Emerald Journal of International Trade Law and Policy

Comparative Advantage in De-Globalisation: Brexit, America First and Africa's Continental Free Trade Area

Journal:	*Journal of International Trade Law and Policy*
Manuscript ID	JITLP-01-2018-0005
Manuscript Type:	Research Paper
Keywords:	comparative advantage, Brexit, African Union CFTA, trade, WTO

Comparative Advantage in De-Globalisation: Brexit, America First and Africa's Continental Free Trade Area
*

Abstract
This paper examines the relevance of the theory of comparative advantage in the present realities of a world undergoing de-globalisation, that is, a retreat from closer integration. It presents eight arguments which analyse the theory as posited by Adam Smith and David Ricardo and which theory remains the underpinnings for trade liberalisation as regulated by the World Trade Organisation (WTO). The arguments do not contend with the role and achievements of the WTO in the era of globalisation. Rather, they call for an acknowledgement of the changing realities of countries in the face of changes in the political, economic and legal landscapes, across the globe. It re-examines the theory in light of the realities of Brexit, the retreat to 'America First' under the Trump Administration and, the ambitious plans of the African continent to establish a Continental Free Trade Area (CFTA) and a Customs Union across its fifty-four countries, by 2020.

1. Introduction

The world is undergoing significant political changes. These changes have a direct impact on domestic economies but also on the future of trade relationships. Beyond the political changes across the world, there are also changes in perception and value of trade agreements from within developing and emerging economies who constitute majority of the global trade polity. This paper in acknowledgment of these changes presents eight arguments that re-examine the theory of comparative advantage with a view to adapting it to present day realities. Section 2 revisits the theory of comparative advantage as set down by Adam Smith and expounded on by David Ricardo. Section 3 develops the afore-mentioned eight arguments as a retreat from the simple interpretation which have been proposed in support of the modern rules-based system of trade under the WTO. The paper makes its conclusions in Section 4.

2. Theory in the arena of de-globalisation- The Retreat:

As an economic theory, there is no understating the impact and relevance of the theory of comparative advantage. The original expression on how countries can profit from trading amongst themselves according to Adam Smith, is reflected in his analogy:

> What is prudent in the conduct of every private family, can scarce be folly in that of a great kingdom. If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better buy it of them with some part of the produce of our own industry, employed in a way in which we have some advantage. The general industry of the country…will not thereby be diminished…but only left to find out the way in which it can be employed with the greatest advantage. It is certainly not employed to the greatest advantage, when it is thus directed towards an objective which it can buy cheaper than it can make. (Smith, 1776, 478-9). [1]

Put simply, Smith's view was that whereas one country may be able to produce more than one good to its benefit, where it will be cheaper to purchase one such good from another country than to produce the good itself, it is even more beneficial and indeed prudent for the first country to purchase cheaply.

By the nineteenth century, another economist David Ricardo, had expanded on Smith's view and proposed what is now referred to as the 'principle of comparative advantage'. This principle holds that 'each country will benefit if it specialises in the production and export of those goods that it can produce at relatively low cost'. (Samuelson & Nordhaus, 1998, p 689). [2] In other words, 'each country will benefit if it imports those goods which it produces at relatively high cost'. (Samuelson & Nordhaus, 1998, p 689). [3] The WTO embraced the postulations of Ricardo holding it out it as 'the single most powerful insight into economics', (WTOa, 1990) [4]. It presents the case for open trade:

> …But what if a country is bad at making everything? Will trade drive all producers out of business? The answer, according to Ricardo, is no. The reason is the principle of **comparative advantage**.
>
> It says, countries A and B still stand to benefit from trading with each other even if A is better than B at making everything. If A is much more superior at making automobiles and only slightly superior at making bread, then A should still invest resources in what it does best — producing automobiles — and export the product to B. B should still invest in what it does best — making bread — and export that product to A, even if it is not as efficient as A. Both would still benefit from the trade. A country does not have to be best at anything to gain from trade. That is comparative advantage.
>
> It is often claimed, for example, that some countries have no comparative advantage in anything. That is virtually impossible. (WTOb, 1990). [5]

The WTO is correct to the extent that it is impossible to claim in absolute terms, that some countries have no comparative advantage. The limitation to the assertion of the rules-based system is that the impossibility must surely only refer to a wrong presumption on the question of *potential*: that is, that a country cannot produce anything. Every country with its human capital, can by acting on its initiative develop opportunities and exploit its potentials towards developing comparative advantage. At the level of actual trade capacity, if countries do not engage actively in building a trade capacity whether for goods or services, no amount of economic theory can negate the evidence that for non-producing counties, a comparative advantage is virtually impossible. Why is this so? This is because in practical terms, and this is the crucial factor, some countries hardly have anything traded in the open market because they do not produce those goods and services others want, or are encouraged, to buy. There are a myriad of factors for this but the main contributor is the absence of dedicated investment (human and capital) in growing a sustainable trade capacity for goods and services.

Modern life offers its own evidence of the challenges that confront a country in the development of a comparative advantage. From an international perspective, political upheavals, running conflicts, wars, internal displacement, migration, and economic flux are huge problems that impede investments in trade. Domestic and regional factors are also significant inhibitors to trade, often neglected in the global discourses on growing comparative advantage. Poor education and skills capacity in the labour force, bad economic policies, insecurity, poor political relations across regions, inefficient bureaucratic systems, corruption of public officials, the absence of the rule of law, lack of funding, unstable and restrictive governments, poor technological capacity, are a few examples. Today changes in political economy however present cause for a re-evaluation of the theory in order to ensure that the realities of present changes can be adaptive to the principles espoused by Smith and Ricardo.

