

tralac Newsletter



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Welcome to the tralac newsletter for
March 2020

Tribute to Professor Thandika Mkandawire

It is with great sadness that we note the passing of Professor Thandika Mkandawire on 27 March 2020.

Professor Mkandawire was one of Africa's great intellectuals – a giant among development economists. His seminal work on the informal sector comes to mind; but his contributions to Africa's intellectual capital traversed an extensive range of development issues. He was also an avid soccer player.

Above all, he was a humble man, with a gentle soul and a brilliant mind.

Special tribute from Dr Dan Ndlela, tralac Advisory Board

Though we were both educated at Swedish universities and lived in that country in 1970s, I really became close to this towering African intellectual during his years as Executive Director of the Council for the Development of Social Science Research in Africa (CODESRIA) in Dakar, Senegal and during his tenure as Director of Zimbabwe Institute of Development Studies (ZIDS), Zimbabwe in the 1980s. From humble beginnings Thandika, originally of Malawi descent, rose to become one of the best economic social science thinkers in Africa and indeed in global-social

science scholarship. He represented the best of the African scholarship. He was one of the best institution builders, a knowledge worker and a mentor. Thandika was an intellectual giant whose ideas, views and perspectives spread globally and will remain respected through-out Africa and the world, especially the globally south. Thandika served as Professor at universities of Stockholm, chair of African Development at the London School of Economics (LSE). He is widely published with research focus on development theory and economic and social policy.

It was a great honour for us to have Prof. Mkandawire as our Keynote Speaker at the **2014 tralac Annual Conference** – and we are very pleased to share his address, as well as a set of questions and answers, with you.



When you receive this newsletter, South Africa will be in lockdown. Lockdown started at midnight on 26 March and will last for 21 days. President Ramaphosa, in his second address to the nation on COVID-19, announced this measure as part of a comprehensive package of interventions to curb transmission and ameliorate its economic and social impact. In **this Blog**, we look at some of the measures that are being implemented in South Africa; some measures will also impact our trade partners and especially our neighbours in southern Africa.

We closed the tralac office last Monday, 16 March, and we are all working from home. Our work programme now includes monitoring and analysis of the COVID-19 impact on Africa's trade and trade policy agenda. Our associates, alumni and members of the Women in Trade Governance Network (WiTG) are contributing to this initiative. We'd also like to thank our development partners for their support, especially at this time. Learning from this pandemic is essential for trade and related policies for our future. It cannot be business as usual, after this.

We've cancelled or postponed all events, including our Annual Conference. Our training programme is going digital. We will have the first module of the 2020 tralac Certificate Course: International Trade Law and Policy for Africa's Development, during the week 20-24 April (**[click here for more info](#)**), and the Introduction to Data Science for Trade Policy e-learning course will run 4-8 May (see the **[background note](#)**). We are also planning a series of webinars – details will follow very soon.

Update on the African Continental Free Trade Agreement (AfCFTA)

Trade under the AfCFTA was to begin on 1 July. Where do we stand now?

It is true that the first phase of the AfCFTA negotiations proceeded apace, and that the Protocol on Trade in Goods and 7 of its 9 annexes, the Protocol on Trade in Services and the Protocol on Rules and Procedures for the Settlement of Disputes have been concluded. This

is an important achievement. However, the outstanding issues are essential for trade under the AfCFTA to begin. Preferential tariff concessions and associated rules of origin are the minimum requirements for a free trade area (FTA) – these are still under negotiation. Since the AfCFTA covers services too, schedules of specific commitments are essential for the 5 priority sectors: financial, communication, transport, tourism and business services. They are still to be negotiated. And then, there is phase II; preparatory work is underway for the technical working groups, so that negotiations can begin.

In October 2019, at its inaugural meeting, the Council of Ministers (CoM) of the AfCFTA expressed concern about the pace of the phase I negotiations and encouraged concerted efforts to conclude the outstanding negotiations, so that trade could begin on 1 July 2020. At the second meeting of the CoM, in December, timelines were adjusted for the finalisation of the tariff negotiations, rules of origin for the outstanding products (clothing and textiles, automotive, edible oils and sugar), and the schedules of specific commitments for the 5 priority services sectors. Early in 2020, it became clear that these deadlines would not be met and in February, the African Union Commission (Department of Trade and Industry) informed member states of the African Union that the deadline for completion of the negotiations was now 30 May. That was before COVID-19. On 18 March, all meetings for the rest of March and April were cancelled. We understand that e-meetings are now taking place. Realistically, trade under the AfCFTA is highly unlikely to begin on 1 July. E-meetings and e-negotiations (via the portal that was created for the exchange of tariff offers – and we understand that there will also be an online platform for exchange of services commitments), can definitely work. But time frames will need to be adjusted for these e-processes.

