

Governance of Integration in Africa: Challenges and Way Forward

I. Background and Context

1. The quest for realizing closer economic integration and closer cooperation dates many decades, before and after the decolonization of the African continent. However, the progress achieved so far, both from a regional and continental perspectives is mixed. At a regional level, both the scope and depth of economic integration varies considerably, with some regional economic communities doing far better than others, in terms of realizing their respective founding treaty objectives.
2. At a continental level, if one assesses progress so far, achieved, in terms of the objectives of both the Abuja Treaty and, indeed the 2000 Constitutive Act of the African Union, more often than not, most key protocols, directives, , regulations and decisions passed by the Assembly of the African Union, are either not ratified, ratified slowly, or not implemented. One explanation for the poor implementation of key decisions and protocols, is that: (i) the key AU organs, such as the AU Commission, Parliament and Court of Justice have not been empowered enough to move the integration process forward; (ii) Member States still have a tendency of clinging to their sovereignty at the expense of achieving Community goals, which would, in fact, be a win-win situation.
3. Cognizant of the challenges highlighted above, it is imperative to examine critically, the key obstacles to realizing Africa's integration objectives, but in the context of the way the process is governed. This task thus requires, one, among other things, to evaluate both the legal and the institutional frameworks underlying the Abuja Treaty and the Constitutive Act of the African Union. Critical to achieving this task is to understand how Member States, regional economic communities (RECs), and indeed the Organs of the African Union such as the AU Commission, Parliament, and Court of Justice inter-relate and enforce Assembly decisions.
4. Among other things, this paper examines how the key principles of sovereignty and subsidiarity have an important bearing on Africa's integration process. Furthermore, the paper also highlights some interesting integration experiences that could be emulated from other regions of the world. The importance of the COMESA-EAC-SADC FTA Tripartite, as was underlined, in the Conference of African Ministers in Charge of Integration that was held in Nairobi, Kenya, in September 2011 is also underscored for possible emulation by other RECs and indeed, regions, in order to energize and accelerate the realization of the African Economic Community (AEC) objectives. This paper also underlines the importance of free movement persons.

5. The paper is organized as follows: *Section II* reviews the governance of Africa's integration process in the context of Abuja Treaty; *Section III* critically analyses the institutional and legal frameworks for the governance of Integration in Africa, by focusing on the main organs of the African Union, namely the: African Union Commission, Pan- African Parliament and African Court of Justice; *Section IV* attempts to explain how the principles of sovereignty and subsidiarity impact integration outcomes; *Section V*, provides some of the major elements of the COMESA-EAC-SADC Tripartite Free Trade Area; *Section VI*, advances the case for free movement of persons, progress registered, as well as challenges; *Section VII*, highlights the key lessons that can be learned from integration arrangements from other parts of the world, notably the European Union and ASEAN; and *Section VIII*, provides a conclusion and way forward.

II. Governance of Integration in Africa in the Context of the Abuja Treaty

6. The Abuja Treaty, which is the treaty establishing the African Economic Community is seen, by many analysts and policymakers, as an important milestone in Africa's integration process, but also as a pertinent factor or instrument for the governance and coordination of the process. Signed on 3 June 1991 and entered into force in May 1994, , the Abuja Treaty changed the form of Africa's integration process by providing for the creation of a Pan-African Parliament, Court of Justice and a Solidarity and Compensation Fund. The Treaty envisions the economic integration of Africa in six notable stages, and one of its key features is that RECs are recognized to be the building blocks of an economically integrated continent.
7. The intended strategy for achieving the key integration objectives, as enshrined in the Abuja Treaty, involves: promoting gradual liberalization of regional and intra-regional trade; coordination and harmonization of activities of all RECs; the establishment of free trade areas (FTA) and a customs unions at REC level; and finally achieving both a monetary and economic union, final stages in the establishment of an African Economic Community.
8. The Abuja Treaty is predicated on various principles in international law governing the relations between Member States and regional organizations, with a wide range of objectives and goals to be accomplished. The key principles and declarations on which the Abuja Treaty was based, include, among others:
 - i. Resolutions and declarations adopted by the OAU Assembly in Algiers in September 1968, in Addis Ababa; in August 1970 and May 1973 which recommended that the

economic integration of the continent is a pre-requisite for the realization of the objectives of the Organization of African Unity;

