

tralac Annual Conference

18 & 19 May 2023

Kigali, Rwanda



Concept Note

A Practical and Realistic Agenda for the AfCFTA

The 2023 tralac Annual Conference takes place on 18-19 May 2023 in Kigali, Rwanda. Government officials, trade experts, entrepreneurs, and importantly tralac alumni from across the continent will participate in the Conference. At this occasion, we want to discuss several matters associated with Africa's integration and trade agenda, including international geo-politics in what President Biden has called the "[decisive decade](#)". What are the implications for Africa and how are African countries responding? But we want to focus, in particular, on the African Continental Free Trade Area (AfCFTA) as a practical continent-wide preferential trade arrangement which is about to be fully implemented. We believe this debate should be conducted in the light of national, regional, and global realities and by asking questions about basic issues: What are the opportunities and the challenges associated with the implementation the AfCFTA's legal instruments? Who is responsible for implementing the obligations entailed in the various Protocols and Annexes and how? How to ensure that the AfCFTA regime is a dynamic and outward-looking compact able to speak to the challenges of the day? What should be added to the AfCFTA agenda to ensure that the State Parties have a bespoke instrument for pursuing their objectives about industrialisation, regional value chain development, meeting the challenges of digitalisation and climate change, and attracting investments?

We will also discuss matters such as the development and adoption of the required policies and taking collective action. What will be new in terms of border management, trade facilitation, and the harmonisation of regulations dealing with trade in services? When and how will the new Protocols on Women and the Youth, Digital Trade and Intellectual Property Rights, Competition Policy and Investment be finalised and enter into force? Who will oversee implementation of the AfCFTA legal

instruments and ensure that the member-driven aspect of the AfCFTA does not result in fragmentation, but will function as the multiplier for further trade liberalisation and the refinement of legal and practical arrangements in areas such as the effective promotion of trade facilitation and customs cooperation? Many of the challenges associated with the implementation of existing trade agreements (such as customs administration and border management) are well-known, and they are by no means new. Will we see new approaches and better institutional arrangements to enhance border processes? Improved border governance contributes not only to facilitating cross-border trade and trade with global partners, but is essential for the development of regional and continental value chains. A visit to the Dry Port and Logistic Hub in Kigali will provide a reality check on what is necessary to effectively implement the four Annexes to the Protocol on Trade in Goods that focus on customs and border management, elimination of non-tariff barriers, and trade facilitation.

The implementation of trade remedies and safeguards could bring about many benefits but also technical and capacity challenges. The AfCFTA has a detailed Annex about these matters as part of the Protocol on Trade in Goods. Its implementation will require well-designed technical assistance projects and a focus on domestic trade governance generally. In this context, the AfCFTA Protocol on Dispute Settlement should also be mentioned. Will it ring in a new era of better rules-based trade and a preparedness on the part of the State Parties to settle trade-related disputes in a binding and impartial manner? Will private parties such as investors, importers, exporters, and service providers enjoy the benefits of legal certainty and predictability?

We will mention important design features of the AfCFTA, such as its emphasis on the **preservation of the *acquis*** (meaning that it will co-exist with the Regional Economic Communities (RECs) which have already progressed to the level of Free Trade Areas (FTAs) and beyond, and other African trade arrangements) and the fact that it is a **comprehensive** arrangement with Protocols on trade in goods, trade in services, and many related disciplines.

The AfCFTA is also a **member-driven, transparent, and rules-based system** and is structured as a **single undertaking**. Since it is an FTA (not a customs union), the State Parties retain policy space over trade relations with third parties. How will this work in practice and how will global trade relations be pursued? These features have important implications for how the AfCFTA should be implemented, developed, and be steered towards a forum for inclusive trade governance.

In 2015, the African Union (AU) launched the AfCFTA negotiations, which were to be finalised by

2017. COVID-19 disrupted the process (which was supported by the AU Commission), but it soon became clear that the high level of ambition (to **liberalise 90% of tariff lines** among 54 countries at very different levels of economic development) entailed a daunting task.

The fact that the AfCFTA Agreement entered into force on 30 May 2019, before negotiations were completed, added to the complications. Non-State Parties also participate in the negotiations and the submission of tariff concessions. The identification of **excluded** and **sensitive products** by individual states resulted in a complex process. Trade in services negotiations is complex and taking even longer.

There will be an opportunity at the 2023 Annual Conference to assess the AfCFTA outcomes to date and to discuss the prospects for conducting **preferential trade in goods under AfCFTA rules**. This will require an analysis of rules of origin too, as well as a reminder that trade in goods under **REC FTA regimes** will also continue.

The State Parties must implement **domestic measures** to enable trade under AfCFTA rules and this process needs to be considered. And since the AfCFTA purports to be a rules-based regime, how will the rights of private parties and firms be protected?

The **Guided Trade Initiative** (GTI) was launched in Accra, Ghana on 7 October 2022 and seeks to allow commercially meaningful trading, and to test the operational, institutional, legal and trade policy environment under the AfCFTA. What is happening under this initiative and how long will it continue? Topics such as **trade in services** and **trade facilitation** must be looked at too in order to evaluate the AfCFTA as a continental FTA for goods and services trade.