have more gender equality perform better across socioeconomic development indices (see, for instance, United Nations Development Programme Human Development Reports, 1990-2020).⁶

Within the context of trade and regional integration, gender equality has risen to prominence especially following trade liberalization that is part of economic globalization. Trade liberalization is characterized by the reduction and removal of tariffs, NTBs and other restrictions and barriers to trade in goods and services between states and regions as a result of unilateral, bilateral, regional or multilateral commitments by countries. As part of trade liberalization, measures such as trade facilitation have been put in place in the form of reforms, administrative procedures and policies in order to ensure the smooth flow of trade across borders. It is the gender dimension of trade liberalization that has to be critically examined in any regional trade policy especially considering the traditional and historical background that men and women, especially women as both small-scale, cross-border traders, producers and business owners face special challenges in regional trade (Carr and Williams, 2010; Taneja *et al.*, 2018; True, 2008; Wilson *et al.*, 2005). Both trade liberalization and trade facilitation affect men and women differently; hence, it is prudent not to categorize men and women as homogenous groups. This implies that they have different roles in trade as economic players, consumers, workers, producers, traders, businesspersons and taxpayers within the informal and formal sectors, and in rural and urban settings (Busse and Spielmann, 2006; Joeke, 1999; UNCTAD, 2014).

Gender inequalities often affect trade as both men and women are affected differently by trade bottlenecks such as trade-related and market-related information access restrictions, trade-related infrastructure deficiencies, limited access to resources necessary for production (such

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as capital, credit and skills), border restrictions and border delays, cumbersome customs documentations requirements, deficient cargo and transit trade operations, among others (UNCTAD, 2014). Trade liberalization agreements, especially free trade area agreements and customs unions therefore need to be structured in such a way that they consider specific gender-specific constraints and gender barriers faced by both men and women in trade. In the AfCFTA Agreement, Article 7 of the Protocol on Trade in Goods provides for trade liberalization and the progressive elimination of import duties on goods originating from AfCFTA members. Under the Agreement, members have agreed that 90 per cent of tariff lines will be fully liberalized over a ten-year period for LDCs and over a five-year period for non-LDCs, whilst tariff cuts will be phased over ten years for non-LDCs and 13 years for LDCs for an additional 7 per cent of goods. Whilst most trade liberalization schemes aim at removing tariffs and NTBs, as well as other quantitative restrictions to trade so as to boost intra-regional trade, failure to mainstream the gender-specific trade barriers that impede women's access to regional markets as informal and small-scale cross-border traders, entrepreneurs and workers would undermine their benefits from such schemes.

A thorough gender analysis will assist to identify the different effects of trade liberalization on both men and women, and also help to establish how free trade areas can be implemented to promote women's empowerment. Trade liberalization brings with it outcomes that may negatively impact on women if not properly managed such as increased competition from foreign producers; complex preferential tariff regimes for small-scale cross-border traders; expansion of export-focused enterprises that tend to discriminate women in terms of wages, salaries, employment conditions, skills upgrading and placement; and progression of enterprises along the national and regional value chains (RVCs) which may bring with it labour dynamics that may be gender discriminatory in nature (UNCTAD, 2014). All these affect men and women differently. For instance, with trade liberalization, there may be an influx of cheap products, especially agriculture goods, which will affect the agriculture sectors that are mostly dominated by women in Africa, especially considering that women account for around 50 per cent of the labour force in the agriculture sector in Africa (FAO, 2021).

In some instances, local firms are forced to mechanize and automate in order to compete with high-tech producers in the region which ultimately disadvantage women as they are usually discriminated against when they are not provided equal opportunities for skills upgrading to operate high-tech machinery, hence their upward mobility at workplaces is suppressed (Moodley *et al.*, 2019). The same applies to the phenomenon of feminization of labour that has witnessed the increased participation of women in labour markets especially in the export sector due to the universal gender wage gap which results in women being a more attractive workforce as firms desire to maintain low labour costs (Elveren *et al.*, 2017; Gunawardana, 2018; Shehu, 2019; Tran, 2019). This calls for the de-feminization of labour in all export-oriented firms such as clothing, textiles and electronics, among others, by ensuring that there are equal salaries and benefits for both men and women, and also ensuring that there are

equal rights, opportunities, conditions, responsibilities and treatment of women in the labour market (Osterreich, 2020). All this is the basis upon which the different African RECs have established protocols and policies to mainstream gender at the state level and at the regional level to promote gender equality and women's empowerment when implementing trade liberalization schemes.⁷