- ii. A decision taken in Libreville in July 1977 endorsing the Kinshasa Declaration adopted by the Council of Ministers in 1976, concerning the establishment of the African Economic Community; and
 - iii. The Lagos Plan of Action and the Final Act of Lagos of April 1980, which re-affirmed the African Leaders commitment to establish, by the year 2000, an African Economic Community, in order to foster the economic, social and cultural integration of the Continent;
9. In terms content, the preamble to the signing of the Abuja Treaty is a sprawling one, predicated on many grand principles and recommendations from various key meetings of African leaders dating back to the 1960s.
 10. However one question that may be raised, is whether, the objectives and goals of the Treaty can be achieved, put in the context of the existing legal and institutional frameworks, as enshrined in both the Abuja Treaty and the Constitutive Act of the African Union. More importantly, the question is how the AEC could be achieved in a timely fashion, when, in fact, most key provisions, decisions and protocols entered into by Member States are not enforced.
 11. The legal framework for economic integration can be examined from both regional and continental levels. At the regional level, African Member States belong to and are coordinated by regional economic communities. Each of the eight (8) RECs recognized by the African Union has both legal and institutional frameworks for attaining its regional integration objectives, on behalf of its Member States. However, these legal and institutional frameworks differ markedly, in terms of effectiveness, as one compares them from one REC to another.
 12. In terms of content, some of the most important articles stated in the Abuja Treaty which provide framework for governing African integration process are worth examining, in this section.

First, Article 4 (1) states that the objectives of the Community shall be:

- a) To promote economic, social and cultural development and the integration of African economies... for self-reliance [as well as] endogenous and self-sustained development;
- b) To coordinate and harmonize policies among existing and future RECs in order to foster the gradual establishment of the Community.

Article 4 also states that, in order to promote the attainment of the Community as set in paragraph (1), and in accordance with the relevant provisions of this Treaty, the Community shall, by stages, ensure:

- a) the strengthening of existing Regional Economic Communities (RECs) and the establishment of other communities where they do not exist;
- b) the conclusion of agreements aimed at harmonizing and coordinating policies among existing and future sub-regional and regional economic communities.

13. It can also be observed that, whereas there are general undertakings or binding rules spelt out for Member States of the Union for supporting and enforcing continental integration, in Article 5, none exist for RECs, and this is a significant missing link that the Treaty creates.

14. *The second* important aspect of the Abuja Treaty which needs critical examination is that, it adopts a gradual six stage approach to the realization of the AEC, and envisions that the complete journey would take 34 years. The important question is not however, the length of time that this process will take, but the means to realize the goals enshrined in Community Treaty. The absence of robust instruments to make this happen raises some doubts on the relevance of the Abuja Treaty provisions.

15. *Third*, the Abuja Treaty approaches economic integration from the perspective that regional economic communities are the building blocks Africa's integration process. This view is still held by many scholars, analysts and policy-makers even today.

For example, Article 88 (1) of the Abuja Treaty expressly states that:

- a) The Community shall be established mainly through the coordination, harmonization and progressive integration of the activities of regional economic communities;
- b) Member States undertake to promote the co-ordination and harmonization of the integration activities of Regional Economic Communities of which they are members with the activities of the Community, it being understood that the establishment of the latter is the final objective towards which the activities of existing and future regional economic communities shall be geared.

16. For instance, in spite of the fact that, paragraph 3, of Article 88 of the Treaty, stipulates that, the Community shall be entrusted with the coordination, harmonization and evaluation of the activities of existing and future regional economic communities, one may take it that, presently this provision is to a large extent, aspirational. There are several reasons for this.

17. *First*, the institutional framework of Africa's integration process as enshrined in the Abuja Treaty and also the Constitutive Act of the African Union, also involves relationships between regional economic communities and continental organs. However, certain weaknesses in the protocols adopted by RECs have been acknowledged. In certain cases, protocols lack complementarity across RECs, and they take too long to negotiate, and are often not universally signed, ratified and implemented, by Member States. Most importantly, the high number of regional economic communities coupled with the problem of overlapping memberships in these regional economic groupings also brings about coordination problems, especially at a continental level. This problem has indeed motivated many analysts and policymakers to call for the rationalization of the activities and programmes of RECs, which the AU has been working and which culminated in two studies¹ geared towards finding a lasting solution. At the REC level, the issue of rationalization is also being addressed, demonstrated by the EAC-COMESA-SADC Tripartite Arrangement, which it is hoped will be emulated by other RECs.
18. *Second*, another weakness in the legal framework governing economic integration in Africa is the inability of the Abuja Treaty to prevent Member States from belonging to more than one regional economic community. It is widely believed that, in a rationalized system with minimum overlapping memberships and no duplication of activities and programmes, Member States would find it easier to implement provisions of the African Economic Community, than is the case today.
19. From the foregoing, some important conclusions can be made. In the African integration context, the privilege of sovereignty, and efforts to guard it, by Member States, seem to have led to the construction of an institutional structure which is not cohesive, and lacking in supra-national scope. Consequently, the implementation of decisions, declarations and resolutions by Member States remains both slow and poor, because of the underlying legal and institutional frameworks.
20. Furthermore, another striking feature of Africa's governance structure as it relates to integration is the absence of an effective dispute settlement mechanism and limited ceding of power by Member States to supra-national institutions at both regional and continental levels. Thus, although it may be argued that some RECs and indeed at the level of the AU, some dispute settlement systems have been put in place, their effectiveness is questionable.
21. The Abuja Treaty provisions although geared at realizing the AEC, lack effective enforcement mechanisms. Second, the institutional structure of the AU organs and indeed RECs, does not adequately define the manner, in which these key regional and

