

Prioritizing health and education in the first round of negotiations for services liberalization within the African Continental Free Trade Area

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Background: health and education services are critical for post-coronavirus disease (COVID-19) economic recovery and resilience

The COVID-19 pandemic has led to a significant contraction in economic activity in Africa. In fact, the Economic Commission for Africa (ECA) has projected that gross domestic product (GDP) growth will fall from 3.2 to 1.8 per cent in 2020,¹ while the United Nations Conference on Trade and Development (UNCTAD) estimates that foreign direct investment will contract by between 25 and 40 per cent.² Services sectors, which account for up to half of the continent's GDP,³ have been hardest hit. This is of grave concern as those sectors employ a significant proportion (between 10 and 70 per cent) of the working population of African countries.⁴ The COVID-19 pandemic is expected to continue into the foreseeable future, until reliable therapies and vaccines are identified. The Agreement Establishing the African Continental Free Trade Area, which entered into force in May 2019, must be leveraged both as a tool to promote economic integration and as a stimulus package for continental economic recovery. Indeed, as noted by Wamkele Mene, Secretary General of the African Continental Free Trade Area Secretariat, "Therefore, for Africa, the stimulus package is the actual AfCFTA, the implementation of this Agreement. Increased intra-African trade is what will drive economic development post-COVID-19".⁵

As a matter of urgency, African countries will need to put in place measures to mitigate the adverse socioeconomic repercussions of the pandemic. Health sector services, including diagnostics, medical services and activities conducted by researchers, will prove critical in that regard. Mitigation measures include upgrading and expanding the capacity of existing health-care infrastructure, training additional health sector manpower, improving procurement systems, and scaling up access to telemedicine platforms. The negative repercussions of the COVID-19 pandemic have also extended to the education

1 ECA, *Trade Policies for Africa to Tackle Covid-19*, (Addis Ababa, 27 March 2020). Available at: www.uneca.org/sites/default/files/PublicationFiles/briefing_paper_on_trade_policies_for_africa_to_tackle_covid-19_290820.pdf.

2 UNCTAD, *World Investment Report 2020*. Available at: unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=2769.

3 ECA, African Union Commission, African Development Bank and UNCTAD, *Assessing Regional Integration in Africa: Next Steps for the African Continental Free Trade Area, ARIA IX*, July 2019. Available at: www.uneca.org/publications/assessing-regional-integration-africa-aria-ix.

4 ECA, *Negotiations for the Liberalization of Services under the Agreement to Establish the African Continental Free Trade Area: Guidelines for Stakeholder Consultation* (Addis Ababa, 2020).

5 Wamkele Mene, "AfCFTA: Implementing Africa's free trade pact the best stimulus for post-COVID-19 economies", *Africa Renewal*, 15 May 2020. Available at: www.un.org/africarenewal/magazine/may-2020/coronavirus/implementing-africa's-free-trade-pact-best-stimulus-post-covid-19-economies.

sector. Schools across the continent closed their doors, disrupting the education of millions of students from primary to tertiary levels. To help students continue to learn, alternative learning methods have been adopted, including the use of online learning platforms and educational radio and television channels. It is critical that the pandemic does not derail efforts to increase school enrolment rates and meet the targets for education prescribed in the 2030 Agenda for Sustainable Development and Agenda 2063 of the African Union.

This brief highlights why it is imperative to address health and education in the first round of negotiations on the liberalization of services within the African Continental Free Trade Area. Robust and effective health and education sectors are extremely important for the socioeconomic development and well-being of Africans and for realizing the continent's industrial and integration ambitions. A holistic and integrated approach to the liberalization of services in the African Continental Free Trade Area must be adopted to promote a deep-rooted recovery from the present pandemic and build resilience so that the continent can successfully withstand future crises. Front-loading those sectors will facilitate and encourage greater private sector engagement and investment, which, as governmental finances are increasingly under pressure, is likely to prove critically important. In addition, prioritizing health and education within the Area will support the mobility of professionals and skills development. Mobility is needed to close infrastructure, technology, knowledge and skills gaps. Crucially, the continental market will be able to support resilience in the face of the pandemic through the expansion and evolution of African countries' health and education services.

A number of African countries have underscored their commitment to the liberalization of health and education at the multilateral level and substantial liberalization, underpinned by robust regulatory frameworks, has already been achieved within African regional economic communities. It should now be possible to build upon that progress and establish a continental market for health and education services within the context of the African Continental Free Trade Area.

