

# tralac Newsletter

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tralac Newsletter • Issue 60 • April 8, 2024

## The Guided Trade Initiative: What is it, how does it work and what are we learning about the AfCFTA?

Welcome to the tralac newsletter.

In this newsletter, we trace important milestones in the AfCFTA negotiations, and how the Guided Trade Initiative (GTI) was developed. The ongoing negotiations are a reminder of how complex and difficult it is to find the necessary compromises amongst a large group of partners, each grappling with domestic development challenges. tralac has been following these processes closely and, in addition to our publications on the AfCFTA, we record the developments in our [AfCFTA Negotiations Timeline](#).

The GTI is an important development. It is expected to pave the way for more commercial transactions and to provide experience for customs and other trade officials in the implementation of the AfCFTA rules. It is an interim arrangement, with the potential to be expanded and to apply the lessons learned about the practical issues confronting the implementation of the AfCFTA as a comprehensive and final trade deal.

### Start of the negotiations

Negotiations to establish a continent-wide free trade area (CFTA) were launched in June 2015 at the 24<sup>th</sup> African Union (AU) Assembly of Heads of State and Government held in South Africa, and were initially conducted under the auspices of the African Union Commission, in Technical Working Groups and the Continental Free Trade Area Negotiating Forum which were constituted for this purpose.

Progress was impressive and the 5<sup>th</sup> meeting of the African Union Ministers of Trade (AMOT), held in Kigali, Rwanda on 8-9 March 2018, adopted the legal instruments constituting the African Continental Free Trade Area (AfCFTA). These are:

- (i) The Agreement Establishing the AfCFTA,
- (ii) The Protocol on Trade in Goods,
- (iii) The Protocol on Trade in Services, and
- (iv) The Protocol on Rules and Procedures for the Settlement of Disputes.

Legal scrubbing of the documents was concluded during the Ministerial Meeting of the Second Extraordinary Session of the Specialised Technical Committee on Justice and Legal Affairs held on 14 and 15 March. This was followed by an Extraordinary Summit of Heads of State and Government on the African Continental Free Trade Area (AfCFTA), held from 17-21 March 2018 in Kigali, Rwanda. On 21 March, the Agreement establishing the AfCFTA was presented for signature, along with the [Kigali Declaration](#), which launched the AfCFTA and directed the start of phase 2 negotiations on investment, competition policy, and intellectual property rights. The [Protocol to the Treaty Establishing the African Economic Community relating to the Free Movement of Persons, Right to Residence and Right to Establishment](#) was also presented for signature at this occasion. Of the 55 AU member states, 44 signed the consolidated text of the AfCFTA Agreement, 47 signed the Kigali Declaration, and 30 signed the Protocol on Free Movement. By [30 April 2019, 22 instruments of ratification had been deposited with the Chair of the African Union Commission \(AUC\)](#) – the designated depositary for the AfCFTA – and 30 days later on 30 May 2019, as provided for in [Article 23 of the founding Agreement](#), the AfCFTA entered into force. To date, 47 members of the African Union have ratified the AfCFTA – details are available in [tralac's AfCFTA Ratification Monitor](#).

### **The Operational Phase of the AfCFTA**

The operational phase of the AfCFTA was launched during the [12th Extraordinary Session of the Assembly](#) on the AfCFTA in Niamey, Niger on 7 July 2019. In addition to the Niamey Declaration on the Launch of the Operational Phase of the AfCFTA (the key outcome), other Decisions were adopted by the Assembly on (i) hosting of the Secretariat of the AfCFTA by Ghana; and (ii) that the AfCFTA Leader (at that time, H.E. Mr. Issoufou Mahamadou, President of the Republic of Niger) and the Head of the

AfCFTA Secretariat be part of the Mid-Year Coordination Meetings between the AU and the RECs. This is important, as the REC Free Trade Areas are recognised as building blocks of the AfCFTA, and they will continue to exist alongside the AfCFTA.

Although the AfCFTA had entered into force on 30 May 2019, it was not possible to trade under the AfCFTA regime, because the negotiations on key issues were still underway. The minimum requirements for a free trade area are tariff concessions (to liberalise substantially all trade) and preferential rules of origin (RoO), and these were still being negotiated. The agreed modalities specified that all negotiating parties (including least developed countries (LDCs)) liberalise 90% of tariff lines. The principle of variable geometry was invoked to provide that liberalisation of these tariff lines would be over 5 years for non-LDCs and over 10 years for LDCs, and that 7% of tariff lines may be designated “sensitive” and liberalised over 10 or 13 years, for non-LDCs and LDCs, respectively. This means that over a period of (maximum) 13 years, 97% of tariff lines will be liberalised under the AfCFTA. Finally, 3% of tariff lines may be excluded from liberalisation. RoO are the legal provisions and administrative requirements that determine the national origin of a product. A key role for preferential RoO is to ensure that only qualifying products get the benefit of the FTA’s tariff preferences. Tariff and RoO negotiations are therefore closely linked, and it’s not surprising that during the negotiations we’ve seen some reluctance to make tariff offers for products whose rules of origin had not yet been agreed.