¹ The two studies are namely: i) the Study on the Rationalization of the Regional Economic Communities, Review of the Abuja Treaty and Adoption of the Minimum Integration Programme; and ii) [Study for the Quantification of Regional Economic Communities \(Recs\) Rationalization Scenarios](#).

continental institutions relate in the areas of formulation, coordination, monitoring and enforcement.

III. Institutional and Legal Frameworks for the Governance of Integration in Africa: AU Commission, Pan African Parliament and African Court of Justice

22. The formal structure of the African Union, which was created on the basis of the former Organization of African Unity (OAU), as is laid out in the Abuja Treaty is as follows:
 - i. The Assembly: Heads of State and Government or their duly accredited representatives.
 - ii. The Executive Council: Composed of Ministers or Authorities designated by the Governments of Member States. The Executive Council is responsible to the Assembly.
 - iii. The Commission: Composed of the Chairperson, the Deputy Chairperson, eight Commissioners and staff members. Each Commissioner is responsible for a portfolio.
 - iv. The Permanent Representatives' Committee: charged with the responsibility of preparing the work for the Executive Council.
 - v. Peace and Security Council (PSC).
 - vi. Pan-African Parliament
 - vii. ECOSOCC: The Economic, Social, and Cultural Council, an advisory organ of different social and professional groups of the Member States of the Union.
 - viii. The Court of Justice.
 - ix. The Specialized Technical Committees (at ministerial level).
 - x. The Financial Institutions are: the African Central Bank, the African Monetary Fund, and the African Investment Bank.

23. The powers of decision, monitoring and enforcement are attributed to the Assembly, which is the political Summit meeting of the Union, even though these powers can be ceded to other organs, as the Abuja Treaty states, in theory. The *African Union Commission*, which is the technical Secretariat for the African Union, in a very limited way, proposes for adoption the AU organs' decisions and regulations.

24. One indication of the limited nature of the nature of the AU Commission is that it is mandated to serve as a technical resource rather than an implementing organ. In practice, the implementation of key decisions is to, a large extent, still in the purview or control of

Member States of the Union. Furthermore, most of the strategic issues to a large extent are still referred to the Council of Ministers, through the Permanent Representatives Council (PRC), composed of African Ambassadors and Representatives of Member States to the African Union. Consequently, any binding obligations passed by the Assembly of the African Union can be enforced by the AU Commission, if only, Member States, through the Executive Council, would be willing to cede some sovereignty to the Secretariat so as to make it a fully function Commission rather than a Secretariat in practice. The same principles apply to the other key organs namely the Pan-African Parliament and the African Court of Justice. The existence of a weak Pan-African Parliament and Court of Justice preclude setting binding rules or even putting in place sanctions on Member States that do not implement Protocols and treaties, at a continental level. However there are plans to give more powers to these organs. At a regional level, although it may be observed that several RECs have established these institutions, in most of the cases they lack effective authority and the necessary resources to implement their mandates.

25. Therefore, establishing institutions is one thing, but making them effective to achieve regional and continental objectives is another. In view of the foregoing, the creation of effective supra-national institutions remains a political hurdle and the transfer of responsibilities and mandates to these institutions has always been contested, in the case of African regional and continental integration process.
26. A deeper look at the organs of the African Union also shows that, for instance, in regard to the Pan-African Parliament, African leaders had a truncated ambition to make it an effective legislative institution, since its nature or powers are watered down. Consider the definitive clause in Article 2 (3) of the Parliament Protocol, which states that:

“The ultimate aim of the Pan-African Parliament shall evolve into an institution with full legislative powers, whose members are elected by universal suffrage. However, until such a time as Member States decide otherwise by an amendment of this Protocol, the Pan-African Parliament shall have consultative and advisory powers only and the members of the Pan-African Parliament shall be appointed as provided for in Article 5 of this Protocol”.

Thus although the Constitutive Act of the African Union reflects a commitment to delegating decision-making powers to the Pan-African Parliament, its subsequent establishment in 2001 introduced a clause which restricts its powers for as long as African Heads of State and Government deem it necessary.