3. Revising the Theory of Comparative Advantage

There have been other contentions with the standard interpretations of Ricardo's position and indeed of the expositions on the theory of comparative advantage. [6] A particular concern has been with the application of the Ricardian conception, what has come to be regarded as the defining principle of modern international trade law, i.e. the theory of comparative advantage. [7] Our own contention is with the interpretation of the said theory of comparative advantage and its wholesale application to markedly different 21st century political and economic realities. While the theory of comparative advantage makes perfect sense when left in its realm of market economics, it is a hardship when it is made the basis of law and applied in a rules-based context across unequal trading partners, and inequalities across countries are deepening. This contention is based on eight points which ought to be kept in view in a modern interpretation of the theory for the purposes of regulated trade. These arguments are as follows:

3.1 Recognition of the real parties in trade relationships

The comparative advantage theory was proposed with the understanding that countries are the entities that determine the processes of trade in the international arena. However countries are not the real parties in trading activity. Enterprises, individuals, SMEs, corporations, multinationals, are. Trebilcock and Howse (2005), see it as an 'unfortunate semantic legacy' of the comparative advantage theory, which continues to cite *countries* as the parties in international trade. [8] In presenting countries as the parties to trade, this issue of comparative advantage is not without conundrum. Will a country's comparative advantage refer to the income earning potential for a scarce resource which is in high demand (such as oil or diamonds), or does it simply refer to any factor of production or any natural resource which a country has in greater supply than its counterparts (for instance, vast arable land, unskilled labour, primary goods)?

In the first situation, great demand for scarce resources may appear to grant a country a comparative advantage. So, mining diamonds may yield huge returns to a country's GNP. But will it improve the lives of the majority? The answer is: not necessarily. This is because it may not employ the most number of people. If a foreign technologically-proficient corporation is contracted by the host government to mine a scarce resource like diamonds as is the case in the mining regions of Central and South Africa, the labour force utilised will be negligible.

Africa's Botswana hailed as an example of the gains of comparative advantage from trade provides a useful example. Generally, Botswana's economic growth can be ascribed to mineral and beef exports, tourism, and donor aid. [9] However, diamonds are by far the most important source of income for Botswana since their initial discovery in 1967, a situation which should prove of no surprise given the high demand and high price of diamonds. [10] In the country's 1998 Trade Policy Review (TPR), the WTO noted that only about 3.5%, were formally employed in that sector. The TPR reported that 'shortage of labour is a major constraint on the development of manufacturing industry.' [11] The Botswana Government Report for the same period in turn confirmed that 'Botswana's economic base remains narrow, with one third of GDP in 1996 and some 50% of government revenues in the same year stemming from the mineral sector'. [12]

As at 2010, the combined earnings of the three mining operations in the country, all incidentally operated by a single private company - the De Beers Group, accounted for 77% of total export earnings and about 45% of the GDP of Botswana. [13] The Botswana government (with 15% shareholding) shares joint ownership with two others in the De Beers group: Anglo-American (45%) and Central Holdings (representing the Oppenheimer family with 40%). Its global mining operations employ approximately 20,000 people in its operating sites in Botswana, Namibia, South Africa, Tanzania and Canada and around the world; about 7000 of those employees are in Botswana. [14]

It must be noted that this phenomenal success did not counter the domestic evidence. When other countries enter the market, there is an impact on a once dominant player as the statement below demonstrates:

> Botswana's own domestic market has been under threat since South Africa emerged from the apartheid era and has gradually opened up its market to foreign competition. The first real test was when South Africa negotiated a free trade agreement with the EU; this agreement was a de facto free trade agreement with all the SACU member states. The second eye-opener was the challenge faced by the EU in the WTO on its discriminatory preferential market access (under the Lomé Agreement) to a select number of African, Caribbean and Pacific (ACP) countries. This meant that preferences enjoyed by Botswana (mainly for its beef exports) were coming to an end. (Mbekeani, 2005) [15]

Connected with the above reality and a *second contention* is the question on the specific subject of the theory that is, what does the theory presume countries actually trade: finished or unfinished goods?

3.2 The nature of traded goods matters

Countries that sell finished goods have a greater chance of making gains on the open market. Countries that sell unfinished goods or raw materials do not have the same successes. An examination of the year on year data for top trading economies on any global data compilation is evidence of this reality. Yet, the fact that the comparative advantage theory refers to finished and not unfinished products have little bearing on how countries can maximise their potential for comparative advantage and thereby what gains can be made from trade.

For instance, it is common knowledge that what Africa trades most is in raw materials – oil, textiles, cotton, minerals, and low skilled labour. Lacking sophisticated industrial expertise, raw materials are sold in their primary state to supply the industries of developed countries with these materials including minerals such as oil and diamonds. In the sophisticated modern global economy with ever-changing consumer preferences and rapid technological advancements in manufacturing, possession of raw materials alone puts any country at a distinct disadvantage. Again the case of Botswana provides insight. An economist from the Botswana Institute for Development Policy Analysis (BIDPA) commented as follows:

> While the diamond sector is by far the leading sector of the Botswana economy in terms of its contribution to gross domestic product and foreign exchange earnings, its contribution to employment is extremely low (under 3.6%) due to the high capital intensity of diamond mining and the fact that most of the diamond is exported in rough form. As a result of the low contribution to employment and fear of losing the market for beef in the EU, the authorities have adopted an industrial strategy aimed at promoting non-diamond industries both for export and local consumption. [16]

There is no doubt that countries must have to offer improved goods and labour; improved in the sense that goods will need to be processed into a secondary state in order to compete in the global market. It is the same with labour and the trade in services which benefit the more sophisticated service providers in the international market.

That is not all. A *third argument* is the reality of the state of political economy in a trading country.

3.3 The impact of changes in domestic political economy on trade relations

Possession of a particular factor of production in abundance does not necessarily guarantee that a country will make any gains by that fact alone. A vast land mass may be restricted by government land-ownership laws, a common historical feature of Asian economies, or may be owned by a small section of the rich or political class in the country, a common feature of a number of African countries. A huge labour force if it is largely comprised of unskilled persons may limit the comparative advantage to be exploited from skilled labour-intensive operations. For example, the huge undeveloped land mass and young labour force of the entire African continent has not detracted from the superior position of the European Union (EU) and the United States of America (USA) in producing agricultural goods. Apart from the sophisticated and technologically advanced agricultural practices of these countries, the strategic subsidisation programmes in these countries consistently thwart whatever 'natural' comparative advantage the African continent may have in agricultural enterprise.

