

Assessment of the potential impact of the African Continental Free Trade Area on the right to food security of small-scale farmers and vulnerable groups

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ABSTRACT: The African Continental Free Trade Area (AfCFTA) presents opportunities but also risks for food security of vulnerable groups and small-scale farmers. Increased intra-African trade could improve efficiency, lower costs, and boost food availability. However, more imports may displace local production by smallholders who struggle to compete, worsening hunger and eroding food sovereignty. Policies prioritising exports or imports over domestic farming can reduce control of food systems and increase reliance on foreign sources for food. The right to food security is recognised under international and African human rights instruments. The AU's Malabo Declaration aims to spur agricultural development and food security access across Africa. This article analyses AfCFTA's potential impact on smallholders' and vulnerable groups' right to food security. It identifies possible benefits and risks of greater agricultural trade and examines how policies could undermine food sovereignty and security. The article outlines policy recommendations to mitigate potential adverse effects of AfCFTA on food security. It argues that targeted policies and investments are needed to safeguard vulnerable groups. The doctrinal analysis reviews applicable rules and literature to elucidate AfCFTA's nuanced impacts on food security and inform policy making. Recommended collaborative efforts involve subsidies, microloans, extension services, infrastructure, and public-private finance partnerships to support smallholders. Additional policies include strengthening land rights and gender equality, upholding seed protections, leveraging AfCFTA safeguards, pursuing deeper integration, and combining trade reforms with transport upgrades. Holistic, tailored approaches suiting countries' diverse contexts are required, not one-size-fits-all solutions. Strategic policies and investments empowering farmers, building resilience, and enabling inclusive agricultural development can help vulnerable populations seize AfCFTA opportunities.

TITRE ET RÉSUMÉ EN FRANÇAIS:

Évaluation de l'impact potentiel de la zone de libre-échange continentale africaine sur le droit à la sécurité alimentaire des petits exploitants agricoles et des groupes vulnérables

RÉSUMÉ: Cette contribution formule des recommandations de politiques visant à atténuer les effets négatifs potentiels de la Zone de libre-échange continentale africaine (ZLECAF) sur la sécurité alimentaire. La contribution relève que des politiques et des investissements ciblés sont nécessaires pour protéger les groupes vulnérables. Grâce à la technique juridique, la contribution analyse les règles

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applicables. Elle analyse, par ailleurs, la doctrine afin d'élucider les impacts nuancés de la ZLECAf sur la sécurité alimentaire et d'éclairer l'élaboration des politiques. Les efforts de collaboration recommandés concernent les subventions, les microcrédits, les services de vulgarisation, les infrastructures et les partenariats financiers public-privé pour soutenir les petits exploitants. Les politiques supplémentaires comprennent le renforcement des droits fonciers et de l'égalité des sexes, le maintien de la protection des semences, l'exploitation des garanties de la ZLECAf, la poursuite d'une intégration plus poussée et la combinaison des réformes commerciales avec la modernisation des transports. Il est nécessaire d'adopter des approches globales et personnalisées adaptées aux contextes de chaque pays, et non pas des solutions uniques. Des politiques et des investissements stratégiques permettant aux agriculteurs de se prendre en charge, de renforcer leur résilience et de favoriser un développement agricole inclusif peuvent aider les populations vulnérables à saisir les opportunités offertes par la ZLECAf.

KEY WORDS: African Continental Free Trade Area Agreement, food security, small-scale farmers, vulnerable groups, agricultural trade liberalisation, right to food, food sovereignty, sustainable agriculture

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1 INTRODUCTION

Africa has a long history of regional integration, dating back to the early twentieth century. The South African Customs Union was formed in 1910, followed by the East African customs union in 1917.¹ Since then, the continent has seen the formation of numerous economic communities and, currently, there are 14 overlapping regional economic communities (RECs) in Africa.² Every country in Africa is a member of at least one regional economic community, with some countries belonging to multiple communities.³ The African Union (AU) Commission recognises eight of these communities as building blocks of the African Economic Community, which aims to establish a continental customs union and eventually an economic and monetary union.⁴

The historical context of trade agreements and food security may broadly be divided into colonial and post-colonial developments. During colonialism, colonial powers focused on extracting resources including food from colonies through mercantilist trade networks that

1 FN Tegebu & EH Seid 'Effects of regional trade agreements on strategic agricultural trade in Africa and its implications to food security: evidence from gravity model estimation' (2019) 9 *Theoretical Economics Letters* 536-537.

2 As above.

3 As above.

4 As above.

primarily benefited home industries, with no formal agreements. This encouraged cash crops for export over local food production, adversely impacting food security. Following World War II, the post-colonial period saw the emergence of multilateral agreements such as GATT in 1947 aimed at reducing trade barriers, including in agriculture. However, tariff reductions and increased competition in this sector meant farmers in developing countries often faced livelihood and food security issues as they struggled against market pressures.

The implementation of the African Continental Free Trade Area (AfCFTA) has the potential to create a single market for goods and services across the African continent, which could lead to increased trade and economic growth. AfCFTA entered into force on 30 May 2019. Currently 46 states have ratified the treaty. Trade under AfCFTA commenced on 1 January 2022.⁵ It is the largest free trade area, bringing together 54 countries and eight RECs.⁶ Eritrea is the only country that has not yet signed the treaty.

While the vision for the creation of a continental-wide economic community was set in the Abuja Treaty of 1991, concrete steps were taken in 2012 when the AU Commission approved the establishment of a pan-African free trade area. While the AfCFTA breaks new important ground, it is important to remember that there are already eight RECs in Africa that have laid the groundwork for regional integration.⁷

Benefits of free trade have been widely discussed and acknowledged.⁸ Simola and others list a number of indirect benefits in addition to 'static first order effects' of allowing countries to better exploit their comparative advantage and reducing dead weight losses occasioned by trade restrictions.⁹ These indirect benefits, among others, include increased productivity growth, economies of scale, access to better technologies, rationalisation gains, improved price signals and restraint on government corruption.¹⁰ Grant and Lambert, who studied the effects of eight regional trade agreements (RTAs) on nine specific agricultural commodities between 1985 and 2002 found

5 As above.

6 About the AfCFTA, Brief Overview, [https://au-afcfta.org/about/#:~:text=The per cent20AfCFTA per cent20is per cent20one per cent20of,and per cent20boost per cent20intra per cent20Africa per cent20trade](https://au-afcfta.org/about/#:~:text=The%20AfCFTA%20is%20one%20of,and%20boost%20intra%20Africa%20trade) (accessed 20 July 2023).

7 These regional agreements are the Common Market East and South Africa (COMESA), composed of 21 countries; the Eastern African Community (EAC) composed of five countries; the Southern African Development Community (SADC), composed of 16 countries; the Economic Community of West African States (ECOWAS), composed of 15 countries; the Economic Community of Central African States (ECCAS) composed of 11 countries; the Intergovernmental Authority on Development (IGAD), composed of seven countries; the Arab Maghreb Union (AMU), composed of five countries; the Community of Sahel-Saharan States (CENSAD), composed of six countries.

8 A Simola and others 'Economic integration and food security: the case of the AfCFTA' (2022) 35 *Global Food Security* 1.

9 As above.

10 As above.

that RTAs are an effective way to promote multilateral free trade as they are trade creating.¹¹

Likewise, researchers have projected that AfCFTA has a positive impact of increasing intra-African trade by 528 per cent by 2030 and 922 per cent by 2050.¹² They also find that food security improves in aggregate concurrently with income gains.¹³ However, they note, in particular:

Food prices, and especially cereal prices increase in most of the regions, which can negatively affect the food security of the lowest income households and households, who are employed by import-competing industries. In some regions food prices increase more than wages, which is an indicator of food becoming less affordable for some consumer groups.¹⁴

This shift is likely to have a significant impact on the poorest households, necessitating policy intervention. Hence, as highlighted above, while the overall positive impact of AfCFTA is widely acknowledged, there are significant issues to consider regarding the impact it will have on the food security of small-scale farmers and vulnerable groups. Understanding these issues is important for the implementation of tailored and targeted policies and legal frameworks to cushion these groups from an otherwise adverse impact of the implementation of AfCFTA. This article aims to analyse the potential impact of AfCFTA on food security for small-scale farmers and vulnerable groups.