27. Further, Article 2(3) effectively restrains the Parliament from acquiring greater legislative, budgetary and supervisory powers, thereby removing an immediate threat to the principle of state autonomy that many African Heads of State and Government clearly continue to value above the principle of continental political integration.
28. With regard to the African Court of Justice, Article 18 (2) of the Abuja Treaty stipulates that, the Court shall ensure the adherence to law in the interpretation and application of the said Treaty and shall decide on disputes submitted thereto pursuant to this Treaty. Article (19), also states that, the decisions of the Court of Justice shall be binding on Member States and Organs of the Community.
29. Notwithstanding the Treaty provisions, as they relate to the Court, the absence of an effective African Court of Justice with the power to rule on the validity of legislative measures and infringements by the Member States is a significant omission, since decisions cannot be enforced by the former, without influence from the latter. This provision, indeed, dilutes the responsibility and mandate of the Court of Justice.

IV. Sovereignty and Subsidiarity and How they Impact Africa's Integration Process

a. Sovereignty

30. The classical conception of state sovereignty is an absolute one that envisions the State with its rights within its territory unfettered by laws or other constraints and with laws applicable to extra-territorial actions imposed only through its consent or the coercion of other states. Sovereignty here consists of an important element: the competence to pass ultimate and binding decisions on certain matters and the right to delegate this competence to other bodies as the state, including maintaining the right to reclaim it.
31. Although, the importance of sovereignty of Member States is a non-deniable 'right', from a regional and continental perspective, achieving integration objectives requires some ceding of power to the center (i.e., supranational institutions), and therefore, Community goals take precedence over national interests.
32. However, from a basic legal point, 'supra-nationalism', also means that sovereign states agree to abide by norms which are adopted at a higher level of organization. In this vein, both Article 10 and 13 of the Abuja Treaty stipulates, that without prejudice, decisions and regulations shall be binding on Member States, sub-ordinate organs of the Community and RECs.

b. Financing Integration

33. In the context of the African integration process, one of the underlying weaknesses of strengthening regional and continental institutions and ensuring the implementation of integration programmes is that more often than not, they are underfunded. Thus finding an alternative to dependence on contributions from Member States requires some form of automatic mechanism to establish a virtuous cycle of self-providing and sustaining resource generation.
34. The issue of funding deserves attention because the heavy dependence of the organs of the AU and RECs, on Member State assessed contributions, is no longer sustainable if one considers the budgetary gaps currently experienced by the latter in addressing both domestic and international obligations as well as integration projects and programmes. This is crucially important given the ongoing global economic and financial crises, being witnessed and the on-going fiscal consolidation occurring in a number of industrialized countries who are also major financiers of Africa's integration institutions. The experiences in securing and seeking alternative sources of financing from ECOWAS, ECCAS well as recently in EAC, need to be given special attention, as proposed by the AU Commission, in order to advance both regional and continental integration.

c. Non-Implementation of Legal Instruments

Currently, protocols and conventions adopted by the regional economic communities as well as organs of the African Union are hardly signed and/or ratified. Similarly, decisions and declarations are rarely implemented. Some of the reasons that can be advanced to explain this situation are: (i) the existence of a weak institutional framework for the realization of the African Economic Community; (ii) weak enforcement mechanisms for protocols, decisions and resolutions; (iii) limited application of the Abuja Treaty obligations at the level of RECs and into national law; (iv) lack of political will and meaningful involvement of the Member States in realizing regional and continental integration goals, in a timely manner.

d. Subsidiarity

35. In the context of governance of integration, 'subsidiarity', means that, when exercising its powers, the Community must leave Member States, and indeed, RECs, certain responsibilities, which can best be performed by them. The general aim of the principle of subsidiarity is to guarantee a degree of independence for a lower authority in relation to a central authority as well as to give general application to the rule that the means

should be proportional to the ends. In practical terms, subsidiarity means that, when exercising its powers, the Community must, leave Member States, and indeed, RECs, certain responsibilities, which are better performed by them.

36. Respecting subsidiarity is crucial for two reasons: to avoid overloading already scarce sub-regional administrative capacity and resources; and to assure that there is sufficient commitment and trust so that the key sub-regional agencies will be given the authority and the means to implement sub-regional agenda. If these conditions are not fulfilled, the sub-regional effort loses credibility, which in turn risks undermining future integration efforts.

e. Community Law

37. Taking into account the slow, and sometimes, non-implementation of decisions taken by the relevant organs of the Union, it seems more urgent than before to endow and capacitate the latter with a mechanism which ensures the full implementation of the above mentioned decisions through formulation and enforcement of a Community Law. The law formulated should comprise specific norms ranked according to their levels of enforcement by Member States, RECs and other organs of the Union. These may be in the form of decisions, regulations, directives as well as resolutions. In order to build an integrated Community which addresses divergent and specific interests of the parties involved, as is currently the case, Member States have to accept unconditionally, the supremacy of Community Law, in the event of conflict between national and Community law, the former must be set aside.

