



tralac Annual Conference 2020

Conference report

The 2020 tralac Annual Conference took place, 21-22 September 2020. The Conference was held under the theme ‘Trade Governance in Africa midst a Pandemic and other Global Challenges’. The Conference brought together hundreds of participants (panelists, moderators and attendees) from multilateral, continental and regional organisations, and the private sector to discuss trade governance matters as they pertain to Africa. The Conference was divided into sessions focusing on specific trade issues.

Mr. George Lipimile, Chair of the tralac Board, opened the Conference welcoming participants. In his [opening remarks](#), Mr. Lipimile reminded participants that the tralac Conference is being held at a very critical and difficult time. A time when the coronavirus (COVID-19) virus has negatively impacted economies, lives and livelihoods across the world when there is a wide consensus that the multilateral trading system and the World Trade Organization (WTO) require reform, and new generation plurilateral trade-related agreements are being concluded. Mr. Lipimile also underscored that the African Continental Free Trade Area has entered into force but trading under the AfCFTA is yet to commence as rules of origin and tariff negotiations are yet to be completed. He highlighted how COVID-19 has provided a platform for the adoption of digital trade solutions to facilitate trade under the AfCFTA.

H.E. Wamkele Mene, Secretary-General of the AfCFTA Secretariat, gave the first keynote address highlighting the AfCFTA aims to achieve, the need for inclusive growth and industrial development across the continent and practical issues that will need to be addressed for successful implementation. He stressed that COVID-19 has exposed Africa’s overreliance on external trade and exports of primary commodities. Amb. Mene accentuated that this has presented Africa with an opportunity to accelerate industrial development action plans; the continent needs to restructure and diversify its industrial base and boost intra-Africa trade as the driver of our economies. He emphasised that industrial development needs to be at the center of Africa’s recovery plans given the public health and economic crises as a result of COVID-19. This would require Africa countries to dismantle the colonial model and focus on industrial development, and to attract investment in productive capacity and to establish and implement the required policy and legislative frameworks through the AfCFTA.

Amb. Mene said 28 countries have ratified the AfCFTA Agreement, and e-commerce will now be negotiated as part of Phase II negotiations, alongside with intellectual property rights, investment and competition policy.

H.E. Amb. Albert M. Muchanga, African Union Commissioner for Trade and Industry, delivered the second [keynote address](#) which highlighted, inter alia, the importance of trade, and the need to build trust, transparency and collaboration in ensuring successful implementation of the AfCFTA. Amb. Muchanga pointed out that the AfCFTA is an ambitious project necessary undertaking and fit for addressing the trade challenges of the continent. He underlined that trade can be a driver of growth, economic development & poverty reduction, but it is not automatic. Trade policies must be dynamic and inclusive, considering implementation at regional, continental, global levels to produce win-win outcomes. He further elaborated that the implementation of the AfCFTA will be a process of change management: the biggest challenge is a change in mindset – letting go of the *status quo* and beginning a new era of economic integration. Amb. Muchanga revealed that trading under the AfCFTA will commence on 1 January 2021 upon completion of rules of origin and tariff negotiations.

Session 1: [Amb. Alan Wolff](#), WTO Deputy-Director General discussed the evolution of the multilateral trading system since the GATT, global interconnectedness, and modern issues confronting the WTO and trade governance more broadly. Amb. Wolff underscored that when trade flows smoothly, the global economic engine keeps running. He reminded us that evolution and reinvention have been central to the multilateral trading system since its establishment in the late 1940s, and noted that the WTO is best placed as a forum for addressing global challenges – including food security and access to medical equipment.

Amb. Wolff recognised the far-reaching impact of the COVID-19 pandemic, emphasising that this crisis should prompt the pursuit of more multilateralism - with necessary improvements to the global trading system. He underscored the need for WTO reform discussions to plan for the future of the trading system. He made reference to the WTO Trade Facilitation Agreement and its specific design and approach to accommodate diversity among WTO members. Trade facilitation is a priority for African countries and features prominently in the African Continental Free Trade Agreement. Amb Wolff noted that the AfCFTA holds great promise not only for Africa's intra-regional and intra-continental trade and integration but also for global economic integration.