2 FOOD SECURITY

As will be shown in the next paragraphs, food security is important in ensuring that all individuals get access to sufficient, safe, and nutritious food to lead a healthy and active life. These individual benefits have a flow-on effect of accelerating the socio-economic development of a country. The definition of food security has gone through several iterations and has evolved over time. A 2003 Food and Agricultural Organisation (FAO) report noted that even a decade before the publication of this report, there were at least 200 definitions of food security in published writings.¹⁵ Food security as a concept originated in the mid-1970s and has since gone through several changes.¹⁶ Initially, it focused on the volume and stability of food supplies.¹⁷ It was

11 Literature reviewed in M Ward and others 'South Asian Free Trade Area and food trade: implications for regional food security' ECONSTOR, Working Paper 148/2020 8, <https://www.econstor.eu/bitstream/10419/224943/1/1733851682.pdf> (accessed 20 July 2023).

12 C Janssens and others 'A sustainable future for Africa through continental free trade and agricultural development' (2022) 3 *Nat Food* 608-618, <https://doi.org/10.1038/s43016-022-00572-1> (accessed 20 July 2020).

13 Simola and others (n 8) 7.

14 As above.

15 FAO *Trade reforms and food security: conceptualising the linkages* (2003) 25, <https://www.fao.org/3/y4671e/y4671e.pdf> (accessed 20 July 2023).

16 FAO (n 15) 26.

17 As above.

later expanded to include access to food by vulnerable people.¹⁸ In 1986 the World Bank in its report 'Poverty and Hunger' introduced the distinction between chronic and transitory food insecurity, with chronic food insecurity associated with ongoing poverty and low incomes, and transitory food insecurity caused by natural disasters, economic collapse, or conflict.¹⁹ By the mid-1990s food security encompassed not only sufficient food but also food safety, nutritional balance, and consideration of food preferences. The construct of human security, which includes food security, was promoted in the UNDP Human Development Report.²⁰ The 1996 World Food Summit defined food security as when all people have access to sufficient, safe, and nutritious food to meet their dietary needs and preferences.²¹

Along the way, the notion of household entitlement to food came to be widely used to investigate issues related to both food security and nutrition.²² The concept of entitlements, focusing on the rights of individuals, households and vulnerable groups was influenced by Amartya Sen in his ground-breaking work on poverty and famines.²³ Sen's conceptions will be examined below. While the international community has accepted broad goals related to food security, practical responses have often focused on narrower objectives, such as poverty reduction.²⁴ Food security ultimately relates to individuals' nutritional status, with vulnerability being a key concern.²⁵ Household food security extends this concept to the family level.²⁶ Food insecurity occurs when people lack adequate access to food.²⁷

Currently, there is a wide consensus that the notion of food security has four pillars: 'Food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life.'²⁸

18 As above.

19 World Bank *Poverty and hunger: Issues and options for food security in developing countries* (1986) Washington DC 1-4, <https://documents1.worldbank.org/curated/en/166331467990005748/pdf/multi-page.pdf> (accessed 20 July 2023).

20 UNDP *Human Development Report 1994* (1994).

21 FAO *Rome Declaration on World Food Security and World Food Summit Plan of Action*. World Food Summit 13-17 November 1996.

22 FAO *Trade reforms and food security: Conceptualising the linkages* (2003) 10, <https://www.fao.org/3/y4671e/y4671e.pdf> (accessed 20 July 2023).

23 FAO (n 15) 28.

24 As above.

25 FAO (n 15) 29.

26 As above.

27 As above.

28 FAO *The state of food insecurity in the world 2001* (2001), <https://www.fao.org/3/y1500e/y1500e00.htm> (accessed 20 July 2023); see also the World Bank's definition of food security: *What is food security?* [https://www.worldbank.org/en/topic/agriculture/brief/food-security-update/what-is-food-security#:~:text=Based per cent20on per cent20the per cent201996 per cent20World,an per cent20active per cent20and per cent20healthy per cent20life](https://www.worldbank.org/en/topic/agriculture/brief/food-security-update/what-is-food-security#:~:text=Based%20on%20the%201996%20World,an%20active%20and%20healthy%20life) (accessed 20 July 2023).

Measurements linked to the four commonly recognised pillars of food security usually concentrate on both food and nutrition-specific data, like rates of malnutrition, food costs, and the nutritional value and variety of foods.²⁹ They also consider wider data that can serve as an indicator for food insecurity, including household earnings, possessions, spending, and personal perceptions.³⁰

While these are important pillars, they do not represent the only considerations. For example, some researchers, going beyond the four pillars, find agency to be one of the cogs in the wheel. They define agency as ‘the capacity of individuals and groups to exercise a degree of control over their own circumstances and to provide meaningful input into governance processes’.³¹

Agency underscores the significance of process-oriented aspects like the ability of individuals and communities to make significant decisions about, and be actively involved in, food systems on their own terms.³² This allows them to be free from hunger and related hardships.³³

An emphasis on agency acknowledges that societal structural inequalities and power imbalances – due to gender, race, literacy, or other factors – can hinder individual and community participation in food system decisions, potentially compromising food security.³⁴ Improved agency at the individual level boosts autonomy and control over participation in food systems, ensuring access to culturally acceptable food and livelihoods, upholding human dignity, and reducing hunger fears.³⁵ Strengthened collective agency at the community level, through increased involvement in shaping food and agriculture development projects and food system governance, leads to improved food security and nutritional results.³⁶

A related concept is that of food sovereignty. It represents the idea that people have the right ‘to define their own food systems to ensure their own livelihoods and access to culturally appropriate foods’.³⁷ It is true to say that food sovereignty is a precondition for food security and both concepts are complementary.³⁸

Apart from agency and food sovereignty, there is the additional notion of sustainability which is relevant to food security.³⁹

29 J Clapp and others ‘The case for a six-dimensional food security framework’ (2022) 106 *Food Policy* 6 citing JB Upton and others ‘Food security as resilience: reconciling definition and measurement’ (2016) 47 *Agricultural Economics* 135-147.

30 As above.

31 Clapp and others (n 29) 3.

32 Clapp and others (n 29) 4.

33 As above.

34 As above.

35 As above.

36 As above.

37 As above.

38 As above.

39 Clapp and others (n 29) 5.

Sustainability refers to ‘food system practices that contribute to long-term regeneration of natural, social, and economic systems, ensuring the food needs of the present generations are met without compromising food needs of future generations’.⁴⁰ Researchers distinguish sustainability from stability, which is one of the pillars of food security. Accordingly, stability considers short-term disruptions like market changes, conflicts, and natural disasters that could jeopardise immediate food security.⁴¹ However, sustainability focuses on the links between ecosystems, livelihoods, society, and political economy to preserve food systems and support long-term food security.⁴²

In this connection, it is important to note that AfCFTA makes a reference to sustainable development as one of its objectives. Thus, it aims to promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the state parties.⁴³ In its Preamble it also recognises state parties’ right to regulate and introduce new rules for services supply within their territories to meet national policy objectives like competitiveness, consumer protection, and sustainable development.⁴⁴ This right must be exercised without compromising consumer and environmental protection and overall sustainability.⁴⁵ While it is too early to conclusively conclude whether the AfCFTA would lead to sustainable development, there already exists research that purports to analyse the potential outcomes of AfCFTA in terms of sustainable development. For example, Quartey, using data from the World Bank and AfCFTA Secretariat to assess the welfare effects of AfCFTA on deforestation, solid waste management, and climate change adaptation, concluded that the environmental damage resulting from AfCFTA is estimated to be US \$744.71 billion, surpassing the projected benefits of US,\$450 billion by 2035.⁴⁶ Based on this finding, Quartey underscores the need for a fully operational plan to offset the environmental damage and achieve sustainable development.⁴⁷

Theoretically, while trade has the potential to affect food security pillars, ‘there is relatively little empirical evidence on the impacts of changes in the trading environment on measures of food security explicitly’.⁴⁸ The study by Jha and Srinivasan examines the impact of

40 HLPE *Food security and nutrition: building a global narrative towards 2030* (2020), <http://www.fao.org/3/ca9731en/ca9731en.pdf> (accessed 20 July 2023).

41 HLPE (n 40) 4.

42 As above.

43 Agreement Establishing the African Continental Free Trade Area art 3(e) 21 March 2018 (58) ILM 1028 (AfCFTA).

44 AfCFTA (n 43) Preamble.

45 As above.

46 JD Quartey ‘Africa’s continental free trade and sustainable development: an economic assessment’ (2023) 5(1) *Management and Economics Research Journal* 15-44.