V. COMESA-EAC-SADC Tripartite Free Trade Area

38. Several studies contend that one of the significant obstacles to Africa's integration process is associated with the prevalence of overlapping memberships. Therefore, the launch of the Tripartite FTA in 2008 between the three (3) regional economic communities, namely COMESA, EAC and SADC is an important achievement for the realization of the African Economic Community. Cognizant of the importance of the establishing the COMESA-EAC-SADC Tripartite FTA, the Fifth Conference of African Ministers in Charge of Integration, held in Nairobi in September 2011, recommended that other RECs emulate it and adopt in their respective regions.
39. The Tripartite FTA has prioritized programmes addressing trade and transport facilitation challenges with the aim of lowering the costs of doing business and improving the competitiveness of products from the COMESA-EAC-SADC FTA Tripartite region.

These programmes also focus on regulatory and policy reforms by encouraging the adoption of international instruments and best practices; national and regional building programmes to facilitate cross-border movement; and enhancement of infrastructure facilities at border posts to enhance cross-border movements.

40. In terms of governing the Tripartite FTA, *the Memorandum of Understanding (MoU) on Inter-Regional Cooperation* signed by the Chairpersons of the three (3) RECs underpins the legal and institutional framework for the *Tripartite Coordination Mechanism* composed of the following key organs:
 - i. Tripartite Summit of the Heads of State and Government, who will meet at least after every two years, and which will be the highest organ;
 - ii. Tripartite Council of Ministers which shall also meet at least after every two years;
 - iii. Tripartite Sectoral Ministerial Committee on Trade, Finance, Customs, Economic Matters and Home/Internal Affairs; a Tripartite Sectoral Committee on Infrastructure; a Tripartite Sectoral Committee on Legal Affairs which shall meet at least once every year;
 - iv. Any other Ministerial Committee, that the Council of Ministers may establish, which shall meet at least once every year;
 - v. Tripartite Committee of Senior Officials and of Experts, which shall meet at least once every year; and
 - vi. Tripartite Task Force of the Secretariats of the three RECs to meet at least twice a year.

41. The MoU further stipulates that each party shall within its Secretariat establish a permanent Unit for the Coordination of the Mechanism for the harmonization of the programmes agreed upon. Furthermore, a REC such as the EAC has already set up a Coordination unit to ensure harmonization of programmes. The Tripartite Task force has undertaken several initiatives for the mobilization of funds in support of the Tripartite activities. Another interesting dimension of the Tripartite FTA is that Summit adopted a decision that supports the merger of the three RECs into a single entity with the objective of fast tracking the realization of the African Economic Community.

42. During the Second Tripartite Summit held in Johannesburg in June 2012, several key decisions were made, namely:
 - i. Launching the negotiations for the establishment of an integrated single market;
 - ii. Adopted a development approach to the Tripartite integration process that will be anchored on three (3) pillars mentioned above, with the objective enhancing connectivity and reducing costs of doing business and industrial development, as well as other productive capacity constraints; and
 - iii. A greed that the Tripartite initiative is a decisive step to achieve the African vision of establishing the African Economic Community envisioned in the Lagos Plan of Action and Final Act of Lagos of 1980, Abuja Treaty of 1991 as well as the resolution of the

African Union Summit held in Gambia in 2006 that directed the AU Commission and the RECs to harmonize and coordinate policies and programmes of RECs as important strategies for rationalization; and to put in place mechanisms to facilitate the process of harmonization and coordination within and among RECs.

The Tripartite Summit also:

- i. Signed the Declaration launching the negotiations for the establishment of the COMESA-EAC-SADC Tripartite;
- ii. Adopted the roadmap for establishing the Tripartite FTA; and
- iii. Adopted the Tripartite FTA Negotiating Principles, processes and Institutional Framework.

VI. Case for Free Movement of Persons and Status of the Implementation of the Relevant Protocol

43. Free movement of persons is one of the major lynchpins of integration. However, although there have been some notable achievements, the progress registered across all the eight (8) RECs remains mixed, despite the existence of legal frameworks and programmes at the regional level. Mobility of people is an essential element of market integration. People are carriers of goods, business and consumer services and knowledge and can effectively tear down policy-induced barriers to trade by carrying these assets with them.
44. Although some RECs have registered significant progress, such in the case of EAC, ECOWAS and North Africa region, in facilitating movement of persons, a number of key challenges still remain. Some of the key factors that are mentioned which act as obstacles for free movement of persons across the eight recognized RECs are many, but they include, among others: (i) absence of effective agreements to facilitate movement of persons across borders; (ii) limited harmonized legislations for ensuring free movement of persons; (iii) border disputes and spillovers from political instability and wars; (4) limited resources, weak public institutions and long land borders; (iv) poor infrastructural and communication links across RECs; (v) regular road blocks within and across borders; (vi) and economic concerns by Member State governments towards, migrants in search of job opportunities.
45. Despite the challenges facing free movement of persons across a number of RECs, substantial progress has been achieved, within certain RECs and regional spaces, including: (i) the introduction of regional passports machine readable identity cards, as is the case in East African Community (EAC) and Economic Community of West African States (ECOWAS); (ii) elimination of rigid border formalities, together with the

modernization of border procedures through the use of passport scanning machines; (iii) removal of unnecessary border posts; and (iv) mutual recognition and harmonization of academic qualifications.