The first meeting of the AfCFTA Council of Ministers responsible for Trade took place in Addis Ababa, Ethiopia on 24-25 October 2019. This Council’s 2<sup>nd</sup> Meeting followed soon thereafter, on 15 December 2019 in Accra, Ghana, and concluded with a recommendation to have an Extraordinary Summit on 30 May 2020 to approve all instruments required for the start of trading, on 1 July 2020, under the AfCFTA. This deadline was, however, missed. The world was grappling with the COVID-19 pandemic, lockdowns and travel restrictions. The tough reality of the offensive and defensive interests of the AU members played out in the negotiations on tariff concessions and rules of origin, which was made even more difficult as negotiations had moved to online platforms.

### **Decision to launch trade under the AfCFTA**

The AU Assembly convened in Johannesburg (on zoom) on 5 December 2020 and decided that trade under the AfCFTA shall start officially on 1 January 2021, with legally implementable, reciprocal schedules of tariffs concessions. At this time, RoO for sugar, clothing and textiles, and automotive products were still under negotiation. Trade under the AfCFTA did not begin on 1 January 2021. But this is an important date because tariff phase-downs are calculated from 1 January 2021.

On 10 October 2021, the Council of Ministers responsible for Trade adopted the [Ministerial Directive on the Application of Provisional Schedules of Tariffs Concessions](#). The Ministerial Directive provides a legal basis for trade between the countries that have submitted offers of tariff concessions in line with the agreed modalities, for products that have finalised RoO. The details are discussed in a tralac blog,, [‘Ministerial Directive 1/2021 clarifies and expands the legal basis of the AfCFTA.’](#) Article 11 of the Agreement Establishing the AfCFTA provides, inter alia, that the Council of Ministers “shall within its mandate ensure effective implementation and enforcement of the Agreement and take measures necessary for the promotion of the objectives of this Agreement and other instruments relevant to the AfCFTA.” It may “make regulations, issue directives and make recommendations in accordance with the provisions of this Agreement.” The Ministerial Directive was adopted by the Heads of State and Government at the [35<sup>th</sup> Ordinary Session of the Assembly](#), 5-6 February 2022.

The Ministerial Directive confirms important issues related to the application of the participating State Parties’ provisional schedules of tariff concessions and underscores practical implementation issues. It also confirms that final schedules of tariff concessions are still to be negotiated. Here are some of the salient issues:

- (i) The exchange of tariff concessions between State Parties is conditioned by the principle of reciprocity. State Parties shall not be required to implement preferential (AfCFTA) tariff concessions to products imported from another State Party before the implementation of their own provisional schedule of tariff concessions.
- (ii) The base tariff rates in each State Party’s Provisional Schedules of Tariff Concessions must reflect the Most-Favoured-Nation (MFN) applied rates of customs duties of each State Party in effect on 30 May 2019 (the date of entry into force of the Agreement Establishing the AfCFTA).
- (iii) The reduction or elimination of customs duties is computed to reflect tariff reductions that commenced on 1 January 2021 (as noted earlier).
- (iv) State Parties shall promptly gazette Provisional Schedules of Tariff Concessions, in accordance with their internal procedures, and publish the schedules, where possible, through the Internet, and shall notify the AfCFTA Secretariat in writing of the date and place of publication.
- (v) State Parties shall negotiate and submit final Schedules of Tariff Concessions in accordance with the approved Modalities for Tariff Negotiations.

Despite the decision of the AU Assembly for trade to start under a provisional arrangement and the subsequent adoption of the Ministerial Directive providing the details of the legal basis for trade to begin on a provisional basis, the Secretary-General of the AfCFTA reported to the 9<sup>th</sup> meeting of the AfCFTA Council of Ministers, 25-26 July 2022, that trade had not yet begun. It was here that he proposed a “solution-based” initiative, the AfCFTA Facilitated and Guided Trade Initiative (GTI). Eight State Parties had expressed interest in the GTI, and others were being invited to join too. A Committee, as well as ad hoc Committees in the interested State parties, would coordinate processes so that shipments could be launched before the next Council of Ministers Meeting (26 September 2022). Products to be traded, that had been identified by the Committee, included ceramic tiles, batters, horticulture products, avocados, flowers, pharmaceuticals, palm oil, tea, rubber and components for air conditioners. Rules of origin for all these products had been finalised. The logistics sector in Ghana was on board to provide services, the AfroChampions and Afreximbank (including through the Pan African Payment and Settlement System – PAPSS) also pledged support.

The Secretary-General provided an overview of the practical plan to facilitate commercially meaningful trade amongst interested State Parties that have met the minimum requirements for trade under the AfCFTA:

- (i) Establishment of National AfCFTA implementation and ad hoc committees
- (ii) Visits to the interested State Parties and connecting their ad hoc committees
- (iii) Supporting business-to-business connections (also working with business chambers and manufacturers’ associations, logistics providers, and financial services providers)
- (iv) Working with Export Promotion Agencies

The objectives of the GTI were presented to the meeting:

- (i) test the operational, institutional, legal and trade policy environment under the AfCFTA;
- (ii) allow commercially meaningful trading under the AfCFTA; and to
- (iii) send an important positive message to the African economic operators about the veracity of the AfCFTA as well as its promise to create real opportunities in Africa.