Needless to say, abundant resources still need to be effectively harnessed towards producing goods or services that can compete in the global market. Without well-structured policies to achieve this, a country may be blessed with land, natural recourses, labour, capital, and may yet remain unable to make anything out of this abundance. If it undergoes any changes in its political affairs, it may also have to redefine its interests and renegotiate trade relationships with others.

3.3.1 Brexit: changes in political economy

The proposed exit of the United Kingdom (UK) from the EU aka Brexit and the election of a business-minded Donald Trump as the 45th American President have thrown this reality into sharper focus. Brexit is the consequence of the decision by the people of the United Kingdom not only against continued political and economic interdependence with Europe, but mainly against *regulated* interdependence. The economic benefit to the UK from its membership of what was then the European Community since 1973 has been significant in 2016, as observed by Kayleigh Lewis (2017) below:

> According to 71% of all members of the Confederation of British Influence (CBI), and 67 per cent of small and medium-sized enterprises (SMEs), the EU has had an overall positive impact on their business.
>
> The CBI estimates that the net benefit of EU membership is worth 4-5% of GDP to the UK, or £62bn-£78bn per year.
>
> In 2014, the ONS reported that the EU, which is the world's biggest economy, accounted for 44.6 per cent of all UK exports of goods and services, and 53.2 per cent of the UK's imports of goods and services.
>
> Meanwhile, the Centre for Economics and Business Research (CEBR) shows the overall contribution to our economy from exports to the EU was £187 billion last year, and that it could rise by almost half again to £277 billion a year by 2030. [17]

Despite the favourable statistics, on 23 June 2016 the UK voted in a referendum, to leave the EU.

This proposed change in its international relations had significant domestic legal impact. Of primary concern was the potential impact on trade and business, on the UK economy, which had benefitted immensely from the foundational provisions of the Treaty on the Functioning of the European Union (TFEU 2007) [18]: on freedom of movement for goods (Articles 34-36), of services (Articles 49 and 56), of labour (Article 45) and of capital (Article 63). Although the people had voted in favour of Brexit, a question arose as to whether UK Ministers had a right to withdraw from the EU without the authority of an Act of Parliament authorising them to do so. In *R (Miller) v Secretary of State for Exiting the European Union* [19] the UK Supreme Court (the Court) affirmed the decision of the Divisional Court, holding that an Act of Parliament authorising Brexit was necessary before the UK could proceed with negotiations on withdrawal from the EU.

The argument of the Secretary of State was that the Minsters could give Notice under Article 50 of the TFEU that the UK would withdraw from the EU without any need for authorisation from Parliament. This argument was based on "the existence of the well-established prerogative powers of the Crown to enter into and to withdraw from treaties." [20] The Court in response noted the following:

> Originally, sovereignty was concentrated in the Crown, subject to limitations which were ill-defined and which changed with practical exigencies. Accordingly, the Crown largely exercised all the powers of the state ... However, over the centuries, those prerogative powers, collectively known as the Royal prerogative, were progressively reduced as Parliamentary democracy and the rule of law developed. By the end of the 20th century, the great majority of what had previously been prerogative powers, at least in relation to domestic matters, had become vested in the three principal organs of the state, the legislature (the two Houses of Parliament), the executive (ministers and the government more generally) and the judiciary (the judges). [21]

The Court then noted that "it is a fundamental principle of the UK constitution that, unless primary legislation permits it, the Royal prerogative does not enable ministers to change statute law or common law". [22] On the specific nature of the EU Law brought into the UK domestic legislation by the European Communities Act of 1972, the Court noted that "although the 1972 Act gives effect to EU law, it is not itself the originating source of that law" [23]. It was therefore of the view that "in light of the terms and effect of the 1972 Act, and subject to considering the effect of subsequent legislation and events, the prerogative could not be invoked by ministers to justify giving Notice: ministers require the authority of primary legislation before they can take that course" [24]. Negotiations with EU were theretofore halted pending the required authority from Parliament.

3.3.2 The future of UK trade

As earlier noted Brexit's implications are not only political but also economic. New realities about future trade relations between the UK and the EU are also emerging; indeed trade is the most difficult area of negotiations for the future after Brexit. But what are the implications for the theory of comparative advantage and the realities of de-globalisation? Apart from having goods available in a condition that other countries are willing to pay to buy, sound economic and trade policies by governments determine in no small measure the success of trade endeavours. In the instant case of the UK for example, one notes that from 1999 to 2016, trade between the EU and the UK has been of mutual benefit: to the UK, its (financial and business) services sector and to the EU, its goods sector respectively (UK House of Commons, 2017, p3). The UK has consistently recorded a deficit to the EU for goods trade for the same period. (UK House of Commons, 2017, p4). [25]

As Figure 1 below shows, Romei (2017) notes that:

> With all the talk of stronger trade relationships with other markets, only Australia, Switzerland and Japan currently account for UK exports shares of between 2 and 5 per cent. All other markets, including Canada and China, account for 1 per cent or less of UK services. [26].