VII. Lessons Learned from other Integration Arrangements

A. European Union

46. The question that we attempt to answer below, is what insights can Africa draw from other integration arrangements in other parts of the world for its integration experience?
47. Today, the European Union is the most advanced form of integration initiative, and for over fifty years, it has outstripped other instances of such integration in terms not only of scope – extending to every area of public policy, including highly sensitive sectors such as defense, monetary policy, and immigration but also to the degree to which Member States have agreed to delegate authority and pool sovereignty in their attempts to work collectively.
48. Under the so-called Community method, Member States were empowered ultimately to decide on legislation in the Council of Ministers. However, inter-state cooperation required an institutional lubricant, a facilitator, hence the creation of the European Commission responsible for preparing and proposing legislation. Under the terms of the founding treaties, the Commission would carry out these tasks independently of the Member States. The Commission was also – and continues to be responsible for checking that laws are enforced, for ensuring, in an impartial way, that Member States respect agreements they sign. Furthermore, the European Parliament and the Court of Justice have seen their powers increase enormously, and they have a lot of clout on integration matters.
49. The EU's commitment to sovereignty for common gains has been cited as key to an integrated Community. On the other hand, Africa pursues integration without yielding sufficient individual sovereignty of Member States. The principles of inter-state relations enshrined in the founding treaties both at regional and continental level reiterate respect for sovereignty, territorial integrity and national identity.
50. Another important lesson for African countries deriving from the EU's successful integration process is the importance of institutional building. European integration, was clearly pushed both by memories of a devastating war and emerging cold war tensions. An appropriate institutional framework, with sufficient powers, is critical to realizing the

objectives enshrined in the AEC. The European Union is a combination of ambitious goals and a step-by-step approach. When the process of integration was launched, the goals were clear – common market, a common agricultural policy, and a common external trade policy. The treaties that set these goals provided for a step-by-step process including a timetable. Thus, although both the negotiation and implementation processes for decisions are often long and tedious, more often than not, the overriding goals for these decisions are never in question. This probably explains, in part why, once a consensus is reached among Member States, implementation is never in doubt.

51. Another important lesson that can be learned from the European experience is that the process and achievement of closer integration can cultivate in Member States the mutual trust that is essential for lasting peace and stability. Indeed, nation states can defend and promote their political and economic interests much more effectively together than separately.
52. Furthermore, Europeans have always taken care to ensure that they pursue regional integration in a win-win manner, that all EU members feel that they are better off inside than outside. The Union has to serve as some kind of problem grinder for the Member States, never rejecting an individual presenting problems, but trying to make that member comfortable by working out solutions.
53. The European Court of Justice was created to fill three limited roles for the Member States namely:
 - i. Ensuring that the Commission and the Council of Ministers did not exceed their authority,
 - ii. Filling in vague aspects of European Community laws through dispute resolution; and
 - iii. Deciding on charges of non-compliance raised by the Commission or by Member States.
54. The key point to make this process widely acceptable and effective was that national courts became agents of the Community order. Thus Community objectives drive and override individual Member States goals and objectives. *Second*, collective decision-making among Member States involves a significant loss of control and power to supra-national institutions.
55. Another organization that is powerful, in terms of clout, is the European Council, which serves as the Summit of the political leaders of the Member States (plus the President of the Commission). The European Council has immense prestige and legitimacy and quasi-legal status as the body which defines ‘general political guidelines’. Most importantly,

this governance framework allows for substantial powers to be enshrined in the European Union Commission, thereby enhancing the realization of the European integration agenda, in a timely fashion.

