



tralac 2022 Annual Conference Report

tralac's 2022 Annual Conference took place on the 13th and 14th of October in Nairobi, under the theme 'Africa's trade and governance agenda in a changing global order'. The conference hosted participants from continental and regional organisations, national governments, the private sector, non-governmental organisations, academia, and civil society who came together to discuss significant global developments and their implications for Africa's trade and development.

Participants were welcomed by Dr George Lipimile, the Chairperson of tralac, who noted the significance of this year's annual conference which marks 20 years since tralac's establishment. Dr Lipimile extended thanks to tralac's donors for their generous support, without which tralac would not be able to operate as the independent and reliable disseminator of trade information, provider of technical assistance and source of capacity building for governments and traders in Africa. Dr Lipimile affirmed the importance of discussing African trade and integration governance in the context of multiple global shocks that have had severe consequences, notably on food security. He brought attention to the need to work towards solutions to build differently and diversify for resilience against future shocks, reminding us that African nations cannot prosper nor survive in isolation.

The **opening remarks** were given by Her Excellency Caroline Vicini, Ambassador of Sweden to Kenya and Seychelles. She noted that the AfCFTA has gained significant traction globally and is perceived as an ambitious project with the potential to attract much-needed investments on the continent. Sweden's support for tralac and other trade capacity-building initiatives on the continent is driven by the country's firm belief in the benefits of free trade. Notably, Sweden is a strong supporter of projects that focus on trade and gender, in line with their feminist foreign policy. The Country Director, GIZ, Kenya, Mr, Bodo Immink, also provided opening remarks. He reiterated the great potential of the AfCFTA to unlock structural transformation and build resilience in the face of global supply shocks. Recognising this potential, Germany has made the AfCFTA a priority area for their development cooperation. This includes the provision of support to tralac by GIZ, for work on supporting the implementation of the AfCFTA.

His Excellency Wamkele Mene, Secretary-General of the African Continental Free Trade Agreement (AfCFTA), joined the conference remotely to provide a **Keynote Address** outlining the progress and potential of the AfCFTA. He observed that two events are of particular

relevance to the Conference's theme: the COVID-19 pandemic, which highlighted the importance of intellectual property regimes, and the current war in Ukraine which has exacerbated Africa's food import dependency and food security crisis. Both have compelled Africa to rethink its position in the global order and the role of trade in mitigating related crises'. The AfCFTA, he asserted, is an opportunity to reconfigure the established trade architecture that has inhibited Africa's responses to these crises. The AfCFTA is also a chance to introduce reforms that have not been successfully advanced at the global level, notably on intellectual property for addressing public health needs. The keynote address drew attention to the importance of expanding trade finance through negotiations with commercial banks and financing institutions.

International Trade and Governance in a New Global Order

In the first session, Dr Patrick Low, a member of the tralac Advisory Board, provided insights into Africa's position in the global context, a resilience agenda beyond the COVID-19 crisis, a case for the need to focus on climate change adaptation, and the future of the World Trade Organisation. The session painted a picture of Africa's enormous potential owing to its rich resource endowments, young population, untapped markets, and significant digital opportunities. It was also a reminder of its many challenges, related to low development, diversification, and growth. These challenges are reflected in Africa's share of global GDP which is 3%, its share of world trade which is also 3%, and the share of intra-African trade which has remained below 20%. Looking beyond COVID-19, Dr Low outlined the external challenges facing Africa including weakened policy coordination, a fracturing digital economy despite efforts to converge digital systems, and the growth of friend-shoring as countries seek to bring their value chains closer to home. These challenges require Africa to build resilience, and this calls for transformative, structural change. The session focused on engagement in the digital economy as a crucial means of nurturing resilience. This can be advanced by establishing African regional digital agreements; however, countries should also actively engage in ongoing WTO efforts to build a multilateral digital agreement. On the topic of Climate Change, issues of distributional equity were addressed, noting that Africa has contributed the least in terms of global historical emissions and yet will be affected the most. Adaptation measures are crucial for the continent, but a large financing gap remains as high-income countries have failed to deliver on their climate-financing promises. COP27 was highlighted as an opportunity for Africa to present a clear and unified position on climate change.

Professor Gerhard Erasmus, tralac Associate and founder, stated that it is an assumption that the recent global crisis requires new African and global responses. However, he argued that Africa does not currently possess the institutions or procedures for responding collectively. This is a product of African states treasuring their sovereignty at the cost of speaking with a collective voice. Unless there is consensus to speak collectively, the African Union does not have a mechanism for doing so – members are still trying to identify the elements that will

provide a collective voice. The discussion unpacked the serious implications that the attachment to sovereignty has for collective action and for unlocking Africa's potential.

