The AfCFTA: Update and future developments

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The AfCFTA in Terms of its own Design
AfCFTA Design & Basic Features (Art 5)

- AfCFTA is only an FTA
- Member-driven
- REC FTAs are the building blocks
- Preservation of the acquis
- Reciprocity
- Consensus in decision-making
- Trade deals with third Parties allowed
- Several Streams of Preferential Trade: For how long?
- Private Sector makes the commercial Choices
Why is it so difficult to get started?

- High level of ambition - See Modalities
- Different offensive and defensive interests
- Integration among uneven Parties is difficult
- Novel challenges such as continental value chains
- The Agreement already in force
- COVID 19
- This Process coincided with new institutions
- Consensus decision-making
Update: Entry into force of the AfCFTA
Ratification Status

Entry into force: 30 May 2019
But: negotiations continue (tariff concessions, RoO; Specific commitments for 5 priority sectors....)
When will AfCFTA Trade begin & what will this entail?

- Trade in an FTA needs Tariff Schedules & Rules of Origin
- Customs Unions need prior negotiations - SACU example
- Trade in Services needs commitments
- Trade Facilitation implications & NTBs
- Transport & Logistics
- 90% of goods transported by road
- Customs administration
- But RECs do this already
- RECs are Int Organizations in their own right
Trade in goods: negotiations update

Tariff negotiations

- 46 Provisional Schedules of Tariff Concession (Offers) have been submitted, including from Customs Unions: EAC, ECOWAS & CEMAC.

- 31 Offers have been technically verified and COMPLY with agreed modalities for AfCFTA Negotiations → ECOWAS + Mauritania, CEMAC, Algeria, DRC, Egypt, Madagascar, Malawi, Mauritius, Seychelles, Tunisia and Zambia

Rules of Origin

- RoO for about 88.03% tariff lines have been finalised

- Still to be agreed: Textile & Clothing accounts for 10.54% (higher percentage), Motor Vehicles 1.43%.
The Guided Trade Initiative

- The AfCFTA Secretariat GTI programme announced at the COM in July 2022
- 7 State Parties are participating – Cameroon, Egypt, Ghana, Kenya, Mauritius, Rwanda and Tanzania (Tunisia now joining)
- Committee on the AfCFTA GTI has been established (sub-committees on logistics, customs support GTI)

Objectives of the GTI:

- Demonstrate the efficiency of the legal framework of the AfCFTA instruments
- Obtain feedback on the effectiveness of the legal and institutional national systems in the participating countries
- Test the readiness of the private sector to participate in trade under the AfCFTA
- Identify possible future interventions to increase intra-African trade and maximize the benefits of the AfCFTA.
The Guided Trade Initiative cont’d

• Committee on GTI and sub-committees (customs & logistics, communication etc)

• Partners - AfroChampions and Afreximbank

• Operationalisation of AfCFTA instruments - AfCFTA e-Tariff Book, PAPPS, Adjustment Facility and AfCFTA NTMs Reporting Mechanism

• GTI to continue and expand to include of the State Parties
## Shipment Plans (October)

<table>
<thead>
<tr>
<th>Exporter</th>
<th>Products</th>
<th>H.S Code</th>
<th>MFN Tariff (%)</th>
<th>2022 applied tariff (30%)</th>
<th>Importers</th>
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</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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<tr>
<td>1. Exports from Ghana to Cameroon</td>
<td></td>
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<tr>
<td>KEDA Ceramics</td>
<td>Ceramics tiles</td>
<td>690721/ 690722/690723</td>
<td>30</td>
<td>24</td>
<td>SUNDA Cameroun</td>
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<tr>
<td>2. Exports from Cameroon to Ghana</td>
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<td></td>
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<tr>
<td>Cameroon Tea Estate (CTE)</td>
<td>Tea samples/(B.M-Broken Mixed)</td>
<td>0902</td>
<td>10</td>
<td>8</td>
<td>Farm Fresh Exotics and Livestor Entreprise</td>
</tr>
<tr>
<td></td>
<td>Tea samples/(P.F-Pekoe)</td>
<td></td>
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<tr>
<td></td>
<td>Tea samples/(P.D-Pekoe Dust)</td>
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<tr>
<td>AFATEX</td>
<td>Dried Prunes</td>
<td>08132000</td>
<td>20</td>
<td>16</td>
<td>Mazia Co Enterprise</td>
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<tr>
<td>3. Exports from Egypt to Ghana</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Cairo Poultry Processing Company –</td>
<td>Processed Chicken</td>
<td>1602390090 &amp;</td>
<td>35</td>
<td>35</td>
<td>SIA QSR Ghana Ltd., Royalty QSR Ghana</td>
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<tr>
<td>Americana (KoKi)</td>
<td>Processed Beef</td>
<td>1602320090/1602101014 &amp; 0202300000</td>
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<td></td>
<td>Ghana limited , SIA QSR Ghana Ltd</td>
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<td>Milano Food Company</td>
<td>Pasta</td>
<td>190219001</td>
<td>20</td>
<td>20</td>
<td>SIDESTEP VENTURES- GILBERT KUALA</td>
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</table>
### Shipment Plans (cont’d)

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<tr>
<td>1. Exports from Kenya to Ghana</td>
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<td>Kenya Tea Packers Ltd</td>
<td>Tea leaves</td>
<td>690721/690722/690723</td>
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<td>Chakem Trading Enterprise</td>
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<td>4. Exports from Rwanda to Ghana</td>
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<td>Ingire Coffee</td>
<td>Arabica Coffee</td>
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<td>B.B Harrington Ventures</td>
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<td>Rwanda Farmers Co.</td>
<td>Instant Coffee</td>
<td>21011120</td>
<td>10</td>
<td>8</td>
<td>Pan African B2B Technology</td>
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</tbody>
</table>
Certificates of Origin (circulating on social media)
Trade in Services: When and how?