47 Quartey (n 46) 15.

48 H Lloyd-Ellis & A Nordstron ‘Trade, poverty and food security: a survey of recent research and its implications for East Africa’ *Queen’s Economics Department Working Paper* 1460 20.

liberalised trade on food inventory policies.⁴⁹ The study found that liberalised trade can lead to increased food imports and decreased food self-sufficiency.⁵⁰ Santos-Paulino and Thirlwall examined the impact of trade liberalisation on developing countries and found that trade liberalisation can lead to increased exports and imports, but may also negatively impact the balance of payments.⁵¹ McCorriston and others also examined the impact of agricultural trade liberalisation on food security and found mixed results, with some countries experiencing increased food security and others experiencing decreased food security.⁵²

Another framework for looking at food security is by considering Amartya Sen's concept of entitlements. Entitlement introduces an ethical and human rights dimension to the discussion of food security, a discussion which has previously been given a narrow definition, a little more than a proxy for chronic poverty.⁵³ According to Sen, the entitlement approach 'concentrates on the ability of people to command food through the legal means available in the society, including the use of production possibilities, trade opportunities, entitlements relating to the state, and other methods of acquiring food'.⁵⁴ There are four types of entitlements outlined in Sen's work: trade-based, production-based, own-labour, and inheritance/transfer entitlements that determine what one is entitled to own based on trade, production using owned resources, one's own labour power, and gifts from others.⁵⁵ Sen applied this framework to analyse famine, starvation, poverty, and food security issues by situating them on a continuum where famine and starvation represent the extremes.

The rights-based approach is yet another framework that may be used to examine food security. Food security and the right to food are interrelated concepts. The 1948 Universal Declaration of Human Rights is the first international human rights instrument to acknowledge the right to food in its article 25. The right obtained strong legal backing in article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). General Comment 12 of the Committee on Economic, Social and Cultural Rights (ESCR Committee) elaborates on what the right to food entails in concrete terms.⁵⁶

The right to food security is a fundamental human right as acknowledged by the interpretation of regional instruments such as the

49 S Friel and others 'The nexus between international trade, food systems, malnutrition and climate change' (2020) 1 *Nature Food* 51-58.

50 As above.

51 As above.

52 As above.

53 FAO (n 28) 34.

54 A Sen *Poverty and famines: an essay on entitlement and deprivation* (1983) 45.

55 Sen (n 54) 2.

56 ECOSOC, Committee on Economic, Social and Cultural Rights 'Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights: General Comment 12 – the right to adequate food (art 11), E/C. 12/1999/5, 12 May 1999.

African Charter on Human and Peoples' Rights (African Charter).⁵⁷ Although the African Charter does not mention the right to food, the African Commission on Human and Peoples' Rights (African Commission) concluded that the right to food must be read into the right to dignity and other rights.⁵⁸

The AU's Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods also makes several recommendations towards achieving food security in the continent.⁵⁹ These instruments aim to promote agricultural development and food security across the continent and ensure that all individuals have access to safe, nutritious, and culturally appropriate food.

3 SMALE-SCALE FARMERS AND VULNERABLE GROUPS

Small-scale farmers are those who manage land holdings varying from less than one hectare to 10 hectares.⁶⁰ In Africa, small-scale farms number around 33 million and contribute up to 90 per cent of the food supply in some sub-Saharan African countries.⁶¹ The overall contribution of small-scale farmers to continental food production is estimated at 70 per cent.⁶² The smallest farms on average are found in Africa and Asia and in these two regions the vast majority of farming is done on farms of less than 1 hectare.⁶³

In 2021 the percentage of the undernourished in Africa was at 20,2 per cent.⁶⁴ Regionally, the highest rates of the undernourished are

- 57 *Social and Economic Rights Action Centre (SERAC) & Another v Nigeria* (2001) AHRLR 60 (ACHPR 2001) para 65 cited in C Heyns 'The African regional human rights system: the African Charter' (2004) 108 *Dickinson Law Review* 691.
- 58 As above. See also C Mbazira 'Reading the right to food into the African Charter on Human and Peoples' Rights' (2004) 5 *Economic and Social Rights in South Africa Review*, https://journals.co.za/doi/pdf/10.10520/AJA1684260X_71 (accessed 21 July 2023).
- 59 AU, Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods, 2014, https://archives.au.int/bitstream/handle/123456789/5527/Malabo_declaration_2014_11_2631247-doc.pdf?sequence=1&isAllowed=y (accessed 21 July 2023).
- 60 FAO Smallholders and family farmers factsheet, https://www.fao.org/fileadmin/templates/nr/sustainability_pathways/docs/Factsheet_SMALLHOLDERS.pdf (accessed 20 July 2023).
- 61 FAO Family farming knowledge platform, <https://www.fao.org/family-farming/detail/en/c/289255/> (accessed 20 July 2023).
- 62 As above.
- 63 J von Braun 'Small-scale farmers in liberalised trade environment' in T Huvio and others (eds) *Small-scale farmers in liberalised trade environment Proceedings of the seminar in October 2004 in Haikko Finland* (2005) University of Helsinki 25, <https://helda.helsinki.fi/bitstream/handle/1975/683/Pub38.pdf?sequence=1#page=23> (accessed 20 July 2023).
- 64 The State of Food Security and Nutrition in the World 2022, <https://www.fao.org/3/cc0639en/online/sofi-2022/food-security-nutrition-indicators.html> (accessed 20 July 2023).

to be found in middle Africa at 32,8 per cent, followed by Eastern African 29,8 per cent; Southern Africa (9,2 per cent); Western Africa (13,9 per cent).⁶⁵ In 2019–2020 there was an overall jump of more than 2 per cent in Africa under the shadow of the COVID-19 pandemic.⁶⁶

Vulnerability refers to the full range of factors that place people at risk of becoming food insecure.⁶⁷ The degree of vulnerability of an individual, household or group of persons is determined by their exposure to the risk factors and their ability to cope with or withstand stressful situations.⁶⁸

A study by FAO identifies vulnerable households as constituting three groups.⁶⁹ The first group includes inherently vulnerable households while the second comprises those vulnerable to economic shocks, and the third has unstable income and resources. To identify vulnerable households, their resources are often compared to an established poverty line to gauge if their income and assets fall below it.

Once vulnerable groups are identified, the second step in identifying the vulnerable or poor is to determine their household characteristics, including location (rural or urban, small, or large village, remote or near capital city), composition (size, age, dependency ratios, male or female head), and sources of income (production, employment, trade, remittances, and other transfers).⁷⁰

In Africa's context, we can identify the following as a non-exhaustive list of vulnerable groups. These include small-scale farmers, women, youth, pastoralists, indigenous and marginalised groups, the urban poor, and people living in conflict areas.

Small-scale farmers produce up to 80 per cent of the food consumed in Africa and Asia, although these farms account for only 12 per cent of the world's farmland.⁷¹ Yet they face the challenges of limited farm size, restricted access to financial services, climate change, price volatility, and inadequate access to modern markets.⁷² Small-scale farms are a major source of employment. In 2023, according to an ILO estimate, in Africa, 50 per cent of the total work force, and 52 per cent of which are women, are employed in the rural agricultural sector which are almost small scale in nature.⁷³

Given the diversity of vulnerable groups and small-scale farmers, it is important that any policy intervention to mitigate the impact of

65 As above.

66 As above.

67 FAO (n 28) 9.

68 As above.

69 FAO (n 28) 9–10.

70 FAO (n 28) 10.

71 S Fan & C Rue 'The role of smallholder farms in a changing world' in G Paloma and others (eds) *The role of smallholder farms in food and nutrition security* 2020 13.

72 Fan & Rue (n 71) 14.

73 ILO 'Africa's employment landscape', <https://ilostat.ilo.org/africas-changing-employment-landscape/> (accessed 6 September 2023).