B. Association of Southeast Asian Nations (ASEAN)

56. Another integration experience that Africa should pay closer attention to is that of ASEAN. The normative base of ASEAN's diplomatic practices, popularly known as the 'ASEAN Way' is the *modus operandi* of ASEAN's governance structure. Rooted firmly in the non-interference principle of the organization, the ASEAN way has arguably become the mandate for regional governance in Southeast Asia. In late 2007 the leaders of the Association of Southeast Asian Nations (ASEAN) signed a Charter which entered into force on 15 December 2008. The ASEAN Charter calls for regional integration on security and could be considered as a good first step to achieving the ASEAN Economic Community (AEC) envisaged by its leaders. The Charter provides greater formal structure and organization to the grouping, which had operated mainly through informal consensus.
57. The ASEAN Community is made up of three pillars, namely the ASEAN Political-Security Community, ASEAN Economic Community and ASEAN Socio-Cultural Community. Each pillar has its own Blueprint, and, together with the Initiative for ASEAN Integration (IAI) Strategic Framework and IAI Work Plan Phase II (2009-2015), they form the Roadmap for the ASEAN Community 2009-2015.
58. The Blueprint is arranged to deepen and strengthen the economic integration, to reduce service link as well as to lessen network set-up costs. Furthermore, the Blueprint identifies 17 "core elements" of the AEC and delineates 176 priority actions to be undertaken within four implementation periods (2008-2009, 2010-2011, 2012-2013, and 2014-2015). However, there are certain goals that are vaguely described. Thus, effective implementation is very important for realizing the AEC.
59. ASEAN operate a scorecard system as a performance measure of its Member States. The AEC Scorecard aims at identifying specific actions that must be undertaken by ASEAN collectively and its Member States individually to establish AEC by 2015. The scorecard is a monitoring and evaluation mechanism for the implementation of the AEC. It provides qualitative and quantitative indications of implementation of ASEAN agreements within the timeframes specified in AEC Blueprint; tracks implementation of measures and achievement of milestones under AEC Strategic Schedule; and provides statistical indicators on ASEAN Economic Community.

60. The ASEAN has eleven (11) Dialogue Partners namely: Australia, Canada, China, EU, India, Japan, Republic of South Korea, New Zealand, Russia, United States, UNDP and one Sectoral Dialogue Partner with Pakistan. The dialogue is structured around various frameworks such as: ASEAN+3, ASEAN+10, ASEAN-Europe Meeting, ASEAN Regional Forum, and East Asia Summit. The cooperation between the ASEAN Member States in the area of peace and security is governed by the Treaty of Amity and Cooperation in South East Asia (1976)

C. Mercosur

61. Mercosur is a regional trade organization between four South American countries: Paraguay, Brazil, Argentina and Uruguay, which was established in on 26 March 1991. It stands for the Common Market for the South. It intends to pursue a European-like integration process and form the basis for a South-American free trade area, but it has not yet fully implemented its customs union.

62. Despite its advances during its 21 years, Mercosur's drive towards commercial liberalization and unified economic space in the Southern Cone has stalled, and perhaps receded since 1999. Moreover, the customs union has no single authority or uniform application, mainly due to economic instability and diverging economic policies. Since the attempt at a customs union in 1995, no substantive advances have been registered in commercial integration; more restrictions were introduced than promises of trade liberalization were realized. The free trade among member countries works more or less on the same basis that was established between 1991 and 1994. The customs union covers a few products than was the case at the beginning; and according to some observers, less than 10 percent of imported items within Mercosur is traded under official rates established by the Common External Tariff (CET). Also hindering it is reduced political commitment to undertake necessary reforms to put the existing working agenda in line with the Treaty of Asuncion's objectives.

63. As a way forward, Mercosur member countries must consolidate their integration process by completion of their customs union, and then establish the tools for a common market. After over 20 years, Mercosur remains what it was at the beginning: a project for a future single market. This goal, which is the very essence of its creation, depends on coordinating macroeconomic policies between member countries and streamlining national policies in strategic sectors. Thus, even macroeconomic convergence targets were approved in 2000 by the Presidents of Mercosur countries, harmonization of the main macroeconomic variables, has had limited progress. For instance, a stable exchange rate has been difficult to achieve in view of the fact that Argentina and Brazil, the most important partners of Mercosur, until recently had different monetary and exchange rate

regimes. More specifically, the devaluation the Brazilian Real in 2001, created more problems for the effective macroeconomic harmonization. Thus, macroeconomic coordination and realization of a monetary union, remains a challenge, under the circumstances..

64. To achieve these objectives, Mercosur has to strengthen its institution – not a simple task, as it touches the heart of the ‘sovereignty instincts’ of each member country. Retreating into national sovereignty still has a powerful attraction. Even with meager achievements so far, this integration arrangement has had important benefits, at least in the realm of politics. Mercosur has turned an area of low mutual confidence and historical rivalries into an area where inter-state violence has been ruled out, international cooperation has become the norm and high tension controversies have ceased to exist. Mercosur has also established a ‘democratic umbrella’ covering its Member States.
65. Economically, Mercosur has also attained initially good results. Intra-regional trade has tripled. What is more remarkable is that the increase has resulted in trade creation rather than trade diversion, since extra-regional trade is augmented. As regards the international dimension, Mercosur has managed to obtain widespread global recognition that would be impossible for Member States to obtain alone.
66. As regards the institutional aspect, Mercosur has taken some steps to create several key organs including: the creation of a Court of Appeal in Asuncion, the transformation of the administrative Secretariat into a technical body with wide competences, and the establishment of the Committee of Permanent Representatives, whose president is entitled to participate in high-level meetings and represent the bloc abroad. From the foregoing, several lessons can be learned by African countries from Mercosur’s integration experiences.
67. *First*, African countries need to accept the fact that setting macroeconomic convergence targets , although a good step in the right direction (as some RECs have done) is not a sufficient condition for ensuring macroeconomic coordination, under regimes whereby monetary and exchange policies are at variance. It also be emphasized that the process of regional integration, and achieving a customs union, common market and monetary unification is length and complex. Their successful implementation requires strong and sustainable leadership.
68. *Second*, deepening of both regional and continental integration calls for an effective institutional framework, with a Secretariat endowed with supra-national powers in key