Figure 1: UK exports trade 2016

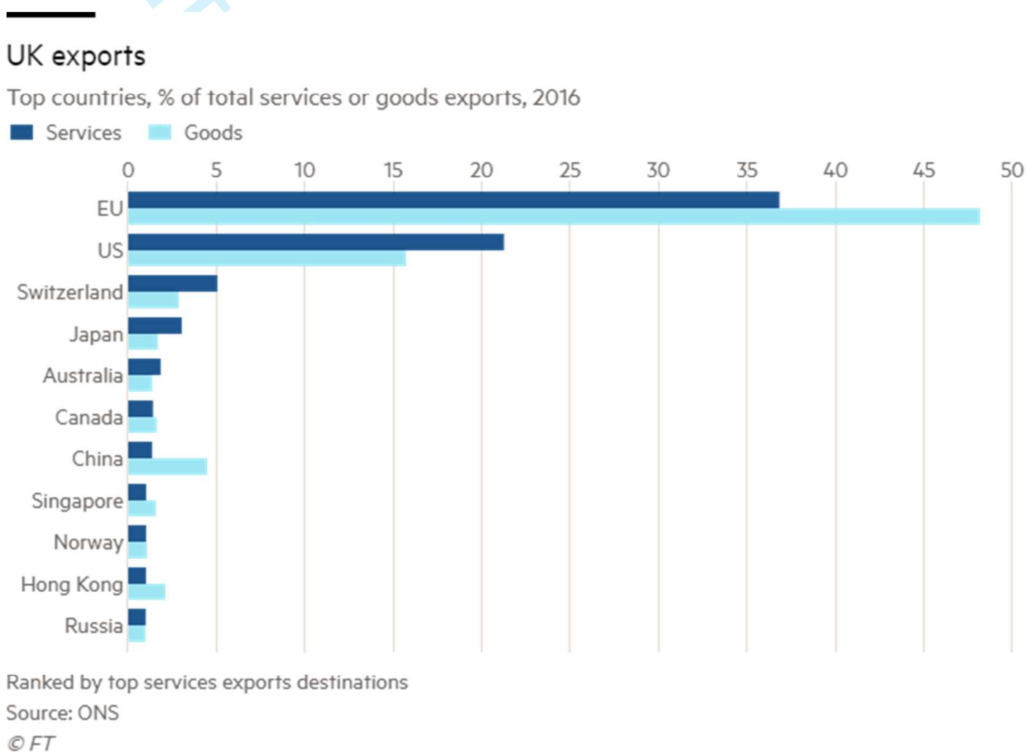
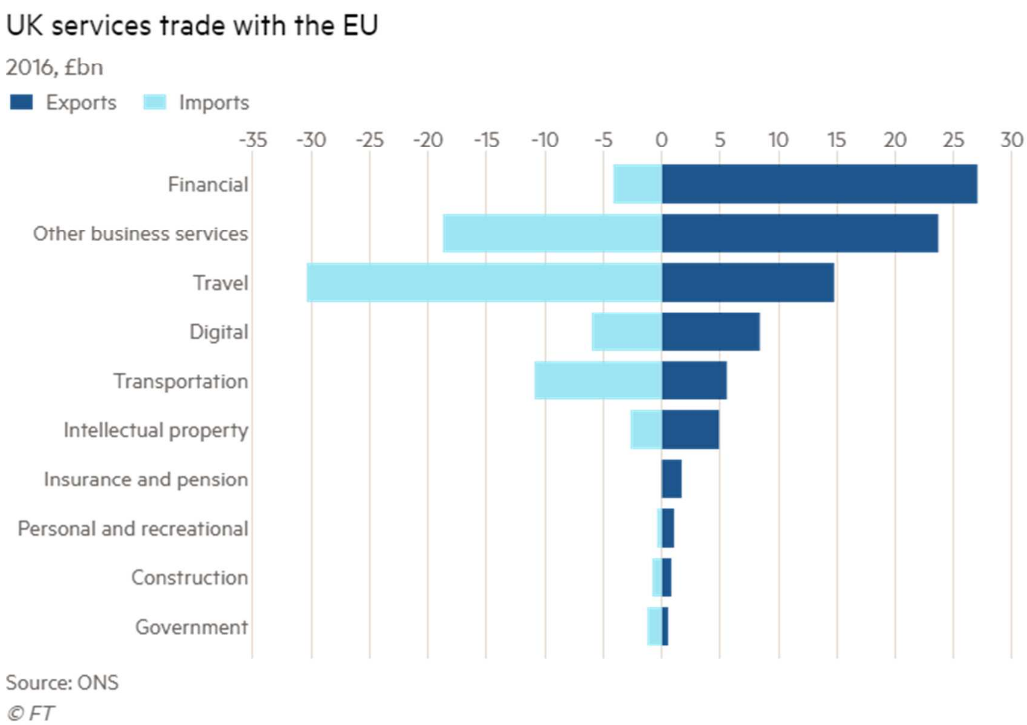


Figure 2 shows UK performance in in trade for services with the rest of the EU. In this regard, Romei (2017) again notes that:

> The UK is also highly dependent on EU services imports. About half of all services imported into the UK originate in the EU, particularly travel and business services. The latter, which include research and development, and scientific and technical services, are used as inputs into both the UK services and manufacturing sector. The importance of services for other sectors is sometimes underestimated.

Figure 2: UK-EU trade in services



Following Brexit, the future of UK-EU trade if it is to benefit both sides but the UK in particular, requires re-adjustment of policies and priorities if the UK's comparative advantage in the financial and business services sector is to be maintained. Pursuing trade negotiations without a clear strategy by the UK government on how to maximise its advantage in the services sector will have serious consequences for both its economy and its political space. The results of the Brexit referendum forced the then Prime Minister David Cameron his position. A trade deal that does not ensure UK's comparative advantage in services will no doubt be equally disastrous for the government of the day.

Our *fourth contention* stems from the observation of the politics of bargaining and the ever increasing demand for reciprocity not only operative under the multilateral system but also in the realm of international relations.

3.4 Trade is not that simple

The practicalities of trade negotiations are more complex than the basic considerations of the theory which envisioned and describes a relatively straightforward and simple agreement between two countries. In the theory, it is simply about which country will produce what goods. Yet a picture of countries as being in an independent position to determine what they should produce and to whom to sell is misleading to those who do not engage with the multilateral nature of trade talks – it involves a lot of interests, often diverging interests. The globalisation initiative which paved the way for a rules-based system of global trade and spread the appeal of trade liberalisation demands cross-border market access and a non-discriminatory trade regime, features for which many countries were unprepared at their time of accession. Although countries including Least Developed Countries (LDCs) have some special treatment to allow for their relatively weaker economies, membership of the WTO has certainly not brought the exponential economic growth weaker trading economies thought it would.