Health services in the African Continental Free Trade Area: fostering innovation, mobilizing investment and building on progress achieved in regional economic communities

African countries were able to learn from previous health emergencies, including the Ebola epidemic, and were thus able to respond rapidly to the COVID-19 pandemic. Government action, including border closures, city lockdowns, public health directives on social distancing and efforts to procure and promote the use of personal protective equipment has helped to impede the spread of the COVID-19 virus. Important to note is the role of the private sector in enhancing the capacity of health-care systems. In Nigeria, for example, private financial sector institutions supported the construction of dedicated isolation facilities across the country,⁶ while in Ethiopia, the Government successfully mobilized critical private sector financial resources to combat the pandemic through a public appeal.⁷

Innovative products and channels for the delivery of health-care services have enhanced the capacity of African countries to manage the current pandemic and have the potential to transform the wider

6 Fidelity Bank, "Fidelity Bank Donates Covid-19 Isolation Centre to Anambra State", 7 June 2020. Available at: www.fidelitybank.ng/fidelity-bank-donates-isolation-centre/; Joshua Bassey, "Lagos, GTBank partner on Coronavirus isolation centre at Onikan Stadium", *Business Day* (Nigeria), 26 March 2020. Available at: businessday.ng/companies/article/lagos-gtbank-partner-on-coronavirus-isolation-centre-at-onikan-stadium/.

7 "Government Appeals for Public Support in Response to COVID-19" *Ethiopian Monitor*, 25 March 2020. Available at: ethiopianmonitor.com/2020/03/25/government-appeals-for-public-support-in-response-to-covid-19/.

African health-care sector. Those innovations include a rapid testing kit developed in Senegal by the Pasteur Institute,⁸ a digital inventory to monitor the availability of ventilators and respirators in hospitals, developed by Lifebank, a Nigerian health-care technology and logistics start-up,⁹ and a contactless solar-powered handwashing station developed by a young entrepreneur in Ghana.¹⁰ Those and other innovations are directly related to the ambitions of the continent in innovation, industrial production and the fourth industrial revolution. It is now crucial for countries to create opportunities for their large-scale production and cross-border trade.

African countries have already started liberalizing their health sectors. At the multilateral level,¹¹ a total of 9 countries have made commitments in health and related social services¹² and 16 countries in health professional services.¹³ Restrictions impeding health sector liberalization typically take the form of conditions on the entry, employment and temporary residency of managers and experts overseeing foreign investments, and procedures for the recognition of those individuals' professional qualifications and experience. Restrictions also take the form of requirements for joint ventures with local hospitals and clinics, or bureaucratic processes that stipulate registration with relevant bodies.

Liberalization of the health sector and services provided by health professionals in regional economic communities is more advanced, and regulatory frameworks are now well established. The programmes being implemented by regional economic communities on health and education derive their mandates from respective protocols and policy frameworks adopted by their member States. Those protocols provide for the creation of institutional mechanisms and structures to facilitate and oversee implementation at both the national and regional levels.

Examples of institutional bodies established by regional economic communities in Africa are provided below:

- (a) In the Economic Community of West African States (ECOWAS), subregional health programmes are managed by the West African Health Organization. That institution, which was established in 1987 pursuant to the adoption of the Protocol on the establishment of a West African Health Organization, is responsible, among other functions, for spearheading the harmonization of health policies, pooling resources, and strengthening cooperation to address health-related challenges in the subregion;
- (b) In the East African Community (EAC), six EAC regional centres of excellence for skills and tertiary education in higher medical and health sciences education, health services and research have

8 Rebecca Rosman, "Senegal: 10-minute coronavirus test may be on its way – for \$1", *Al Jazeera*, 27 March 2020. Available at: www.aljazeera.com/news/2020/03/senegal-10-minute-coronavirus-test-1-200327053901231.html.

9 Yomi Kazeem, "Tech startups are joining Nigeria's fight against coronavirus", *Quartz Africa*, 30 March 2020. Available at: qz.com/africa/1828438/coronavirus-nigerian-tech-startups-step-up-to-assist-government/.

10 Zaina Adamu, "A solar-powered hand-washing basin encourages personal hygiene in Ghana amidst coronavirus", *CNN*, 11 May 2020. Available at: edition.cnn.com/2020/05/09/africa/ghana-coronavirus-handwash/index.html.

11 The health sector is sub-divided into four sectors: (i) health services covering hospitals and clinics, (ii) other health services such as ambulance services, (iii) social services, and (iv) other health services. Services in the health sector are sub-divided into five subsectors, namely (i) medical services, (ii) dental services, (iii) veterinary, and (v) services provided by midwives, nurses, physiotherapists and paramedical personnel.

12 Sierra Leone has made commitments in all four sectors. The Gambia, Liberia and Seychelles have made commitments in three sectors. Burundi, Malawi and Zambia have commitments in two each; and Eswatini and Guinea in one each.