Session 2: panel deliberated the lessons from COVID-19 and what needs to be done to facilitate Africa's trade. The panelists – moderated by tralac's Executive Director, Trudi Hartzenberg – comprised [Lily Sommer](#) from UNECA African Trade Policy Centre, [Jason Blackman](#) from DHL Express Sub-Saharan Africa, [Etiyel Chibira](#) from Cross-border Road Transport Agency, South Africa, and [Mena Hassan](#) from the WTO Secretariat. Sommer focused on the impact of COVID-19 on informal cross-border trade in Africa and recommended the need for digital solutions to trade facilitation, effective border management and simplified trade regimes to incorporate informal traders into the formal trading system. Blackman spoke about COVID19 and trade facilitation issues in

Africa emphasising the importance of Single Window capabilities, the digitalisation of customs and border controls and procedures, and the increasing need for electronic documents to facilitate smooth goods clearance processes. Chibira discussed the lessons learnt during the COVID19 pandemic for cross-border road transport, particularly within the southern African region. He noted that fragmentation of regulatory regimes; unharmonised standards and authorisation systems; and lack of coordination in law enforcement. Chibira recommended the implementation of short and long-term interventions to address the impact of border closures, bottlenecks and logistical challenges on cross-border trade in Africa that have occurred as a result of COVID19. Hassan's interventions focused on the implementation of the WTO Trade Facilitation Agreement in Africa to address the trade facilitation issues that have resulted from the COVID-19 pandemic. She provided policy recommendations for Africa's implementation of the WTO Trade Facilitation Agreement including political commitment to change, engagement with the business community, digitalisation, support from international partners. A key point was that African countries have already undertaken commitments (self-designated), that are key to addressing many of the continent's trade facilitation challenges – but that implementation is still very low.

Session 3 [provided an overview](#) of the scope and structure of the African Continental Free Trade Agreement, highlighting outstanding issues. We were reminded that although the AfCFTA has entered into force on 30 May 2019, there are still outstanding negotiations in Phase 1. The two minimum requirements for a free trade area (in goods) are tariff concessions (substantially all trade must be liberalized for the FTA to be WTO-compatible) and preferential rules of origin. The AfCFTA is a flagship project of the African Union along with other initiatives like BIAT, AIDA and PIDA. Together these projects are complementary to achieve the African Union's Agenda 2063. The Preamble of the AfCFTA contains its broad development objectives. They are aspirational and remind us of the connects between trade and sustainable development, trade and industrial and development and very important trade and gender. are vital to drive the developmental agenda of the AfCFTA; also, initiatives to boost intra-Africa trade, investment and infrastructure development are important to support the AfCFTA to achieve its objectives.

Although much has already been achieved in Phase 1 of the AfCFTA negotiations in areas such as trade facilitation, non-tariff barriers and dispute resolution there are still three outstanding issues, which must be completed before trade under the AfCFTA can begin. consequently, the AfCFTA although in force is yet to be implemented.

Rules of origin: Specific rules of origin pertaining to clothing and textiles, automobiles, edible oils and sugar are still being negotiated. The primary purpose of rules of origin is to prevent transshipment, but they can also be used to protect domestic industry from import competition. Complex rules of origin can impose significant costs on producers and so, even with tariff liberalisation, may inhibit intra-Africa trade. The

AfCFTA does provide for safeguard measures which can be used to protect a specific domestic industry from an increase in imports of a product which is causing, or threatening to cause, serious injury to that industry. Although concerns about capacity to use such measures have been expressed; two least developed African countries – [Zambia](#) and [Madagascar](#) – have recently used these measures under WTO rules.

Tariff concessions: Determining who will negotiate tariff concessions with whom in accordance with Article 19(2) of the AfCFTA and Article 8(2) of the Protocol on Trade in Goods is a complex issue and will depend, *inter alia* on the level of integration achieved in the existing regional economic communities (RECs), regional trade arrangements and customs unions. The AfCFTA will co-exist with existing RECs requiring countries to distinguish between existing intra-REC preferences and new AfCFTA preferences. The AfCFTA will, in terms of tariff liberalisation open new opportunities among those RECs and individual countries where there are currently no preferences in place - including trade between southern, west, central and north African countries and among east, central, west and north African countries. Negotiations on tariff concessions and rules of origin are of course done in tandem – since the preferential rule of origin is the gateway to the tariff concession. It is not surprising that these negotiations are taking so long -these are complex issues; some countries have expressed concerns about revenue losses, many have raised concerns about transshipment. All aim to develop and diversify their productive capacity, specifically in industrial sectors, and looking for at options to protect their domestic industries.

Services: [Services trade](#) (imports, exports and inputs into the production process) are becoming increasingly important as a percentage of merchandise trade. Both developing and least developed countries have shown a significant increase in the growth of services exports and imports over the last 12 years. But African countries still import about 50 percent more services than what they export. The focus of the AfCFTA services negotiations is currently on negotiating sector specific commitments for 5 priority sectors (financial services, transport, communication, business services and tourism). Commercial presence (foreign affiliates trade in services) is the greatest component of services trade and becoming increasingly important in global trade, but also for attracting investment to African countries.

