

## The AfCFTA Protocol on Women and Youth in Trade and Trade-Driven Development in Africa

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The African Continental Free Trade Area (AfCFTA) Protocol on Women and Youth in Trade (the ‘Protocol’) aims to enhance the involvement of women and youth within the AfCFTA. It outlines general provisions, objectives, and guidelines focused on affirmative action, eliminating discrimination, promoting equality, and inclusiveness. It specifies the roles and responsibilities of State Parties in facilitating trade for women and youth, including access to finance, capacity building, digital trade, and protection against harassment. Additionally, it details institutional arrangements for monitoring, evaluation, and cooperation, alongside final provisions on ratification, application, and amendments. The Protocol represents a comprehensive effort to integrate women and youth into the trade framework of the AfCFTA, emphasizing empowerment, equal opportunity, and economic participation.

The AfCFTA ‘is not self-executing’, to quote Professor Gerhard Erasmus. This means that the agreement and its associated sub-agreements and protocols, require positive, sustained member action in order to realise its desirable goals. The Protocol’s purpose is to describe and outline the main areas for action, and these are provided under Articles 7 to 18. Articles 1 to 6 are definitional or introductory, while articles 19 to 24 cover institutional arrangements, monitoring, evaluation, transparency, notification, technical assistance, capacity building, and cooperation, detailing specific obligations for State Parties to promote inclusivity and development in trade practices.

Trade-driven development is a form of development where countries engage in cross-border trade in both goods and services, where markets are accessible (i.e. not subject to trade barriers) and complementarities exist between countries in terms of their relative endowment or resources (primary industry), relative competitiveness in manufactured goods production (secondary industry) or relative competitiveness in services production (tertiary industry). The concept assumes a meaning relating to designated groups when female-owned and youth-owned businesses<sup>1</sup> receive targeted attention for

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<sup>1</sup> Note that the definitions of ‘female-owned’ or ‘youth-owned’ are not set in stone and may vary by author or research project. In general, they can be taken to mean that the designated group owns at least 50% of the enterprise.

development from authorities and regulators. These targeted policies are intended to address known issues or challenges faced by these groups in participating equally in trade and business activities.

The Protocol addresses the following, *inter alia*:

- **Article 7:** Elimination of Non-Tariff Barriers commits State Parties to progressively eliminate non-tariff barriers affecting women and youth in trade, promoting their participation in trade associations and national monitoring committees.
- **Article 8:** Inclusive Socio-Economic Development outlines commitments to promote empowerment, eliminate discriminatory practices, and enhance the productive capacity of women and youth in trade.
- **Article 11:** Access to Finance for Women and Youth in Trade involves implementing measures to facilitate access to affordable financial instruments, services, and guarantees for women and youth in trade.
- **Article 12:** Development of Productive and Export Capacity commits to providing educational and training programs to improve technical capacity and compliance with regulatory requirements for women and youth in trade.
- **Article 13:** Access to Trade Information aims at facilitating access to market intelligence and trade information for women and youth, including those in remote areas.
- **Article 16:** Participation in Formal Trade Activities by Women and Youth in Trade focuses on promoting their participation in formal cross-border trade and simplifying documentation procedures.
- **Article 18:** Digital Trade requires State Parties to ensure digital frameworks support women and youth in trade, facilitating access to digital trade platforms and solutions.

These articles address action areas for governments and authorities in improving the extent to which women and youth-owned businesses are able to benefit from trade under the AfCFTA. Previous research, such as a 2021 study by Stuart and MacLeod<sup>2</sup>, drew on primary research in Ghana, Uganda

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<sup>2</sup> Stuart J. and J. MacLeod. 2021. *Utilisation of preferential trade areas in Africa*. Addis Ababa: Economic Commission for Africa

and South Africa to identify areas of challenge for designated businesses and found that attention was needed in the following areas:

**Preference trade area utilisation:** this refers to the extent to which preferences available within a preferential trade area (meaning any form of preferential trade arrangement from a free trade area to more comprehensive arrangements) are actually utilised. The study found heterogeneity between three PTAs; the EAC, ECOWAS and COMESA, but in all cases women-owned businesses faced greater challenges in the utilisation of the available preferences.

**Information and awareness:** One very important driver of lower utilisation by women-owned businesses was a lower awareness of the available preferences and this also applied to smaller businesses. This relates not just to the extent of available information but also to the research capacity of the businesses and traders. In other words, being able to find the information is as important as the information being made public in the first place.

