



Ad-hoc Expert Group Meeting

Day Two: Session III

Theme:

Regional Integration in Southern Africa – Accelerating the implementation of the AfCFTA in Southern Africa Building on the Acquis of the RECs FTA

Hotel 430, Gaborone, Botswana (Hybrid), 7 November 2023

Concept Note

I. Introduction

1. The 29th Session of the Intergovernmental Committee of Senior Officials and Experts (ICSOE) of the ECA Subregional Office for Southern Africa will gather at Hotel 430, Gaborone, Botswana on 8 and 9 November 2023. In consultation with the ICSOE Bureau composed of Mozambique (Chair), Botswana (Vice-Chair) and Angola (Rapporteur), the session will be held under the theme, *Accelerating Implementation of the AfCFTA for Inclusive Development in Southern Africa: Building on the RECs' FTAs, and Harnessing Technology and Innovation for Private Sector and Value Chains Development*"

2. On the eve of the 29th Session of the ICSOE, an Ad-hoc Expert Group Meeting (AEGM) will be held at the same venue to discuss a part of the theme of the ICSOE namely "*Regional Integration in Southern Africa – Accelerating the implementation of the AfCFTA in Southern Africa building on the acquis of the RECs FTA*". A study commissioned by the United Nations Economic Commission for Africa Subregional office for Southern Africa (ECA SRO-SA) on the theme will be presented and discussed.

3. The primary objective of the study is to assess the existing Southern African Free Trade Area (FTA) Agreements regimes, to which the Southern African countries subscribe, often referred to as the "acquis", namely the Southern African Development Community (SADC) FTA and the Common Market for Eastern and Southern Africa (COMESA) FTA and analyse how Southern African countries can build upon their existing trade agreements to accelerate the implementation of the African Continental Free Trade Area (AfCFTA). Furthermore, the study evaluates the progress (or lack thereof) made in the implementation of the Regional Economic Communities (RECs) Free Trade Agreements (SADC FTA and COMESA FTA). It focuses on key policies and activities that have significantly contributed to regional integration within Southern Africa. In essence, the study seeks to bridge the gap between existing trade agreements in Southern Africa and the broader goals of the AfCFTA, offering a roadmap for enhanced regional integration and trade collaboration.

4. The specific objectives of the Study are three-fold:

- i. To assess progress in implementation of the Southern Africa RECs FTAs with respect to key projects and activities that have contributed to regional integration in Southern Africa with the ultimate objective of identifying best practices, key drivers, and lessons for accelerated and complementary implementation of the AfCFTA;
- ii. To deliver a robust, analytical and well- researched analysis to inform accelerated implementation of the AfCFTA in Southern Africa, building on the *acquis* of the RECs to which the Southern African countries belong, and
- iii. To detail experiences in implementing FTAs in Southern Africa and advise on the *acquis* therein for complementary and accelerated implementation of both the FTAs and the AfCFTA.

II. Theme of the AEGM and Background:

5. Regional integration and trade are considered key pathways to building peace and stability through mutual dependence, enabling economic growth through increased trade, and accomplishing broad development aspirations through coordinated actions and pooling of resources. Regional integration is a pathway to increased trade, as it helps countries overcome divisions that impede the flow of goods, services, capital and people. In Africa, regional integration and trade agendas have been pursued through a number of interrelated framework agreements and milestones over the years. For example, the Lagos

Plan of Action (LPA) and Final Act of Lagos of 1980 have contributed to building momentum in terms of regional integration and trade. Indeed, the LPA envisaged that “all customs duties applied by member countries to intra-African countries (cereals, coffee, pulses, sugar, meat, maize, fish, oilseeds, rice, wheat, sorghum, tea, vegetable oils, etc.) should be substantially reduced not later than December 1984”. Furthermore, while the LPA contained measures to facilitate intra-regional trade within Africa and subsequently culminate in the establishment of an African Common Market, implementation of the Plan has not progressed as envisaged.

