

# The African Continental Free Trade Area

A tralac guide

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# 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 businesspersons 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

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 Sustainable Development Goals (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 on the Protocol on Dispute Settlement have been concluded.



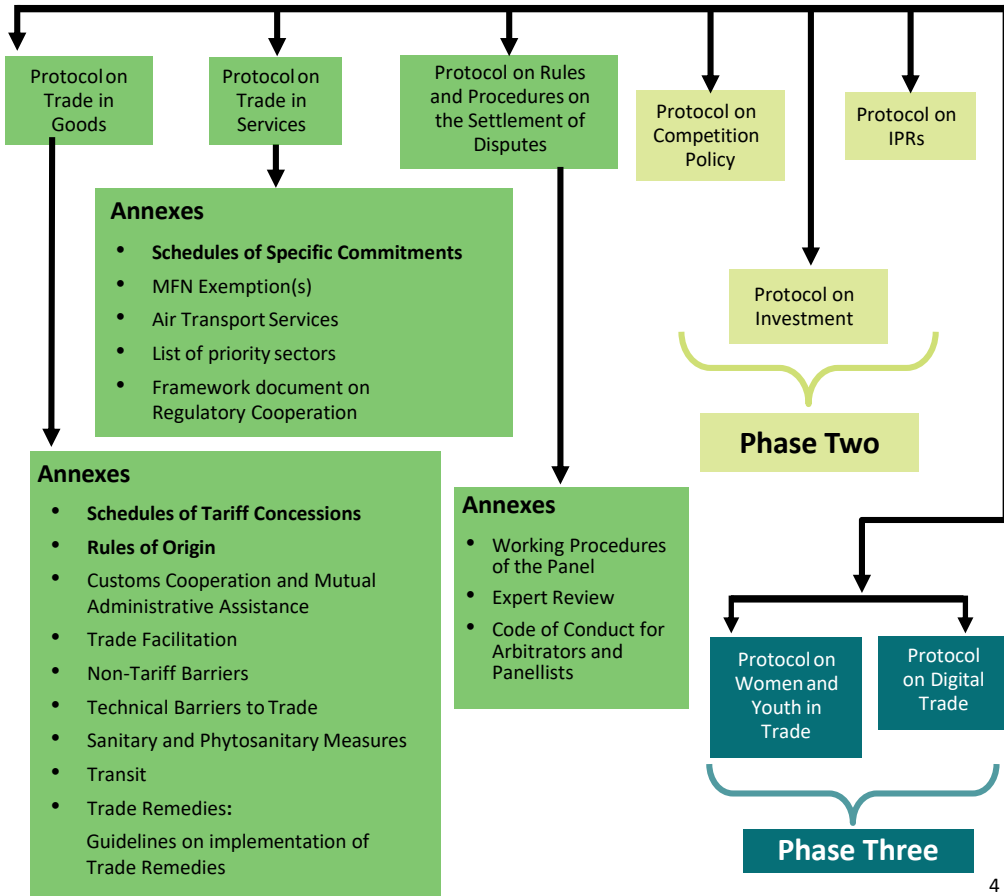
Phase 2 negotiations cover Investment, Competition Policy and Intellectual Property Rights. These Protocols will have Annexes, which are still to be negotiated.



Phase 3 negotiations, covering Digital Trade and Women and Youth in trade, have recently started.



# Agreement establishing the AfCFTA



# 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



Dispute Settlement  
Body



Panels



Appellate  
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.