The AfCFTA and its potential impact on gender equality and women's empowerment

It has to be stated from the onset that the AfCFTA Agreement does not have a standalone chapter on gender and trade. The importance of gender equality in international trade and economic cooperation is recognized in the Preamble of the AfCFTA Agreement. Further, Article 3(e) states that one of the objectives of the AfCFTA is to "promote and attain sustainable and inclusive socioeconomic development, gender equality and structural transformation of the State Parties". In Article 27(2)(d) of the AfCFTA Protocol on Trade in Services, there is reference to "improving the export capacity and informal service suppliers, with particular attention to micro, small and medium-size, women and youth service suppliers".

Thus, whilst there are no explicit gender provisions in the AfCFTA Agreement, several provisions of the Agreement are key in promoting gender equality in trade and facilitating the empowerment of women in trade. For instance, provisions relating to customs cooperation, trade facilitation, elimination of tariffs and NTBs to trade, provision for sensitive and excluded products, removal of technical barriers to trade and management of sanitary and phytosanitary (SPS) measures in trade, technical assistance and capacity building of traders. In addition to this, the implementation of other instruments of the AfCFTA such as the PAPSS and the African Trade Observatory all play crucial roles in both addressing the serious barriers faced by women. Specifically, women-owned SMEs and informal business are crucial in the production of goods and services, identification of regional markets, clearance of imports and exports at ports of entry, as well as other ventures that assist both men and women to take advantage of economic opportunities that arise in the implementation of the AfCFTA.

Given the nature of its objectives, scope of the agreement and consideration of gender equality as key to inclusive and sustainable development, the AfCFTA has vast potential to promote gender equality and women's empowerment through addressing women's empowerment constraints and gender inequalities in Africa. First, the AfCFTA can address the prevalent gender inequalities in the agriculture, manufacturing and services sectors on the continent. For instance, the African Development Bank (AfDB, 2015) revealed wage gaps between men and women in African rural areas to be between 15 and 60 per cent as a result of exclusions

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and disadvantages that women face in accessing capital, land, labour and technology. Studies by UNECA (2020a) revealed that the AfCFTA will increase intra-African exports of agriculture and food products by 20-35 per cent (or US\$ 10-17 billion), particularly in the export sectors of meat, milk and dairy products, sugar, tobacco and beverages, vegetables, fruits and rice. These are products from agri-business and agro-industries in which women are predominant labour providers.

The AfCFTA will enhance intra-African trade and attract investments into these sectors, whilst also facilitating RVCs in the agriculture sector, which will also impact differently on women. However, studies have indicated that women face less favorable employment conditions than men and hold jobs with greater insecurity than men (UNDP, 2020). At the same time, the wages and salaries of men and women are affected differently not only as firms progress up the RVCs, but also when output expands in labour-intensive industries. For instance, studies have shown that female wages grow faster when output expands in female labour-intensive industries (see FAO, 2016). Therefore, ensuring gender equality and women's empowerment in implementing these RVCs as part of the AfCFTA is fundamental especially considering that jobs created in global value chains have been argued to be problematic in that they dismantle gendered job segregation and stereotypes (Bamber and Staritz, 2017). The SPS measures, which are common in the importation and exportation of agricultural products, will also assist to remove technical barriers to trade for women traders if these are designed and implemented appropriately.

The AfCFTA is also earmarked to enhance foreign direct investment (FDI) prospects on the continent which will then assist to promote women's empowerment in Africa through improving women's access to trade opportunities, capital, technology, export capacity and skills for business. Of course, African countries must foster FDI-SMEs ecosystems such that FDI-benefiting firms and SMEs are interlinked to the extent that it increases the productivity and innovative capacity of SMEs through technology and knowledge transfer and presenting opportunities for penetrating regional and international markets. It is the ability of African countries to support FDI-women-owned SMEs ecosystems and facilitate preferential procurement for such businesses that will ensure that the AfCFTA will impact on gender equality and women's empowerment. Related to this is the potential of the AfCFTA to boost production in export processing zones (EPZs) of different countries, for this to increase intra-African trade. Whilst it has been noted that women account for the majority of EPZ employees (50-90 per cent), employment in EPZs has been considered to be "double-edged for women", since EPZ factories are usually harsh, especially for vulnerable women and that women jobs in these factories (up to 90 per cent in some sub-Saharan African countries) are mostly concentrated in low-paid and unskilled categories (Avsar and Linoci, 2017). The AfCFTA has the potential to address this through enhancing industrial development which mainstreams gender and ensures that historically disadvantaged women are trained to attain higher skills and competences.

