What is the AfCFTA?

1

The 'AfCFTA' stands for the African Continental Free Trade Area which was established in 2018 via the AfCFTA Agreement as negotiated by Member States of the African Union (AU). To understand what the AfCFTA is, one first must understand what a Free Trade Area (FTA) is. As defined by the Organization for Economic Cooperation and Development, FTAs are 'groupings of countries within which tariffs and non-tariff trade barriers between members are generally abolished but with no common trade policy toward non-members'. In practice this means countries establishing FTAs agree to significantly lower or not to charge import tariffs (taxes on imported goods) on goods from other members of the bloc, or grouping of countries, the FTA established. FTA's only govern trade relations within members of the bloc.

The AfCFTA therefore seek to integrate African economies through trade by reducing or eliminating both quantitative and qualitative barriers to trade like tariffs, quotas, and other non-tariff barriers. As is such, the AfCFTA aims at gradually integrating the small and fragmented individual African markets and economies into one large Continental market, where goods and services produced anywhere in the Continent could move to any other African country free of any barriers, whether in the form of customs duties or other impediments.

The variation of the AfCFTA from a typical FTA is the establishment of rules governing dispute settlement amongst its members, rules on investments, competition, intellectual property, eCommerce and women and youth in trade. Over the longer term, the AfCFTA aims to lay the foundations for a Continental customs union, common market, and economic community.

When was the AfCFTA created?

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The Agreement Establishing the African Continental Free Trade Area (AfCFTA Agreement) was conceived during the 18th Ordinary Session of the Assembly of Heads of State and Government of the African Union (AU) in January 2012. The first negotiations for the Continental Free Trade Area - as it was then called- were launched on 15 June 2015 at the Johannesburg summit of the AU Assembly. The first meeting of the AfCFTA Negotiating Forum, composed of the Chief Trade Negotiators from the governments of the Member States, was held in February 2016 with negotiations concluding in March 2018.

At that point, the Agreement establishing the AfCFTA and its three protocols- goods, services, and dispute settlement- were adopted. When adopted, 44 AU member states signed the Agreement thus sending the most powerful political signal about the Agreements significance. Todate, all but one African country has signed the AfCFTA Agreement. By 30 June 2019, in record time for the Continent, 22 States had ratified the AfCFTA Agreement making the minimum number of ratifications required to bring the AfCFTA into force. Upon ratification, the Member State becomes a State Party of the AfCFTA.

Trading under the AfCFTA formally commenced on 1 January 2021, however, it is important to note that as of September 2022 meaningful trade has yet to materialize. A provisional agreement to begin trading is scheduled to take effect in fourth quarter of 2022, being piloted by 7 State Parties of the AfCFTA and aiming at demonstrating how trade should happen under the AfCFTA.

https://stats.oecd.org/glossary/detail.asp?ID=3128

What does the AfCFTA aim to achieve?

3

The overarching goal of the AfCFTA is to integrate Africa through the creation of a single market that enables the free flow of goods and services across borders. The Agreement also seeks to boost Africa's trading position in global markets . Broadly speaking the AfCFTA seeks to accomplish eight strategic objectives :

a) To create a single market for goods and services

b) To liberalize tariffs in goods and services markets

c) To support the movement of capital and persons whilst facilitating investments that build on State Parties and REC initiatives

d) To provide the foundational principles for a Continental Customs Union

e) To promote sustainable and inclusive socio-economic development considering gender equality and structural transformation

f) To increase competitiveness of State Parties both intra-continentally and globally

g) To promote industrialization and diversification, regional value chain development, agricultural devel opment, and food security, and

h) To harmonize and expedite regional and continental integration processes taking into consideration overlapping regulations due to State Parties memberships in multiple consortia.

What does the AfCFTA cover?

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The Agreement Establishing the AfCFTA is a framework document that is made up of a package of legal instruments, called protocols, each with their own respective annexes and appendices. The negotiations to establish the AfCFTA package have been conducted in two phases.

Phase I of the process started in 2015 and concluded with the adoption of the AfCFTA Agreement and three separate protocols – on trade in goods, on trade in services, and dispute settlement in March 2018.

However, negotiations are still continuing on a number of technical instruments, such as the annex on rules of origin, national schedules of tariff concessions on goods, and national schedules of specific commitments on services, that are essential to complete and operationalize the Phase I instruments in full.