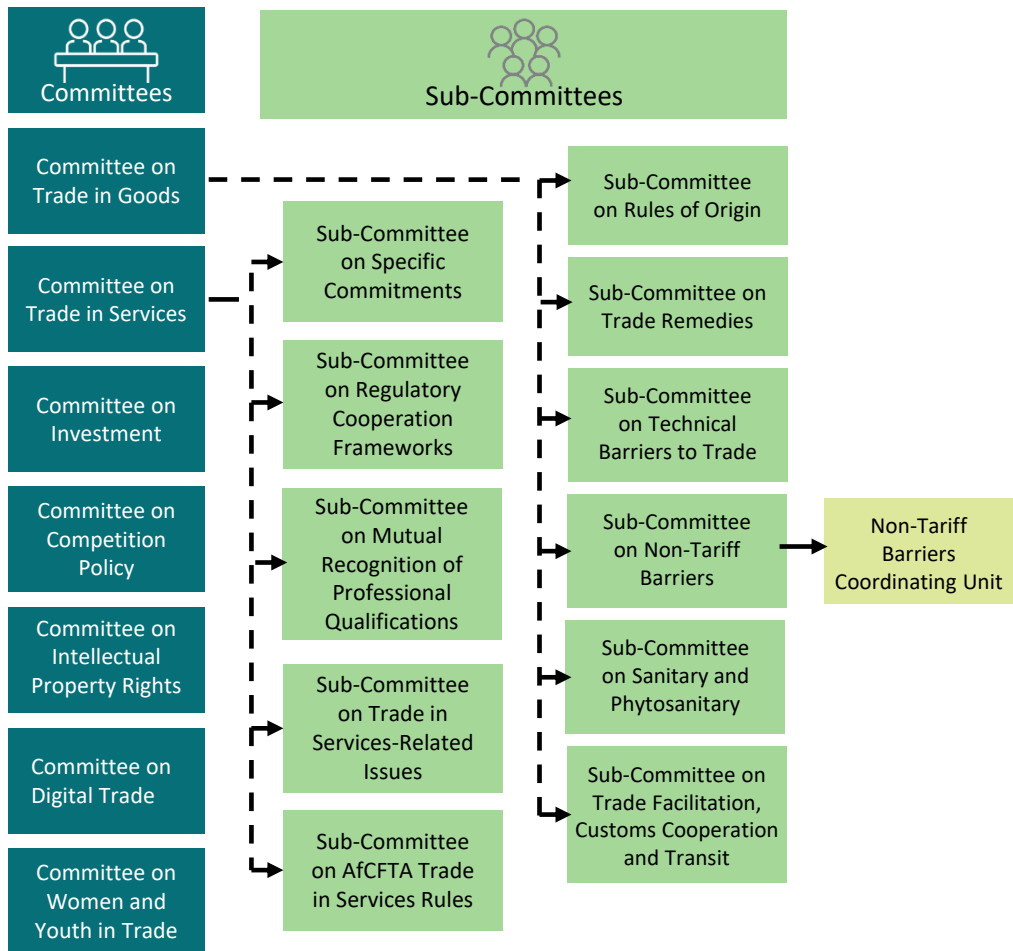


**The Committee on Trade in Services** will facilitate the operation of the Protocol on Trade in Services. The Committee has established Sub-Committees responsible for the operationalisation of specific areas the Protocol on Trade in Services.

During its 5th Meeting held on 3 May 2021, the AfCFTA Council of Ministers established the 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.





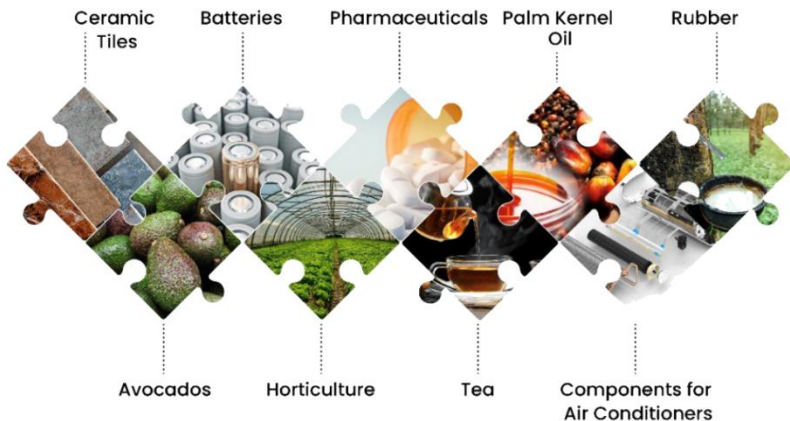




# Guided Trade Initiative

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 Guided Trade Initiative. The initiative was launched in Accra, Ghana on 7 October 2022. EIGHT (8) State Parties are participating: Cameroon, Egypt, Ghana, Kenya, Mauritius, Rwanda, Tanzania and Tunisia. Others, who have had their Provisional Schedules of Tariff Concessions verified, may join. The interested State Parties represent 5 African regions. Products being 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.

## Products





The AfCFTA GTI will serve as a gateway to encourage continued trade under the AfCFTA and create increased opportunities for SMEs and Youth and Women in trade, in turn promoting sustainable and inclusive economic development.



**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.



The ultimate objective of the initiative is to ensure that the AfCFTA can be fully operational and implemented by State Parties in order to achieve increased inter-regional and intra-Africa trade.