A principal reason is the character of the rules-based system. The WTO expects its Member States to observe its basic principles – the Most Favoured Nation (MFN) and Non-discriminatory Treatment (NT) across the Organisation's membership. These principles in turn discount the possibility of countries unilaterally deciding with whom to trade without resorting to the exemptions under the WTO Agreements. [27] There can indeed be legal departures from the global system. However such departures must comply with the rules. The creation of Regional Trade Agreements (RTA), Free Trade Areas (FTA) and Customs Unions is one possible legal departure from the MFN and NT principles. The EU has made gains via its regional integration in its WTO membership where a single vote by the EU is representative of the wishes of each of its Member states. Apart from satisfying the rules, more practically, the success of trade integration outside the WTO depend in turn on the extent of integration across the countries that constitute that union or FTA. Smaller numbers of countries are more likely to negotiate complex trade agreements more peaceably, and quickly. Can a large group do the same?

Aside from Brexit, already there is concern about the future of long existing trade and investment regimes including the North American Free Trade Agreement (NAFTA) between the USA, Canada and Mexico. [28] If examples of regional integration, like the EU, can suffer losses in its membership such as is the case with Brexit, what is the future for arrangements of a similar nature? The EU comprised 28 countries. The AU believes that the fifty-four countries of the African continent stand to make better gains from a Continental Free Trade Area (CFTA). Much of Africa's political relations still remains tied to political colonial interests or in present times, Chinese business interests. Without strong economic and social integration amongst African nations, can Africa effectively build up a FTA?

3.4.1 The African Union (AU) Continental Free Trade Area (CFTA)

As mentioned above, Brexit has raised questions as to the permanency of interests even in a beneficial economic arrangement such as the EU. The proposal by the AU, is for an African Continental Free Trade Area (CFTA) to be achieved in 2017 and an economic union to be established by 2019. It has been suggested that a "50 per cent increase in intra-African trade above a 2012-baseline can be achieved by 2022 if a continental free trade is in place by 2017". [29] The expected completion date for the

CFTA was 29 December 2017 (AU, 2017). On the face of it, a CFTA could be seen as a long overdue trade and investment strategy by African governments. Nevertheless it cannot be denied that despite political pronouncement within and beyond the continent on the need to develop Africa's trade capacity, intra-African trade is hardly significant. [30] Mevel and Karingi (2012) have previously noted that "trade flows within African economies remain at low levels with nearly 11% of total Africa's trade being intra-trade in 2010." [31]

The proposal by the AU for a Free Trade Area is for an even bigger entity comprising more countries than both the EU and the NAFTA combined. In a continent with a multitude of trade blocs and sub regional agreements, a Free Trade Area appears to be more a theoretical than a practicable enterprise. The main trading blocs and their Member States include:

Table 1: Main African trade blocs:

Trading Arrangements	Member States
Common Market for Eastern and Southern Africa (COMESA)	Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Arab Republic of Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Tanzania, Zambia & Zimbabwe
South African Development Community (SADC)	Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia & Zimbabwe
South African Customs Union (SACU)	Botswana, Lesotho, Namibia, South Africa & Swaziland
West African Economic and Monetary Union (UEMOA)	Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal & Togo
Economic Community of West African States (ECOWAS)	Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone & Togo
Central African Customs and Economic Union (UDEAC)	Cameroon, the Central Africa Republic, Chad, the Republic of Congo, Equatorial Guinea & Gabon;
Economic Community of Central Africa States (ECCAS)	Angola, Burundi, Cameroon, the Central Africa Republic, Democratic Republic of Congo, the Republic of Congo, Equatorial Guinea, Gabon, Rwanda and Sao Tome & Principe
East Africa Community (EAC)	Kenya, Tanzania and Uganda; Cross border Initiative Burundi, Comoros, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Swaziland, Tanzania, Uganda, Zambia & Zimbabwe
Economic and Monetary Community of Central Africa (CEMAC)	Cameroon, the Central Africa Republic, Chad, the Republic of Congo, Equatorial Guinea, Gabon, and Sao Tome & Principe
Economic Community of the Countries of the Great Lakes (C E P G L)	Burundi, the Democratic Republic of Congo & Rwanda
Indian Ocean Commission Comoros	Madagascar, Mauritius, Reunion & Seychelles
Mano River Union (MRU)	Guinea, Liberia & Sierra Leone

Data source: Ministry of Commerce and Industry, Government of India 2017

As can be seen from Table 1 above, there are parallel and multiple memberships. So long as the proposed CFTA does not breach the WTO rules, there is no problem. The greater problem is within the Free Trade Area and its Customs Union: Will there be radical departures in the constitution of its existing sub-regional trade arrangements in a future African CFTA? The main operating bodies are ECOWAS, SADC, and COMESA and so the countries who share these platforms may help to sustain the CFTA initiative. It has to be said however that the CFTA has decidedly ambitious projections. Its objectives include enhancing competitiveness across all industries even if industrial capacity across Africa is low; overcoming the dependence on export of raw materials which is a huge challenge in the absence of advanced technologies required for contemporary manufacturing processes; removing the need for multiple memberships across its many trading blocs; to increase intra-African trade by 50% by 2020, and; to create a free market for its goods and services. (Treaty Establishing the African Economic Community, 1991). [32]

What are the implications for free movement of peoples and immigration, a pillar of the EU arrangement which nevertheless played crucially in the Brexit decision? How will Africa enhance intra-African trade and investment while also exploring global trade opportunities? In any event, the primary benefit of closer integration albeit on such a grand scale are with respect to regulation and implementation: it will be much easier to harmonise and standardise economic and trade rules in a CFTA than it is at present with a myriad of trade blocs. It is also easier to do so in line with global trade rules under the WTO, given that the CFTA is a legal exception to the principles of trade liberalisation and so is in compliance with the WTO rules, as it is. Perhaps the outstanding issue is this: how can the CFTA facilitate Africa's capacity for finished goods and skilled services and drive the countries towards a comparative advantage in the global market? This leads on to our fifth argument.

3.5 Comparative advantage is not automatic or guaranteed

In the modern global market, a country's comparative advantage is more likely to arise *as a consequence* of a profitable exercise in international trade. That is to say, as a country's trade activity in the global market increases and its goods maintain a significant market share, then the country may proceed to increase its production capacity for that good. China is a good reference point. One of the strong developing countries in the global market, China has become a global competitor in manufacturing for a wide range of goods, both home goods and industrial goods. It could be said to have a comparative advantage over such merchandise than most of its counterparts; indeed it presents a competition for developed country technical and industrial manufacture. Yet this comparative advantage only arose as a *consequence* of China's long and continued manufacturing activity which yielded lower costs for production stabilising its trading activity in this area to its advantage. The consequences of China's growth and its prospects for the global economy, are still uncertain; they may well present a far different reality than imagined.

