

The African Continental Free Trade Area

A tralac guide

9th ed. October 2022













Where does the AfCFTA fit in Africa's development agenda?

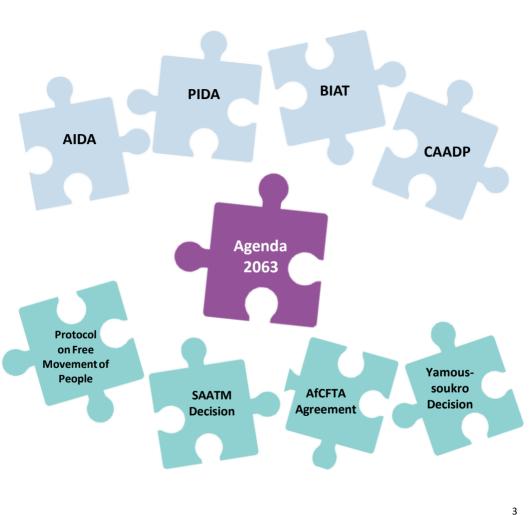
The Agreement establishing the African Continental Free Trade Area (AfCFTA) was signed at the 10th Extraordinary Summit of the AU Assembly on 21 March 2018 in Kigali, Rwanda. The AfCFTA Agreement entered into force on 30 May 2019. The AfCFTA is the continent's most ambitious integration initiative.

The main objectives of the AfCFTA are:

- create a single continental market for goods and services, with free movement of business persons and investments
- expand intra-Africa trade across the regional economic communities and the continent in general
- enhance competitiveness and support economic transformation
- promote industrial development

The FTAs of 8 RECs have been recognised as building blocks of the AfCFTA. The RECs are: ECCAS, ECOWAS, COMESA, EAC, SADC, AMU, CEN-SAD and IGAD.

Agenda 2063 is Africa's framework for structural transformation. It builds on and aims to facilitate the implementation of existing continental initiatives (AIDA, PIDA, BIAT and CAADP). The AfCFTA, a single African air transport market (SAATM), and the free movement of people are Agenda 2063 flagship projects. The AU has adopted legal instruments for the effective implementation of these flagship projects. Importantly, the UN Agenda 2030's 17 SDGs are incorporated in the 20 goals of Agenda 2063. By implementing Agenda 2063, Africa will also meet its global commitments under the SDGs.





Architecture of the AfCFTA

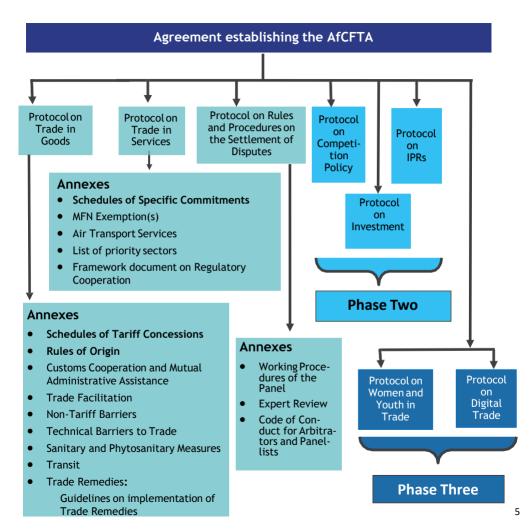
The AfCFTA Agreement is a comprehensive legal compact which includes the Agreement establishing the AfCFTA, Protocols on Trade in Goods, Trade in Services, Dispute Settlement, Investment, Intellectual Property Rights and Competition Policy. Recently Digital Trade and Women and Youth have been added to the negotiating agenda.

Phase 1 negotiations cover Trade in Goods, Trade in Services and Dispute Settlement. The Protocols on Trade in Goods and Trade in Services each have several Annexes covering substantive disciplines.

Negotiations on a number of issues (e.g. tariff concessions, rules of origin for goods and schedules of specific commitments for services) are still ongoing. The negotiations of the Protocol on Dispute Settlement have been concluded.