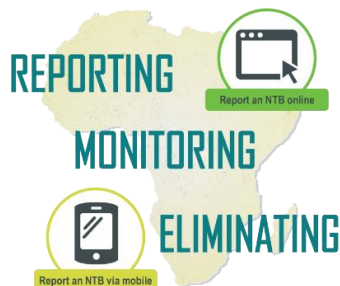




## Other AfCFTA initiatives



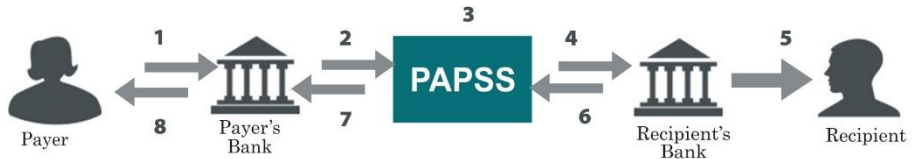
- **African Trade Observatory\***: the African Trade Observatory (ATO) aims to create a continent-wide trade information portal to facilitate intra-African trade and to support the roll-out of the AfCFTA. The ATO collects trade-related data from member states with the aim of providing trade intelligence to both market players and governmental and non-governmental agencies. The ATO includes services trade, exchange rate and competitiveness indicators, internal tax data and foreign direct investment data. Available at <https://ato.africa/en/>
- 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. 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>
- The **AfCFTA e-tariff book** is a digital platform containing the tariff schedules and applicable tariff rates for all the AfCFTA State Parties based on the WCO 6-digits Harmonized System (HS). Available at [etariff.au-afcfta.org](http://etariff.au-afcfta.org)



## 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 to 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%.

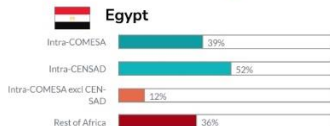
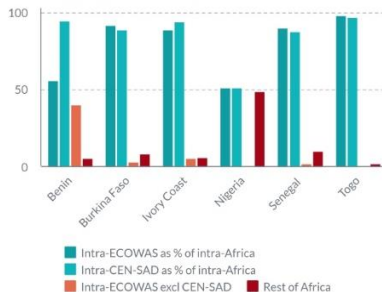
- South Africa is the main intra-Africa exporter and importer (accounting for 37% of intra-Africa exports and 14% of intra-Africa imports). South Africa's intra-Africa exports and imports have recovered after declining by 18% and 28%, respectively in 2019-2020 period. Both intra-Africa exports and imports 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

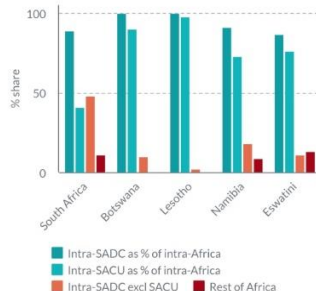


# Intra-REC intra-Africa exports (2021)

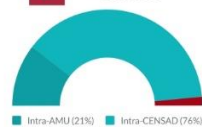
## Overlapping membership - ECOWAS & CEN-SAD



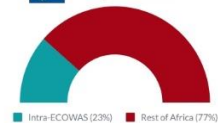
## Overlapping membership - SADC & SACU



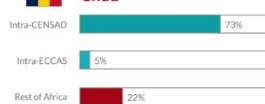
## Morocco



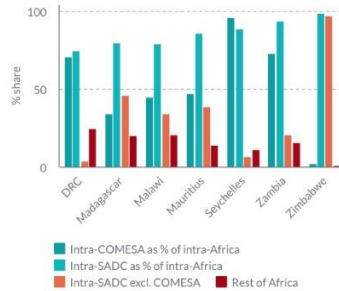
## Cape Verde



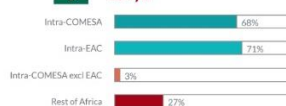
## Chad



## Overlapping membership - SADC & COMESA

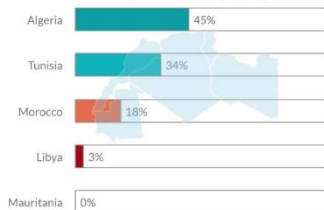


## Kenya

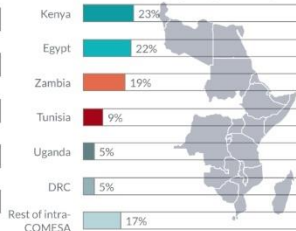


# Main intra-REC exporters (2021)

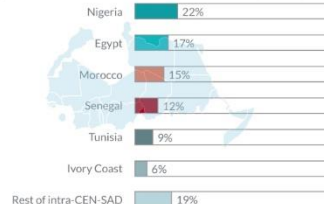
## Intra-AMU top exporters (2021)



