



tralac 2022 Alumni Conference Report

tralac's 2022 Alumni Conference took place on the 11th and 12th of October at the Sarova Hotel in Nairobi, Kenya. The conference was in a hybrid format, with presentations from tralac alumni over six sessions.

The **introductory** remarks were given by William Mwanza who drew attention to the global context in which the conference was taking place, highlighting several issues that are affecting trade and development in Africa. He touched on the COVID-19 pandemic and supply chain disruptions, the war in Ukraine and its impacts on import-dependent states, climate change and the consequences for food security and infrastructure, youth unemployment, the growing opportunities of the digital economy, and the need for progress on the AfCFTA's implementation.

Trade Facilitation to improve trade competitiveness

The first part of the session focused on informal cross-border traders (ICBT), the barriers they face and the potential means of empowering them. The session highlighted that 70-80% of ICBT are women who face several gender-based challenges when moving goods across the border. These include, *inter alia*, a lack of access to information, poor infrastructure and improper sanitary conditions, discrimination and sexual harassment. Tackling these barriers requires among other things, a gender-sensitive approach to trade policies, ensuring that borders are safe spaces and well-equipped for the needs of female traders, and efforts to translate and disseminate information on trade regulations and procedures. The Simplified Trade Regime (STR) was discussed as an important trade facilitation measure for ICBTs that can help traders benefit from preferential duties. It was noted that while STRs have been implemented in COMESA and EAC, SADC does not have an operational STR. It was suggested that, because SADC has been particularly slow in implementing a regional STR, a more viable approach would be for SADC countries to enter into bilateral agreements to operationalise an STR. The AfCFTA was also discussed as an opportunity for addressing the issues faced by ICBTs. This opportunity could be realised if the needs of ICBTs, particularly female traders, are adequately considered when designing and implementing suitable supply-side services that support cross-border trade flows. Notably, the AfCFTA trade facilitation framework was discussed as an opportunity to address the complexity and opacity of NTBs faced by ICBTs in the context of multiple overlapping trade arrangements (RECs) and improve ICBTs access to technology and hence

their access to finance and information. An additional issue that was raised in discussions, and reiterated throughout the conference, was the lack of data on informal cross-border trade flows.

On the topic of trade facilitation, Authorised Economic Operators (AEO) programmes were also discussed as a tool for enhancing customs border management. The session highlighted the benefits of AEO programmes which act to ensure a safe and secure supply chain while also facilitating trade. An update on the progress of implementing AEO programs on the continent was provided, revealing that generally, the uptake of the programme on the continent has been low. Suggestions for improving the situation were put forward including initiatives to raise awareness among businesses on the opportunity of AEOs, encouraging the development of regional AEO programs, and using simplified compliance programs as a stepping stone to AEO implementation. The role of digitalisation in reshaping cross-border trade was also addressed in the session. This discussion highlighted the inefficiencies and room for error that is created by relying on paper records, particularly for documents that require input and processing by many stakeholders. The bill of lading was identified as a particularly crucial document to digitise, a process that would offer significant gains in time and cost savings. It was noted that the Trade Facilitation Agreement can complement the digitisation of the bill of lading and offer broader benefits for unlocking intra-African trade through digitalisation.

Update on African Continental Free Trade Agreement

The second session was designated to an update on the AfCFTA which outlined the progress made on negotiations. The update detailed that the agreement has received 54 signatures, the only country yet to sign being Eritrea; 44 instruments of ratification have been delivered, leaving 11 countries outstanding. In negotiations on trade in goods, 46 provisional schedules of tariff concessions have been submitted, 31 of which have been verified as compliant with the modalities of the negotiations. Looking at rules of origin, it was stated that 88.03% of tariff lines have finalised rules of origin. Clothing and textiles and automotive makeup most of the remaining rules of origin. The session clarified that trading under the AfCFTA has not commenced. This is despite a declaration by the council of ministers in October of 2021 that provisional trading under the AfCFTA would start. The update on trade in services specified that 48 offers have been submitted for the 5 priority sectors; 21 have been confirmed as being compliant with modalities. The session included a presentation on how Malawi approached its services offers under the AfCFTA, providing insight into the process of determining Malawi's priorities for the services sectors and the process of developing offers under the AfCFTA. Some of Malawi's specific challenges were outlined, notably that its services are not export-oriented. Opportunities for Malawi's services sector under the AfCFTA were also discussed, highlighting the country's vast room for growth in trade in the services sector.