6. One of the fundamental pillars defining regional integration is the Abuja Treaty of 1991 which pushes for establishing the African Economic Community (AEC) by bringing together the eight Regional Economic Communities (RECs) recognized as its building blocks. The Abuja Treaty features a detailed plan of action in terms of trade liberalization, harmonization of rules and further integration of economies, within a strengthened institutional framework. The Treaty featured an ambitious six-stage roadmap to full economic integration, including the establishment of a customs union, a single market and an economic and monetary union. In the Southern Africa region, the pursuit of regional integration is underpinned by the same rationale, which is the desire to move towards a more united, stronger, and more resilient social, political and economic entity. The main RECs driving the regional integration agenda in Southern Africa are SADC and COMESA. Moreover, while not among the eight RECs recognized by the AU, the Southern African Customs Union¹ (SACU) has played an important role in driving regional integration and intra-regional trade. Moreover, the Tripartite FTA spans across Southern, Eastern and North Africa. Both the RECs share almost similar objectives i.e., 1) creating and maintaining full free trade that guarantees the free movement of goods and services produced; 2) free movement of capital and investment supported by a more favourable investment climate in the region; 3) removal of all tariffs and non-tariff barriers, 4) attain sustainable growth and development of the members with a specific role for industrialization and structural transformation; and 5) promote cooperation in all fields of economic activity, among others.

7. In a bid to bolster the continent’s economic integration agenda, the eighteenth AU Session also adopted a decision to establish a Continental Free Trade Area. The resultant African Continental Free Trade Area (AfCFTA) considered one of the flagships of Agenda 2063 seeks, inter alia, to “create a single market” and to “lay the foundations for the establishment of a Continental Customs Union”. The Agreement establishing the AfCFTA, including protocols on trade in goods and services and dispute settlement was adopted in March 2018 and entered into force on 30th May 2019 for the 24 countries that had deposited their instruments of ratification by that date. It was launched at the twelfth Extraordinary Session of the AU Assembly of Heads of State and Government in Niamey, Niger, in July 2019. Commencement of trading under the AfCFTA was 1st January 2021. As of 1st September 2023, 54 countries had signed the AfCFTA while 47 had ratified it, the latest being Mozambique. Some cases of trade quoting AfCFTA regime have already been reported, and eight pilot countries, namely, Cameroon, Egypt, Ghana, Kenya, Mauritius, Rwanda, Tanzania and Tunisia have been selected as participating countries to start trading under the AfCFTA Initiative on Guided Trade. There are also high prospects of GTI participating countries expanding to 27, and the launch of the second phase of the GTI (trade in services) is scheduled for October 2023. Furthermore, Phase II negotiations entailing Protocols on Intellectual Property Rights, Investment, Competition Policy and Digital Trade have been finalized and are awaiting legal scrubbing and subsequent ratification, while the Protocol on Women and Youth in Trade is at advanced stages of negotiations.

8. One critical point to note is that the AfCFTA principles include among others those that refer to “RECs’ Free Trade Areas (FTAs) as building blocs for the AfCFTA” and “*preservation of the acquis*”. Therefore, the role of the RECs is critical for the implementation of the AfCFTA. According to Tralac (2021), the notion of the *acquis* became part of the African integration vocabulary during the negotiations to establish the Tripartite Free Trade Area (TFTA) and was adopted as a Guiding Principle for those

¹ SACU member States are Botswana, Lesotho, Namibia, South Africa, and Eswatini

negotiations. Applied in all the AfCFTA negotiations, the *acquis* compels AfCFTA State Parties to negotiate sector specific obligations through the development of regulatory frameworks for each of the sectors while taking account of the best practices and *acquis* from the RECs, as well as the negotiated agreement on sectors for regulatory cooperation.

9. Building on the *acquis* of the existing REC FTAs in terms of consolidating tariff liberalisation in each REC FTA requires a comprehensive understanding of the coherence or lack thereof in terms of trade liberalization approaches encoded in the *acquis*. However, preserving the *acquis* is no easy feat for the AfCFTA. Signe and Van der Ven point out that the AfCFTA agreement lacks a traditional (automatically reciprocal) Most Favoured Nation (MFN) clause. They explain that such approach may support the preservation of the *acquis*, at the expense of simplicity and streamlining of the rules. In fact, they claim that “while consistent with the principle of preserving the *acquis*, the lack of a traditional MFN clause in the AfCFTA also risks the creation of a patchwork of rights and obligations that differ across each of the State Parties.”

10. In a bid to highlight the complex interplay between AfCFTA and the RECs, UNECA commissioned a study to flesh out, for better understanding and effective implementation of the AfCFTA as it relates to the RECs’ FTAs. The study builds on the findings of the continental level study, ECA (2021), on “*Governing the African Continental Free Trade Area–Regional Economic Communities Interface*”, which among other key questions, aimed to understand the feasibility of leveraging the implementation mechanisms of various REC-FTAs in implementing the AfCFTA. The study provides an in-depth analysis of the issues as they pertain to the application of the *acquis* principle with a focus on the Southern Africa region.