Turning the focus to the WTO, the session covered the key areas where the WTO needs reform. This need was recognised in a commitment by members at the 12th Ministerial Conference. The session looked at the organisation's loss of negotiating capacity, troubles with enforcing disciplines, weak monitoring and transparency, and difficulty with dealing with development issues. Dr Low broke down the specific issues in the WTO into those that have emerged recently, those that have been long-lasting and those that are structural (where all long-lasting issues were also categorised as structural). The more recent issues include how to address climate change, gender, and MSMEs. Systemic issues that have been long-lasting include dispute settlement, development issues, and subsidies among others. While members are struggling to make any progress on many of the issues raised, there are some areas of ongoing work that show potential. These include the investment facilitation initiative and the digital trade initiative.

Food Security, Climate and Trade

This session unpacked the relationship between food security, climate change, and international trade which has been brought to the foreground by the war in Ukraine. The panel for this session addressed how the war has disrupted key food exports, inflated food prices, and exposed the fragility of import-dependent African food systems in the face of global shocks. The result has been a food security crisis, one which is expected to worsen. Climate change and related extreme weather events drive down agricultural yields, exacerbate the spreading of pests and diseases, and widen the food security gap between generally wealthier, high-latitude countries and generally poorer low-latitude countries that show pronounced vulnerability. The lasting impacts of the COVID-19 pandemic and the resulting economic downturn have also contributed to the current crisis. Edwini Kessi, the director of the WTO Agriculture and Commodities division, outlined drew attention to the deteriorating state of food security on the continent: the FAO data indicates that between 702 and 828 million people faced hunger in 2021 – 150 million more people since 2019. He outlined how the principles and provisions of the WTO offer avenues for addressing food insecurity by supporting the growth of agricultural productivity and placing limits on support that creates unfair competition. Developing countries are granted flexibilities for implementing WTO rules in a way that leaves space for addressing food security challenges and African states have made use of these. However, he pointed out that features of the global agricultural trade system still undermine progress: domestic subsidies by developed countries still erode the competitive advantage of African producers and the recent surge of trade-restrictive measures as a result of the war in Ukraine have exacerbated food price increases. These measures have a particularly devastating effect on the continent's many net food-importing developing countries.

Kenya and Namibia were looked at in closer detail as two countries facing climate-induced food security challenges. Droughts have been hampering Kenya's predominantly rainfed crop production. This has exacerbated food security and increased the country's reliance on imports for basic food products. Maize and wheat imports have been rising in recent years. Namibia has also been plagued by droughts which, in combination with multiple global shocks, has led most regions to be classified as in crisis and need of humanitarian assistance. Livestock, which accounts for most of the country's agricultural production, decreased by 50% in 2020 as a result of prevailing droughts. These two cases were used to illustrate the need to build food system resilience in Africa by investing in measures to boost agricultural productivity sustainability and raising the incomes of rural farmers, while ensuring adequate access to affordable food, including in urban areas.

The AfCFTA: Update and Future Developments

The session was opened with a **Keynote Address** by His Excellency Albert Muchanga, Commissioner for Economic Development, Trade, Industry and Mining, African Union Commission. He noted that tralac and the African Union Commission have a close working relationship and that tralac's will continue to play a support role as the implementation process of the AfCFTA Agreement and Protocols unfolds. The keynote address focused on the importance of Africa's productive transformation in the face of low industrialisation. This priority has been recognised by the African Union Commission, RECs and development partners who have agreed to convene in November 2022 for the 17th Extraordinary Assembly of the African Union Heads of State and Government on Industrialisation, Economic Diversification and the African Continental Free Trade Area (AfCFTA). They will also observe an African industrialisation week in the month of November 2022 under the theme "Industrializing Africa: renewed commitment towards inclusive and sustainable industrialisation and economic diversification". The Continent's leaders firmly believe that this will give a strong political voice to the continent's industrialisation agenda. H.E Muchanga argued that this agenda is important for a number of reasons. Firstly, the AfCFTA regional market is an opportunity for diversification as the demand for African manufactured goods is 1.5 times greater than the global average. Additionally, Africa is endowed with a wealth of natural resources and a young population that can support the continent's industrialisation drive. Developing regional and continental value chains will be key to exploiting Africa's opportunities for industrialisation. In his concluding remarks, he stated that Africa's trade and governance agenda in a changing global order is forward-looking and committed to international trade.