The [Secretary-General of the AfCFTA recorded the historic first consignment](#), of tea from Kenya to Ghana on 5 October 2022 under the GTI. And the GTI of the African Continental Free Trade Area

(AfCFTA) was officially launched on [7 October 2022](#), with eight participating countries – Cameroon, Egypt, Ghana, Kenya, Mauritius, Rwanda, Tanzania and Tunisia. Ninety-six (96) products, whose rules of origin had been agreed, can be traded under the GTI. These include ceramic tiles, batteries, horticulture products and flowers, avocados, palm oil, tea, rubber, and components for air conditioners.

### Requirements for GTI participation

To participate in the GTI, it is necessary to be a State Party to the AfCFTA Agreement. The State Party must have submitted a Schedule of Tariff Concessions, and this must have been technically verified by the Secretariat and approved by the Council of Ministers. This schedule must have been gazetted according to the domestic law of the participating country, which must also have established an ad hoc or Standing AfCFTA coordination committee. The Customs Authority must have notified specimen stamps and authorised signatures must have been submitted to the AfCFTA Secretariat. The national authorities competent to certify originating products must have been nominated. The local business community must have been mobilised and connected with firms in other GTI member countries. Non-tariff measures required for export and import transactions must have been notified to the Secretariat.

Given the well-documented non-tariff barriers (NTBs) that are encountered at border posts and along trade corridors, taking lessons from the GTI is key to making the AfCFTA work for traders. The private sector has long been expressing interest in the new preferential trade opportunities under the AfCFTA, and eliminating NTBs is integral to achieving its potential. This blog provides a review of some of the early trade experience under the GTI and what we have learned: [What have we learned from the AfCFTA Guided Trade Initiative?](#)

In 2023, the AfCFTA Secretariat announced the expansion of the GTI, with a second including more products and more participating State Parties. Tanzania then issued certificates of origin for a shipment of coffee to Algeria, and Tunisia did so for chemical and agrifood products destined for Cameroon. The latest update is that 35 African States have joined the GTI trading scheme. Nigeria is expected to join in April.

South Africa joined the GTI towards the end of January 2024. The South African Revenue Service (SARS) published the necessary legal instruments and the terms under which South Africa would participate in the GTI on 26 January 2024. The first consignments of goods were launched on 31 January 2024, by the South African President and the Minister of Trade, Industry and Competition, destined for Kenya and Ghana. South African businesses can now trade with businesses in Algeria, Cameroon, Egypt, Ghana,

Kenya, Rwanda, and Tunisia. These countries have implemented, as required by the GTI rules, their own Provisional Schedules of Tariff Concessions, which ensure that the reciprocity requirement is met.

Businesses that want to trade under the GTI must register with the respective national authorities. In South Africa, the following is required:

- Traders must register with SARS as exporters or producers.
- The applicable tariffs reflect the phase-down, given the official start date of 1 January 2021. This means that applicable tariffs now reflect the fourth year in the phase-down time frame.
- Reciprocal trade arrangements in the other participating countries are required.
- AfCFTA Rules of Origin must be complied with.
- Firms in SADC countries that are parties to the SADC Trade Protocol will continue to trade under the SADC Protocol on Trade.

The AfCFTA Secretariat wants to extend the Guided Trade Initiative to trade in services (GTiS). The Guidelines for developing a framework for Trade in Services for the AfCFTA in the five priority sectors (business services, communication services, financial services, tourism services and transport services) have been adopted in 2019. Some State parties have not yet submitted schedules of specific commitments for these priority sectors for verification by the AfCFTA Secretariat. To pave the way for GTiS, the [Ministerial Directive of the AfCFTA Council of Ministers for trade in services implementation](#) of 7 July 2022 provides the necessary legal basis for the facilitation and operationalisation of the start of trade in services within the African Continental Free Trade Area.

Support for the GTI is growing. While negotiations on outstanding issues such as tariffs, RoO, and specific commitments for the priority services sectors continue, the GTI provides opportunities for commercial trade to begin. Customs and other officials involved in the trade value chain – ensuring compliance with the necessary requirements to facilitate cross-border trade – are learning about the implementation of the provisions of the AfCFTA legal instruments. It also provides an opportunity to identify the non-tariff barriers that continue to frustrate cross-border trade – and to make concerted efforts to address them. All this while the negotiations continue and we move towards the implementation of the AfCFTA as a comprehensive and final trade agreement.

## Related publications

[South Africa's participation in the Guided Trade Initiative](#)

[Ministerial Directive 1/2021 clarifies and expands the legal basis of the AfCFTA](#)

[What have we learned from the AfCFTA Guided Trade Initiative?](#)

[How ready is Ghana for the AfCFTA?](#)

Visit tralac's [AfCFTA Resources page](#) for more info.