In this issue

Introduction	1
Training updates	4
COVID-19 Update	4
New AfCFTA resources	4
tralacBlog	5
Recent Publications	6
AGOA.info	7

Hopefully updates will be provided soon. We will learn a great deal from this experience; in fact, COVID-19 can become a serious push-factor for the development of Africa's digital economy, digital policy making processes and trade negotiations.

19 March marked a very positive development for AfCFTA institutional development. Mr Wamkele Mene was sworn in as the Secretary-General of the AfCFTA. Mr Mene's appointment is important. He is an acknowledged expert on international trade law and policy matters; he spent some years at the South African Mission at the World Trade Organisation, and led South Africa's AfCFTA negotiations until late 2019. The process of establishing the Secretariat has begun, with officials and experts from the African Union Commission's input. The Secretariat is charged with monitoring the implementation of the AfCFTA, collecting and disseminating information about trade-related measures, among other functions. This institution will therefore be important to good governance for the AfCFTA – amongst other roles, it will be supporting and promoting transparency. In the coming months it will be very important to develop protocols and instruments for all its functions and to support the State Parties with preparations for implementation.

In today's newsletter, we include:

I. Key issues for the tariff negotiations

What do the trade and tariff profiles show? (see an infographic [here](#)) We know that the regional economic communities and other trading arrangements will continue to exist; so, who will be negotiating tariff concessions with whom? We know that, for example, the member states of SADC will not be negotiating further negotiations amongst themselves. Which products face high tariffs? What about products such as clothing and textiles, which are likely to be designated 'sensitive' by some member states?

The rules of origin (RoO) negotiations have made good progress, but there are several products for which RoO are still to be finalised. Automotives are on this list, together with clothing and textiles, sugar and edible oils. These are products that members states, who are

producers, would like to protect. But of course, the AfCFTA could facilitate increased trade in these products and continental value chain development, provided tariff reductions and flexible RoO emerge from the negotiations. We focus here on the case of automotive components and potential value chain development (see this [Blog](#)).

II. Negotiations roundup

- Where do we stand on the trade in services negotiations? [This Q&A](#) provides an update
- What could a regulatory cooperation framework for financial services include? Read more in [this Blog](#) by Ashly Hope
- How will phase II be negotiated? And how will these instruments be ratified and be implemented? Read more in a [Blog](#) by Gerhard Erasmus
- Investment is one of the three phase II issues. The other two are competition policy and intellectual property rights. We focus here on the Investment Protocol – what should it cover? Read more in a [Blog](#) by Talkmore Chidede

III. Dispute settlement

Dispute settlement in the AfCFTA follows the same design as in the World Trade Organisation – with Panels and an Appellate Body. Does this design mean that disputes under the AfCFTA will be less 'political' than in some regional economic communities (as was the case for example with the first SADC Tribunal)? Read more in [this Blog](#).

IV. Could there be a phase III for the AfCFTA?

Although the AfCFTA agenda is quite comprehensive, there are important issues that now feature on the international trade agenda which are not included. These include trade and gender, climate and sustainable development. Further negotiations are provided for; can we expect a phase III of the AfCFTA negotiations? Find out more in [this Blog](#).

We look forward to your feedback.
We hope you will all stay safe and healthy.

With our best wishes
The **tralac** team

Training updates

Short Course: Introduction to Data Science e-learning: 4-8 May 2020

tralac is offering a one-week introductory e-Learning course to the techniques and methods of data science. This course will help orientate participants around new practices, tools and terminology (download the **Background Note**).

If you are interested in taking part in this course, please email us at info@tralac.org for further information.

tralac Certificate Course: International Trade Law and Policy for Africa's development

We would like to congratulate the 56 successful applicants who have now been registered for the 2020 tralac certificate course (see **Course Outline**).

As a result of COVID-19, the first two modules will be e-learning. Module 1 will take place 20-24 April. **Find out more**.