AfCFTA, consider the specific circumstances of these groups. AfCFTA already recognises some of these groups given that the AfCFTA Secretariat is working on the development of the AfCFTA Protocol on Women and Youth in Trade, in line with the commitment of African leaders to broaden inclusiveness in the operation of the AfCFTA.⁷⁴ This is based on the Assembly of the Heads of State and Government of the AU's commitment to enhance inclusivity in the functioning of the AfCFTA.⁷⁵ This commitment involves implementing measures that support the youth, women, and SMEs, while also integrating informal cross-border traders into the formal economy through the simplified trade regime.⁷⁶

4 THE AFRICAN CONTINENTAL FREE TRADE AREA

4.1 Overview and objectives

The relevant AfCFTA instruments for agriculture are the main agreement, Protocols on Trade in Goods and Trade in Services. In addition, the annexed AfCFTA state party schedule of concessions will form part of the applicable agreement to trade in agricultural goods and services. At this stage there is no separate agreement on Agriculture unlike the World Trade Organisation (WTO) Agreement. The AfCFTA aims to create a single market for goods and services across Africa to promote intra-African trade. It also seeks to improve harmonisation of trade policies between RECs and across the continent more broadly to help integrate Africa's economy.⁷⁷ Of relevance to the topic of this research contribution, AfCFTA aims to promote agricultural development and food security.⁷⁸ AfCFTA in its fifth objective stresses the importance of promoting and attaining sustainable and inclusive socio-economic development, gender equality and structural transformation of the state parties.

4.2 Potential benefits of AfCFTA to food security

Policy debates in Africa regarding agricultural market organisations remain contentious, with many governments questioning the effectiveness of market liberalisation and advocating for state intervention to achieve food security.⁷⁹ The academic literature is

74 AfCFTA 'Women and Youth in Trade', <https://au-afcfta.org/trade-areas/women-in-trade/> (accessed 20 July 2023).

75 As above.

76 As above.

77 'CFTA- Continental Free Trade Area', <https://au.int/en/ti/cfta/about> (accessed 20 July 2023).

78 AfCFTA (n 49) Preamble and art 3(g).

79 FAO (n 28) 165.

divided, with some scholars arguing that market reform supports agricultural growth and food security, while others attribute the poor results to inadequate attention to institutional foundations and infrastructure.⁸⁰

Market reforms at the domestic level in Africa can have a positive impact on consumers, millers, traders, and producers by increasing competition and reducing costs and risks.⁸¹ According to a study by the United Nations (UN) Economic Commission for Africa, the AfCFTA is expected to significantly boost trade within Africa.⁸² It is projected to increase the value of intra-African trade by 15 to 25 per cent (between \$50 billion and \$70 billion by 2040), depending on the level of liberalisation efforts.⁸³ Simply removing tariffs on goods could increase the share of intra-African trade by nearly 40 per cent to over 50 per cent between 2020 and 2040.⁸⁴

The AfCFTA is expected to have a significant impact on intra-African trade, particularly in industrial sectors. In 2040, with the implementation of the AfCFTA, trade in industrial products within Africa could increase by 25 to 30 per cent (between \$36 billion and \$44 billion), depending on the level of liberalisation.⁸⁵ Similarly, trade in agriculture and food products could increase by 20 to 30 per cent (between \$9,5 billion and \$17 billion, while energy and mining products could see a growth of 5 to 11 per cent (between \$4.5 billion and \$9 billion).⁸⁶ This offers valuable opportunities for industrialisation through trade within the continent.

The AfCFTA agreement is expected to increase regional output and productivity, leading to a redistribution of resources across sectors and countries.⁸⁷ By 2035, total production in Africa would be significantly higher, with the services sector experiencing the most gains, followed by manufacturing and natural resources.⁸⁸ However, agriculture is projected to decline in output, except for North Africa, which is shifting towards manufacturing and services under AfCFTA.⁸⁹

AfCFTA aims to attract more foreign direct investment (FDI) into Africa. Increased FDI can bring in new technologies, managerial expertise, and capital, which can help upgrade and modernise value

80 As above.

81 FAO (n 28) 175.

82 UNECA 'An empirical assessment of the African Continental Free Trade Area modalities on goods' (November 2018) 3, https://archive.uneca.org/sites/default/files/PublicationFiles/brief_assessment_of_afcfta_modalities_eng_nov18.pdf (accessed 20 July 2023).

83 As above.

84 As above.

85 As above.

86 As above.

87 World Bank 'The African continental free trade area: Economic and distributional effects' (2020) 5, <https://openknowledge.worldbank.org/server/api/core/bitstreams/ef1aa41f-60de-5bd2-a63e-75f2c3ff0f43/content> (accessed 20 July 2023).

88 As above.

89 As above.

chains.⁹⁰ It can also facilitate the transfer of knowledge and best practices, supporting the development of local industries.

The above projections do not mean that every region or every country in each region in Africa would reap similar benefits. For example, an empirical simulated study of the impact of AfCFTA in grains trade in SADC Region found that 'AfCFTA will only lead to positive outcomes in four (Angola, the Democratic Republic of Congo, Madagascar and Namibia) of the fifteen SADC countries, with the rest remaining unchanged'.⁹¹ This is because 'previously closed economies, such as economies which were not part of a free trade agreement (FTA) or a deeper arrangement, will stand to gain more than open economies because they are already opened up at the free trade level, which is equivalent to the AfCFTA'.⁹² It, thus, concluded that 'as far as cereals and food security is concerned, the AfCFTA will add minimal value'.⁹³

4.3 Potential challenges and risks to food security

The implementation of the AfCFTA brings immense opportunities but also poses risks for food security among marginalised populations across the continent. Smallholder farmers and vulnerable groups with limited resources could face increased challenges in remaining competitive as trade barriers fall. While increased trade flows can improve availability and affordability of food, this upside comes with potential risks as trade can also lead to the displacement of small-scale farmers and the loss of local food systems, which can exacerbate food insecurity.⁹⁴ This displacement could be direct or indirect. Directly, large agribusinesses may simply buy out small-scale farmers. Indirectly, market forces may force out small-scale farmers due to increased competition. Elsewhere, trade liberalisation has led to the displacement of small-scale farmers and increased land concentration, particularly in countries such as Cambodia, where more land has been bought and sold, leaving farmers with inadequate or no land.⁹⁵ This has contributed to landlessness and increased inequality in land ownership.⁹⁶

90 I Fusacchia and others 'The AfCFTA impact on agricultural and food trade: a value-added perspective' (2022) 49 *European Review of Agricultural Economics* 274.

91 MT Pasara & N Diko 'The effects of AfCFTA on food security sustainability: an analysis of the cereals trade in the SADC region' 2020 (12) *Sustainability* 1419.

92 As above.

93 As above.

94 J Madeley 'The impact of trade liberalisation on food security and poverty', https://www.iatp.org/sites/default/files/Impact_of_Trade_Liberalisation_on_Food_Securit.htm (accessed 20 July 2023).

95 As above.

96 As above.

Trade policies can also undermine food sovereignty, which is the right of communities and countries to determine their own food systems and policies.⁹⁷ Food sovereignty encompasses food security, food safety, diverse sustainable agriculture, and subsistence and small-scale farming.⁹⁸ It emphasises the importance of diverse and sustainable agricultural practices in ensuring an abundant supply of affordable, safe, and nutritious food for everyone.⁹⁹ This approach also contributes to the well-being of rural and urban communities, preserving cultural heritage, and maintaining a healthy environment.¹⁰⁰ Countries such as India have seen a decline in self-sufficiency in edible oils due to increased imports, and many developing countries have experienced a shift towards prioritising export crops over domestic food production.¹⁰¹ This shift has undermined food security and the ability of households to feed themselves.¹⁰² Trade policies that prioritise exports or imports over domestic food production can lead to a loss of control over the food system and create dependency on foreign countries for food.

Studies consistently show that trade liberalisation has heavily impacted women and exacerbated gender inequality in countries such as Kenya, Ghana, Uganda, Zimbabwe, Mexico, Jamaica, and the Philippines.¹⁰³ The women, who produce a significant portion of food in many African countries, have been disproportionately affected by the elimination of subsidies, rising input costs, and increased food imports.¹⁰⁴ As noted above, up to 52 per cent of the agricultural workforce in Africa are women.¹⁰⁵

Writing specifically about the impact of regional economic integration in East Africa, Lloyd-Ellis and Nordstrom find that the gains from reduction of trade barriers are highly nuanced and depend on many factors.¹⁰⁶ In other words, the potential gain is not uniform, but depends on ‘the characteristics and activities of the households.’¹⁰⁷ For example, they argue:¹⁰⁸

Female-headed houses are often among the poorest and, within households, income changes for females may affect their standing in intrahousehold decision-making. By impacting these incomes, trade liberalisation and regional integration can partly determine their poverty status.