The point here is that in the context of a global competitive trading system, a comparative advantage does not automatically arise on its own. It may well be dependent on the sales performance of a good or a trading activity in the global market. If there is the will and the focused strategy to pursue such ambitions, it is possible should developing countries have the enabling environment for productive capacity and the socio-economic improvements in living standards, that they may indeed gain comparative advantage in certain areas which have hitherto been considered areas of developed country advantage. In the multilateral trading system especially, it may well be that ‘it is the gains from trade that implies the pattern of trade, not the reverse. [33] A country may thus have a comparative advantage *after* a rewarding pattern of trade and not before embarking on a trading arrangement.

3.6 Inequalities are real and will impact negotiations

There is a presumption that countries are always in an equal bargaining position and so that trade negotiations are always fair and mutually beneficial. This is not always the case. In reality, under the global economic system, inequalities exist both in the capacity to supply goods or services to trade, and in the capacity to participate in the trading system. The distinction between developed, developing, and least developed countries at the WTO acknowledges these inequalities. In a trading relationship, where a strong party perceives itself to be in an unequal and unbeneficial relationship, the trade relationship is put under pressure. NAFTA under the Trump administration is a case in point. An early observation on NAFTA at the time of its creation had noted on the question of integration as follows:

> NAFTA, …does not constitute a classical example of a regional agreement primarily designed to strengthen regional ties. Despite the fact that free trade will reinforce the economic links between the three weaker countries, and allow greater economic rationalization within the integrated market, these gains are far too limited to consider a regional retreat as a viable economic option within the current world context. Not only are the benefits that Canada and Mexico can expect to derive from NAFTA limited, but, the advantages of regionalism are generally overestimated in the current debate. The North American market provides only limited additional export opportunities for three countries likely to continue to increase their imports from the rest of the world. [34]

Deblock and Rioux (1993) above while citing a common decline in trade across all three NAFTA States and a comparable increase in the economic strengths and world dominance of the then EEC and Japan in Asia, were clear on the significance of NAFTA to the USA and by extension to Mexico and Canada who were largely dependent on USA trade. In their paper in 1993, they state almost as if they were recording the realities facing the present Trump administration that “NAFTA's objectives are closely related to North America's need to reassert its position in the world economy since the momentum of its enterprises is clearly no longer sufficient to support its traditional hegemonic role” [35]. In their assessment:

> Through NAFTA, the region, and especially the United States, is seeking to create a space within which its big businesses can consolidate their activities in order both to derive global comparative advantages from their privileged access to three markets, and to improve their strategic position in negotiations with Europe and Asia. North American economic integration is therefore

> closely related to a strategic and competitive vision of international economic relations in a tripolar world. [36]

Whether one agrees with or disputes the notion of a tripolar world today, the relevance of the above observation to present day realities under the Trump Administration are remarkable. The Office of the United States Trade Representative (USTR) and its Canadian and Mexican counterparts have already begun the process of renegotiating the twenty three year old Agreement with seventeen key objectives for the USA. [37] (USTR, 2017). Amongst the contentious issues are proposals for a *sunset clause* by the US, for the Agreement to expire after five years unless renewed by the three Member States. [38] Country-specific rules of origin on automobile trade are also under discussion. Under existing rules, 62.5% content from any combination of the Member states for automobiles can be shipped to any NAFTA states without duties. [39] The USA wishes to increase the required content to 80% but also proposes that 50% of content should be manufactured in the USA for duty free automobile imports from Mexico and Canada. [40]

The tensions in these circumstances will most certainly challenge the future of trade not only in the North American region but beyond.

3.7 Theories have to be adaptive: change is constant

Another presumption in the theory is that of constancy. The principle of *pacta sunt servanda (agreements must be kept)* is an established feature of international agreements. This alludes to the fact that the two countries can trust one another to abide strictly with the terms of their agreement, always. In our view this presumption though compelling falls short of reality. For one, the WTO representation of comparative advantage as a theory demands that in the agreement between countries A and B, country B will always be satisfied with its profits from bread making. Thus even where Country B assesses that with further Research and Development (R&D) activities and with financial investments into its automobile industry it may match or even exceed country A’s capacity in automobile production, it will not do so. Neither would country A attempt bread making, content to leave this industry to country B. The fierce competition amongst producers in the modern global market does not sustain this interpretation of the theory. It is impractical to retain the suggestion that a country is satisfied at producing a particular product when it can explore ways to find alternative and cheaper means of producing what it is forced to buy.

Trade agreements in particular, the WTO Agreements, are increasingly seen by the public, as external impositions on capacity-poor countries whose governments see no room to manoeuvre their way out of the obligations they have entered into. Domestic adjustment policies are also criticised because even if they manage not to flout existing multilateral agreements, economies may still suffer. The present realities suggest that countries are being forced to re-engage with their own domestic needs. Again, the Trump presidency highlights this reality. The USA has already pulled out of the Trans-Pacific Partnership (TTP), a key election campaign promise for President Trump. Future trade policy measures under the Trump administration suggest that the US will engage in “[R]esisting efforts by other countries – or Members of international bodies like the World Trade Organization (WTO) – to advance interpretations that would weaken the rights and benefits of, or increase the obligations under, the various trade agreements to which the United States is a party." [41] As the US Trade Policy promises, US trade goals, "can be best accomplished by focusing on bilateral negotiations rather than multilateral negotiations – and by renegotiating and revising trade agreements when our goals are not being met." [42]

If the USA will seek to depart from the WTO Agreements and decisions, it is not unlikely that other countries may wish to follow suit or at least question their own commitments. Future agreements will probably demand greater evidence of positive and tangible impact on domestic economies and the lives of people. It is also possible that multilateral negotiations may give way to greater bilateralism in trade. [43]

3.8 The need to confront emerging realities

Basic 'needs' and 'wants' are no more the sole economic determinants of trade arrangements. The analogy with 'bread making' and 'automobile manufacture' is in the light of modern technological advancements and consumer preferences, simplistic. Emerging issues in modern living ranging from a ferocious consumer appetite for new products and the latest technologies, to environmental considerations, including the threats of armed conflicts and terrorism, will determine trade preferences and trade partnerships. Future trade negotiations will consequently be heavily influenced by political alliances. [44]

If these trends indicate that changes in globalisation are already underway, do they predict a change in the rules-based system as it currently stands? Does the comparative advantage theory that underpins the rules-based system have to adapt to these changes or will the WTO have to redefine the economic foundations for the free trade system to adapt to the present socio-political and economic landscape of the present? We suspect changes are inevitable.