COVID-19 update

tralac is monitoring trade-related policy responses to the Coronavirus (COVID-19). For all of us, both now and post-COVID-19, a fundamental recalibration of purpose, values, community and the nature of collective action is required. COVID-19 is a reminder that many 21st century challenges, including climate change, transcend national borders. While national responses are necessary, they are not sufficient. Hopefully COVID-19 will help us to reinvent multilateralism.



South Africa's response to the COVID-19 pandemic



COVID-19-related export control measures – has South Africa adopted the same yet?

New AfCFTA resources

This Newsletter introduces a set of new blogs, publications and resources on the African Continental Free Trade Area (AfCFTA). Visit our **AfCFTA resources page** for more on the background and status of negotiations, the text of the Agreement and other legal documents, as well as tralac research and analysis.



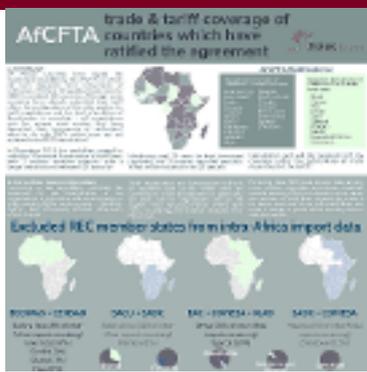
Trade in services negotiations under the AfCFTA: Q&A

The Services Protocol to the AfCFTA Agreement entered into force on 30 May 2019, along with the other parts of the consolidated text. However, the Protocol is incomplete, and it will be some time before any services sector commitments are made under the AfCFTA, and thus before any actual services trade can occur under this Agreement. Furthermore, it is not guaranteed that actual services sector liberalisation will be achieved.



Does the AfCFTA enable Africa to speak with one Voice on Trade Issues?

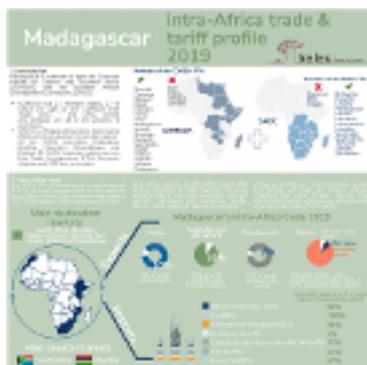
This trade brief shows that claims about the existence of a collective voice capable to speak on behalf of the member states of a trade arrangement or being able to decide economic or monetary policies on their behalf, require a careful analysis of what has been formally agreed. What does the text of the African Continental Free Trade Agreement (AfCFTA) provide for? The ceding of national sovereignty is a major step.



Infographic

AfCFTA: Trade and tariff coverage of countries which have ratified the Agreement

In December 2018, the modalities agreed to called for 90 percent liberalisation of tariff lines; with 7 percent sensitive products with a longer liberalisation timeframe (10 years for developing and 13 years for LDCs) and 3 percent excluded products. What will be included in the 90 percent liberalisation and will the targeted tariff line coverage suffice the 'substantially all trade' requirement of the GATT?



Trade Data Analysis

Intra-Africa trade and tariff profiles for 2019 are now available for the following countries:

- South Africa
- Mozambique
- Madagascar
- Senegal



tralacBlog is a forum to share and engage with the views of tralac researchers and Associates, as well as guest contributors, on pressing regional integration and trade policy issues affecting African countries in order to encourage relevant, topic-related discussion and debate.

[Read more](#)



The AfCFTA is due for Implementation – what is to be expected?

Gerhard Erasmus

The African Continental Free Trade Area (AfCFTA) has been designed to boost trade on the African continent. How and when will new trade benefits for merchandise trade (lower tariffs and the elimination of NTBs) and services... [more](#)



Will disputes under the AfCFTA Agreement be less “political”?

Gerhard Erasmus

It has been observed that the dispute settlement system of the AfCFTA is less “political” in design than, for example, the former SADC Dispute Settlement Protocol. This is true, if the point is that disputes of the kind which resulted in the demise of the SADC Tribunal... [more](#)



How will Phase II of the AfCFTA be negotiated, ratified and implemented?

Gerhard Erasmus

Negotiations on Phase II of the AfCFTA are about to start. They will deal with the adoption of the Protocols required for investment, competition policy and intellectual property rights. How will these Protocols be negotiated and implemented and what... [more](#)



Will there be a Phase III for the AfCFTA?