The AfCFTA can also potentially affect women in the services sector at a time when women and men account for 50 per cent and 43 per cent employment in the services sector respectively, across the globe (UNECA, 2020a). In fact, services account for a large share of women's employment in SMEs. A study by the World Bank and WTO (2020) finds that by 2035, wages for skilled and unskilled female labour would be 4 per cent and 3.7 per cent higher compared to a 3.2 per cent increase for all males. Whilst the AfCFTA has the potential to liberalize

services trade and generate employment and income for women, there is need to mainstream gender in implementing the AfCFTA Agreement such that traditional and emerging gendered constraints in the services sectors are fully resolved. For instance, the prevalent gender segregation in trade in services, which has seen women increasingly occupying jobs in low paying jobs in hotels, restaurants, hairdressing, and community services with few of them occupying higher paying jobs in business and professional services, communication services, and other sectors, has to be addressed. Other challenges, highlighted by Lipowiecka and Kiriti-Nganga (2016), such as horizontal and vertical labour segregation, concentration of women in non-standard employment forms, persistence of wage gaps, lack of maternity entitlements, limited access to capital and productive resources, information asymmetry, lack of access to markets and business networks, skills deficiencies and gender stereotypes, all warrant attention in the implementation of the AfCFTA, especially the AfCFTA Protocol on Trade in Services, in order to promote gender equality and promote women's empowerment.

SADC experiences on gender equality and women's empowerment in trade

Since its formation as the Southern African Development Coordination Conference in April 1980, and later transformation to the SADC in August 1992, the regional body has formulated policies, plans and programmes for regional integration so as to support economic growth and sustainable development across all its members (SADC, 2022). Just as other regional integration schemes elsewhere, the SADC set out a regional integration agenda that seeks to integrate its market, boost intra-regional trade, facilitate deeper monetary cooperation, attract FDI into the region, enhance the industrial capacity of members and improve the competitiveness of its economies (SADC, 2022). In terms of trade liberalization, the SADC has been implementing a trade liberalization agenda that seeks to open regional markets to international trade through the reduction of tariff and NTBs to trade. This has been facilitated through the enactment of the SADC Protocol on Trade (1996, amended in 2020), the SADC Protocol on Trade in Services (2012), the SADC Protocol on Finance and Investment (2006), the SADC Regional Indicative Strategic Development Plan (RISDP, 2005-2020), the SADC RISDP (2020-2030), and the SADC Vision 2050. The SADC also formulated the SADC Gender Policy (1997), created a standalone Gender Unit within the SADC Secretariat, adopted the SADC Gender Mainstreaming Toolkit (2009) and also formulated the SADC Regional Multi-Dimensional Women's Economic Empowerment Programme (RMD-WEPP, 2018-2030) to promote women economic empowerment and gender-responsive development in the region.⁹ Thus experiences in the SADC since it started implementing its trade liberalization agenda following the adoption of the SADC Protocol on Trade in 1996, set out to mainstream gender in trade and regional integration in such a way that promoted women's empowerment and gender equality.

All these have been developed as instruments to attain the SADC regional integration and trade liberalization agenda, which prioritized the establishment of the SADC Free Trade Area (SADC FTA) by 2008, the SADC Customs Union by 2010, the SADC Common Market by 2015 and the SADC Monetary Union, Single Currency and Economic Union by 2018. However, as of December 2020, the SADC was still at the stage of consolidating the SADC FTA, with all but three members participating in the free trade area.⁹ In all this, gender mainstreaming has been emphasized by the SADC, as reflected in the SADC Protocol on Gender and Development (2008), the SADC RISDP and the SADC Common Agenda. Article

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17 of the SADC Protocol on Gender and Development obligates members to review national policies to ensure gender equality and gender responsiveness, including trade policies that create equal opportunities for men and women in trade and entrepreneurship; whilst Article 5 of the Protocol obliges SADC members to introduce affirmative action measures for women to benefit equally from economic opportunities. In addition to this, the SADC Common Agenda include gender mainstreaming as one of the key priorities and principles that should guide the regional integration agenda. In implementing its trade liberalization, tariff phase down and removal of NTBs to trade in goods and services under the SADC FTA, the regional body has recorded successes and challenges in promoting gender equality and women's empowerment in trade.