13 Sierra Leone has made commitments in all four sectors; Botswana, the Gambia, Lesotho, Liberia, Seychelles and South Africa in three sectors each; Burundi, the Democratic Republic of the Congo, Malawi and Zambia in two each; and Cabo Verde, Eswatini, Guinea, Rwanda and Senegal in one each.

been established at leading health institutions. Those centres specialize in critical areas of medicine that are of particular importance for Africa;

- (c) In the Southern African Development Community (SADC), the SADC Protocol on Health, adopted in 1999, has been implemented through the launch of relevant policies, strategies, guidelines and plans, including the Regional Indicative Strategic Development Plan. Furthermore, the SADC Pooled Procurement Services, a regional initiative headquartered in the United Republic of Tanzania, facilitates and coordinates the procurement and supply management of essential medicines and health commodities. SADC is also in the early stages of implementing the SADC Framework and Guidelines for the Establishment of Regional Centres of Excellence and Centres of Specialization.

In the light of the additional burdens being placed on the continent's already overburdened health-care systems and infrastructure, it is vital to promote the mobility of health-care professionals and knowledge, skills and resource sharing. Cooperation among public and private sector stakeholders at the continental level is required if African countries are to address the ongoing health crisis effectively. A successful example of such cooperation is provided by the African Medical Supplies Platform,¹⁴ which facilitates the pooling of resources in order to purchase essential medicines and equipment. Collaborative efforts to liberalize the health sector in the context of the African Continental Free Trade Area and develop a continent-wide health regulatory framework should draw on the experience of regional economic communities in that area.

Liberalizing education services within the African Continental Free Trade Area: promoting innovation, fostering investment and building on progress achieved by regional economic communities

School closures were among the measures taken to reduce the severity of the COVID-19 pandemic. In March 2020, 52 out of 55 African Union countries implemented country-wide school closures.¹⁵ A number of countries have, moreover, postponed the resumption of learning activities and school-leaving examinations. For example, Kenya has postponed the reopening of schools to 2021 while, in West Africa, the West African school-leaving examination has been suspended until further notice.

Virtual learning methods have been adopted during school closures with varying degrees of success. Regrettably, virtual learning has proved beneficial to only a minority of learners; the United Nations Educational, Scientific and Cultural Organization (UNESCO) has noted that the overwhelming majority of learners in Africa do not have access to home computers or internet access, and that large numbers of students live in locations that are not covered by mobile telephone networks.¹⁶ Furthermore, the cost of mobile data across the continent remains high,¹⁷ affecting both learners and teachers. Electronic devices, educational software and online platforms are also unaffordable for many learners in Africa, while the cost of digitizing learning materials is also often prohibitively high. Other learning strategies that have been adopted during the pandemic, such as the delivery of classes by radio and television, may be more successful in that they are more likely to reach students.

14 For further information, see amp.africa/.

15 For further information, see en.unesco.org/covid19/educationresponse.

16 UNESCO, "Startling digital divides in distance learning emerge", 21 April 2020. Available at: en.unesco.org/news/startling-digital-divides-distance-learning-emerge#ShareEducation.

17 Kieron Monks, "Africans face most expensive internet charges in the world, new report says", CNN, 22 October 2019. Available at: edition.cnn.com/2019/10/22/africa/internet-affordability-africa/index.html.

Those alternatives notwithstanding, disruptions to education will almost certainly continue until reliable therapies and vaccines against COVID-19 are developed. There is, moreover, the strong possibility that some students, and especially those in vulnerable circumstances, may not return to formal education systems when schools reopen. Some households may insist that family members who were previously in education look for work or take care of other family members. Girls, already enrolled in formal education systems at lower rates than boys, are at particular risk in that regard. It is therefore imperative to scale up, formalize and standardize those alternative learning methodologies, while also improving traditional educational approaches. Recognizing that reality, the African Union Commission and the United Nations Children's Fund (UNICEF) issued a joint statement to States on the response of the education sector to the COVID-19 pandemic, in which those two bodies called, among other measures, for digital channels to be used to ensure continuity of learning.¹⁸

There are a number of precedents for liberalizing the education sector through trade agreements. At the multilateral level, 10 African countries have already made commitments in the education sector.¹⁹

²⁰ Factors impeding education sector liberalization include restrictions on the entry and temporary residency of natural persons, a reluctance to recognize professional qualifications, and minimum capital outlays and foreign equity requirements. African regional economic communities are actively involved in the development and implementation of mutual recognition agreements covering professional services, although it is important to note the different approaches to liberalization. The two main types of mutual recognition agreement in Southern and East Africa are quality framework agreements (at national, subregional, or regional levels) and mutual recognition agreements among professional regulatory bodies.²¹ In West and Central Africa, regional bodies have pursued liberalization through common regulatory frameworks.²²