Gerhard Erasmus

The dynamic nature of this enterprise has a further implication: the present collection of legal instruments is the first salvo; more are foreseen and will be necessary. Article 8(3) of the AfCFTA contains the first indication that additional legal instruments have... [more](#)



Substantive issues the AfCFTA Investment Protocol should address

Talkmore Chidede

The envisaged Protocol on Investment in the AfCFTA would be about intra-Africa investment. At this stage the bulk of foreign direct investment (FDI) into African countries comes from sources outside Africa including the US, the UK, France... [more](#)



Cooperation on financial services regulation under the AfCFTA

Ashly Hope

As part of the negotiations on services under the African Continental Free Trade Area Agreement, parties will negotiate regulatory cooperation frameworks in priority sectors. By focusing on priority areas for common sets of rules, mutual recognition... [more](#)



The Trade in Automotive Components and Regional Value Chain Development

John Stuart

While African developing countries simply lack the capacity and resources to design, produce, distribute and market their own fully assembled vehicles, there are far lower barriers to entry for production of vehicle components... [more](#)

Recent Publications

tralac promotes active debate on trade law and policy issues in Africa and engages in applied trade law and policy analysis with the aim of addressing the most pressing trade matters for countries in the region. Our research is presented in trade briefs, working papers and books, among others. View more [here](#).



Trade in the Digital Economy: A tralac guide

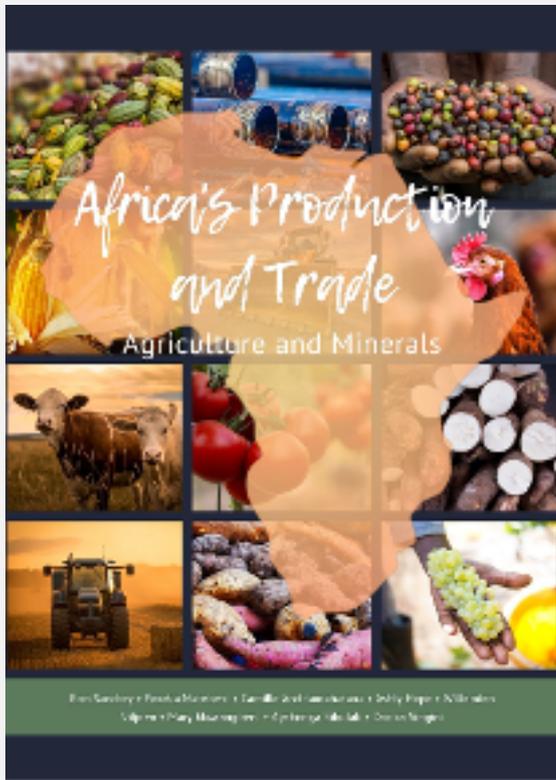
This booklet provides a handy guide on e-commerce, the digital economy and trade.

The digitalisation of the economy requires new ways of thinking about competition, intellectual property, taxation, industrial policy, privacy, cybersecurity, the labour market, immigration and skills and, of course trade.

Digitisation has contributed to a changing trade environment in many ways – facilitating multinational value chains, enabling the rise of the micro-multinational and giving us new tradeable goods and services. It is also blurring the traditional boundaries

between goods and services, blurring the boundaries between jurisdictions and bringing into question the way our legal and regulatory infrastructure operates at national, regional and global levels. The digital permeates every aspect of trade – from agriculture to clothing, from manufactured goods to business services.

[Download](#)



Africa's Production and Trade: Agriculture and minerals

The collection of chapters in this book present the profile and performance of agricultural production and trade in most of the major African countries over recent years.

Africa as a continent has extensive potential, not only to feed itself and alleviate hunger and food insecurity, but also to be an important exporter to global food markets. Agriculture forms a significant portion of the economies of all African countries, and as a sector it can contribute to crucial continental priorities such as alleviating poverty and hunger, boosting intra-African trade and investments and job creation.

However, few appreciate just how low the productivity is in the agricultural sector in most of the countries across Sub-Saharan Africa. Equally worrying is that this situation has not improved in many countries over the last 50 or so years, and indeed for several countries the situation is getting worse. This has major implications for industrial development across the continent.