With communication and the vast advances in technology, the impact of mass movements of people, goods and services, capital, has already been overtaken by the borderless world of ideas. It may therefore be too early to predict the death of globalisation. However, the future demands a multipronged approach to economic growth. Greater efficiency in production of goods and services, policies that facilitate trade capacity and also generate innovation for new entrants to markets, subsidies, protective regulation, all these are essential to economic growth. Diversification and innovation are now more important than they ever were before. The previous notion of specialisation as a determinant for development or economic growth has not stood up to the vast capacities of Chinese industry which turns out a variety of goods cheaper and faster than was previously though possible. Rodrik (2004) drawing on a number of studies noted that contrary to the conventional understanding, specialisation according to comparative advantage is not an essential ingredient for development. In his view,

> Whatever it is that serves as the driving force of economic development, it cannot be the forces of comparative advantage as conventionally understood. The trick seems to be to acquire mastery over a broader range of activities, instead of concentrating on what one does best. [45]

Countries who are yet to capture a significant share of the world market for traded goods do not have the time and space that they may have had in previous years. Technology is making it virtually impossible for these countries to catch up with others who are far out-pacing them in productive capacity. Thus while it may appear impossible for a country not to have a comparative advantage in any sector, the productive capacities of a technology driven world are making it a reality. Essentially, the economies of less industrialised countries which are poor, have poor social and institutional systems, lack technological knowledge, and have low skilled labour, will still find it difficult to invest and grow industries and produce goods which will compete favourably in a world market where countries are retreating to defend their own interests first. This truth is relevant even if these poorer countries all agree to harmonise their rules and trade agreements, as the AU intends for the African continent. Future economic policies whether domestic, bilateral or multilateral must factor in these challenges if domestic needs and wants are to be met alongside an increasingly aggressive protectionist retreat across world governments.

4. Conclusion

While the law guarantees or at least suggests a level playing field in a rules-based trading system, changes in the political landscape of some of the strongest global economic powers are clear indicators that the field may not stay level if indeed it ever was. Political change with the Brexit results in the UK Referendum of June 2016 means that the UK exits the EU after fifty years. The UK must re-negotiate its trade agreements not just with the EU but also with the rest of the world, as a single nation. It will have to look out for its own interests. At the same time, the Trump presidency has already started re-negotiating its agreement under NAFTA and predicted a disinclination from absolute support for the WTO system including its dispute settlement body (DSB). Elsewhere, there are long running conflicts, wars, internal displacement and mass migration across Africa and the Middle East. There is economic flux across Asia and the Americas and indeed the world over with the sustained low prices of oil since 2014. Across the EU, stronger voices for nationalism, protectionism and anti-globalisation rhetoric are growing louder. These political upheavals portend an erosion of the stability of the world economic and trading system.

In short, the era of globalisation is confronting changes. The underpinnings of globalisation including the concept of trade liberalisation and the principles of comparative advantage which have provided the foundation for the present rules-based system must also confront these changes if countries are to transit from globalisation to de-globalisation with limited shocks to internal and global economic systems. It is essentially time to redraw the plan for market participation. Countries must have to re-engage with the notion of comparative advantage not in the simple format it has erstwhile been engaged with, but with a more strategic and leaner approach that caters for domestic interests while still keeping the doors open for mutually beneficial trade with others.

Notes

1. Adam Smith, An Inquiry into the Nature and Causes of the Wealth of the Nations (1776) (E. Canaan (ed.) University of Chicago Press, (1976) Vol 1. 478-9).
2. See P. Samuelson and W.D.Nordhaus (1998) Economics (1998), Irwin McGraw-Hill 1998 p.689.
3. P. Samuelson and W.D.Nordhaus (1998).
4. See the WTO web page, *Understanding the WTO: The case for open trade,* op cit. For a modern exposition of the concept, see Alan Sykes, 'Comparative Advantage and the Normative Economics of International Trade Policy' *JIEL 1 (1998),* 49 – 82.
5. See the WTO web page *Case for Open Trade* Ibid. (Emphasis in original).
6. For example, see generally, Ha Joon Chang, Bad Samaritans: The Myth of Free Trade and the Secret History of Capitalism Bloosbury Press (Reprint Edition) 2009; Joreg Morales Meoqui, "Comparative Advantage and the Labor Theory of Value" *History of Political Economy* (2011) Volume 43, Number 4: 743-763.
7. See Joreg Morales Meoqui, J. 'Reconciling Ricardo's Comparative Advantage with Smith's Productivity Theory'**.** *Economic Thought*, 3.2, (2014) pp. 21-37.
8. P. Samuelson & W.D.Nordhaus. (2005) p.3-4.
9. See the Republic of Botswana Government information on Economic growth in the country online at http://www.gov.bw/index.php?option=com_content&task=view&id=63&Itemid=74.
10. In this respect, the income from diamonds and the contribution to the economy is not unlike the income from crude oil operations in other African countries.
11. See TPR Botswana W/TPR/S/35, 1 April 1998.
12. See *W/TPR/G/35,* 15 April 1998.
13. See the Republic of Botswana web page op cit.
14. See the DeBeers Annual Report: 'Living up to Diamonds – From Natural Resources to Shared Wealth' *Report to Society 2007*, pp 29.
15. See Kennedy K. Mbekeani (BIDPA) (2005) 'Inter-Agency Policy Co-ordination in Botswana' WTO Case Study available online: http://www.wto.org/english/res_e/booksp_e/casestudies_e/case6_e.htm .
16. Jay Salkin, Botswana Institute for Development Policy Analysis (BIDPA) cited in Mbekeani (2005).
17. Kayleigh Lewis "What has the European Union ever done for us?" *The Independent* Online at: http://www.independent.co.uk/news/uk/politics/eu-what-has-european-union-done-for-us-david-cameron-brexit-a6850626.html Accessed 19 December 2017.
18. Consolidated Version of the Treaty on the Functioning of the European Union, 2012 O.J. C 326/47.