SADC and EAC have developed comprehensive regional qualification frameworks²³ that prescribe mechanisms, standards and procedures as benchmarks for attaining and ensuring comparability, compatibility, equity, relevance and mutual recognition of education and training systems and qualifications within their respective regions. The frameworks cover higher education, technical and vocational education and training, and they promote the transfer of credits and facilitate the mobility of students and workers. The EAC Common Market Protocol provides the legal basis for the creation of a common higher education area and the mutual recognition of academic and professional qualifications. Additional supportive policy and institutional arrangements that have been developed include, first, the East African Qualifications Framework for Higher Education; second, the Staff Mobility Framework; third, the Students Mobility Policy; fourth, the designation of 19 institutions as regional centres of excellence; fifth, the creation of national commissions and councils for higher education and for higher education

18 *Joint AUC/UNICEF Statement to Member States on Response of the Education Sector to COVID-19 to Ensure Continuity of Learning.* Available at: www.edu-au.org/news/announcements-and-opportunities/237-au-statement-on-response-of-the-education-sector-to-covid-19.

19 Education services are organized into five subsectors, namely (i) primary education, (ii) secondary education, (iii) higher education, (iv) adult education and (v) other education services.

20 Lesotho, Liberia, Seychelles and Sierra Leone have made commitments in all five subsectors. Cabo Verde in four subsectors, the Gambia in three subsectors, Ghana in two sub-sectors, and the Democratic Republic of the Congo, Mali and Rwanda in one sector each.

21 Those bodies can be public or private institutions at national or regional levels.

22 For example, ECOWAS has adopted: Regulation No. 10/2006/CM/UEMOA of 25 July 2006 on the free movement of lawyers; Directive No. 06/2008/CM/UEMOA relating to the free movement and establishment of pharmacists who are nationals of the Community; and Directive No. 07/2008/CM/UEMOA relating to the free movement of dental surgeons who are nationals of the Community.

23 The EAC framework has eight reference levels and the SADC framework has 10 levels.

institutions in partner States; and, sixth, the establishment of a forum that brings together stakeholders from academia and the public and private sectors.

The establishment of well-functioning education systems, the objectives set out in the Agreement Establishing the African Continental Free Trade Area, and broader developmental goals are closely linked. Primary and secondary education systems provide competencies in numeracy, literacy and reasoning. Tertiary education, whether in vocational, technical or professional institutions, provide the certifications and qualifications necessary for employment in different sectors of the economy. The skills taught in educational institutions are key inputs for the production of goods and services that can be traded across African markets. Given the challenges faced by the education sector and potential solutions to address those challenges, it is imperative to address education services in the ongoing round of negotiations.

Importance of giving priority attention to the health and education sectors in the initial round of negotiations on the liberalization of services within the African Continental Free Trade Area

Health and education systems underpin the overall functioning of economies. Furthermore, strengthening the health and education sectors will directly facilitate efforts by African countries to rebuild following the COVID-19 pandemic and bolster their capacity to achieve their long-term economic and social development goals. The capacity to trade is dependent upon innovation, skills and production levels within national economies, which have their foundation in education systems, in particular at the tertiary education level. Implementation of the Agreement Establishing the African Continental Free Trade Area has been delayed by the ongoing pandemic. Negotiations should therefore focus on ways to ensure that the African Continental Free Trade Area effectively supports investment in the education and health sectors and the mobility of education and health sector services.

The African Continental Free Trade Area can facilitate the development of continental value chains that promote recovery and boost resilience. The health and education sectors can incentivize recovery across industries. For example, manufacturing companies in Africa can expand as they respond to meet demand from the health sector for COVID-19 testing kits or electronic devices used by students, teachers and health sector professionals. The technology and communications sectors are also likely to expand as businesses seek to provide platforms for virtual learning and telemedicine, and support digitization at hospitals, schools and other institutions. In addition, basic health supplies, including bed linens, hospital gowns and masks, are produced by businesses, especially small and medium-sized enterprises that form part of textile value chains.