Phase II of the negotiations, which are underway today, aim to produce protocols in five different but related areas – investment, competition policy, intellectual property rights, digital trade or ecommerce, and women and youth in trade. Once completed, the AfCFTA will be an ambitious agreement that covers most facets of trade policy and will certainly be the most comprehensive economic agreement Africa has effectuated.

How does the AfCFTA work? What does its institutional structure look like?

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Article 9 of the AfCFTA Agreement lays down the institutional framework to operationalize the AfCFTA. The framework consists of four pillars :

a) The Assembly of Heads of State and Government;

b) The Council of Ministers;

c) The Committee of Senior Trade Officials; and

d) The Secretariat

- The Assembly is the highest decision-making body at the African Union (AU) that provides oversight and guidance on the AfCFTA. The Assembly is made up of the Heads of States of the African Union and has the authority to adopt interpretations of the agreement that are binding on State Parties. (Article 10)
- The Council of Ministers is designed as a high-level body consisting of Trade and other Ministers officially designated by State Parties. The Council of Ministers reports to the Assembly through the Executive Council. The Council is ultimately responsible for the operationalization of the Agreement and has powers, amongst others, to establish standing committees for implementing protocols, to supervise the work of such committees, to receive and consider reports on the activities of the Secretariat, to issue regulations and directives within the limits set by the Agreement, and to make recommendations to the Assembly for adoption. (Article 11)
- The Committee of Senior Trade Officials is tasked with implementing decisions made by the Council of Ministers. Members of the Committee are designated by State Parties and are responsible for developing programmes and action plans for implementation of the Agreement. The Committee also monitors progress, authorizes investigation into any issues arising in relation to implementation of the Agreement, and directs

the Secretariat to undertake specific tasks. In addition to State Parties, regional economic communities (RECs) are also represented in the Committee in an advisory capacity. The Committee meets at least twice a year and submits its reports, findings, and recommendations to the Council of Ministers. (Article 12)

- The Secretariat is a functionally autonomous body within the AU system with an independent legal personality. Based in Accra, Ghana, the AfCFTA Secretariat is "the administrative organ mandated to coordinate the implementation of the AfCFTA". Its responsibilities include the convening of meetings, monitoring and evaluating the Agreements implementation, and other duties as assigned to it . (Article 13)

https://au-afcfta.org/purpose-the-afcfta/
https://au.int/sites/default/files/treaties/36437-treaty-consolidated_text_on_cfta_-_en.pdf
https://au.int/sites/default/files/treaties/36437-treaty-consolidated_text_on_cfta_-_en.pdf

Who is responsible for the implementation of the AfCFTA?

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While the AfCFTA is a Continental free trade agreement with a strong institutional framework, at its core, the Agreement is one amongst sovereign nations. In this regard then, the ultimate responsibility for the Agreement's implementation lies with each individual State Party to the Agreement. To implement the Agreement as per its letter and spirit, States Parties need to have the requisite political will and technical capacity.

One way in which State Parties are trying to ensure effective implementation of the Agreement is through National AfCFTA Implementation Strategies in which countries identify strategic areas of national interest within the framework of the AfCFTA and specify relevant interventions necessary to ensure their ability to reap the Agreements benefits.

Are there differing responsibilities at the local, national, regional, and continental levels in the implementation of the Agreement?

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Yes. The implementation of the Agreement is highly dependent on Member States themselves and each must ensure that the institutional framework and capacities necessary for such a task are available both at the local and national levels.

At the national level policymakers must commit the political will to fully align national laws and regulations within the purview of the Agreement. Regionally, RECs also have important roles to play in supporting their member states to implement the AfCFTA Agreement.

At the Continental level, the AfCFTA Secretariat occupies a central role in coordinating implementation and providing technical support to State Parties. At every level, individuals need to be aware of the Agreement and its implications for their day-to-day functions, be trained in its operational details, and understand the consequences of practice contrary to the Agreement .

Is there anything that Countries need to do after ratification or is ratification enough for the AfCFTA Agreement to achieve its objectives?

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In order for the AfCFTA to meet its objectives, ratification is only the first important step. Once they have ratified the Agreement, State Parties need to take a number of critical steps both nationally as well as continentally.

Under international law ratification binds parties to the Agreements provisions but nations still need to translate the rules and obligations specified by the Agreement into domestic laws, regulations, and administrative practices. These efforts are critical to ensuring domestic law does not conflict with the countries international commitments and this process can be complicated. In some cases, new institutions may have to be established, new practices introduced, capacities created, approaches adopted, and in some cases, political resistance overcome. Integrating the Agreements provisions into domestic law is a resource-intensive exercise that will take time to establish and complete.