Phase 2 negotiations covering Investment, Competition Policy and Intellectual Property Rights have recently started.

Phase 3 negotiations will cover Digital Trade, and Women and Youth in trade.



Institutions of the AfCFTA

The institutional framework for the implementation, administration, facilitation, monitoring, and evaluation of the AfCFTA consists of the Assembly, the Council of Ministers, the Committee of Senior Trade Officials, and the Secretariat. (Art 9 AfCFTA Agreement.) Decisions by AfCFTA institutions are taken by consensus, unless otherwise provided.

The **Assembly** of Heads of State and Government of the African Union (AU) provides oversight and strategic guidance on the AfCFTA, including the Action Plan for Boosting Intra-African Trade (BIAT).

The Council of Ministers (CoM) consists of the Ministers for Trade (or other designated Ministers) of the State Parties. The State Parties are the AU Member States that have ratified the AfCFTA Agreement or have acceded to it, and for whom this Agreement is in force. The COM has authority to take all decisions as provided for in a rather wide mandate provided for in Article 11 of the AfCFTA Agreement. This includes the responsibility to ensure the effective implementation and enforcement of the AfCFTA Agreement. It also supervises the work of all committees and bodies established under the Agreement, considers reports of the Secretariat, makes regulations, issues directives, and makes recommendations. The COM meets twice a year in ordinary session and may meet as and when necessary, in extraordinary sessions.

The Committee of Senior Trade Officials consists of Permanent or Principal Secretaries of the State Parties, or of other officials designated by them. It must implement the decisions of the CoM and is responsible for the development of programmes and action plans for the implementation of the AfCFTA Agreement. It may direct the Secretariat to undertake specific assignments.

The Regional Economic Communities (RECs) are not parties to the AfCFTA Agreement but shall be represented in the Committee of Senior Trade Officials in an advisory capacity. The REC Free Trade Areas are also the building blocks of the AfCFTA

The AfCFTA Secretariat is the only permanent institution of the AfCFTA and is based in Accra, Ghana. It must implement instructions of the CoM and must provide technical assistance to the State Parties and AfCFTA institutions, as provided in the AfCFTA Agreement. The AfCFTA Agreement does not establish a new international legal person but does say the Secretariat "shall be a functionally autonomous institutional body within the African Union system with an independent legal personality".

The Dispute Settlement Mechanism of the AfCFTA replicates, with the necessary adaptations, the WTO dispute settlement system. The relevant principles and procedures appear in a dedicated Protocol. The Dispute Settlement Mechanism has its own institutions, such as the Appellate Body and the Panels. Only State Parties may bring disputes against other State Parties. Natural or legal persons has no standing to bring applications for the settlement of AfCFTA related disputes.

Assembly Council of Ministers Committee of Senior Trade Officials Panels Dispute Settlement **Appellate** Body

Body

AfCFTA Secretariat



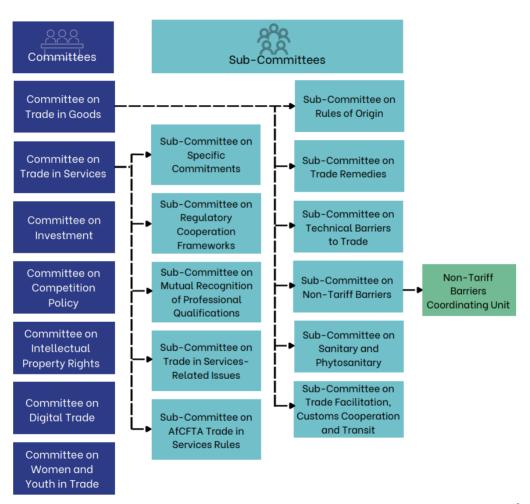
AfCFTA Committees

The Protocols and Annexes to the Protocols to the AfCFTA Agreement establish various technical committees to assist with the implementation of the Agreement. The committees will comprise designated representatives from State Parties.