97 Friends of the Earth International ‘Trade and people’s food sovereignty’ (April 2003) 2, <https://www.foei.org/wp-content/uploads/2014/12/newfinalowres.pdf> (accessed 20 July 2023).

98 As above.

99 As above.

100 As above.

101 Madeley (n 94).

102 As above.

103 As above.

104 As above.

105 See also FAO ‘The state of food and agriculture: women in agriculture, closing the gender gap for development’ (2010/2011), <https://www.fao.org/3/i2050e/i2050e.pdf> (accessed 18 September 2023).

106 Lloyd-Ellis (n 48) 7.

107 As above.

108 As above.

The production and consumption habits of a household is another factor that can lead to different outcomes depending on whether the household is a consumer or a producer.¹⁰⁹ A fall in food price due to removal of trade barriers may benefit consumers more than producers.¹¹⁰ However, if local producers enjoy a comparative advantage and are efficient, they can reap better rewards.

Furthermore, small-scale farmers and large-scale farmers are not impacted the same way. Thus:

High initial costs, as well as long term costs, represent key barriers to participation, which large farms are often able to manage better than smaller farms ... as larger scale producers are better able to undertake the documentation and certification required for formal trade and have access to lower average transportation and logistics costs.¹¹¹

In addition, geographical factors such as climate, soil quality, and patterns of precipitation are key determinants of agricultural productivity which in turn impact the community's capacity to 'produce marketable goods or a surplus of commodities'.¹¹² The location of remote and isolated communities where road infrastructure is lacking can also impact on whether they can take advantage of the benefits of trade liberalisation.¹¹³

One of the overriding outcomes of trade liberalisation is the reduction or elimination of tariffs on a range of products, including agricultural products. AfCFTA is no exception. Reduction of tariffs can make imported products cheaper. One may say this is a good thing for consumers. However, it comes at the expense of 'creating disincentive to domestic food production and encouraging reliance on imported food'.¹¹⁴ To use Amartya's Sen's framework, this phenomenon adversely impacts production entitlement, that is the ability of the producing class to produce food. This was observed in earlier regional liberalisation that took effect in North America under the framework of North American Free Trade Agreement (NAFTA). Upon joining NAFTA, Mexico introduced several measures in compliance with its treaty requirements. With the start of tariff-free imports in 1994, Mexico's agriculture sector experienced a reduction of public support for credit, infrastructure, research and development, and technical assistance.¹¹⁵ The ending of the assistance impacted corn farmers in

109 E Becker 'US corn subsidies said to damage Mexico' *The New York Times* (27 August 2003), <https://www.nytimes.com/2003/08/27/business/us-corn-subsidies-said-to-damage-mexico.html> (accessed 20 July 2023).

110 M Ward and others 'South Asian Free Trade Area and food trade: implications for regional food security' *ECONSTOR Working Paper 148/2020 22* <https://www.econstor.eu/bitstream/10419/224943/1/1733851682.pdf> (accessed 20 July 2023).

111 Becker (n 109).

112 As above.

113 As above.

114 CG Gonzalez 'Institutionalising inequality: The WTO agreement on agriculture, food security, and developing countries' (2002) 27 *Columbia Journal of Environmental Law* 474.

115 MA Echolas 'Paths to local food security: a right to food, a commitment to trade' (2007) 40 *Vanderbilt Journal of Transnational Law* 1121.

Mexico and, to an extent, consumers, due to an increase in food prices when domestic subsidies were eliminated.¹¹⁶ On the other hand, the subsidies given to the US farmers continued. According to an Oxfam report, the more than \$10 billion subsidies given to US farmers had resulted in the fall of the price of Mexican corn by more than 70 per cent since NAFTA took effect and severely reduced the incomes of 15 million Mexicans who depend on corn for their livelihood.¹¹⁷ Even if the rules are equally applied in Mexico and the United States, the impact on Mexico is more pronounced given corn (maize) is a staple of a Mexican diet, while it is just a major export crop in the United States.¹¹⁸

The strategy pursued by the country may also determine whether trade liberalisation adversely or positively impacts its food security. Some countries may follow food reliance, while others may follow food self-sufficiency strategies.¹¹⁹ Gayi defines these strategies as follows:¹²⁰

Self-reliance in food is when a country pursues an externally oriented trade regime with a view to earning enough from its exports of goods and services to finance its food requirements. On the other hand, the food self-sufficiency approach entails the country meeting its food requirements – or a substantial part of it – from domestic production.

In a way, countries may not have a choice but to pursue a strategy that enables them to capitalise on the sectors in which they have a comparative advantage. Nonetheless, these ideal choices are impacted by additional factors. For example, a country that pursues a food self-reliance strategy and is prone to terms-of-trade losses that reduces its purchasing power, is exposed to variability in food supplies which in turn threatens its food security.¹²¹ Primary commodities sold by African countries are prone to market or climate shocks from time to time. Furthermore, African commodity producers are not necessarily the ones to reap the benefit of rising prices given the bulk of the profit goes to other actors in the value chain as is evident from the experiences of small-scale coffee and cocoa producers.¹²² According to FAO, given that agri-food global chains are dominated by few transnational corporations, these corporations take the benefits of comparative advantage and economies of scale due to their monopsony position.¹²³

The loss of revenue from reductions or elimination of tariffs could also ‘adversely affect the governments’ capacity to invest in infrastructure, education and social programs, which are crucial for attaining sustainable development and decrease inequality in

116 As above.

117 Becker (n 109).

118 Echolas (n 115) 1121.

119 SK Gayi ‘Does the WTO Agreement on Agriculture endanger food security in sub-Saharan Africa?’ United Nations University, UNU_WIDER, Research Paper 2006/60, 2006, <https://www.econstor.eu/bitstream/10419/63303/1/514201541.pdf> (accessed 20 July 2023).

120 Gayi (n 119) 4.

121 As above.

122 As above.

123 Ward (n 110) 24.

developing countries'.¹²⁴ This can affect both production and transfer-based entitlements by

reducing the government revenue available to support domestic subsidies, such as subsidised or free inputs, research and extension services, access to credit, irrigation projects and investments subsidies ... reducing the ability of governments to finance food-price subsidies, targeted feeding programs, food stamps, labour-intensive public works programs and income safety nets.¹²⁵

Other researchers find that 'tariff liberalisation reduces tariff revenue, but the reduction is expected to be small for most countries in Africa, and on average compensated by increased economic activity'.¹²⁶

Another impact of trade liberalisation is its mandate to reduce and eventually remove agricultural subsidies. While AfCFTA does not have a separate agreement on agriculture, its Protocol on Trade in Goods in article 17 allows subsidies to assist members to pursue their own development programmes. However, any member impacted by these subsidies can request consultations with a member party that provides subsidies. The fact that subsidies are permitted means that member states are not hamstrung by trade rules that prevent them from taking measures to alleviate production and entitlement-based concerns. The question, however, is for how long these permissive rules will continue to exist within the framework of AfCFTA.

If many African countries continue to protect some of their sensitive agricultural sectors, experience from at least one other regional trade agreement should provide insight as to what can be expected. As per the study of the South Asian Free Trade Area Agreement (SAFTA), the cereals sector, which remained highly protected by SAFTA's sensitive lists, showed a decrease in trade and there has been no increased specialisation and competition in this sector.¹²⁷ There has also been little improvement in production.¹²⁸ However, in the livestock sector, which was not on the sensitive list in many member states, trade in meat and meat preparations became more regionalised, and certain countries have specialised and are producing more in this sector.¹²⁹

At the same time, low-income countries (LICs) and lower middle-income countries (LMICs) to which most African countries belong, have 'historically protected poor consumers using trade and market policies that keep domestic prices low, implicitly penalising the farming sector'.¹³⁰ This is usually done through market price control such as

124 T Albert 'The African continental free trade agreement: Opportunities and challenges', https://www.parliament.gov.za/storage/app/media/Pages/2021/may/24-05-2021_Africa_Day_Lecture/docs/AfCFTA_opportunities_and_challenges.pdf (accessed 20 July 2023).

125 Gonzalez (n 114) 474.

126 Janssens (n 12) 614.

127 Ward (n 110) 19.

128 As above.

129 Ward (n 110) 20.

130 FAO 'The state of food security and nutrition in the world 2022', <https://www.fao.org/3/cc0639en/online/sofi-2022/food-agricultural-policy-support.html> (accessed 20 July 2023).

administered prices used for direct government procurement from farmers.¹³¹ The dilemma here is that such policies would prevent small-scale farmers from reaping the benefits of free trade, whilst protecting poor consumers. But the level of support should not be overestimated, particularly in the context of LICs given the financial constraints these countries face.