At the continental level, each State Party also needs to submit detailed schedules of tariff reduction concessions on the importation of goods and similar schedules of specific commitments on services. It is only when these schedules for the reduction and elimination of trade barriers are validated and applied by the national customs and other regulatory agencies that we can say the AfCFTA is in fact being implemented to make trading across African borders easier.

To what extent do Countries need to update their trade regulations to come into compliance with the Agreement?

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The level of trade liberalization in the AfCFTA is ambitious while also recognizing the difficulties some countries face in reducing tariffs in the near-term. In this sense, the AfCFTA has provided a phased framework for tariff liberalization. Overall, AfCFTA State Parties have agreed to eliminate tariffs on 97% of tariff lines over an agreed period of time while they allowed themselves the freedom to exclude a maximum of 3 percent of total tariff lines from liberalization.

Of the 97% that is slated for reduction and elimination, there are two categories: the first 90% of tariff lines will be eliminated over five years in the more advanced African countries (the developing countries) and over ten years for the less advanced countries (the least-developed countries or LDCs). The remaining 7% of tariff lines, which has been designated as sensitive, will still be reduced and eliminated, but over a longer timeframe: the developing African countries would do this over 10 years, while the LDCs are given 13 years. In all cases, the reductions take place in equal annual instalments.

As an example, a product falling within the 90% category that attracted a duty of 25 percent in 2020 upon importation to a developing African country would only be subject to a 20% duty in 2021, 15 % in 2022, and so on until the becomes zero in 2025. This process would take 10 years for LDCs. What this means, in practice, is that 13 years from the date of entry into force of the AfCFTA Agreement – i.e., by 2033, trade in 97% of all goods originating in Africa should be traded across borders free of any customs duties or other charges having equivalent effect.

https://au.int/sites/default/files/documents/38076-doc-afcftaenglishfinal20200123-2.pdf

Why is the AfCFTA good for Africa?

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There are several reasons why the AfCFTA is good for Africa. The AfCFTA promises to replace Africa's 55 small and fragmented markets with a single Continental market of 1.37 billion people representing about one-sixth of the world's population . When consolidated, the African market is approximately the same size as India's. However, unlike India which as one sovereign nation operates as a single market, Africa has been divided into 55 unique markets, almost all of which are individually too small to support investment on the scale necessary to industrialize.

To present this in quantitative terms, as of 2021, 17 African countries had an average GDP of less than $10 billion . In addition, African traders face average tariffs of 6.9% when they trade across Africa's 107 unique land borders. Substantial non-tariff barriers, resulting from regulatory differences, such as divergent sanitary, phytosanitary, and technical standards, raise costs even higher by an estimated 14.3 per cent.

Intra-African trade is simply too costly. The power of the AfCFTA thus lies with its ability to integrate and consolidate Africa into a single USD 2.4 trillion market and thereby eliminate many of the barriers to trade present across the Continent.

From a broader economic perspective, what can the AfCFTA do for Africa?

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The AfCFTA is expected to be a game-changer for Africa. ECA has forecast the potential benefits the Agreement can bring to Africa by 2045 when compared to a 2020 baseline. The projected gains are impressive. ECA estimates that the Agreement will increase African GDP by around USD 55 billion. Both global exports and imports are expected to increase by USD 110 billion. Besides trade, the Agreement is also expected to have positive impacts on output and welfare across the Continent, though at lower levels .

At first glance these gains may seem modest but since the Agreement is largely focused on intra-Africa trade this is not surprising. The largest gains from the AfCFTA are expected to be concentrated in intra-African trade. Compared to Africa's global exports, which are highly concentrated in crude and extractive mineral exports, its internal trade is much more balanced. In 2021, Africa's internal exports were estimated at USD 63.7 billion with mineral fuels accounting for only 21.5% of the overall total and other crude materials only accounting for 6% .

Africa's more balanced internal trade gives it a platform to promote the kind of industry that will help build resilience from external shocks. ECA estimates that intra-African trade in agrifood, industry, and services sectors are all expected to increase by nearly 40% in 2045. In sum-total, including all sectors, the value of intra-African trade is expected to increase by over 400% .

What are the roadblocks, if any, that stand in the way of fully implementing the Agreement?