The Committee on Trade in Goods will facilitate the operation of the Protocol on Trade in Goods. The Committee has established Sub-Committees responsible for the operationalisation of the annexes of the Protocol on Trade in Goods.

The Committee on Trade in Services will facilitate the operation of the Protocol on Trade in Services. The Committee has established Sub-Committees responsible for the operationalisation of specific areas the Protocol on Trade in Services.

During its 5th Meeting held on 3 May 2021, the AfCFTA Council of Ministers established the following Committees on Investment, Competition Policy, Intellectual Property Rights, Digital Trade, and Women and Youth in Trade to facilitate the negotiations in these areas and assist with the implementation of the Protocols thereof.





Facilitated and Guided Trade Initiative

At the 9th Meeting of the Council of Ministers (25-26 July 2022), H.E. Wamkele Mene, AfCFTA Secretary General presented the AfCFTA Secretariat's proposed Facilitated and Guided Trade Initiative. A small group of AfCFTA State Parties will participate in the initiative: Ghana, Kenya, Rwanda, Tanzania, Mauritius, Egypt and Cameroon. Others may join the Initiative. Products that will be traded include ceramic tiles, batteries, horticulture products and flowers, avocados, palm oil, tea, rubber, components for air conditioners. A Committee has been established to coordinate and operationalize trade transactions, and Ad Hoc Committees have been established in the participating State Parties. The launch is scheduled for 7 October 2022.

Ceramic Batteries Pharmaceuticals Palm Kernel Rubber Oil Avocados Horticulture Tea Components for Air Conditioners

Sources: https://twitter.com/africarenewal/status/1578037992492605441?ref src=twsrc%5Etfw%7Ctwcamp%5Eembeddedtimeli ne%7Ctwterm%5Escreen-name%3AAfCFTA%7Ctwcon%5Es1

The objectives are, to:

- test the operational, institutional, legal and trade policy environment under the AfCFTA
- allow commercially meaningful trading under the AfCFTA, and
- send a positive message to African economic operators about the AfCFTA.



Sources: https://twitter.com/AfCFTA/status/1575409896899706880?ref_src=twsrc%5Etfw%7Ctwcamp%5Eembeddedtimeline%7Ctwterm%5Escree n-name%3AAfCFTA%7Ctwcon%5Es1



Other AfCFTA initiatives

African Trade Observatory: the African Trade Observatory (ATO) aims to create a continent-wide trade information portal to facilitate intra-African trade and to support the roll-out of the AfCFTA. The ATO will seek to collect trade-related data from member states and provide trade intelligence to both market players and govern-mental and non-governmental agencies. The ATO will also include services trade, exchange rate and competitiveness indicators, internal tax data and foreign direct investment data.

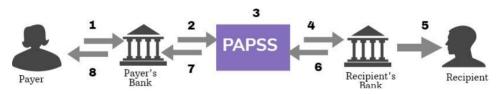
The AfCFTA Online Mechanism for Reporting. Monitoring and Elimination of NTBs* provides a facility for online reporting of identified non-tariff barriers (NTBs) including for reporting via SMS. Reported NTBs and the status of their resolution can be accessed on the public domain. Various informative pages on the website, including FAQs, assist in the use of the system. NTB notifications will be received by the focal points of the reporting country, the responding country and the AfCFTA Secretariat for processing. In a non-public space. the system then allows information exchange between the concerned State Parties to monitor and resolve NTBs. *Available at https://tradebarriers.africa



Pan-African Payment and Settlement System

The Pan-African Payment and Settlement System (PAPSS), developed by the African Export Import Bank (Afreximbank) in collaboration with the African Union and AfCFTA Secretariat, is a cross-border, financial market infrastructure for enabling payment transactions across Africa. PAPSS allows for payment and settlements using local currencies.

How does PAPSS work?