Universal price subsidies, while benefiting everyone, tend to be ineffective as the largest portion of the subsidies is often claimed by well-organised, politically influential groups such as urban residents, government workers, and industrial labourers.¹³² As a result of surging costs of these subsidies and intermittent international donor pressure, most developing nations are driven to progressively liberalise their food markets.¹³³

At the same time, government support, 'has the potential to affect the cost and affordability of healthy diets by shaping production and consumption choices as well as affecting food supply chain dynamics and food environments'.¹³⁴ For instance, import tariffs or export ban measures can favour producers of certain crops and potentially discourage production of others.¹³⁵ These same measures can also affect consumption decisions as they raise the price of imported foods, as well as their domestic substitute to consumers.¹³⁶ This can impact food security of farmers who do not produce these goods and those of vulnerable groups. Input subsidies provided without any condition may also lead to overuse of agrochemicals, natural resources and promote mono-culture with negative impacts on the environmental sustainability of agrifood systems.¹³⁷ Such subsidies may also 'hinder positive nutritional outcomes, in some cases by disproportionately fostering the production of cereals in the long term at the expense of other foods that contribute to healthy diets, such as fruits and vegetables'.¹³⁸ Having said this, FAO in its state of food security and nutrition in the world 2022 report acknowledges that, 'if designed with sustainability objectives in mind, fiscal subsidies may contribute to better production and livelihoods'.¹³⁹

In addition to tariffs, non-tariff measures (NTMs), which are still more prevalent and higher than tariff impositions, can 'impact agrifood trade and diet affordability and diversity, because producers and traders may have complied with standards and other regulatory requirements that increase trade costs'.¹⁴⁰ These measures are likely to

131 As above.

132 K Boratyńska & RT Huseynov 'An innovative approach to food security policy in developing countries' (2017) 2 *Journal of Innovation and Knowledge* 43.

133 As above.

134 FAO (n 130).

135 As above.

136 As above.

137 As above.

138 As above.

139 As above.

140 As above.

increase the cost of food to consumers, particularly vulnerable group consumers.¹⁴¹

Trade agreements commonly lead to commercial liberalisation, which opens markets to competition from imported products. This increased competition could encourage crop growers to embrace industrialised agriculture systems with a view to maximising yields and reducing costs. Industrialised farming systems generally favour mechanisation, chemical inputs, and genetically-modified organisms (GMOs), which could prompt the abandonment of traditional, small-scale farming practices that have been passed down through generations. Growers may experience pressure to produce more, faster, and more affordable ways to continue competing, resulting in the potential loss of conventional farming knowledge and techniques.

Trade agreements can also lead to the standardisation of agricultural products and farming methods. These standards, often developed by international bodies, can be beneficial in ensuring the safety and quality of agricultural goods.¹⁴² However, they could also be incompatible with traditional farming practices, especially those in developing countries.¹⁴³ To meet these international standards and remain competitive, farmers might need to adopt new farming methods or crop varieties, which can lead to the erosion of traditional agricultural knowledge and biodiversity.

Intellectual property rights can also be a contentious issue in trade agreements. Some agreements include provisions that protect the intellectual property rights of seed companies and other agribusinesses. These provisions might allow companies to patent certain seeds or farming techniques, which can limit farmers' ability to save and exchange seeds, a practice integral to many traditional farming systems.¹⁴⁴ This can also lead to the loss of traditional knowledge as farmers are forced to rely on patented seeds or practices. In this connection, it is important to note that small-scale farmers in sub-Saharan Africa supply 80 to 90 per cent of all the seeds planted in Africa, using their own inter-generational knowledge, experiences, and skills.¹⁴⁵

141 As above.

142 FAO 'Environmental and social standards, certification and labelling for cash crops' 2003, <https://www.fao.org/3/Y5136E/Y5136E00.pdf> (accessed 20 July 2023).

143 MA Altieri 'Agroecology, small farms, and food sovereignty' 2009, <https://monthlyreview.org/2009/07/01/agroecology-small-farms-and-food-sovereignty/> (accessed 20 July 2023).

144 'Seed laws that criminalise farmers: resistance and fightback' 2015, <https://grain.org/fr/article/entries/5142-seed-laws-that-criminalise-farmers-resistance-and-fightback> (accessed 20 July 2023).

145 'The real seeds producers: Small-scale farmers save, use, share and enhance the seed diversity of the crops that feed Africa' 2018, <https://grain.org/en/article/6035-the-real-seeds-producers-small-scale-farmers-save-use-share-and-enhance-the-seed-diversity-of-the-crops-that-feed-africa> (accessed 20 July 2023).

Article 8 of the draft Protocol on Intellectual Property creates an opportunity to address this challenge.¹⁴⁶ The provision requires state parties to establish a *sui generis* system for the protection of new plant varieties; this system should include farmers' rights, plant breeders' rights, and guidelines on access and benefit sharing. Furthermore, they must adhere to additional obligations specified in an Annex to the Protocol on Plant Varieties, which may incorporate relevant African and international instruments that align with their developmental objectives and interests.

In addition to AfCFTA's upcoming Protocol on Intellectual Property, efforts towards the harmonisation of seed laws in continental Africa are made on two levels: the African Union and various regional trading blocs and intellectual property organisations.¹⁴⁷ Key programmes such as the Comprehensive Africa Agriculture Development Programme (CAADP) and the African Seed and Biotechnology Programme (ASBP) have led to efforts in seed sector development.¹⁴⁸ Criticisms arise with the development of two continental guidelines for harmonisation of seed regulatory frameworks in Africa, with some alleging a lack of articulation on farmers' rights and agricultural diversity.¹⁴⁹

Regional efforts towards implementing seed laws through different trading blocs and Plant Variety Protection (PVP) components also exist, but the implications and effectiveness of these are uneven and face criticism.¹⁵⁰ For example, seed certification, variety testing, and regulation also differ among regions, with some restrictions noted in COMESA, and more flexibility seen in SADC and ECOWAS.¹⁵¹ The discussion clearly highlights the complex and layered nature of seed laws and regulations in Africa, with varying degrees of inclusivity for farmers' rights and interests.¹⁵²

AfCFTA recognises the fact that African countries find themselves in different stages of economic development and that the challenges each country faces could be different from each other. That is why it acknowledges the need to provide special consideration to some economies. For example, article 6 of Protocol on Trade in Goods requires state parties to provide flexibilities including special consideration and additional transition periods for implementation of

146 Protocol to the Agreement Establishing the African Continental Free Trade Area on Intellectual Property Rights (Draft), 7th extra-ordinary session of the Specialised Technical Committee on Justice and Legal Affairs (Experts Meeting) 16-21 January 2023 Accra, Ghana, STC/Legal/Exp.

147 P Munyi 'Current developments in seed laws harmonisation in Africa' DeSIRA, LIFT, October 2022 24, <https://www.desiralift.org/wp-content/uploads/2022/11/161122-DeSIRA-LIFT-Current-Developments-in-Seed-Laws-Harmonisation-in-Africa.pdf> (accessed 14 September 2023).

148 As above.

149 As above.

150 As above.

151 Munyi (n 147) 25-26.

152 As above.

the AfCFTA to account for differences in economic development levels or individual circumstances between countries.¹⁵³

Likewise, the Protocol on Trade in Services in its Preamble recognises ‘the serious difficulty of the least developed, land locked, island states and vulnerable economies in view of their special economic situation and their development, trade and financial needs’. Article 7 of the Protocol on Trade in Services further notes that state parties should ‘grant flexibilities such as transitional periods, on a case-by-case basis, to accommodate special economic situations and development, trade and financial needs of the state parties’.

Thus, the AfCFTA Agreement and the Protocol on Trade in Services both emphasise the need for flexibility and special consideration for state parties with specific economic situations or development needs. These provisions aim to ensure that the benefits of trade are inclusive and mutually beneficial.

4.4 Policy and legal recommendations

To mitigate potential negative impacts of AfCFTA on food security, countries will need to proactively implement protective policies and support investments to safeguard vulnerable groups, while also taking advantage of opportunities to improve regional food availability. Safeguards are necessary to ensure greater trade does not undermine local farmers or production.