19. [2017] UKSC 5.
20. [2017] UKSC 5, para 34.
21. [2017] UKSC 5, para 41.
22. [2017] UKSC 5, para 50.
23. [2017] UKSC 5, para 65.
24. [2017] UKSC 5, para 100.
25. Matthew Ward, "Statistics on UK-EU trade" *Briefing Paper Number 7851*, 19 December 2017, UK House of Commons Library.
26. Valentina Romei, "'Dark matter that matters' in UK trade with EU: Services are likely to make up majority of Britain's exports by 2021" *Financial Times (FT)*, 18 December 2017 Online at: https://www.ft.com/content/ceac2d00-dffc-11e7-a8a4-0a1e63a52f9c Accessed 19 December 2017.
27. By this we mean exemptions such as under the Enabling Clause (waiver of Article 1 GATT).
28. Renegotiating NAFTA was one of Donald Trump's political manifestos.
29. Economic Commission for Africa (ECA) research cited by David Luke, ECA Coordinator Africa Trade Policy Centre, 'Economic Commission for Africa (ECA) – Third World Network (TWN) Colloquium on the Continental Free Trade Area (CFTA)', *United Nations Economic Commission for Africa*, 29 February 2016 available online at: http://www.uneca.org/stories/civil-society-urged-scrutinise-africa%E2%80%99s-continental-free-trade-area-negotiations accessed 27 February 2017.
30. See generally, Simon Mevel and Stephen Karingi, "Deepening Regional Integration in Africa: A Computable General Equilibrium Assessment of the Establishment of a Continental Free Trade Area followed by a Continental Customs Union", *7th African Economic Conference Kigali Rwanda* 4 Oct 2012.
31. Mevel and Karingi at p 9.
32. Also known as the Abuja Treaty, 1991.
33. See generally, Alan Deardoff, 'How Robust is Comparative Advantage?' *Research Seminar in International Economics Discussion Paper No 537(University of Michigan)* May 16 2005 particularly at p. 7.
34. Christian Deblock and Michele Rioux, "NAFTA: The Trump case of the United States?" *Studies in Political Economy* 41 Summer 1993, pp7-44.
35. Deblock and Rioux (1993), page 24.
36. Deblock and Rioux (1993), page 25.
37. USTR, "Summary of the Objectives for the NAFTA Renegotiation" November 2017 (Executive Office of the President).
38. Don Lee "Trump administration updates demands as NAFTA talks continue" LA Times 18 November 2017. Online at: http://beta.latimes.com/business/la-fi-nafta-updated-objectives-20171118-story.html accessed 19 December 2017.
39. Don Lee (2017).
40. Don Lee (2017).
41. United States Trade Representative (USTRa): "The President's Trade Policy Agenda" Statement on US Trade Policy Agenda presented to US Congress 28 February 2017, 2.
42. USTRa 2017, 1.
43. USTRa 2017, particularly at 6.

44. Both economic and political studies have emphasised the influence on political considerations on trade policy making and trade activity. See for example, Dani Rodrik, Political Economy of Trade Policy, in Grossman Gene and Kenneth Rogoff (eds) Handbook in International Economics Elsevier (19950, Chapter 28; Andrew G. Long and Brett A. Leeds, 'Trading for Security: Military Alliances and Economic Agreements' *Journal of Peace Research 7 2006 Vol 43;* pp433-451.
45. Dani Rodrik, (2004) *Industrial Policy for the 21st century*, UNIDO.

References

Chang H.J (2009), Bad Samaritans: The Myth of Free Trade and the Secret History of Capitalism Bloosbury Press (Reprint Edition) 2009.

Deardoff A (2005), 'How Robust is Comparative Advantage?' *Research Seminar in International Economics Discussion Paper No 537(University of Michigan)* May 16 2005.

Deblock C and Rioux M (1993), "NAFTA: The Trump case of the United States?" *Studies in Political Economy* 41 Summer 1993.

Lee D, (2017) "Trump administration updates demands as NAFTA talks continue" *LA Times* 18 November 2017.

Mbekeani K.K) (2005) 'Inter-Agency Policy Co-ordination in Botswana' ((BIDPA) WTO Case Study 6

Mevel S and Karingi S (2012), "Deepening Regional Integration in Africa: A Computable General Equilibrium Assessment of the Establishment of a Continental Free Trade Area followed by a Continental Customs Union", *7th African Economic Conference Kigali Rwanda* 4 Oct 2012.

Meoqui, J.M. (2014). 'Reconciling Ricardo's Comparative Advantage with Smith's Productivity Theory'**.** *Economic Thought*, 3.2, (2014) pp. 21-37.

Meoqui, J.M (2011). "Comparative Advantage and the Labor Theory of Value" *History of Political Economy* (2011) Volume 43, Number 4: 743-763.

Rodrik, D (2004) *Industrial Policy for the 21st century*, UNIDO.

Romei V (2017) "'Dark matter that matters' in UK trade with EU: Services are likely to make up majority of Britain's exports by 2021" Financial Times (FT).

Samuelson P and Nordhaus W.D, (1998) (1998) Economics (1998)*,* Irwin McGraw-Hill 1998.

Smith A. (1776) An Inquiry into the Nature and Causes of the Wealth of the Nations (E. Canaan (ed.) University of Chicago Press, (1976) Vol 1. 478-9).

Ward M (2017), “Statistics on UK-EU trade” (Matthew Ward) *Briefing Paper Number 7851*, 19 December 2017, UK House of Commons Library.