Regulatory frameworks were flagged as an outstanding issue as they have not yet been developed. The council of ministers decided that this work must commence, however, member states have signalled that they require capacity building for engaging in the process. On the topic of Phase II negotiations, it was stated that draft protocols exist for intellectual property, investment, and competition policy. These drafts will be adopted at the extraordinary summit in November. The session also touched on the Protocol on women and youth which will be negotiated in the future. In preparation, more than 30 national consultations have been held as a forum for receiving feedback from women and youth.

The session pointed to the potential of the AfCFTA to realise the aspirations of Agenda 2063: *an integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in international arena*, highlighting that the operationalising the African Continental Free Trade Area will accelerate Africa's economic recovery. As the private sector will bring about the operationalisation of AfCFTA, their engagement is critical for identifying the opportunities that the AfCFTA will bring about. Private sector engagement, combined with resource mobilisation and continental integration were discussed as being instrumental for regional value chain development which can generate more productive jobs on the continent.

National Implementation of the AfCFTA

This session looked at issues related to the national implementation of the AfCFTA, focusing on the challenges and opportunities faced by Cameroon and Nigeria. The session covered an update on Nigeria and Cameroon's institutional preparedness for the implementation of the AfCFTA. Presentations on the topic highlighted the areas where Nigeria and Cameroon face challenges, where work is ongoing, and where future work should be focused. The session also brought the importance of the private sector to the foreground, emphasising the importance of private sector voices in implementation strategies. To achieve this, Nigeria has established a presidential National Action Committee on AfCFTA, bringing together the private and public sectors, to drive the implementation of the agreement. Cameroon's implementation process also involves the creation of a National Implementation committee with private-sector representation. While the presentations highlighted that the AfCFTA will present significant opportunities for firms in Nigeria and Cameroon, several challenges to grasping these opportunities remain. In terms of competitiveness, Nigerian firms are hindered by high energy, transportation, transaction, and fund costs. In Cameroon, deficient infrastructure, industrialisation, and funding were highlighted as some of the challenges faced by the private sector.

Competition Policy

The first part of session four covered the issue of consumer redress as a precursor to trust in the Digital Age. The topic covered instances where consumers require dispute resolution or

complaint-handling mechanisms where issues arise from the use of digital financial services. The session conveyed that consumer redress and the availability of effective consumer dispute resolution processes are essential for consumer trust. These processes ensure consumers retain the confidence to engage with individual traders, the market and enforcers and that the marketplace remains fair for all participants. As consumer redress is a key driver of financial inclusion, it is important that service providers make redress accessible and low-cost for consumers. Moving forward, the presentation highlighted the need for increased consumer awareness and education around issues of redress, strengthening collaboration among key stakeholders for information sharing and implementation of consumer redress, and for harmonising the laws and institutional roles for handling consumer complaints.

The session then shifted focus to competition issues in the public sphere, covering the competition aspects of public procurement. Some of the anti-competitive strategies that are used in the public procurement process were discussed, including corruption, predatory pricing, and collusive tendering. The discussion illustrated the need for African governments to have clear policies, independence of institutions, and strong stakeholder coordination and collaboration for avoiding such cases. For the AfCFTA, it was emphasised that early engagement and meaningful participation on the subject are critical.

Focus on Kenya

Much of session 5 was designated to updates and analysis of trade issues in the conference's host country, Kenya.

The session highlighted the excellent progress that Kenya has made in digital trade development, digitally enabled transactions and e-commerce expansion, driven by the country's increased uptake of ICT. This progress has enhanced the efficiency and accessibility of public services and financial services and will be further supported by the recently published policy document: *The Digital Economy Blueprint (2019)*. The session spotlighted the benefits of digitisation for cross-border trade, seen in the implementation of Kenya's National Electronic Single Window System which has made the processing of import and export documentation more efficient and transparent. Kenya is well-positioned to benefit from the market access opportunities of the AfCFTA; notably, developments in digital trade have lowered transaction costs and information asymmetries, meaning that SMEs will be able to take advantage of AfCFTA opportunities. However, several constraints remain in Kenya, which hinder the operation of digital platforms. The session suggested that these can be addressed by strengthening intellectual property protection, strengthening online consumer protection, strengthening transport infrastructure and trade logistics, and enhancing access to and utilisation of ICT services.