Authors: Ron Sandrey, Fezeka Matebeni, Camille Andriamahatana, Ashly Hope, Willemien Viljoen, Mary Mwaangireni, Ayabonga Sibulali and Dorica Singini

[Download](#)



AGOA.info

African Growth and Opportunity Act

Latest AGOA News



US seeks companies' views on trade pact with Kenya



Kenya: 'US cranks up trade deal with Kenya'



Trump administration notifies Congress of intent to negotiate trade agreement with Kenya



Nigeria and the benefits of reviving cotton sector



Op-Ed: 'As it plans a new free trade deal with the US, Kenya must watch its steps'



A deal is as good as local content laws that back it



Namibia: Meatco hailed for beef export success ... 'nothing good comes easy'



'A note to Kenya on its trade talks with the US: There is strength in numbers'



United States GSP Country Review of South Africa

On 25 October 2019, the USTR announced GSP “enforcement action” relating to seven countries, including South Africa. This after the USTR accepted a petition by the International Intellectual Property Alliance (IIPA) regarding South Africa’s ongoing compliance with the GSP eligibility criteria. A subsequent Federal Register notice on 19 November set out some of the more detailed timelines around this process as it pertains to South Africa’s case. At the end of January, hearings were held in Washington D.C. and these attracted over 40 written submissions from stakeholders across the world. These can be viewed at the following [link](#). Consultations with businesses have been taking place during March. It is not known when a decision is due but one date for possible action or outcome could be early November 2020 when a determination on eligible products is made by the US President.

A related Trade Brief recently published by tralac - ***South Africa under GSP country review: what implications for preferential exports to the United States?*** - can be downloaded [here](#).

Searchable United States tariff database | AGOA products list

The AGOA products database on AGOA.info has been enhanced through the inclusion of a simplified (yet full) US tariff database, providing six relevant searchable fields and filters: (a) tariff code (HTS), (b) product description, (c) AGOA status (eligibility), (d) GSP status, (e) standard tariff (MFN basis) as well as the (f) non-MFN tariff (when goods enter the US from a non-WTO Member State without claim of any special preferences). Follow the link to the database on AGOA.info [here](#).



AGOA Business Connector on AGOA.info

The **AGOA Business Connector** is an online facility on AGOA.info to help enable trade and business connections between producers, exporters, importers, sourcing agents, trade-related service suppliers including trade finance, logistics and related services, support organisations (such as business chambers and exporter associations and others), both from within sub-Saharan African AGOA beneficiary countries as well as the United States.

Registered users are able to list their businesses or trade-related service on this platform, and to communicate with other listings through an internal messaging facility, among other features. Download an *explanatory brochure* [here](#).

Key trade stats for AGOA beneficiaries for the full year 2019

Full year exports to the US by AGOA beneficiary countries has seen a decline of 15% overall; the decline in AGOA/GSP eligible exports has declined by 30% over the same period. It is however important to bear in mind that oil exports also qualify for AGOA preferences, and the decline in Nigeria and Angola's oil exports to the US (down \$2.6b over this period) accounts for most of the annual decline overall. Likewise, with Nigeria and Angola's aggregate decline in US exports removed, the overall figure for all AGOA-beneficiaries combined falls from -15% to -6%.

Leading exporters with significant year on year changes 2019 versus 2018 in descending order of total US exports are South Africa (-11%), Nigeria (-10%), Angola (-63%), Ghana (+67%), Côte d'Ivoire (-24%), Madagascar (-5%) and Kenya (+3%).

See more data at this [link](#).



AGOA Brochures

A selection of AGOA country brochures (example: [South Africa](#), [Ethiopia](#), [Lesotho](#), [Namibia](#), [Nigeria](#)) as well theme-specific brochures (example: [Rules of Origin](#), [AGOA Business Connector guide](#), [legal provisions](#), [textiles and apparel](#), [agriculture](#), [FAQs](#) etc.) can be viewed and downloaded from AGOA.info from the Exporter Toolkit resources at [this link](#).

Negotiations on a proposed Kenya-United States Free Trade Area to commence soon

The Trump Administration [notified Congress](#) on 17 March 2020 in accordance with the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 of its intention to begin negotiations within 90 days on a Free Trade Area (FTA) with Kenya. President Trump earlier in February [announced an intent](#) to negotiate a FTA. In 2019, total



two-way trade in goods between the countries reached \$1.06bn, with Kenya enjoying a trade surplus of \$276m.

Further disaggregated Kenya-US trade data can be found in the Kenya section on AGOA.info, and Kenya-related news [here](#).

A Kenya AGOA brochure is available [here](#).