The SADC records the highest intra-REC trade when compared to other regional organizations in Africa, and women are crucial players in this regional trade. Since 2013, there has been an increase in intra-SADC trade above 20 per cent compared to the pre-SADC FTA period where intra-SADC trade was growing at around 16 per cent (SADC, 2019). By 2019, intra-SADC exports of goods were US\$ 34.8 billion whilst intra-SADC imports were US\$ 32.6 billion (SADC, 2020a). Intra-SADC FTA trade accounts for 23 per cent of the SADC's total trade with the world, and 81 per cent of its trade with other African countries outside the SADC (Gitau, 2020). The value of trade conducted by women in the SADC is estimated at around US \$20 billion per year (Southern Africa Trust, 2020). At least 70-80 per cent of informal cross-border traders in the SADC are women, surviving on importing goods from neighbouring countries for resale, at a time when informal cross-border trade accounts for 30-40 per cent of intra-SADC trade (Southern Africa Trust, 2020). In other SADC members, women account for over 80 per cent of informal cross-border traders. For instance, in the Democratic Republic of the Congo, 85 per cent of traders are women (AUDA-NEPAD, 2018). Even in terms of production, women contribute over 60 per cent towards the total food production in the SADC, in some SADC members women perform more than 70 per cent of agricultural work (SADC, 2014). The study by the Southern Africa Trust (2020) finds that over 60 per cent of households in the trade sector are headed by single, widowed and divorced women.

This reality has motivated the SADC, collectively and individually as members, to design measures and interventions meant to promote gender equality and promote women's empowerment in implementing its trade liberalization agenda and intra-regional trade in goods and services. First, the SADC has been implementing various programmes to address gendered challenges faced by traders, producers and entrepreneurs in all members. The SADC developed a Draft Protocol on the Facilitation of Movement of Persons in 1992 (amended in 2005) which will definitely complement the existing SADC Protocol on Transport, Communications and Meteorology, and the SADC Protocol on Trade in Services in facilitating the progressive elimination of obstacles to free movement of people across members,

including the relaxation of visa regimes for SADC nationals. The challenge, however, has been the slow pace in ratifying the instruments. For instance, the Draft Protocol on the Facilitation of Movement of Persons seeks to eliminate obstacles to the free movement of people in the region, has been ratified by only six out of the 16 SADC members – Botswana, Eswatini, Lesotho, Mozambique, South Africa and Zambia (Migration Data Portal, 2020). However, if the instruments are implemented, these will address the immigration-related challenges that traders, especially women who are the majority of informal cross-border traders, often face in the SADC. In the SADC, the immigration-related challenges that cross-border traders face relate to them being allowed limited days in recipient countries by immigration authorities, expensive visa application fees and soliciting of bribes by immigration authorities when their travel documents have complications (Peberdy *et al.*, 2015).

The SADC Trade Facilitation Programme (TFP) is also being implemented by the SADC since adoption in 2016 to facilitate the simplification, standardization, harmonization and modernization of international trade (import and export) procedures with a view to reduce trade transaction costs through improved efficiency in trade processes. The SADC TFP has involved activities, practices and formalities related to collecting, presenting, communicating and processing data required for the exportation or importation of goods in international trade as well as the improvement of transport infrastructure, removal of government corruption, the modernization of customs administration, the removal of other NTBs and implementation of different measures that facilitate smooth trade. The SADC has partnered with different organizations, including the European Union, to implement the SADC TFP from 2019-2025, through the €15 million facility provided under the 11th Economic Development Fund (SADC, 2020b).