11. In undertaking this study, primary and secondary data were applied and information relevant to regional economic integration, market integration and intraregional trade, including those pertaining to the AEC, RECs FTAs and AfCFTA were leveraged on. Primary data and information sources included a questionnaire survey and interviews, while secondary data and information was obtained mainly from a desk review of reports, publications, academic journals and other sources relevant to the study. In terms of scope, the study generally focused on two RECs officially recognized by the African Union i.e., SADC and COMESA, while specifically, it focused on five countries i.e., Eswatini, Malawi, Namibia, Mauritius and Zambia. These RECs and countries were assessed with respect to the opportunities arising from implementation of the AfCFTA based on the *acquis* of the RECs they belong to. Finally, data and information gathered were analysed using appropriate tools to inform the drafting of the report.

III. Objectives of the AEGM

12. Against the foregoing, the ECA SRO-SA is organizing an Ad-hoc Expert Group Meeting on November 7, 2023 at the margins of the 29th Session of its ICSOE in order to present and deliberate on the technical contents, main messages and policy recommendations of the study titled “Accelerating the implementation of the AfCFTA in Southern Africa building on the *acquis* of the RECs FTA” with a view to elicit feedback from a wide range of stakeholders from across the 11 member states of ECA SRO-SA.

13. The main objectives of the AEGM are twofold:

- Deliberate on the scope, contents, main findings and policy recommendations of the study in order to improve on its quality and relevance for stakeholders;
- Stimulate debate and discussions on the role that RECs should play in accelerating the implementation of the AfCFTA.

14. Specifically, in relation to the theme, the meeting will stimulate discussions around the main questions the study is meant to shed light on as listed below:

- How do the existing Southern African Free Trade Area Agreement regimes function (SADC and COMESA FTA, TFTA, SACU), and to what extent do the Southern African countries implement and resort to them?
- How can Southern African countries leverage their existing trade agreements to accelerate the implementation of the African Continental Free Trade Area (AfCFTA)?
- What progress (or lack thereof) has been made in the implementation of the Southern African Regional Economic Communities (RECs) Free Trade Agreements?
- Which key policies and activities have significantly contributed to regional integration within Southern Africa?
- How do the RECs view the AfCFTA? Do they see themselves contributing to the AfCFTA agenda, and are they acting in alignment with this vision?

These questions aim to understand the current state of trade agreements in Southern Africa and explore ways to enhance regional integration and collaboration in line with the broader goals of the AfCFTA.

15. Additionally the study should undertake the following:

- i. Cover the Southern Africa region's RECs and trading regimes, notably SADC, COMESA, SACU and the Tripartite FTA;
- ii. Examine national level implementation of the trade liberalization agenda of States of Southern Africa, namely, Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe²;
- iii. Provide an in-depth analysis of the coherence, gaps, overlaps, misalignment, consistencies and inconsistencies between the AfCFTA and the RECs' FTAs, and the challenges and opportunities they present for the effective application of the acquis provisions of the AfCFTA Agreement and related Protocols, taking into account the variable geometry approach;
- iv. Assess progress in the implementation of RECs FTAs and how the AfCFTA could facilitate their implementation, thereby fostering the complementary implementation of the continental and regional FTAs in order to accelerate the realization of the objectives of the African Economic Community;
- v. Analyse policy and practical aspects, as well as capacity issues pertinent to the effective implementation of the regional economic integration agenda of Southern Africa with particular regard to the AfCFTA and the RECs FTAs;
- vi. Identify relevant stakeholders at national, regional and continental levels and their role in implementing the AfCFTA and RECs FTAs in Southern Africa;
- vii. Advance recommendations to promote the complementary implementation of the AfCFTA and the RECs FTAs to foster regional economic integration and contribute to accelerating the realization of the objectives of the African Economic Community.

² Eleven of which are also SRO-SA member States, namely; Angola, Botswana, E-Swatini, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Zambia and Zimbabwe.

IV. Format

16. The meeting will be hybrid and open to all ICSOE participants. The programme of work is attached to this Concept note in Annex 1. Participants will be split into 5 break-out groups to engage in discussions on specific thematic areas, whose details are in Annex 2.

Expected outcomes

17. The expected outcomes of the study, supported by deliberations at the AEGM are as follows:

- Enhanced understanding and awareness of the relationship between the AfCFTA and the RECs FTAs and approaches for the effective application of the *acquis* principle to foster the implementation of the AfCFTA Agreement and related Protocols in Southern Africa;
- Enhanced appreciation of progress in the implementation of the RECs FTAs and modalities for the complementary implementation of the continental and regional FTAs for the accelerated realization of the AEC objectives;
- Increased awareness and appreciation of challenges to, and opportunities for realizing the regional economic integration aspirations for Southern Africa within the wider African integration agenda;
- Enhanced appreciation of the policy responses and measures required to accelerate market integration and intra-regional trade in Southern Africa with particular regard to the AfCFTA and the RECs FTAs, and the role of various stakeholders in that regard; and
- Enhanced capacity to implement the AfCFTA and RECs FTAs in Southern Africa.