**Sanitary and phytosanitary requirements (SPS):** Sanitary and phytosanitary requirements are cited as the top constraints to the utilisation of preferential trade arrangements, followed by technical requirements, customs procedures, and rules of origin. Women-represented firms, in particular, were found to experience these requirements as more challenging than other firms.

When considering the important action areas delineated in the Protocol, these areas of challenge are indeed addressed in Articles 7, 12, 13 and 16. One criticism that could be levelled at the Protocol in its current form, however, is the absence of more specifics. For instance, the Protocol only mentions informal cross-border traders (ICBTs) once, and that only in the preamble. These traders are usually predominantly women and specific interventions in their favour usually revolve around simplified trade regimes (STRs) that lower the implicit barriers to trade faced by informal traders. Informal traders that trade cross-border, do so due to the greater accessibility compared to the nearest markets within their own country. By their nature, individuals in informal trade possess a limited understanding of complex trade matters and lack access to the technologies and tools commonly available to those in the formal sector. Consequently, they often fail to take advantage of trade preferences, leading to the possibility of paying excessive duties and other expenses.

For these reasons, perhaps the Protocol should specifically address constituencies such as the ICBTs, with recommendations such as the following<sup>3</sup>: harmonizing the origin-tested products for all member states; applying a value threshold below which rules of origin (ROO) are not applied and introducing simplified origin certification and customs declaration that can be completed online from a mobile device.

Indeed, a STR for the AfCFTA has already been proposed, one which resembles that of COMESA's. The COMESA STR has a track record of more than ten years and has seen its permitted ROO value threshold quadrupled (although some members may vary bilaterally this by consent). Recent tralac research by Taku Fundira<sup>4</sup> indicates that the STR has mostly benefitted value-added manufactured products however, with continued informal cross border trade (non-STR) taking place in subsistence products.

Were the Protocol to be extended to include references to STR or other trade-related concessions impacting women and youth traders, this would link to other legal instruments of the AfCFTA and so to contribute to mainstreaming gender in the AfCFTA.<sup>5</sup> For example, Annex 3 of the Protocol on Trade in Goods, the Annex on Customs Cooperation and Mutual Administrative Assistance, would need to address the specific challenges faced at border by women informal traders as well as the strategies proposed and adopted to tackle them.

Finally, one further way in which women and youth-owned businesses could raise their participation in continental cross-border trade under the AfCFTA would through cross-border value chains. These are trade relationships in originally-sourced and manufactured products that pass through multiple beneficiation stages from their origin country to the country that finally exports them. In fact, the Protocol mentions value chains five times across various sections, highlighting the emphasis placed on this driver of industrialisation and empowerment.

tralac has produced a selection of research on this exact topic, with gendered recommendations drawn from its own database of primary research covering 21 countries and 559 business respondents<sup>6</sup>. This research has found that there exists the potential to develop intra-African value chains in the following sectors specifically:

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<sup>3</sup> Soprano, C. 2020. *Extending the benefits of free trade to informal cross-border traders in Sub-Saharan Africa*. UN Economic Commission for Africa (Draft).

<sup>4</sup> Fundira, T. 2024. *Trading under the COMESA Simplified Trading Regime: Review of Zimbabwe-Zambia-Malawi*. tralac Trade Brief No. G24TB01/2024. Stellenbosch: tralac

<sup>5</sup> I am grateful to Trudi Hartzenberg for this point.

<sup>6</sup> Stuart, J. 2023. *tralac's gendered value chain research – overview of dataset, survey and remaining potential*

- Agriculture, agri-business and agro-processing
- Clothing, textile and leather (CTL)
- Cosmetics and personal care products

Furthermore, these industries show higher than average involvement of female entrepreneurs in the surveyed data, suggesting the twin goals of value chain development and the advancement of women-owned enterprises could be achieved through coordinated industrial policy in tandem with the liberalisation under the AfCFTA.

The Protocol aims to enhance the participation of women and youth in trade under the AfCFTA. It seeks to eliminate discrimination, promote equality and inclusiveness, and ensure that women and youth benefit from trade opportunities. However the attainment of these goals will not proceed following the adoption of the Protocol without action to address the specific challenges faced by women and youth-owned businesses such as lack of awareness, the need for simplified trade regimes and sector-focused value-chain development policies aimed at the sectors and industries in which women and youth are disproportionately involved.

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