Addressing food insecurity in Africa requires collaborative efforts from multiple stakeholders including governments, non-governmental organisations (NGOs), international organisations, businesses and communities to ensure underprivileged groups have adequate access to food. Member states of AfCFTA can work together and individually through policy reforms while organisations like the Alliance for a Green Revolution in Africa demonstrate how partnerships between different entities can help small farms boost production and access markets.¹⁵⁴

Ideally, small-scale farmers can rise to the challenge, become competitive to take advantage of the benefits of AfCFTA. However, the reality is that small-scale farmers and vulnerable groups in sub-Saharan Africa, who contribute to 80 per cent of the region’s food, require significant support due to challenges like limited access to resources, technology, markets and support programs, and unfavourably skewed transportation and trade policies.

Governments could help by subsidising farm implements farmers need, giving microloans, sending agricultural advisors, and building roads and such in rural areas. Providing subsidies for farm equipment is a worthwhile strategy, as it can reduce the cost burden on farmers

153 Protocol on Trade in Goods, art 6.

154 AGRA ‘Our story’, <https://agra.org/our-story/> (accessed 21 July 2023).

while promoting the use of modern, efficient tools to improve crop yield.¹⁵⁵ However, it has been shown that assistance programmes aimed at certain demographic groups, or those focusing on the consumption of specific foods linked with a particular health goal (such as reducing anaemia), produce more effective results.¹⁵⁶ Such subsidies can be justified on the basis of AfCFTA's safeguard provisions.

Microloans can serve as an excellent mechanism to financially support farmers, especially those that cannot access conventional loans due to their lack of collateral or credit history.¹⁵⁷ This approach has been empirically endorsed by researchers, who found that microcredit significantly improved the socio-economic conditions of farmers in India.¹⁵⁸ There are a few suggestions in public private partnership format that could be explored. Such suggestions advocate strategic use of public funding to stimulate increased private sector lending to smallholder farmers, who have traditionally lacked financial access.¹⁵⁹ Recommended public-private partnerships include guarantee funds to de-risk bank lending, risk sharing facilities to incentivise private loans, start-up capital to incubate rural financial institutions, co-financing to leverage donor funds, investments in financial infrastructure as public goods, reforms to state agricultural banks, and supportive policies/regulations.¹⁶⁰ These measures aim to crowd-in private finance by absorbing risks, providing platforms, and creating incentives.¹⁶¹ It is argued that public funds should be used catalytically to address market failures and systemic barriers, while promoting commercially-oriented rural financial systems.¹⁶² By de-risking and structuring partnerships appropriately, limited public resources can mobilise significant private capital for the unmet smallholder finance needs.

The deployment of extension workers can contribute considerably to enhancing farming techniques, offering access to innovative farming methods that could increase productivity and income. However, these services often face limitations in coverage, leaving many remote areas and female farmers underserved.¹⁶³ To address this, innovative methods like using traditional media and digital platforms are being

155 S Fan and others 'From subsistence to profit: transforming smallholder farms' (2013) Food policy report. Washington, D.C.: International Food Policy Research Institute (IFPRI) 12.

156 FAO (n 130).

157 S Datta & TN Sahu 'Impact of microcredit on employment generation and empowerment of rural women in India' (2021) 17(1) *International Journal of Rural Management* 140-157.

158 As above.

159 A Rahman & J Smolak 'Financing smallholder farmers in developing countries' in BR Hazell & A Rahman (eds) *New directions for smallholder agriculture* (2014) 238.

160 As above.

161 As above.

162 As above.

163 NEPAD 'Expanding agricultural extension services for capacity strengthening of Africa's small-scale and subsistence farmers using technology' 22 June 2022, <https://www.nepad.org/blog/expanding-agricultural-extension-services-capacity-strengthening-of-africas-small-scale-and> (accessed 13 September 2023).

employed to expand access to agricultural extension services and enhance their effectiveness across diverse regions in Africa.¹⁶⁴ Hence, more innovative approaches need to be explored.

In the event that enough extension workers are not available, one can use other farmers as substitutes. Some countries have used a lead farmer approach – a method intended to facilitate agricultural learning and growth among farmers, through the sharing of knowledge from peer farmer trainers.¹⁶⁵ Although such extension methods have typically formed the nucleus of most extension models, their implementation has suffered criticism due to selectivity of prosperous farmers and lacklustre development impacts.¹⁶⁶ Current efforts seek to ameliorate these challenges by focusing on farmer-trainers that reflect an average community farmer and promoting a community-based selection process.¹⁶⁷ Although lead farmers assist extension workers, the approach suffers from limited coverage and poor implementation efficaciousness, demonstrating no significant influence over increasing awareness or adoption of majority promoted management practices.¹⁶⁸ Yet, notable effects on awareness and adoption have been recognised, prompted through improvements in lead farmer quality, adoption behaviour, and regular training.¹⁶⁹

Infrastructure improvements, such as roads, greatly facilitate the transport of produce from farms to markets, minimising the loss and assuring farmers get the best prices for their produce.¹⁷⁰ According to a World Bank study, post-harvest losses in sub-Saharan Africa average 30 to 50 per cent due to inadequate transport and storage infrastructure.¹⁷¹ Better rural road connectivity in developing nations is estimated to increase agricultural productivity and outputs.¹⁷² Additionally, improved roads allow more farmers access larger urban markets with higher demand, encouraging further agricultural investment and specialisation.

164 As above.

165 C Ragasa 'Effectiveness of the lead farmer approach in agricultural extension service provision: nationally representative panel data analysis in Malawi' (2020) 99 *Land Use Policy* 1.

166 As above.

167 Ragasa (n 165) 2.

168 As above.

169 Ragasa (n 165) 3.

170 MN Lokesha & M Mahesha 'Impact of road infrastructure on agricultural development and rural road infrastructure development programmes in India' (2016) 5(11) *International Journal of Humanities and Social Science Invention* 1-7; N Sieber & H Allen 'Impacts of rural roads on poverty and equity' (2016) 86 *Transport and Communications Bulletin for Asia and the Pacific* 23-40.

171 J Kaminski & L Christiaensen 'Post-harvest loss in sub-Saharan Africa: what do farmers say?' (2014) 3 (3-4) *Global Food Security* 149.

172 GM Lianto 'The impact of infrastructure on agricultural productivity' (2012) 2012-12. PIDS discussion paper series.

Aid and school meal programmes can help the food insecure to get healthy food too. Ethiopia's safety net programme has given money to 8 million people, reducing poverty and hunger.¹⁷³ However, providing direct aid should always be considered as a last resort option, as it may potentially disrupt local food systems and markets if relied on as a long-term solution.¹⁷⁴ While Ethiopia's safety net programme has positively impacted poverty and hunger levels by giving money to millions, alternative measures that strengthen domestic food production, processing and distribution should remain a priority over the long run. Empowering small-scale farmers through training, infrastructure and access to financing can help countries develop sustainable and resilient local food economies that are less dependent on outside aid during times of crisis.

Traditional farming practices support biodiversity and resilience while being threatened by modern technology. Support programs are needed to protect small farmers from risks through promoting biodiversity and helping with market fluctuations, disasters, and disease.

The AfCFTA provides avenues to strengthen food sovereignty that member states should leverage. Article 4(a)'s allowance for gradual tariff reductions means priority crops can be excluded from immediate liberalisation, buying time for domestic production development. This flexibility must be used strategically via a progressive 'sensitive products' schedule that safeguards food security inputs. Furthermore, article 19 of Protocol on Trade in Goods establishes special safeguard mechanisms to temporarily raise tariffs if imports surge in a manner threatening markets or livelihoods as trade opens up.

The promotion of gender equality and empowerment of women farmers, who are among the most vulnerable groups in society and often face discrimination, is essential. Implementation of measures to guarantee equal access to resources, training, and decision-making forums, and address bias in agricultural spaces, alongside developing an inclusive culture that eradicates historical obstacles is critical. Enacting robust social support programs that cater to the most disadvantaged groups, such as small-scale farmers, women, and indigenous communities, can considerably lessen disparities and enhance women's rights and powers, given their crucial role in all aspects of food systems.¹⁷⁵

173 BA Bahru and others 'Impact of Ethiopia's productive safety net programme on household food security and child nutrition: a marginal structural modelling approach' (2020) 12 *Population Health* 2.

174 N Ferrière & A Suwa-Eisenmann 'Does food aid disrupt local food market? Evidence from rural Ethiopia' (2015) 76 *World Development* 114-131.