- 1. Payer sends payment instruction in local currency to their bank or payment service provider
- 2. Payer's bank sends a message to PAPSS with all the payment details
- 3. PAPSS validates the payment
- 4.Payment instruction is sent the Recipient's bank to validate the details of the recipient account.

- 5. The payment instruction is forwarded to the beneficiary's bank or payment service provider.
- 6. PAPSS changes the status of the transaction to final
- 7. The Payer's bank is notified of the outcome of the transaction
- 8. The Payer is notified of the outcome



Intra-African trade at a glance

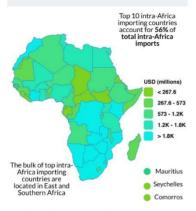
For 2021 intra-African exports were valued at US\$71 billion; 14% of Africa's world exports. Between 2020 and 2021 intra-Africa exports increased by 7% and Africa's world exports increased by 32%.

- South Africa is the main intra-Africa exporter and importer; (accounting for 37% of intra-Africa exports and 14% of intra-Africa imports). South Africa's intra-Africa exports and imports have recovered after declining by 18% and 28%, respectively in 2019-2020 period. Both intra-Africa exports and imports increased by 32% and 25% respectively.
- Other main intra-African exporters include Nigeria, Egypt, Zimbabwe, Morocco, Kenya, Tanzania and Zambia, accounting for 71% of intra-Africa exports.
- 17% of intra-Africa exports are mineral fuels, followed by exports of machinery (5%), precious stones (5%), ores (4%) and copper (4%).
- Most intra-Africa imports are dominated by SADC member state, with exception of Ivory Coast, Morocco and Kenya which also feature in the top 10 intra-Africa importers.
- The biggest portion of Africa's world exports of cereals, soap, milling products, explosives and photographic equipment are intra-Africa exports.

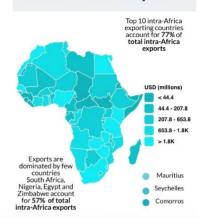
^{*} Intra-Africa data is based on the up-to-date direct trade data from 26 African countries as at end of September 2022

Intra-Africa trade (2021) = USD 71 billion Intra-Africa trade as percent of Africa global trade (2021) = 14%

Intra-Africa imports



Intra-Africa exports



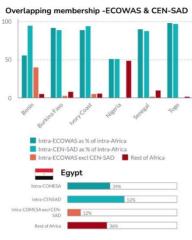
Intra-Africa imports (2021) KEY NOTES TOP IMPORTED PRODUCTS · Intra-Africa trade remains localised according to Mineral fuels Plastic products geographic location - countries trade with neighbouring countries which are close in proximity Machinery and usually have preferential trade agreements in Electrical Machinery . SADC and or SACU are the main markets Motor vehicles Fertilisers INTRA-AFRICA TOP INTRA TOP IMPORTED MAIN SOURCES AFRICA IMPORTERS PRODUCTS % TOTAL (% SHARE) Mineral fuels: Precious stones Nigeria (24%): Eswatini (15%): South Africa and metals; Apparel & clothing Namibia (11%); Rest of Africa (14%) accessories; Essential oils (50%)Live animals; Meat and edible South Africa (86%); Namibia offal: Fisheries: Dairy products: (11%): Zimbabwe (1%): Rest of (7%) Other animal products South Africa (57%): Zambia Live animals: Meat and edible Namibia meat offal; Fisheries; Dairy (30%); DRC (9%); Rest of Africa (6%) products; Other animal products (496) Machinery; Mineral fuels; South Africa (79%); Zimbabwe Fertilisers; Motor vehicles; Mozambique (6%); Mauritius (6%) 5%) Rest of Africa (10%) Animal or vegetable fats Fertilisers: Machinery: Motor South Africa (71%); DRC (10%); Zambia vehicles; Plastics; Ores & slag Namibia (4%) Rest of Africa Mineral fuels; Cement; Iron & steel: Fisheries