As part of trade facilitation measures, the SADC has also made progress in developing a Simplified Trade Regime (STR) Framework which will simplify customs processes and procedures for small-scale traders (SADC, 2020c). STRs, which are provided for under Article VIII of the General Agreement on Tariffs and Trade (GATT) and the World Customs Organization (WCO) International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention), are arrangements by members in a regional integration scheme to simplify trade processes of clearing selected goods for small-scale and informal cross-border traders such that they use a simplified customs document, a simplified certificate of origin and benefit from the regional preferential treatment when trading in the region (COMESA, 2016). This will also reduce their transaction costs thereby boosting their business performance and returns. As of December 2022, the SADC had finalized the list of products that qualify under the STR following consultations with all the relevant stakeholders (Mudzingwa, 2022). Experiences in Common Market for Eastern and Southern Africa (COMESA), where a COMESA STR has been implemented, informal cross-border traders have benefited through improved knowledge and information on trading requirements,

“ The immigration-related challenges that cross-border traders face relate to them being allowed limited days in recipient countries by immigration authorities.

use of simplified customs documents and processes at border posts, reduced costs and time taken to clear goods and process tax refunds. Over and above the STR, the SADC is also making progress in introducing an SADC Electronic Certificate of Origin (e-CoO) Framework that will allow traders to electronically apply for certificate of origin which will also quicken customs clearance processes at border posts. The SADC e-CoO Framework was launched in September 2022, whilst SADC members are now implementing the Real Time Gross Settlement System (RTGS) for quicker and more efficient transactions and payments (SADC, 2020c; WCO, 2022).

The simplification of trade rules and procedures, and harmonization of customs and border procedures benefit women entrepreneurs and women informal cross-border traders, as they will no longer face the burden of going through numerous trade documentation and other technical regulations and procedures at border posts, airports or sea ports whilst transparent and operable rules and procedures in trade (customs information on tariffs, duties, charges, among others) assist women entrepreneurs and women informal cross-border traders as they will have access to essential information which assist them in making import and export decisions. In SADC members, most women entrepreneurs and women informal cross-border traders have limited access to this information in simplified form (Blumberg *et al.*, 2016). Although the information is available on official websites of revenue authorities, most women traders do not have access to the Internet to access this and the information is sophisticated for them to grasp (Southern African Trust, 2018).

In order to address the gendered challenges faced by men and women in trade, the SADC has worked on improving the operational flexibility and opening of border posts for longer hours such that traders, women entrepreneurs and women informal cross-border traders do not lose productive time spent at border posts. In the SADC, the Beitbridge Border Post between South Africa and Zimbabwe is open 24 hours, and most airports in the region are also open 24 hours. To complement this, the SADC has been implementing customs efficiency, automated customs data management, immigration efficiency and time-release measures. The SADC Revised Regional Guidelines on Harmonization and Facilitation of Cross Border Transport Operations, which are aimed at easing cross-border transport operations within the region, were approved by the SADC Council in June 2020, whilst the SADC Regional Customs Transit Guarantee (RCTG) Regulations are now being piloted and rolled out along the North–South Corridor and other corridors since April 2022 to facilitate the free movement of goods and remove NTBs to trade, including those that also affect women in trade (see SADC, 2020c, 2022). The SADC Guidelines on Coordinated Border Management (2011) are also key in facilitating the cooperation of different border agencies in managing the smooth flow of traffic and traders, thereby addressing the challenges that women usually face related to harassment by border security, bribery and border delays.

Other border-related trade facilitation measures that have helped to address the gendered challenges of men and women in the SADC include the adoption of the Automated System for Customs Data (ASYCUDA). Some SADC members, such as Angola, Comoros, the Democratic Republic of the Congo, Eswatini, Lesotho, Malawi, Madagascar, Namibia, Seychelles, Zambia and Zimbabwe, are all using the ASYCUDA World, which is an integrated computerized customs management system used for customs administration and electronic clearance of imports and exports.¹⁰ This reduces transaction costs and transaction time whilst enhancing the transparency of transactions for men and women traders. However,

on numerous occasions ASYCUDA systems' operational ability is disrupted by connectivity challenges and other technical hurdles which force revenue authorities to manualize, thereby delaying customs clearances and inconveniencing women and women cross-border traders (see Poverello, 2018; WCO, 2020).