175 Clapp and others (n 29) 4.

Another challenge small-scale farmers and vulnerable groups face is securing land rights and access to natural resources, a problem that could be exacerbated due to economic liberalisation.¹⁷⁶ Secure legal claims to land and guaranteed access to natural resources are essential for the longevity of small farms, therefore policies enhancing land tenure security and resource access are necessary.

Land tenure reforms varying from individual land rights to integration of customary systems into statutory law have been experimented with in various countries, with varying success and influence on marginalised groups such as women. Land tenure reforms, such as those seen in Ethiopia and Rwanda, have had positive impacts on investment, agricultural productivity, and food security, particularly benefiting female-headed households.¹⁷⁷ However, these reforms are complex and not thoroughly studied, with a need for more high-quality studies amidst diverse tenure systems.¹⁷⁸ The surge in land demand exposes weak tenure systems and poses a threat to food and livelihood security of marginalised groups, requiring careful land governance to prevent the exploitation of customary land rights and elite capture.¹⁷⁹ Key elements deciding if customary land and smallholder farmers are shielded from land acquisitions by investors include (a) legal acknowledgment of customary land and its land rights; (b) the feasibility of transitioning customary land to state land for investor leasing; (c) if such converted land returns to its customary status post-lease; (d) the power of traditional leaders to grant customary land to investors; and (e) the state's authority to seize customary land for investor allocation, potentially without compensation.¹⁸⁰

Land tenure security needs to be supported by other policy measures. The fragmentation of agricultural land, particularly in African countries, is a significant issue impacting the sustainability and productivity of farming.¹⁸¹ This trend is often exacerbated by increasing population pressures and land acquisition by investor farmers, intensifying the marginalisation of smaller farmer households.¹⁸² Combined with the sentimental value attached to land, this makes consolidation challenging.¹⁸³ To address this, it is crucial to formulate policies that support viable consolidation of farming lands, balance the needs of small and investor farmers and encourage

176 M Rukuni & C Kambanje 'Impact of land rights on productivity of agriculture and natural resource enterprises in Africa', <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=01be40c4ca45471860a65eef338854169d2de4b1> (accessed 21 July 2023).

177 ST Holden 'Policies for improved food security: the roles of land tenure policies and land markets' in S Gomez y Paloma, L Riesgo & K Louhichi (eds) *The role of smallholder farms in food and nutrition security* (2020) 163-164.

178 As above.

179 As above.

180 As above.

181 K Giller 'The food security conundrum of sub-Saharan Africa' (2020) 26 *Global Food Security* 5.

182 As above.

183 As above.

modernised agricultural practices.¹⁸⁴ Incentive structures could be developed to promote joint or cooperative farming, allowing smallholder farmers to benefit from economies of scale while maintaining their connection to their land.¹⁸⁵ Increasing rural employment and skill development opportunities can also alleviate pressure on land and contribute to a more productive agricultural sector.¹⁸⁶ Furthermore, recognising smallholders as a diverse group, development policies should be tailored to support their dynamic needs based on their constraints and economic stages.¹⁸⁷ While some could profit from commercial agriculture, others must be supported in transitioning to non-farm employment, bearing in mind the various challenges such as climate change, price shocks, limited financing, and access to nutritious food.

Guarding traditional seed types from improper patenting under trade agreements could involve multiple tactics, inclusive of recognising exceptions for biodiversity and indigenous wisdom in intellectual property clauses, implementing compulsory disclosure and documentation procedures to ascertain prior work, availing registration and legal aid to farmers for preserving rights over local varieties, providing profit allocation plans for commercial products sourced from traditional seeds, obligatory licensing arrangements to ensure uninterrupted access, *sui generis* plant variety protection structures adapted to meet regional necessities and customs, and setting up community seed banks and databases.¹⁸⁸ There should also be overarching commitments to policies that honour farmer rights. The simultaneous execution of these disclosure regulations, licensing methods, registries, traditional rights protections, benefit allocation, and impact evaluations can facilitate an equilibrium between motivation for innovation and preventing the improper use of traditional agricultural knowledge and resources.

A one-size-fits-all approach is unlikely to be effective or appropriate given the complexities of the situation. Therefore, individual countries can boost their food security and the prosperity of their inhabitants by concentrating on their unique domestic objectives and benefitting from the domains in which they possess a comparatively advantageous standing. Optimal strategies will vary from one member state to

184 As above.

185 As above.

186 As above.

187 S Fan and others 'From subsistence to profit: transforming smallholder farms' (2013) *Food policy report*. Washington, DC: International Food Policy Research Institute (IFPRI) 16.

188 T Cottier & M Panizzon 'A new generation of IPR for the protection of traditional knowledge in PGR for food, agricultural and pharmaceutical uses' in S Biber-Klemm & T Cottier *PGR for Food, Agricultural and Pharmaceutical Uses in Rights to plant genetic resources and traditional knowledge: basic issues and perspectives* (2006) 229; D Muyltermans 'Genetic resources, traditional knowledge and disclosure obligations: some observations from the life science industry' in DF Robinson and others (eds) *Protecting traditional knowledge: the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore* (2017) 231.

another based on diverse socio-economic, geographic, and cultural determinants. Thus, practical endeavours are more likely to emerge from nationally tailored approaches grounded in an accurate understanding of each context's specific strengths, limitations, and priorities.¹⁸⁹

There is not a single magic bullet here. Supporting small-scale farmers and vulnerable groups, working together, monitoring effectively, stimulating innovation and capacity, and leveraging regional markets can all help ensure African people get adequate, nutritious diets. Targeted policies and political willpower will be key to making solutions work on the ground.

While a good start, the impact of AfCFTA does not need to be overstated, particularly in some regions that already have regional free trade agreements. This calls for deeper integration levels of common markets and economic unions which allow for movement of production factors such as capital and labour.¹⁹⁰

Studies show that to stimulate agricultural trade across Africa, individual policy measures will not yield significant benefits in isolation, but need to be implemented together.¹⁹¹ In other words, to fulfil its promise of boosting African trade, the AfCFTA cannot rely solely on tariff liberalisation.¹⁹² This must be paired with regulatory reform to streamline administrative import and export procedures, as well as investments to enhance port efficiency and lower inland transportation costs.¹⁹³

5 CONCLUSION

This study illuminates the complex trade-offs surrounding greater economic unification across Africa. The African Continental Free Trade Area (AfCFTA) seeks to establish a single market for goods and services throughout the continent. Proponents argue this could catalyse commerce and prosperity. However, one must also carefully weigh the implications for small-scale farmers and vulnerable groups.

Integrating markets could potentially bolster agricultural efficiency, leading to increased production and reduced costs for numerous consumers. Yet these gains might also come at the expense of local crop farming and time-honoured traditional cultivation practices. Small-scale farmers who currently supply local markets could face stiff competition from larger producers, potentially threatening their livelihoods and their food security.

The core challenge is balancing economic goals with social welfare. Growth should not eclipse the imperative for inclusive development

189 Simola (n 8) 8.

190 Pasara (n 91) 10.

191 Janssens (n 12) 614.

192 As above.

193 As above.

and sustainability. With conscientious reforms centred on safeguarding rural livelihoods and nutritional security, African countries can promote collective prosperity. However, this demands prioritising human dignity over statistics. As the African Commission recognised, the right to food is one important measure of how well human dignity is respected. Policy makers must be willing to make tough decisions that empower the vulnerable, not only the well-off.

Thus, realising the benefits of AfCFTA while protecting vulnerable groups will require proactive and judicious policy measures. Governments must make meaningful investments to support small-scale and traditional farming. Land rights and access to resources for local farmers should be secured. Targeted programmes to help rural communities adjust and participate in emerging opportunities will be crucial.

More broadly, policy makers should prioritise upholding the right to food security. Economic growth objectives, while important, should be balanced with social protection. Impact assessments and continuous monitoring can identify problems early. Designing policies that specifically benefit historically-marginalised groups will help ensure widely shared prosperity.

In summary, increased African economic integration offers much promise but also poses risks. With thoughtful policies centred on safeguarding rural livelihoods and food security, countries can work towards sustainable development that leaves no one behind. Policy makers should consider incentives promoting biodiversity, smallholder competitiveness and programmes supporting vulnerable communities. If managed inclusively, AfCFTA can drive growth while protecting the food rights of all.