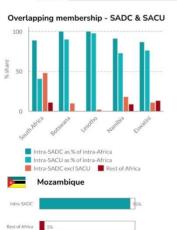


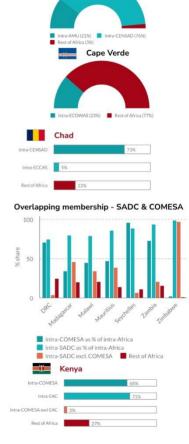




Intra-REC intra-Africa exports (2021)

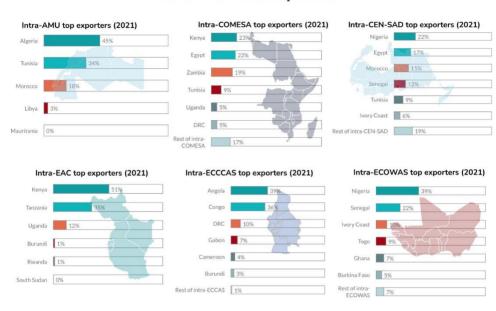






Morocco

Main intra-REC exporters









- Agriculture accounts for 19% of intra-Africa trade
- Total intra-Africa agricultural trade was over US\$ 13 billion in 2021
- Africa's global agricultural exports accounted for 12% (US\$ 62 billion) of Africa's global exports (US\$522 billion)
- South Africa is a dominant player in agricultural exports

TOP EXPORTED PRODUCTS	% INTRA-AFRICA (AGRIC TOTAL)	INTRA-AFRICA % WORLD	TOP INTRA- AFRICA EXPORTERS (% SHARE)		
Sugar	11%	62%	Eswatini (20%); South Africa (17%); Morocco (15%) Rest of Africa (48%)		
Animal or Vegetable fats	10%	40%	South Africa (21%); Tunisia (20%); Egypt (13%) Rest of Africa (46%)		
Beverages	8%	55%	South Africa (68%); Zambia (7%); Namibia (3%); Rest of Africa (22%)		
Miscl. edible preparations	8%	68%	South Africa (33%); Egypt (28%); Senegal (10%); Rest of Africa (29%)		
Fisheries	8%	19%	Morocco (31%); Namibia (12%); Mauritania (12%); Rest of Africa (45%)		



Intra-Africa agricultural exports for select countries (2021)





of South Africa's world maize exports Main destinations:

Zimbabwe, Botswana & Eswatini

Food preparations

of South Africa's world 82% food preparations exports

Main destinations:

Zimbabwe. Mozambique & Namibia

Cereal

of South Africa's 2% of Sou world cereal exports

Main destinations:

Mozambique. Lesotho & Zimbabwe

29% market

share

Tobacco (raw)

7imbabwe's world Main destinations: tobacco (raw) exports is intra-Africa

Sugar

00% of Zimbabwe's world sugar exports

Main destinations:

Kenya, Mozambique & Botswana



Manufactured tobacco

of Zimbabwe's world manufactured tobacco exports is intra-Africa

Main destinations:

Mozambique, South Africa &

7% market share

Zimbabwe

South Africa & Mozambique

Main destinations:

Egypt, Sudan & Nigeria

25% world tea

Palm oil

of Kenya's 99% world palm oil

Main destinations:

Uganda, Rwanda & DRC



Zambia

Cigars & Cigarettes

98% of Kenya's world cigar & cigarettes exports

Main destinations:

Somalia, Rwanda & DRC

7% market share

Kenya

Egypt

Wheat flour

of Egypt's world wheat flour

exports Main destinations:

Eritrea, Somalia & Madagascar



Sova-bean oil

of Egypt's world sova-bean oil exports

Main destinations:

Algeria, Eritrea & Mauritius



Sugar

of Egypt's world sugar exports

Main destinations:

Kenva, Sudan & Libva

7% market share



Intra-Africa trade in commodities

Commodities include both agricultural and non-agricultural goods. The main intra-Africa commodities exports include petroleum oils, gold, petroleum gas, ores and concentrates and limited agricultural commodities*.