Consistent with provisions of the members' obligations enshrined in the SADC Protocol on Gender and Development (2008), the SADC RISDP and the SADC Common Agenda; SADC members are implementing different policy frameworks and measures to address the structural challenges that undermine women's empowerment in regional and international trade. For instance, in the SADC women face challenges in accessing productive resources including land and credit than men (SADC/SARDC, 2016). Thus, whilst women are contributing massively towards enhancing intra-regional trade, border taxes, household incomes, general welfare of consumers and employment creation, they have limited access to land and capital. A World Bank study finds that less than 13 per cent of African women between 20 and 49 years own land compared to 36 per cent of African men (Gaddis *et al.*, 2018). These skewed land ownership patterns in the region, perpetuated by cultural practices, customary laws, politics and deep-rooted stereotypes, result in inequalities that hinder the effective participation of women in business and trade, as they lack collateral to secure capital and credit for businesses. SADC members such as Botswana, Namibia, South Africa and Tanzania have enacted legislations and formulated gender policies that facilitate gender equality in land ownership and distribution.

The advent of COVID-19 has also presented challenges to producers and traders in the SADC, especially women small-scale informal cross-border traders. SADC experiences in addressing such gender challenges are key in providing lessons to the AfCFTA in how trade agreements can be implemented in a way that ensures gender equality and empowerment of women during natural disasters. As of 1 January 2023, the SADC had recorded 5.7 million confirmed cases and 128 000 COVID-19 deaths (Africa Centre for Disease Control, 2023).

The implementation of national lockdown measures, restriction of movement, restrictive trade measures, and closure of businesses, national borders and airports, all affected women and men differently, especially considering the reality that the income for women in the informal sector fell by approximately 60 per cent during the first months of COVID-19 (UN Women, 2020). Most SADC borders were only open for the movement of essential goods and services, following the adoption of the SADC Regional Guidelines for Harmonizing and Facilitating Movement of Critical Goods and Services across the region during the COVID-19 in April 2020. The coordinated border management and collaboration was key to manage disruptions, congestion and delays caused by COVID-19 screening procedures, processes and protocols at border posts, especially at borders between Botswana, Mozambique, Namibia, South Africa and Zimbabwe (UNECA, 2020b). Further, the operationalization of a regional COVID-19 trade and transportation cell also assisted SADC members to implement the regional body's trade and transportation measures (UNECA, 2020b). Besides being affected through the discontinuation of informal cross-border trade in light of COVID-19, women in the SADC were also impacted more since the sectors that they are more concentrated in (agriculture, tourism, hospitality, textile and garments) and informal services sectors were more affected by COVID-19 national lockdown measures. This is because the absence of employment and social protection in most SADC members which is ordinarily provided in the formal sector threatened the livelihoods of women and made them vulnerable to the pandemic (Van der Nest, 2020).

“ The advent of COVID-19 has also presented challenges to producers and traders in the SADC, especially women small-scale informal cross-border traders.

Lessons and recommendations for the AfCFTA in promoting gender equality and women's empowerment

SADC experiences in promoting gender equality and women's empowerment through trade agreements, specifically through the operationalization of the SADC FTA, presents eight valuable lessons to the AfCFTA Secretariat and AfCFTA members.

First, the SADC case illustrates the need for a solid and comprehensive legal, policy and regulatory framework that will provide a comprehensive basis for the mainstreaming of gender in trade. Since the AfCFTA itself has provisions that recognize the importance of gender equality and women's empowerment in trade, there is need for an institutional mechanism for coordination of gender and trade issues within the AfCFTA Secretariat, as was the case with the SADC. Therefore, the creation of a Gender Unit within the AfCFTA Secretariat is key, as this will assist to coordinate gender initiatives and ensure the implementation of trade-related aspects of gender instruments within the eight RECs of the African Union. In doing this, a fundamental lesson that can be drawn from the SADC experience is the need to move beyond a broader agreement in the form of the AfCFTA and develop a gender-specific protocol. The SADC decided to move beyond the SADC Treaty of 1992 and adopt the SADC Protocol on Gender and Development in 2008 and the SADC Gender Policy of 2007. This is because the gender provisions in the AfCFTA comprise mainly of “may” or “best endeavour” provisions which are very permissive and discretionary as opposed to “shall” provisions that are mandatory and binding often embedded in protocols. Thus, negotiations for the envisaged AfCFTA Protocol on Women and the Youth – which is meant to ensure that women traders and youth entrepreneurs are empowered to optimally trade within the AfCFTA – should be expedited.

