



tralac Short Course

Reading and Interpreting International Trade Agreements

Case study of the African Continental Free Trade Agreement (AfCFTA)

4-5 and 7-8 April 2022

1. Background

Trade agreements are treaties of a specific kind; they regulate cross-border trade between two or more nations. These agreements establish trade-related rights and obligations for the State Parties. Unlike traditional trade agreements which cover trade in goods only, modern trade agreements cover a range of additional trade-related disciplines such as trade in services, investment, intellectual property rights, competition policy, electronic commerce, trade and gender, sustainable development, and public procurement, among others.

Trade agreements are, as a rule, not self-executing. They must be implemented through domestic measures taken by state organs in the State Parties. Customs administration is a typical example for trade in goods. National regulators perform the same domestic tasks in respect of trade in services.

While disputes about trade agreements have to be settled by the State Parties (private parties do not, as a rule, enjoy standing before international dispute settlement bodies), private parties and firms may approach domestic courts for judicial review and other public law remedies available under the law of the land. Trade remedies (re anti-dumping & countervailing measures) and safeguards are increasingly important. They may also, if provided for in the legal instruments of regional trade arrangements (such as the East African Community), enjoy standing before Regional Courts and Tribunals.

There are additional reasons for offering courses dealing with the legal instruments underpinning trade and integration initiatives. In many ways the world has become a global marketplace. Multilateral and regional trade agreements are of growing importance but are specialized legal instruments with their own logic and terminology. They need to be understood and be implemented as required.

Module 1

The **first module** will be structured to accommodate participants without a background in public international law and international trade law. This module will cover **basic principles** and the **foundations of international trade law** and situate the discussion in the **context of Africa's multilateral, continental and regional trade governance agenda**.

Module 2

The **second module** will analyse i) the legal instruments of the AfCFTA and relate their content to continental integration policies and arrangements, including the Regional Economic Communities (RECs). Dispute settlement issues will be explained.

The course will be offered to 40 participants.

2. Course Outline

Module 1: 4-5 April 2022 (4 sessions: 7 hours contact time, plus reading and preparation)

This module will start with a brief background to why and how nations trade, trade agreements and their effects; types of trade agreements (bilateral, regional, plurilateral and multilateral) as well as their nature and effects. This module will also focus on how trade agreements are negotiated, how they enter into force and are applied at both national and international levels. We will look at how trade agreements are interpreted with a view to determining legally binding provisions, obligations, or best endeavours. The module will also provide understanding on how trade agreements are amended.

The principles and procedures underpinning trade in goods and services, economic integration, standards, and trade remedies will be explained.

Rules of treaty interpretation will be covered – including the Vienna Convention on the Law of Treaties, international trade judgments/decisions, and illustrations from practical examples.

Module 2: 7-8 April 2021 (4 sessions: 7 hours contact time, plus reading and preparation)

This module will examine the legal instruments of the African Continental Free Trade Area: The Agreement establishing the African Continental Free Trade Area, the Protocol on Trade in Goods (with its Annexes), the Protocol on Trade in Services and the Protocol on Dispute Settlement. We will also focus on the ongoing phase 1 negotiations and the phase 2 and 3 negotiating agenda.

Assignment

All participants are expected to complete a written assignment.

Practical Arrangements

- Each Module will be presented over 2 days. There will be 2 sessions per day; a morning session of 2 hours and an afternoon session of 90 minutes.
- The sessions will take place on zoom. Participants will be required to register in advance.
- A course outline and background reading materials will be provided. These should be read in order to follow the discussions and to participate in the live sessions.
- The sessions will be interactive; requiring prior preparation.
- Candidates who have satisfactorily completed the course (including the assignment), will receive a tralac Certificate of Completion.