Countries are now preparing for phase two of the negotiations pertaining to competition policy, intellectual property rights and **e-commerce**. Although e-commerce was originally included under phase 3, the Covid-19 pandemic has highlighted the importance of this sector. Subsequently, the intention is to move the e-commerce negotiations to phase 2. A key question is what are some key issues which could and should be covered by a protocol on e-commerce. Any protocol on e-commerce must take cognizance of what already exists at the national level and the work being done at the World Trade Organization (in the e-commerce joint sector initiative) to ensure that there is not duplication and policy coherence. This can also identify the gaps where the

AfCFTA can add the most value. Accordingly, careful consideration of the scope and purpose of the protocol is required to determine what must be included to address issues such as duties, trade facilitation, technology infrastructure, transparency and the protection of information in a sensible manner which can enable e-commerce to be a significant driver of intra-Africa trade.

The potential of the AfCFTA to meet its objectives can only be attained through effective implementation by the state parties of the agreement and the obligations in the protocols and annexes. Furthermore, the way the AfCFTA address key business concerns like prohibitive tariffs and non-tariff barriers and the manner in which the agreement is implemented is vital for [attracting investment](#). If the AfCFTA can deal with key concerns in a pragmatic and practical way leading to an integrated market, regional supply chains and increased intra-Africa trade it can be a catalyst for increased investment for industrial development and enhancing productive capacity.

Session 4: In this session the focus was on the private sector – what are they expecting of the AfCFTA and how can these expectations be achieved. The panelists highlighted some challenges businesses face when doing business in Africa – lack of transparency in trade rules and regulations, access to information, lack of harmonized standards and automation. The [hopes of the private sector](#) are that the AfCFTA will be fit for business and fit for purpose with rules and regulations which are business effective – predictable and transparent trade rules, harmonised customs operations and documentation requirements, inter-agency and intra-agency cooperation and data exchange, trade facilitation provisions which deal with non-tariff barriers in a practical way and a digital and paperless process. The private sector hopes the AfCFTA will enhance their competitiveness – increase intra-Africa business opportunities and investment by reducing the cost of doing business through tariff reductions, sensible rules of origin, trade facilitation measures and enhanced customs cooperation. To achieve this, it is not just about the obligations and commitments negotiated and included in the agreement, but ensuring implementation, compliance and enforcement of these obligations. Enacting national laws to give effect to the AfCFTA, training and capacity building of officials (including customs officials), awareness creation, accountability and collaboration (among agencies at national level, between business and government and at regional and continental levels) are essential for the AfCFTA to work for business, and to deliver real benefits.

The role of Special Economic Zones (SEZ) was discussed in the context of Africa's industrialization agenda, and the ambition to attract foreign direct investment. The discussion about rules of origin to identify goods produced in SEZ has featured in the AfCFTA discourse, but as yet there is no indication if this will be included in the Annex on Rules of Origin, to the Protocol on Trade in Goods.

Concluding Remarks

In his [concluding remarks](#), Mr. George Lipimile noted that the COVID-19 pandemic has not only created many challenges for African countries, but also showed us the potential for a new way to conduct business. Learning lessons from the pandemic, African countries will have to determine how they can prepare for recovery and reconstruction their economies, and to adapt and prepare for future shocks and challenges. He noted that the successful implementation of the AfCFTA can assist African economies to mitigate some of the negative effects of the pandemic by decreasing trade costs and increasing regional trade, improving Africa's resilience in the face of economic shocks supporting long-term growth.

We provide a brief selection of the feedback we have received and also of media coverage of the Conference.

Select feedback from participants

Prof. Caroline Ncube: 'I have always wanted to attend these annual conferences, but I have been unable to travel to attend, so I am grateful for the opportunity to attend virtually this year. Very strong start with Amb. @MeneWamkele's keynote which stresses how the AfCFTA has to be inclusive to succeed'.

Susan Isiko Strba 'The morning session was great, informative and raised a lot of questions. Thanks all of you at TRALAC for your dedication and work.'

Ivan Ojakol 'I loved listening to the tralac team and their expert knowledge and experiences with the AfCFTA thus far. As a trade lawyer from Uganda, my knowledge was enhanced.'

Mokom Marcel: 'It is a once in a lifetime event. Great Speakers on board. I am glad to be part of the conference.'

Varsha Mooneeram-Chadee: 'First of all, convey my congratulations to all the tralac team for the successful and insightful presentations and conference. All the presentations have been so enriching.'

Select reporting on the Conference

WTO News 'DDG Wolff: WTO reform crucial to restoring confidence in the trading system'
https://www.wto.org/english/news_e/news20_e/ddgaw_21sep20_e.htm

Prinesha Naidoo, Bloomberg News 'Africa Trade Pact Negotiators to Fast-Track E-Commerce Talks'
<https://www.bnnbloomberg.ca/africa-trade-pact-negotiators-to-fast-track-e-commerce-talks-1.1497040>