Traded commodities include:

Energy — natural gas & oil —14% of intra-Africa exports

Precious metals — gold —3% of intra-Africa exports

Industrial metals—copper, nickel & iron ores — 3% of intra-Africa exports

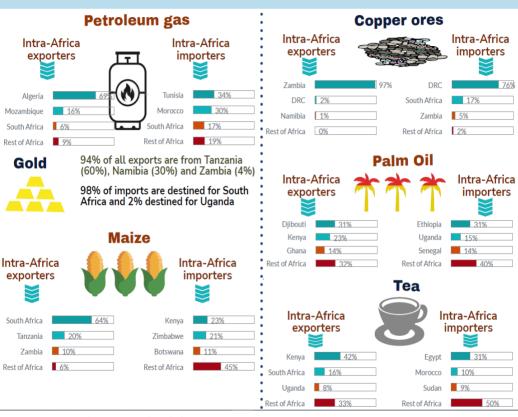
Agriculture—including sugar, maize, palm oil and cocoa — 6 %of intra-Africa exports

According to the data, only 9% of petroleum gas, 6% of gold and 6% of iron ores remain on the continent. However, almost all live cattle and chicken remain on the continent.

Gold is mainly exported by Tanzania, Namibia, Zambia & Zimbabwe; almost all of which destined for South Africa & Uganda. Most of the petroleum gas exports are by Algeria. Most of the maize exports are from South Africa, 44% is destined for Kenya and Zimbabwe. DRC and South Africa account for 93% of intra-Africa copper ores exports, and 97% of these are destined for Zambia.

^{*}Diamonds are excluded here due to it not being a standardised commodity like gold as each diamond has its own cut, clarity, colour & size that determines its value. Accordingly intra-Africa diamond trade is included under trade in non-commodity and non-agriculture products.

Intra-Africa trade in select commodities (2021)





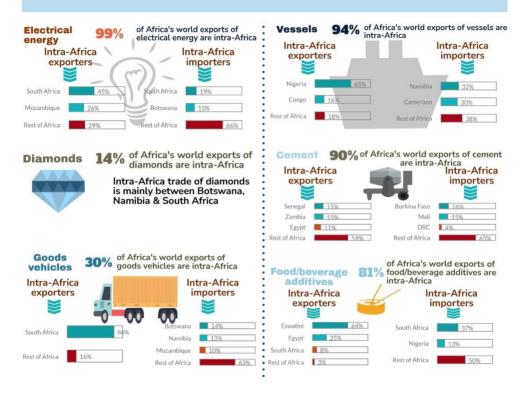
Non-commodity, non-agriculture trade

Non-commodity and non-agriculture trade covers trade in neither commodities nor agricultural products and include flexible tubing, vessels, electrical energy, diamonds, motor vehicles and cement.

Main intra-Africa export products

% of world exports of a product which are intra-Africa	23% of Africa's world non- commodity, non-agriculture exports are intra-Africa			
exports 100%	All exports of flexible metal tubing, sulphur, railway wagons, cyanides & titanium oxides are intra-Africa exports			
80%-99% · · · · · · · · · · · · · · · · · ·	Quicklime, prepared explosives, tractors, electrical energy, motorcycles, prepared binders & cement			
60%-79 % · · · · · · · · · · · · · · · · · · ·	Plastic packaging, Gypsum, paper packaging, data processing machines, woven cotton fabrics, steel structures & beauty products			
40%-59%	Plastic tubing, steel bars, cruise ships, medicines, new pneumatic tyres, footwear, salts & products from flat- rolled steel			
20%-39 % ·····	Electrical transformers, furniture, light vessels, powered aircraft, medical instruments, goods vehicles & fertiliser			
<20%	Sawn wood, diamonds, circuit breakers, t-shirts, ferro-alloys, men's suits, coal, insulated wire, refined copper & passenger vehicles			

Non-commodity, non-agricultural trade (2021)





Intra-African tariffs

Many African countries trade under the free-trade areas of their regional economic communities (RECs), with reduced or zero tariffs and members of fully fledged customs unions such as SACU trade duty-free with one another. Tariffs are therefore highest between those countries that do not already have a preferential agreement in place, they trade under the Most Favoured Nation (MFN) terms.

