There are no translations available.

Old Habits Are Hard to Break, says a famous proverb. Despite the recent launch of the African Continental Free Trade Area (AfCFTA) and the numerous Free Trade Areas and Customs Unions that promote the free circulation of goods in the various regions of Africa and in the continent, trends to erect walls to trade remain high in Africa. Economic nationalism, the tendency to prioritize national interests by protecting local industries from external competition, seems to be still at the core of African policies.

Less than one year ago , the Authority of Heads of State and Government of ECOWAS, at the 60th Ordinary Session of held in Abuja on 12 December, 2021, recognized that the closure of borders between 2020 and 2021 caused to ECOWAS member States losses of about 6.7 per cent of the regional GDP (about 50 billion USD), further bringing down the already poor levels of intra-regional trade. Because of this, in the same venue, a decision was taken to reopen all land borders in the region starting from January 1, 2022.

Problem closed in West Africa, now it's the turn of Southern Africa.

Botswana and Namibia are reported to have escalated import bans for certain fruits and vegetables originating from South Africa, claiming that these measures are aimed at protecting their local producers. In reality, this is a phenomenon that started since the beginning of 2022 , with Botswana closing its borders to its neighbours (including Namibia) for imports of tomatoes, carrots, beetroot, potatoes, cabbage, lettuce, garlic, onions, ginger, turmeric, chilli peppers, butternut, watermelons, sweet peppers, green mealies and fresh herbs from South Africa. Namibia, on the other hand, also restricts the importation of some types of vegetables from its neighbours, including Botswana.

Unluckily, this escalation happens in coincidence with the SADC Day, celebrated on 17 August 2022, an event that should celebrate progress made towards consolidation of regional integration. In a period when African regional and continental institutions are focusing their efforts on the promotion of the free circulation of persons and goods, some African governments are still erecting trade barriers to defend their markets from regional competition. Needless to say that this ends up with making more expensive for countries to trade with near neighbours than with countries outside the continent, continuing the old colonial trade patterns where flows of goods predominantly are directed towards external markets, rather that towards continental countries.

But Botswana and Namibia are also members (together with Eswatini, Lesotho and South Africa) of the Southern Africa Customs Union (SACU), which should – like free trade areas – ensure the free movement of goods within the Union. In this regard, two articles are key in the SACU Agreement: Article 18 (Free Movement of Domestic Products) and Article 25 (Import and Export Prohibitions and Restrictions).

According to the first article, goods grown, produced or manufactured within the SACU Common Customs Area, if moved from a Member State to another, must be free of customs duties and quantitative restrictions. However, paragraph 2 of the same article foresees some exceptions to this rule, as Member States are allowed to impose restrictions on imports or exports for the protection of (a) health of humans, animals or plants; (b) the environment; (c) treasures of artistic, historic or archeological value; (d) public morals; (e) intellectual property rights; (f) national security; and (g) exhaustible natural resources. These exceptions do not include also the protection of local industries from competition within the region. On the other hand, the SACU Agreement allows member States to activate measures of defense of local infant industries (defined as industries established by less than 8 years), in the form of additional duties. This provision, however, is only applicable to import disturbances caused by foreign companies (i.e. established outside the SACU Customs Union) who threaten competition in the region.

Regarding the possibility to use the same tool for barring competition between companies within the SACU Region, article 25, par. 2 of the SACU Agreement is clear: "The provisions of paragraphs 1 and 2…" (which define the cases where SACU member States can adopt import and export prohibitions and restrictions) *"…shall not be so construed as to permit the prohibition or restriction of the importation by any Member State into its area of goods grown, produced or manufactured in other areas of the Common Customs Area for the purpose of protecting its own industries producing such goods"*.