V. Expected outputs

18. The outputs of the AEGM will include the following:

- A study titled “Regional Integration in Southern Africa – Accelerating the implementation of the AfCFTA in Southern Africa building on the *acquis* of the RECs FTA” that will be published on the ECA webpage
- A meeting report summarising the proceedings, and recommendations of the AEGM
- Media articles and press release.

VI. Documentation

19. The draft study will be circulated to participants at the ICSOE and uploaded at the ICSOE event webpage.

VII. Participants

20. The following stakeholders are expected to participate: senior Government officials across the 11 member States of ECA SRO-SA including senior representatives of Ministries of Trade and Industry, senior representatives of the SADC and COMESA secretariats, members of the private sector including

the SADC Business Council and COMESA Business Council and representatives of academia and civil society as well as members of the United Nations System in Botswana.

VIII. Working languages

21. The meeting will be conducted in English. Simultaneous interpretation will be provided in Portuguese.

IX. Venue and dates

22. The twenty-ninth session of the ICISOE for Southern will be hosted by the Government of the Republic of Botswana in Gaborone at the Hotel 430 on 8 and 9 November 2023. The AEGM will take place on November 7, 2023, also hosted by the Government of Botswana at the same venue.

X. Administrative arrangements

23. A comprehensive Information Note for confirmed delegates and participants will be e-mailed prior to the meeting and will also be posted on the ECA website. The note will contain information on organisational logistics, travelling and immigration arrangements and formalities, visa and health requirements, hotel accommodation and other general information on Botswana.

XI. Contacts

24. Further information and queries on the meeting and other related matters should be addressed to:

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Annex 1

Programme of Work

	Tuesday, 7 November 2023
08:00-09:00	Registration
	Director of CEREMONIES and Chair of Deliberations: Representative of the Ministry of Trade and Industry, Botswana, Ms. Lesedi Kgotlele
09:00-09:30	Objectives and Overview of the AEGM by Ms. Bineswaree Bolaky, Economic Affairs Officer, ECA SRO-SA Moderated by Henry Lubinda, Programme Management Officer, ECA SRO-SA.
09:30-10:45	Presentation of the Draft Report on “ <i>Regional Integration in Southern Africa – Accelerating the implementation of the AfCFTA in Southern Africa building on the acquis of the RECs FTA</i> ”, by Mr. Stephen Karingizi (ECA SRO SA Consultant) (45 mins) Discussant 1: Ms. Trudi Hartzenberg, Executive Director, TRALAC. Discussant 2: Mr. Dhananjay Luximon, Chief AfCFTA Negotiator, Ministry of Foreign Affairs, Regional Integration, International Trade, Mauritius. Discussant 3: Mr. Siphosami Malunga, Executive Director, Open Society Initiative for Southern Africa. (20 mins) <i>Q&A (10 mins)</i> Moderated by Ms. Motheba Malibeng, Programme Officer -Regional Trade, Directorate of Industrial Development and Trade, SADC Secretariat
10:45-11:00	TEA/COFFEE/HEALTH BREAK
11:00-12:00	Discussion of the Draft Report on “Regional Integration in Southern Africa – Accelerating the implementation of the AfCFTA in Southern Africa building on the acquis of the RECs FTA ”, prepared by Mr. Stephen Karingizi (ECA SRO SA Consultant) (1 hour) <i>Q&A</i> Moderated by Ms. Motheba Malibeng, Programme Officer-Regional Trade, Directorate of Industrial Development and Trade, SADC Secretariat
12:00-13:00	LUNCH BREAK