Second, the SADC case also underscores the importance of the role of members in formulating gender responsive national-level trade and trade facilitation policies and measures that mainstream gender and ensure women's empowerment. In this regard, members are recommended to mainstream gender in their AfCFTA National Implementation Strategies. The UNECA, through a European Commission funded project, has been collaborating with AfCFTA parties, RECs, the African Union Commission, the International Trade Centre and UNCTAD to develop national AfCFTA implementation strategies for members which will guide them to fully harness the opportunities and benefits offered by the AfCFTA.¹¹ However, SADC members have to be technically assisted to undertake gender analysis of the key elements in their AfCFTA National Implementation Strategies, designing gender-sensitive monitoring and evaluation of the AfCFTA National Implementation Strategies, compiling gender-disaggregated statistics on production systems, gender segregation patterns, trade patterns and women and men participation in business, labour and value chains. In addition, policy-relevant studies are also needed to get an empirical understanding of the gender-differentiated trade barriers within AfCFTA members, as well as the gendered impact of trade liberalization measures.

Third, members within the AfCFTA have to cooperate and collaborate in implementing AfCFTA gender-responsive trade facilitation programmes. These should be aimed at improving border infrastructure, eliminating procedural inefficiencies through modernizing border procedures and other measures such as pre-arrival processing and advanced rulings on imports, electronic payment of duties, fees and charges, among others, improving transparency and predictability (including the publication of trade compliance procedures, customs duties and relevant laws, publication of average release time for customs, among others), and cooperating in the field of standardization, development and implementation of technical regulations, conformity assessment, accreditation and metrology with other states that are party to the AfCFTA Agreement. In facilitating this, the AfCFTA Secretariat has to ensure that NTBs reported through the Online NTBs Reporting, Monitoring and Eliminating Mechanism are expeditiously resolved so that constraints facing informal cross-border traders, especially women, are addressed. The AfCFTA Secretariat also needs to work speed up work with the African Export–Import Bank to implement PAPSS, so that traders settle their intra-African trade and cross-border transactions without facing currency convertibility challenges. Similarly, the AfCFTA Secretariat needs to ensure that the information and statistics presented on the African Trade Observatory portal are user friendly and also assist small-scale traders to identify markets. This will address the trade-related information access constraints that mostly confront women business entrepreneurs and women small-scale traders. To complement the above, the AfCFTA Secretariat and members may need to invest in a continent-wide ASYCUDA World programme that ensures that all AfCFTA members are interfaced for smooth trade and trade facilitation that addresses gendered effects of customs deficiencies at border posts.

Fourth, the progress being made by the SADC to finalize the SADC STR is a valuable lesson for the AfCFTA Secretariat and AfCFTA parties to fast-track the establishment of a Continental Free Trade Area Simplified Trade Regime (CFTA STR) as part of AfCFTA processes to eliminate gender-specific obstacles or barriers faced by men and women small and informal cross-border traders in clearing goods at ports of entry or border posts. Building on experiences from the SADC, the CFTA STR has to expand its STR Common List of qualifying goods to cover more products and also include manufactured goods and consider ensuring that costs of licences and the simplified certificates of origin are affordable for informal cross-border traders. Communication and information on CFTA STR policy and customs requirements and procedures has to be strengthened and simplified so that informal traders are adequately informed and less likely be abused through corruption by border officials. There is also need to ensure that when the CFTA STR is implemented; there should be provisions for special customs electronic clearing systems at ports of entry so that there is quicker customs clearance of small informal cross-border traders at border posts or ports of entry.

Fifth, the AfCFTA Secretariat and members may need to develop special guidelines that will guide the conduct of both formal trade and informal trade across borders in Africa during the unpredictable times of natural disasters. The impacts and effects of COVID-19 on regional trade

“ AfCFTA gender-responsive trade facilitation programmes should be aimed at improving border infrastructure and modernizing border procedures.

in the SADC, especially the gendered impacts of the pandemic on women, present lessons for the AfCFTA, to design measures that guide trade and prevent production-related, social security-related, border-related, immigration-related and trade facilitation-related barriers and constraints that are faced by both men and women in trade.