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Implementation is critical; nothing happens without it. But, even with the best of efforts to implement the Agreement, there are still other hurdles that will face any government, business or person in this field:

a) Supply Capacity: Before talking about trade, Africa needs to have the products and services to trade. That means production capacity. That means capacity to produce the right quality standards and quantities of agricultural and industrial goods that our fellow Africans desire to have at competitive prices. It also means having the capacity to produce and provide the range and quality of services the consumer needs at affordable and competitive prices. Trade therefore presupposes investment in building Africa's productive capacity, which translates to investment in industrialization, in education, in research and development, and associated endeavors. That is why the AU has come up with an Action Plan for the accelerated industrial development of Africa (AIDA) and another on an Agribusiness and Agro-business Development Initiative (3ADI).

b) Hard Infrastructure: Both production and trade across borders, physically or electronically, require the right type and quality of infrastructure and logistics, both hard and soft. Economic development is an infrastructure-heavy business. Without roads, railway lines, seaports, airports and aircrafts, no product can move from one country to another in meaningful quantities. Likewise, without digital connectivity networks in place, none of the enormous promise of ecommerce and digital trade can be realized. That is why the AU's Boosting Intra-Africa Trade (BIAT) initiative of 2012 recognized that, for trade liberalization to work, it needed to be supported by a dedicated Programme for Infrastructural Development in Africa (PIDA) that was launched in 2010 with a view to bringing together various regional and continental infrastructures under the leadership of the African Development Bank.

c) Soft infrastructure: Equally importantly, none of these would exist or function in the absence of institutions in the sense of organizations guided by a set of rules and norms of good governance, rule of law, accountability, and access to fair, speedy, and impartial justice. That is why, back in 2003, the AU created the African Peer Review Mechanism (APRM) as the Continent's governance self-assessment mechanism. There are several initiatives and institutions that form part of the African Governance Architecture (AGA) that complement the APRM.

d) Trade finance: Many good and potentially viable business ideas and startups remain unrealized for lack of finance. Cross-border trade is inherently more risky than domestic trade. In cross-border trade, the parties reside in different jurisdictions, are subject to different laws, transact in different currencies, speak different languages, practice different cultural traditions, etc., all of which translate into added risks and transaction costs. Trade finance instruments come in to manage such risks and, in doing so, to expedite business across borders. Trade finance is at its infancy in Africa and governments would do well to prioritize the development of such facilities. We need more of it at Continental, regional, national, and local levels.

The commitment contained in the BIAT initiative to "accelerate the establishment of the African Investment Bank" was a step in the right direction, but it has yet to be implemented. Institutions like the Afreximbank exist and sit at the heart of trade finance. Increasing engagement with these institutions can help build confidence and de-risk cross-border African trade. Afreximbank has several programs like structured trade finance, a note purchase program, and asset-backed lending that can provide a critical support function for countries engaging in trade.

e) Trade facilitation: Whatever the commitments undertaken at Continental level to liberalize and expedite cross-border trade, the practice on the ground in many of our countries is real. Yet again, that was why the BIAT initiative dedicated a section to trade facilitation urging AU member states to take measures at the "highest levels of Government … in order to facilitate the removal of illegal roadblocks, check points and illegal fees and other rent seeking practices along trade and transit corridors and border crossings." Likewise, that is also why the AfCFTA Agreement has a separate instrument, Annex 4, dedicated to Trade Facilitation.

f) Trade information: The business community in Africa lacks adequate information on trade and market opportunities in fellow African countries and markets. Market surveys are rarely conducted; information about customs regulations and procedures are often inaccessible, and the high cost of doing business between African countries is disproportionately high as a result. Africa must address this important gap.

The intra-Africa trade fair that is being organized on a biannual basis is a good initiative, but it is far from enough.

g) Currency convertibility: Nearly each of the small and fragmented markets in Africa today is served by its own national currency, making up a total of around some 42 different currencies. To transact business between two countries that have different currencies, the use of a third country's legal tender, often the Euro or the USD, becomes necessary. The moment transactions between two traders sitting on either side of an African border are subjected to a third currency as an intermediary, transaction cost shoots up. Africa is estimated to lose up to USD 5 billion every year on currency conversion alone. The final solution for this can come only from a monetary union, which is far down the road on the African integration journey. In the interim, Africa has launched the Pan-African Payment and Settlement System (PAPSS), "a cross-border, financial market infrastructure enabling payment transactions across Africa".