Non-REC intra-Africa tariffs

Ethiopia is a member of COMESA, but still in the process of joining (or acceding) to the COMESA FTA. It also belongs to IGAD which does not have an FTA.



General tariff on goods from outside COMESA



Malt extract, passenger vehicles, food preparations (n.e.s) (30%)



Flasks, Tv reception apparatus (20%)

PAFTA and AGADIR members have duty-free access to **Egypt's market**, while imports from COMESA (except Eswatini & DRC) are granted preferential access. CENSAD is not yet an FTA.



MFN tariffs on goods from outside PAFTA. AGADIR & COMESA



Fresh peaches, plums & apricots (60%)



Iron/steel articles (30%)



Plastic seats and covers (40%)



Kenya is party to 4 RECs in Africa, however, the CENSAD and IGAD preferential arrangements are not yet in force. Countries that are members of COMESA and the EAC enjoy preferential access into Kenya.



MFN tariffs (EAC CET) on goods from outside EAC & COMESA



Assembled diesel passenger vehicles (25%)



Apples (100% or USD 460/MT whichever is higher)



Maize (50%)

South Africa is a member state of both SACU and SADC. SACU is a customs union with duty-free intra-SACU trade and a common external tariff applicable to all goods entering from outside the Union.



MFN tariffs (SACU CET) on goods from outside SACU & SADC



Cotton t-shirts (45%)



Tobacco (860c/kg less 85% with a maximum of 44%)



Soaps with medical applications (20%)

Senegal is a member of ECOWAS and CENSAD. CENSAD is not yet an FTA. All qualifying goods, under the ECOWAS Trade Liberalisation Scheme (ETLS) imported from approved ECOWAS producers into Nigeria enter duty-free.



MFN tariffs (ECOWAS CET) on goods from outside ECOWAS



Potatoes (35%)



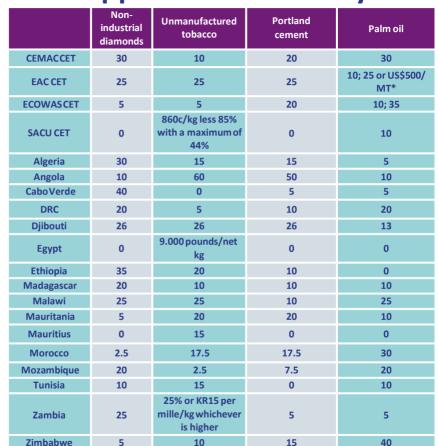
Apples (20%)



Grapes (20%)









intra-Africa imports (%)

	Maize	Passenger vehicles	Beer	Coffee	Sugar	
CEMAC CET	30	30	30	5; 30*	30	
EAC CET	50	0; 25*	25	25	100% or US\$460/ MT	
ECOWAS CET	5	0; 10; 20; 35*	20	10	20	
SACU CET	0	20; 25*	5	0	476.61c/kg	
Algeria	5	0	60	30	30	
Angola	30	0	60	50	10	
Cabo Verde	20	40	50	5	5	
DRC	10	10	20	5	20	
Djibouti	1	26	26	26	13	
Egypt	0	10	1200	0	5	
Ethiopia	5	0	35	30	5	
Madagascar	10	5	20	20	10	
Malawi	0	25	25	25	25	
Mauritania	5	5	20	10	5	
Mauritius	0	0	15	0	80	
Morocco	2.5	2.5	49	10	30	
Mozambique	7.5	5	20	20	7.5	
Tunisia	0	0	36	15	0	
Zambia	15	0	25	25	25	
Zimbabwe	0	40	25	40	10% + US\$100/t	

^{*}The import tariff varies depending on which specific product at national tariff line level is imported.