13:00-13:30	<p>Guidelines on the Break-out Groups and Formation of Groups Presenter: Mr. Henry Lubinda, Programme Management Officer, ECA SRO-SA</p> <p><i>Q&A</i></p> <p>Moderated by the Director of Ceremony and Chair of Deliberations, Ms. Lesedi Kgotlele</p>
13:30-15:00	<p>Break-out Group Exercises (See Guidelines in the Annex 2)</p>
15:00-16:30	<p>Presentations by Break-out Groups and Summary of Recommendations (10 mins each)</p> <p>Break-out Group 1: Trade in Goods and Rules of Origin Break-out Group 2: Trade Facilitation including NTMs Break-out Group 3: Trade in Services Break-out Group 4: Investment, Intellectual Property, Competition Policy Break-out Group 5: Dispute settlement, Private sector competitiveness and institutional/governance arrangements</p> <p><i>Q&A</i></p> <p>Moderated and summarized by Ms. Bineswaree Bolaky, Economic Affairs Officer, ECA SRO-SA.</p>
16:30-17:00	<p>Closing Session (i) Remarks by Director, ECA Subregional Office for Southern Africa, Ms. Eunice Kamwendo (ii) Remarks by Ministry of Industry and Trade (TBA)</p> <p>Moderated by Chair of the Deliberations, Ministry of Trade and Industry, Botswana, Ms. Lesedi Kgotlele.</p>
17:00	<p>CLOSE of DAY</p>

Annex 2

Guidelines on Break-Out Groups

1. Participants will be invited to separate into 5 Break-out Groups, based on the number assigned to them at the venue in a first instance and in a second instance, they will be invited, if they wish, to change group based on their areas of expertise and interest.
2. Each Break-out Group will meet in a different room at the venue that will be announced at the meeting.
3. Each Break-out Group will work under the guidance of an ECA staff member.
4. Each Break-out Group will be invited to designate a moderator/facilitator for their Group as well as a Rapporteur who will present the recommendations and findings of the Group at plenary that will support the drafting of the Outcome Statement for the ICISOE and the revisions to the study.
5. Each Break-Out Group will present for approximately 10 minutes.
6. The Rapporteur of each Group will have to submit their PPT or written notes to the ECA Secretariat to support the drafting of the ICISOE outcome statement.
7. The list of *suggested* questions for each Break-out Group is given below (each Group can add to the standard list of questions and/or modify the questions)

Break-out Group 1: Trade in Goods and Rules of Origin

ECA Support: Bineswaree Bolaky

What are the commonalities and differences between the AfCFTA Protocol on Trade in Goods and its Rules of Origin and those of SADC and COMESA? Can the private sector in SADC trade easily interchangeably across AfCFTA, COMESA and SADC when it comes to goods? What can be done to ensure greater coherence with the AfCFTA Protocol and should this be a concern? Highlight challenges that need to be addressed in order to reduce transactions costs for the private sector to trade in goods under multiple trade agreements and the type of initiatives needed in that regard (with due attention to the TFTA).

Break-out Group 2: Trade Facilitation (TF) including Non-Tariff Measures (NTMs)

ECA Support: Mzwanele Mfunwa

Are there commonalities and differences on TF and NTMs across the AfCFTA, SADC and COMESA Protocols? What are priorities for the Southern African region when it comes to improve on TF and address NTMs so that the latter does not impede trade? How can SADC, COMESA and AfCFTA Secretariats collaborate to improve trade facilitation and reduce non-tariff barriers to facilitate intra-continental trade in goods? What can be the role of the TFTA in that regard?

Break-out Group 3: Trade in Services

ECA Support: Talumba Chilipaine

What are the commonalities and differences between the AfCFTA Protocol on Trade in Services and those of SADC and COMESA? What can be done to ensure greater coherence with the AfCFTA Protocol and should this be a concern? Highlight challenges that need to be addressed in order to reduce transactions costs for the private sector to trade in services under multiple trade agreements. What can be the role of the TFTA in that regard?

Break-out Group 4: Investment, Intellectual Property, Competition Policy

ECA Support: Stephen Karingizi

Discuss and highlight major issues to be addressed in relation to promoting intra-African investment in Southern Africa and continentally. Discuss the role that the Protocol on Intellectual Property under the AfCFTA can play to advance inclusive industrialization in the region and continent. What frameworks and supportive institutions are needed in that regard? What role should competition policy play in Southern African countries and RECs to ensure that the African private sector benefits from regional trade and the AfCFTA? Highlight relevant issues of concern as a stakeholder.

Break-out Group 5: Dispute settlement, Private sector competitiveness and institutional/governance arrangements

ECA Support: Oliver Maponga

What can and should be done to ensure that the African private sector take advantage of the AfCFTA and REC FTAs? Highlight major challenges and opportunities. How can SADC, COMESA and AfCFTA Secretariats collaborate to ensure that the African private sector drives the regional integration process and benefit from it? Discuss institutional/governance arrangements that should be reformed and/or created in order to support the private sector in Africa (MSMEs, Multinationals, investors, innovators) so that the private sector can better take advantage of the COMESA FTA, SADC FTA and AfCFTA.