Reduced exports, falling commodity prices and debt repayment obligations mean that many African Government balance sheets are under considerable strain. Some African countries and regional economic communities are already giving priority attention to attracting private-sector investment in their health and education sectors.²⁴ In Southern and East Africa, for example, over 60 per cent of health financing is currently mobilized from private sources, while 50 per cent of health expenditure is spent on private providers. In fact, private investment in health has expanded considerably in the last decade in Botswana, Kenya, Mauritius, Namibia, South Africa, the United Republic of Tanzania and Uganda. Private sector investments in health and education can be used to establish much-needed clinics, laboratories

²⁴ EAC, for example, has adopted the EAC Health Sector Investment Priority Framework (2018–2028). Further details are available at: health.eac.int/publications/eac-health-sector-investment-priority-framework-2018–2028.

and testing facilities, thereby helping countries to improve their health-care systems. In a similar vein, enhancing the mobility of professionals in the health and education sectors can help to address skilled staff shortages.

The negotiations on the liberalization of services within the African Continental Free Trade Area have as their starting point the General Agreement on Trade in Services, which covers the health and education sectors. The Protocol on Trade in Services to the Agreement Establishing the African Continental Free Trade Area is explicitly intended to promote sustainable development.²⁵ To support achievement of that objective, the ongoing COVID-19 pandemic makes it imperative to include health and education services in the negotiation agenda. Continental liberalization is, moreover, underpinned by the legal frameworks established by the regional economic communities,²⁶ and countries will maintain the right to regulate their services sectors.²⁷

Policy recommendations

1. The African Continental Free Trade Area Technical Working Group on Services should propose to the African Continental Free Trade Area Negotiation Forum that the health and education sectors should be addressed in the first round of services negotiations. The Negotiation Forum should then forward that proposal to Senior Trade Officials and African Ministers of Trade, and onward to the Executive Council of the African Union, and then to the Assembly of Heads of State and Government of the African Union for consideration at its next extraordinary session. That proposal would reflect the decision issued in May 2020 by African Ministers of Trade and the Council of Ministers of the African Continental Free Trade Area at their joint meeting, in which States were urged, first, to assist in facilitating the flow of pharmaceuticals and other essential goods through the creation of regional value chains between African countries that meet the required health and safety standards in the context of trade corridors; and, second, to consider undertaking specific measures to facilitate the movement of health professionals in the context of the African Continental Free Trade Area negotiations, which would constitute low-hanging fruit for trade in goods and services under the Free Trade Area.²⁸
2. Through the African Continental Free Trade Area Negotiation Forum and other relevant mechanisms, countries and regional economic communities should, as a matter of urgency, collaborate with a view to establishing continental regulatory frameworks and standardization systems for the cross-border trade in health-care and education services. Concurrently, tariff elimination efforts should prioritize products such as testing kits, hospital bed linens, hospital gowns, surgical masks, vaccines, medicines and educational materials, to facilitate trade in those items and their use across borders. Similarly, mutual recognition agreements should prioritize cooperation in standard-setting and licensing systems. In addition, the specific procedures that must be followed for the establishment of infrastructure, including schools, clinics and laboratories, should be clearly articulated by all African Union countries.
3. Bearing in mind that the majority of African private sector enterprises are classified as small and medium-sized enterprises, countries should simplify the bureaucratic procedures associated

25 Protocol on Trade in Services to the Agreement to Establish the African Continental Free Trade Area, Article 3 (b).

26 Protocol on Trade in Services to the Agreement to Establish the African Continental Free Trade Area, Article 18.

27 Protocol on Trade in Services to the Agreement to Establish the African Continental Free Trade Area, Article 3 (g).

28 Report of the virtual meeting of the joint bureaux of the African Union ministers of trade and the Council of Ministers of the African Continental Free Trade Area, 5 May 2020.

with the issuance of licences and certification for businesses in the health and education sectors. Similarly, the procedures that must be followed to obtain certificates, operating licences, visas and residence permits should be eased for health and education sector professionals. Importantly, minimum thresholds for investments, including capital outlays, should be reviewed to facilitate investment driven by small and medium-sized enterprises in the health and education sectors. Investment incentives should also be tailored to the needs of such enterprises, through mechanisms including tax breaks and the cost-free completion of registration formalities.

4. Countries should immediately engage with professional associations and regulatory agencies that oversee licencing, certification regimes and standards in the health and education sectors. Collaborative decision-making is required to identify priorities and develop approaches to maximize opportunities stemming from the establishment of the African Continental Free Trade Area. The broader private sector should be involved in the development of national and regional trade liberalization strategies.
5. Building on the experience gained through implementation of the African Medical Supplies Platform, the African Union Commission should facilitate the development of continental databases for professionals and service providers in the health and education sectors. That database will facilitate needs assessments, dialogue among relevant stakeholders, peer learning and quick responses to address needs in these sectors. Such engagement by governments and the private sector will help establish a foundation for successful negotiations within the context of the African Continental Free Trade Area.



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