areas: (i) control over initiation of new proposals; (ii) budgetary discretion; (iii) making Member States to account (including powers to make them implement decisions taken).

69. *Third*, regional and continental integration needs formal and informal agreements, but as they proceed, rules-bound procedures based on publicly defined principles should increasingly prevail over informal settlements among Member States.

70. *Fourth*, regional and continental integration requires leadership actors, in form of Member States) who are capable of taking initiative and willing to pay a disproportionate share of the cost. In the case of Mercosur, Brazil has supported and been decisive in leading this regional body – thanks to its economic might.

VIII. Conclusions and Suggested Way Forward

71. This paper has critically examined several key issues surrounding governance of integration in Africa and briefly highlights some key conclusions and suggestions as a way forward.

72. In the African integration context, the privilege of sovereignty, and efforts to guard it, seem to have led to the construction of an organizational structure which is not that cohesive, and lacking in supranational scope. With key AU organs and, indeed RECs lacking decision-making power as national sovereignty continues to take precedence over the achievement of regional and continental objectives, it is not clear how the African Economic Community can be achieved, in a timely fashion.

73. Consequently, the implementation of key decisions and protocols by Member States remains slow and poor, because of the underlying weaknesses existing in legal and institutional frameworks that do not enforce compliance. Because policies outcomes deriving from AU decisions remain modest, African governments, as well as regional and continental institutions need to step up their collective energies by hastening the pace, scope and implementation of integration agreements and decisions, while also engaging constantly with key stakeholders, including the private sector, civil society, and indeed, the African citizenry. Thus, for integration and integration institutions to succeed and indeed make, African peoples beyond governmental and institutional technocrats, must

begin to feel a sense of ownership of Africa's integration agenda through rigorous sensitization and inclusion in key decision-making processes.

74. This also relates to the absence of a robust and effective dispute settlement mechanism and Member States reluctance to cede power key AU organs including the AU Commission, Parliament and Court of Justice. Connected to this pertinent issue is the fact that limited resources, both technical and financial, continue to constrain the effectiveness of these key organs, and indeed RECs. Therefore, these organs have been given limited powers to make a meaningful impact on Africa's integration landscape. Indeed, the key protocols that establish these institutions introduced clauses which restrict their powers for as long as African Heads of State and Government deem it necessary.
75. Therefore, as a way forward, the importance of resourcing key AU organs as well as delegating and enhancing their authority to implement key AU decisions, while also strengthening their credibility cannot be overemphasized, in order to accelerate Africa's integration process.
76. Furthermore, respecting the principles of subsidiarity and ceding some power by Member States to supra-national institutions can be greatly beneficial to realizing Africa's integration objectives. A number of actions need to be reconciled and these include: (i) importance of ensuring that decisions made in support of building the Community are enforced at all levels by the parties involved; and (ii) good intentions must be translated into binding commitments both at the level of RECs and the African Union. More importantly, given the slow implementation of AU decisions, the importance of putting in place an effective and strict mechanism for compliance and strict enforcement of these decisions into Community law cannot be overemphasized. The strict implementation of key decisions should be incorporated as a norm across, AU organs and RECs.
77. It is also observed that COMESA-EAC-SADC Tripartite FTA initiative is a decisive step to achieve the African vision of establishing the African Economic Community and, should be expected to play an important role in address the perennial problem of overlapping memberships in RECs by member States. The importance of this noble initiative being emulated by other regions of Africa cannot be overemphasized. Therefore, understanding the mechanics involved in realizing the African Economic Community, while also encouraging other RECs and indeed, regions the COMESA-EAC-SADC Tripartite FTA initiative is critical. The AU and its RECs should establish cooperation arrangements and undertake experience learning exercises with other successful integration arrangement beyond that of the EU, this would also help to foster stronger South-South cooperation.

78. The study also observes that free movement of persons is an integral part of the successful regional and continental integration. However, many challenges still exist regarding the reluctance of some Member States to implement the protocol, aside from other key obstacles, including absence of necessary infrastructure and communications, insecurity, in certain RECs.
79. While the attainment AEC will require much more extensive commitment by all key stakeholders, it can become a reality and to the benefit of all, if African leaders have the political will to see through.

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