

## Are Women traders an AfCFTA Constituency in their own right?

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When the negotiations for the adoption of the legal instruments of the African Continental Free Trade Area (AfCFTA) were launched in 2015, the objective was to boost intra African trade in goods (and some services) through the establishment of a continent-wide Free Trade Area (FTA). The AfCFTA provides for an additional stream of preferential trade among African countries and will be implemented in tandem with the Regional Economic Community (REC) FTAs. But the AfCFTA is not a once-off event. It is intended to be a dynamic arrangement for promoting economic integration, to evolve over time and to generate new activities and outcomes. How will this happen and what should be strived for? Will the needs of women traders be addressed, and their interests be promoted?

The answers to these questions depend on how the AfCFTA institutions will be used by the State Parties and by other stakeholders and actors. It will also depend on the additional Protocols and Annexes that will be adopted and the new obligations which will be accepted. The Protocol on Women and the Youth, which is being negotiated during Phase II of the AfCFTA negotiations, will be a very important additional legal instrument of the AfCFTA. It should contain provisions providing for concrete outcomes and timeframes for their achievement. It should reflect more than aspirations.

The text of this Protocol will be negotiated by the African Union (AU) Member States and will be adopted by the AU Assembly. Before it will enter into force, it must be ratified by the required number of States.<sup>1</sup> The relevant stakeholders must ensure that their inputs are accommodated during the negotiations which will be conducted by government officials. They should also study their national constitutions and the provisions on how international agreements are approved and become part of the law of the land. A large

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<sup>1</sup> See arts 22 and 23 of the AfCFTA Agreement.

number of African constitutions provide that Parliament must approve the text of an agreement before the executive branch of government deposits the required instrument of ratification. Stakeholders could become involved in the parliamentary hearings where new agreements are discussed and the executive reports to the national legislature.

The AfCFTA is not an end in itself, and neither is it self-executing. The AfCFTA cannot implement itself. It does not have supra-national institutions with their own powers. The State Parties have the primary responsibility to implement the AfCFTA obligations and objectives through domestic measures and joint policies. The AfCFTA Agreement says the *“AfCFTA shall be driven by the Member States of the African Union”*.<sup>2</sup> However, other actors should also become involved in the AfCFTA scheme of things and make sure that their needs are promoted. They should monitor the steps and policies of the State Parties in pursuit of the objectives of all AfCFTA obligations. Since the promotion of the interests of women traders involve border measures, there is an opportunity for interest groups to establish cross-border forums for promoting their interests. The AfCFTA agenda is too important to be the exclusive domain of government officials.

The AfCFTA Agreement provides important indications of what can be expected and of opportunities that can be used by private parties and interest groups to promote agendas such as those of women traders. One has to study the texts of the founding instruments in order to find out what the AfCFTA must bring about. The Preamble to the AfCFTA Agreement does not contain enforceable obligations but provides indications of the bigger picture and the historical context. The Preamble of the AfCFTA Agreement recognises *“the importance of international security, democracy, human rights, gender equality and the rule of law...”*. One of its general objectives is to *“promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties”*.<sup>3</sup>

Economic integration is a dynamic process, driven by a variety of forces and actors that, through their interactions, build and shape the actions, outcomes, and procedures of a regional trade arrangement. The AfCFTA wants to be more than a standard FTA; it wants to promote economic development across the continent, and to do so under contemporary conditions.

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<sup>2</sup> Art 5(a) AfCFTA Agreement.

<sup>3</sup> Art 3(e) AfCFTA Agreement.

It has been recognized that the interests of women traders belong on the AfCFTA agenda. Their promotion requires several inputs, a long-term commitment, and dedicated procedures. The interests of women traders should be promoted in an effective and appropriate manner. The implementation of the obligations adopted as part of this undertaking should be monitored by stakeholders and through bespoke domestic and regional institutions forming part of the AfCFTA institutional architecture. Women traders are an AfCFTA constituency in their own right.

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