A key focus of the Conference was on developments involving continent-wide trade under AfCFTA preferences, alongside the Regional Economic Community (REC) Free Trade Areas (FTAs). The remainder of this session was dedicated to providing an update on this topic, delivered by Trudi Hartzenberg, tralac's executive director, and Professor Erasmus.

The AfCFTA entered into force on the 30th of May 2019, but negotiations are still ongoing as tariff concessions, rules of origin, and specific commitments for five priority service sectors are still being finalised. 46 Provisional Schedules of Tariff Concession (Offers) have been submitted; 31 Offers have been technically verified. The rules of origin for 88.03% of tariff lines have been finalised. The remaining tariff lines are primarily in the clothing and textiles, automotive and tobacco sectors.

For trade in services, 48 offers have been submitted in the five priority sectors, 21 of which have been verified as compliant with the modalities of the negotiations. The council of ministers have decided to commence work on the regulatory framework for trade in services however work has not yet commenced. The AfCFTA update included a discussion on the Guided Trade Initiative (GTI) which is now underway. Seven State Parties are participating – Cameroon, Egypt, Ghana, Kenya, Mauritius, Rwanda and Tanzania (Tunisia now joining). The stated objective of the GTI is to test the efficiency of the legal framework of the AfCFTA instruments. However, as Professor Erasmus stated, it should be viewed as a learning experience rather than a demonstration of the agreement's effectiveness. The discussion emphasised the critical role of good governance in state parties, trade facilitation, export diversification and resolving the challenges of multiple and overlapping memberships in RECs for the effective implementation of the AfCFTA. An update on Phase II negotiations was also provided, noting that draft protocols for investment, intellectual property, and competition policy have been adopted. Preparatory work for phase III negotiations on Digital Trade and Women and Youth in Trade Protocols has also begun through stakeholder engagements and the establishment of committees.

Professor Erasmus reminded us of a governing principle of the AfCFTA, *acquis*, which means that the free trade agreements of the regional economic communities (RECs) will be preserved. He emphasised that any benefits derived from AfCFTA depend crucially on its proper implementation. This will be determined by the implementation measures taken by state parties, the success of which requires good domestic governance at home. While regional value chains have become a central objective of implementation, the AfCFTA does not envision a continent-wide import substitution project – trade with global partners remains important. An additional consideration is that regional value chains cannot be created if the production capacity is not there; private sector input is essential for determining this.

Movement of Persons and African integration

Trade facilitation is a critical issue for Africa as the high costs of cross-border trade remain a primary barrier to integration. The first part of the session looked at trade facilitation provisions in the AfCFTA, including those on customs and border management, which form an integral part of the trade in goods protocol. These provisions are found in *Annex 3 on Customs Cooperation and Mutual Administrative Assistance*, *Annex 4 on Trade Facilitation* and *Annex 8 on Transit*. The discussion highlighted that the implementation of these provisions is expected

to form the bulk of expected gains in income levels from the AfCFTA, with a reduction in non-tariff barriers contributing less and tariff liberalisation contributing the least.

The AfCFTA's disciplines on trade facilitation have links to the movement of persons, a long-standing and divisive issue on the continental integration agenda. While the success of African integration and the AfCFTA requires greater openness to the free movement of persons, there is insufficient political will around continental reciprocal free movement. This is reflected in the slow pace of progress on adopting a continental agreement on the free movement of persons. While, the AU adopted the *Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment (FMP)* in January 2018, only four countries have ratified the agreement: Rwanda, Mali, Sao Tome and Principe, and Niger. One explanation that was provided is that the roadmap which accompanies the FMP is discouraging the adoption of the protocol as it is too drastic. The roadmap provides a guideline for the phased implementation of the FMP; implementation moves from the right of entry to the right of residence, and finally to the right of establishment which would allow all AU member state citizens to set up and pursue economic activities in other member states. For many African states, that have unresolved concerns on FMP relating to security, inadequate identification systems, and loss of control over borders, ratifying the roadmap may be seen as triggering an irrevocable process with fixed and binding timelines over which they have little control. Given this state of affairs, it was suggested that regional initiatives hold the most promise for advancing the free movement of persons.