Trade in Services

Africa's services exports declined by 35% between 2019 and 2020.

The implementation of services liberalisation commitments and regulatory frameworks under the AfCFTA will be crucial for achieving the objectives of Africa's integration agenda. State Parties have decided to schedule commitments in 5 priority sectors, as a starting point: financial services, travel, transport, business services and communications.

Exports: 5 priority services sectors (2020)



Travel services (23%)



Transportation services (27%)



Financial services (2%)



Business services (11%)



Telecommunic ation services (3%)

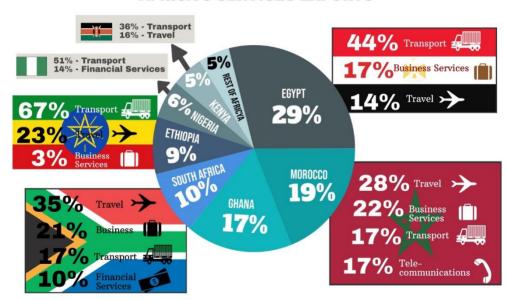


Other ervices (34%)

AFRICA'S SERVICES IMPORTS

- Nigeria accounts for 15% of Africa's services imports (mainly technical business services, personal travel and sea transport services.
- Egypt accounts for 14% of Africa's services imports (mainly sea transport and technical business services).
- South Africa accounts for 8% of Africa's services imports (mainly freight transport and technical business services).

AFRICA'S SERVICES EXPORTS





Trade facilitation

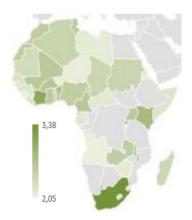
High transport costs, delays, port inefficiencies and cumbersome border procedures can have a more negative impact on the trade of goods than any tariffs.

Annex 4 of the AfCFTA Protocol on Trade in Goods sets out rules that seek to address specific procedural hurdles in order to facilitate trade procedures. This Annex presents a significant opportunity for State Parties to reap the economic benefits from improving the speed and efficiency of border procedures.

Logistics performance index

The World Bank Logistics Performance Index (LPI) is based on a survey of freight forwarders and express carriers. It ranks countries on customs, international shipments, quality and competence, tracking and tracing, timeliness and infrastructure. A higher score indicates higher performance. South Africa, Ivory Coast, Egypt, Kenya, Benin and Mauritius are the best performing African countries. Angola, Burundi, Niger, Sierra Leone and Eritrea the lowest scoring African countries.

Source: World Bank



OECD trade facilitation indicators

The **OECD trade facilitation indicators** assess a range of facilitation areas including information availability, fees and charges, border agency cooperation, governance and impartiality, documents and governance. Mauritius, South Africa, Morocco & Kenya are, on average, the best performers on trade facilitation, while Sudan, Burundi, Comoros, Chad and Djibouti are the weakest performers.

Selected country scores for designated measures

Availability of trade- related information		Automation of the trade administration process		Good governance— transparency, efficiency & com- pliance			
Mauritius	1.76		Mauritius	1.85		Mauritius	1.89
South Africa	1.62		South Africa	1.9		South Africa	1.78
Morocco	1.50		Morocco	1.54		Morocco	2.00
Kenya	1.35		Kenya	1.40		Kenya	1.44
Comoros	0.55		Comoros	0.22		Comoros	
Chad	0.11		Chad	0.40		Chad	0.00
Djibouti	0.42		Djibouti	0.11		Djibouti	0.13

About tralac

(Trade Law Centre) **tralac** is a public benefit organisation based in South Africa. We develop technical expertise and capacity in trade governance across Africa.

We are committed to the principles of rules-based governance at the national, regional and international levels. We believe that better governance and strong institutions are essential elements for inclusive and sustainable growth. tralac's activities are anchored on three pillars.



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