- 5 Priority Services Sectors (financial, communication, transport, tourism and business services)
- 48 Offers submitted in the 5 priority sectors
- 21 Offers have been verified and comply with the Modalities for Trade in Services Negotiation – including most recently CEMAC

The AfCFTA Council of Ministers ADOPTED a Ministerial Directive on the Implementation of State Parties Schedules of Specific Commitments

Regulatory Frameworks

- Work not yet commenced.
- Council of Ministers decision to commence the work on regulatory frameworks
- Capacity building/training on regulatory frameworks in financial and communications services
Extending the Scope & reach of the AfCFTA

• Why do we need Protocols re Investment, IPRs and Competition?
• What are the institutional implications?
• Rules for Digital Trade are vital but challenging in terms of governance
• Danger of getting carried away
• Art 23 arrangements must be adopted, ratified and enter into force
• Capacity building for new disciplines
Future of the AfCFTA Institutions

- Powers of CoM & Committee of STO
- Directives, Regulations and Recommendations
- How frequently will they meet?
- There are lessons to be learned re CoM Chairs
- Future of the Secretariat?
- A role for Addis? It developed a Strategy on Climate Change.

**Note Art 10:** The Assembly, as the highest decision-making organ of the AU, shall provide oversight and strategic guidance on the AfCFTA, including BIAT. The Assembly shall have the exclusive authority to adopt interpretations of this Agreement on the recommendation of the Council of Ministers.
Domestic Governance & Trade Facilitation will be vital

• All is not well re domestic governance
• RSA examples re energy and water
• Corruption is rampant
• SA has until the end of the month to prove to the global economic community that it is secure and taking action to mitigate financial crime to avoid being greylisted by the Financial Action Task Force (FATF).
• 5000 outstanding mining applications
• Mines prepared to pay striking railway workers
• Zama Zamas

What is the good news?
REC FTAs & Overlapping Membership

- Articles 19(2) Agreement & 8(2) Goods Protocol
- What does preservation of Acquis really mean?
- RECs do more than trade liberalization
- What is the plan re Overlapping Membership?
- Must/can there be a plan?
- Implications of DRC membership of EAC
Will the AfCFTA be rules-based and generate Disputes?

- Dispute settlement Protocol is about inter-State Disputes
- Will DSU generate a preparedness to litigate?
- Will Trade Remedies and Safeguards generate Disputes?
- REC Courts to continue
- Will they take note of AfCFTA legal instruments?
- How could that happen?
- SADC remains without a Tribunal
  .... and without other Plans for dispute settlement
Concluding remarks: Can AfCFTA deliver Continental Integration?

Art 3

• Create a single market for goods, services, facilitated by movement of persons
• create a liberalised market for goods & services through successive rounds of negotiations
• movement of capital and natural persons and facilitate investments building on the initiatives and developments in the State Parties and RECs
• lay the foundation for the establishment of a Continental Customs Union at a later stage
• Gender equality and structural transformation of the State Parties
• Competitiveness of State Parties within the continent and the global market
• Promote industrial development through diversification and regional value chain development, agricultural development and food security (Is AfCFTA a framework for Industrialization?)
• Resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes
• But there is a new paradigm for continental Integration
Phase II and II update

Phase II (Investment, Competition Policy, Intellectual Property Rights)

- Draft Protocols for Phase II Protocols (Inv. IPRs & Competition Policy) have been adopted
- Draft Protocols are to be adopted by the Assembly - November Extra-Ordinary Summit, CoM – 27-28 Oct
- IPR Protocol (plant variety protection, geographical indications, trademarks, copyright, and related rights, patents, utility models, industrial designs, undisclosed information including trade secrets, layout designs, or topographies of integrated circuits and emerging technologies as well as intellectual property rights related to traditional knowledge, traditional cultural expressions and genetic resources)
Negotiations Update cont’d

• Competition Policy (Anti-Competitive Business Practices and Conduct; Establishment of the AfCFTA Competition Authority to administer and enforce the provisions of the Protocol; Establishment of the AfCFTA Competition [Tribunal/Court] responsible for the appeals against Decisions taken by the Authority in the implementation of the relevant provisions of this Protocol)

Negotiations Update cont’d

Phase III: Digital Trade and Women and Youth in Trade Protocols

• Stakeholder engagement (including a continental conference on women and youth in trade)

• Establishment of committees (for negotiations)

• Situation analyses,..... preparation of draft texts