The session also looked at issues related to digital trade in Kenya's current negotiations on the United States-Kenya Strategic Trade and Investment Partnership (STIP). The STIP is being negotiated as a "placeholder" for a full free trade agreement with the United States. Kenya has been eager to establish such an agreement given that AGOA is set to expire in 2025. The session focused on the private sector's comments on the STIP, specifically on the issue of digital trade. The United States Computer & Communications Industry Association (CCIA) put forward comments on the proposed negotiating agenda, arguing that to ensure Data transfers are free and transparent, the agreement should prohibit measures that hinder data flows or impose data limitations. The dangers of such a requirement were emphasised, given that it encroaches on Kenya's state sovereignty and disables the use of checks and balances on the transfer of data from Kenya to United States. The discussion highlighted the challenges Kenya will face moving forward as it seeks to balance its interests with the demand of the US. It also pointed to the complexities that the bilateral arrangement with the US could create given that Kenya shares a common external tariff schedule with the other EAC members.

The session also covered Micro, Small & Medium Enterprises (MSME) development in Kenya. MSMEs are considered the backbone of Kenya's economy as they account for 40% of Kenya's total GDP and makeup 98% of all business entities. Despite this, the sector remains highly informal as only 20% of MSMEs operating as licensed entities. The session emphasised the huge potential of Micro and Small Enterprises (MSEs) for socioeconomic development – these enterprises currently employ 93% of the country's total labour force and offer opportunities for absorbing low-skilled and economically excluded segments of the labour force. The discussion mapped out the journey of Kenya's MSE development policies, from their inception in 1965 up until the 2012 MSE Act which currently governs MSE development. A number of government interventions are ongoing to formalise the sector and promote registration. These include infrastructure development projects, affordable credit, and capacity-building projects. However, MSEs still face significant market access, infrastructure, legal and regulatory and finance constraints. Several national and sectoral policies that enhance synergy in the development of MSEs were discussed as providing opportunities for overcoming these constraints.

The session also presented a case for advancing a gender-sensitive approach to the implementation of the AfCFTA Agreement. This included a deep dive into the concept of 'gender mainstreaming', a framework that uses gender analysis to assess the differentiated implications for women and men arising from AfCFTA market liberalisation and to identify potential mechanisms whereby AfCFTA implementation can impact gender inequalities. The discussion unpacked the importance of implementing gender analysis in the AfCFTA National Strategies, designing a gender-sensitive AfCFTA monitoring and evaluation framework, and gender mainstreaming in the design of the AfCFTA Communication and Visibility Plan.

New Frontiers of Africa's Trade Policy

The final session looked at the new frontiers of Africa's trade policy.

In March 2022, the Democratic Republic of Congo (DRC) joined the East African Community. Session 6 included an analysis of the significance of this development for intra-regional trade. Notably, the DRC has a large population of 90 million people which offers new market opportunities that Kenya, Uganda, Rwanda and Tanzania are looking to take advantage of. The DRC is also rich in a number of precious metals, including gold, coltan, and cobalt. Importantly, Cobalt and Coltan are used in the batteries of electric vehicles and demand for both is increasing as the world shifts to cleaner energy sources. This offers opportunities for investment in the country's mining sector. However, as the discussion noted, realising any gains from the DRC's natural resource base and vast consumer market, will require significant infrastructure development and improving the DRC's security situation.

Another important development on the continent is the Tripartite Transport and Transit Facilitation Programme (TTTFP). The objective of the TTTFP is to facilitate the development of a more competitive integrated and liberalised regional road transport market in the EA-SA region. The discussion explained how the TTTFP's stakeholders (comprising 25 members states from 3 regional economic communities) seek to achieve this by developing and implementing harmonised road transport policies, laws, regulations and standards for efficient cross-border road transport and transit networks, transport and logistics services, systems and procedures in the EA-SA region.

The final component of the session looked at emerging trade issues with Africa's global partners, recognising that Africa's trade with its global partners will continue to play a critical role. The European Union's Climate Neutral ambitions, which trickle down into their trade policies, were emphasised as a development that African countries will have to watch closely. The discussion focused on the EU's regulations on the Carbon Border Adjustment Mechanism, deforestation and the directive on Corporate Sustainability Due Diligence which will likely have the most significant consequences for African exports to the EU. These three regulations will add a burden of compliance, increase production and trade costs and reduce competitiveness in the EU market. They also threaten to erode preferences obtained under the EU free Trade Agreements as they are increasingly becoming more restrictive and more stringent. The discussion highlighted the importance of African countries approaching EU negotiations with a clear stance on environmental issues and ensuring they have carefully formulated strategies for securing the support they need for compliance with EU regulations.

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