Sixth, the AfCFTA may draw lessons from how the SADC has been developing instruments to address obstacles to free movement of people within the region. These include the SADC Protocol on Transport, Communications and Meteorology; the SADC Protocol on Trade in Services; and the SADC Draft Protocol on the Facilitation of Movement of Persons. The reality that the process of adoption and ratification of these instruments has been rather slow is in itself instructive for the AfCFTA. Since the African Passport and the Free Movement of People Initiative are part of the 12 Flagship Projects of the Agenda 2063 seeking to promote the free movement of people on the continent (Vhumbunu, 2020), the AfCFTA Secretariat has to encourage members to sign and ratify the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment of 2018. So far, the Protocol has been signed by 32 out of the 55 African countries, and ratified by only four countries. The AfCFTA Secretariat also needs to exert diplomatic pressure on African heads of states and government to make progress on the roll out of the continental AU Passport, which was initially targeted for 2020, so as to address barriers to cross-border travel.

Seventh, the AfCFTA and members should develop and implement a coordinated capacity building and training programme for promoting gender equality and women's empowerment in trade on the continent. This should focus on promoting gender equality and women's empowerment through building the capacity of men and women, and well as gender policy implementation institutions to identify and implement measures that support: financial inclusion; SMEs management; entrepreneurial skills development; integration of SMEs in national, regional and continental value chains; market identification and business networking; utilizing preferential trade regimes and opportunities; mainstreaming gender in trade and development; and continued monitoring, evaluation and review of gender aspects of trade and development policies.

Conclusion

This chapter analytically examined the potential of the AfCFTA to promote gender equality and women's empowerment in Africa based on the premise that women's empowerment is a critical component of gender equality. The experiences, successes and challenges of the SADC are valuable in mainstreaming gender in regional trade agreements, specifically in light of the implementation of the AfCFTA, which commenced on 1 January 2021. The following are all key in promoting gender equality and women's empowerment in trade on the continent so that the AfCFTA delivers more transformative, inclusive and sustainable economic growth and development in Africa: (a) comprehensive gender-related legal, policy and regulatory framework; (b) formulation of gender responsive national-level trade and trade facilitation policies and measures that mainstream gender and ensure women's empowerment; (c) cooperation and collaboration of AfCFTA members in implementing AfCFTA gender-responsive trade facilitation programmes; (d) fast-tracking of the establishment of a CFTA STR by the AfCFTA Secretariat and AfCFTA parties; (e) development of special guidelines that will guide the conduct of both formal trade and informal trade across borders in Africa during the unpredictable times of natural disasters; and (f) coordinated capacity building and training programmes. All these require political will and political commitment across the leadership of the continent.

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Endnotes

1. Only Eritrea is yet to sign the AfCFTA Agreement.
2. These include, among others: Convention on the Political Rights of Women (1954); Convention against Discrimination in Education (1960); Convention on the Elimination of All Forms of Discrimination Against Women (1979); *Declaration on the Elimination of Violence against Women*, resolution 48/104, UN document A/RES/48/104, 23 February 1994; Beijing Declaration and Platform for Action (1995). In July 2010, the United Nations created UN Women, dedicated to gender equality and women's empowerment.
3. See <https://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>.
4. See <https://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>.
5. See <https://www.un.org/womenwatch/daw/csw/GMS.PDF>.
6. Available at <http://hdr.undp.org/en/global-reports>.
7. The eight RECs recognized by the African Union have the following protocols and policies: COMESA Regional Gender Policy (2016), SADC Protocol on Gender and Development (2008, and amended in 2016); East African Community (EAC) Protocol on Gender Equality (1999); ECOWAS Gender Policy (2004) and ECOWAS Supplementary Act Relating to Equality of Rights between Women and Men for Sustainable Development within the ECOWAS Region (2015); Economic Community of Central African States (ECCAS) Gender Action Plan (2020-2030); Intergovernmental Authority on Development (IGAD) Gender Policy Framework (2012-2020) and IGAD Gender Strategy (2016-2020).
8. See <https://www.sadc.int>.
9. The countries that have not yet joined the SADC FTA are the Democratic Republic of the Congo and Comoros. Angola submitted a roadmap to accede to the SADC FTA in 2019.
10. See <https://asycuda.org/en/user-countries>.
11. See <https://archive.uneca.org/implementation-afcfta/pages/about-project>.