Diving deeper into the topic of the movement of persons, the session examined how African countries are faring on the Visa Openness Index, an indicator of the stringency of visa requirements of African countries for intra-African travellers. Reflecting on 2021, several countries significantly improved their visa openness scores, including Namibia, Sierra Leone, and Tanzania which joined the best-performing 20 countries. While visa openness regressed slightly in 2021, it has been on an upward trend since 2016. However, only three countries have visa-free travel for all African visitors, down from 11 countries in prior years. These countries are the Gambia, Benin and Seychelles. The session highlighted the importance of streamlining visa processes and opening borders of African countries to other Africans as a means of promoting trade, investment, innovation and stronger connections between countries and citizens. Some visa solutions for achieving this were looked at, including visas on arrival, visa-free regional blocs and multi-year visas for applicants who have been assessed.

Dispute Settlement in Africa – Book Launch

An exciting event that formed part of the conference proceedings was the launch of the book *African Trade and Integration: Law, Practice and the Courts*. The book's authors, Gerhard Erasmus, Dawid van Wyk, Creck Buyonge Mirito and Trudi Hartzenberg, discussed trade dispute settlement on the continental (AfCFTA), regional (RECs), and national levels. The book

interrogates the important question of whether trade and economic integration on the African continent are underpinned by rules-based arrangements. The author's presentations were centred on the implications of a well-known characteristic of African states: their governments do not litigate against each other over trade-related issues. A consequence of this is that, because governments do not intervene on behalf of private parties in regional courts, private parties (corporate entities and natural persons) have to approach national courts to settle their trade disputes. The problem is exacerbated when private parties do not have access to regional courts themselves; this is the case for private parties in 18 of 54 African states. Of the 18 states that do not have access for private parties, many are in SADC as the regional economic community is without a tribunal. The authors presentations highlighted that private sector actors are the ones responsible for trade across borders. Ensuring they are given transparency, predictability, due process, legal certainty, and legal remedies when trade agreements are not respected, is essential for securing commercial transactions, attracting investments, and protecting consumers.

The AfCFTA as a Framework for Africa's Industrialisation

The final session was centred on Africa's industrialisation and the need to transform Africa from an exporter of primary commodities to an exporter of beneficiated products. The development of intra-African value chains offers great potential for facilitating this upgrading process; more so than participation in global value chains which are largely forward-linked (Africa participates at the bottom of GVCs). Given this context, the question of how the AfCFTA can facilitate regional value chain development was analysed. A few important lessons were conveyed. Firstly, African countries' participation in value chains and the development of industries must be based on existing strengths that provide an economic rationale for developing an export. Additionally, rather than industrialisation being a top-down process, policymakers should focus on creating an environment that can facilitate the development of industry; input from the private sector, experts, job market entrants and other stakeholders should guide this process. Given that value chain participation hinges on import and export processes, trade facilitation measures are critical. This calls for investment in regional infrastructure and reducing border frictions. Finally, upgrading production requires upgrading human capital. A focus on education and training is crucial for ensuring that the continent has the skilled individuals required by industries. The session also highlighted the opportunities or niche, digitally driven female-owned businesses, in industries like clothing, that can create products that large multinational corporations cannot economically supply.

Rules of origin were also discussed as having important implications for African value chains. The session provided an update on the AfCFTA RoO negotiations, noting that negotiation deadlocks on several products have been broken by an agreement on compromise outcomes. These outcomes involve a more flexible transitional rule that moves to a more stringent rule after 3 or 5 years, ostensibly to encourage African value chain development. An important point

raised is that once the RoO is concluded, they will cover trade between countries not previously in a preferential trade arrangement (RECs); existing REC RoO will continue to apply for intra-REC trade. The discussion highlighted a key consideration on the design of RoO: whether products under restrictive AfCFTA rules would still be competitive in the final export market, versus non-African imports. A number of principles agreed to in AfCFTA negotiations have the potential to support value chain development including cumulation, value tolerance provisions (15%), and absorption.

A theme throughout the conference was the importance of considering the needs of the private sector as the drivers of trade and investment in Africa. Fittingly, the conference closed with a presentation by Michael Lawrence, a tralac associate and the Executive Director of The National Clothing Retail Federation (NCRF). His presentation provided the critical perspective of business on trade under the AfCFTA, emphasising that trade policies and trade rules cannot simply follow the prescription of economic theory; they must be in touch with reality and sensitive to the needs of businesses. The importance of market access for services was emphasised, pointing out that trading goods requires distribution services. The presentation also highlighted the critical need to make African markets attractive destinations for investments in industrial capacity.

For presentations, videos, photos and background material, please visit the [Conference webpage](#).