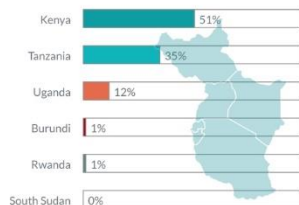
## Intra-COMESA top exporters (2021)



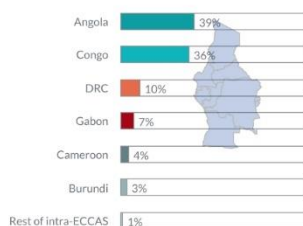
## Intra-CEN-SAD top exporters (2021)



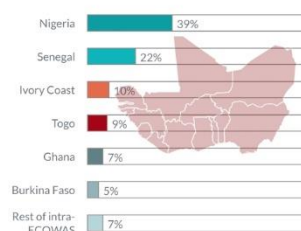
## Intra-EAC top exporters (2021)



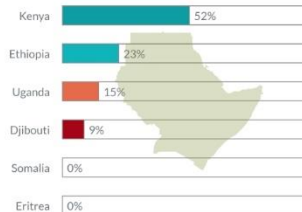
## Intra-ECCAS top exporters (2021)



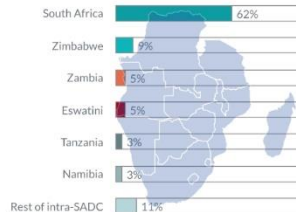
## Intra-ECOWAS top exporters (2021)



## Intra-IGAD exporters (2021)








## Intra-SADC top exporters (2021)





# Intra-Africa agricultural exports (2021)

- 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)
 <b>Sugar</b>	11%	62%	Eswatini (20%); South Africa (17%); Morocco (15%) Rest of Africa (48%)
 <b>Animal or Vegetable fats</b>	10%	40%	South Africa (21%); Tunisia (20%); Egypt (13%) Rest of Africa (46%)
 <b>Beverages</b>	8%	55%	South Africa (68%); Zambia (7%); Namibia (3%); Rest of Africa (22%)
 <b>Miscl. edible preparations</b>	8%	68%	South Africa (33%); Egypt (28%); Senegal (10%); Rest of Africa (29%)
 <b>Fisheries</b>	8%	19%	Morocco (31%); Namibia (12%); Mauritania (12%); Rest of Africa (45%)

# Intra-Africa agricultural exports for select countries (2021)



# Intra-Africa trade in commodities

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

Traded commodities include:

<b>Energy — natural gas &amp; oil —14% of intra-Africa exports</b>
<b>Precious metals — gold —3% of intra-Africa exports</b>
<b>Industrial metals—copper, nickel &amp; iron ores — 3% of intra-Africa exports</b>
<b>Agriculture—including sugar, maize, palm oil and cocoa — 6 %of intra-Africa exports</b>

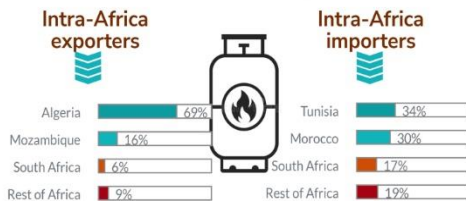
According to the data, only 9% of petroleum gas, 6% of gold and 6% of iron ores remain on the continent. However, almost all live cattle and chickens remain on the continent.

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

## Petroleum gas



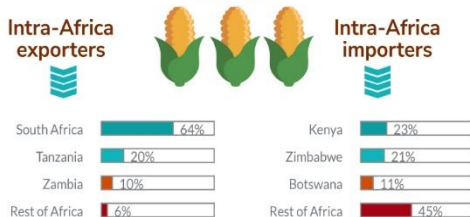
## Gold



94% of all exports are from Tanzania (60%), Namibia (30%) and Zambia (4%)

98% of imports are destined for South Africa and 2% destined for Uganda

## Maize



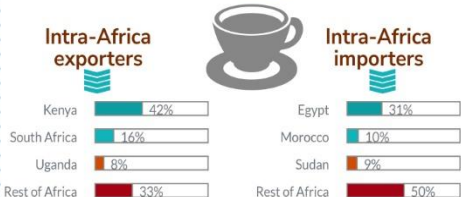
## Copper ores



## Palm Oil



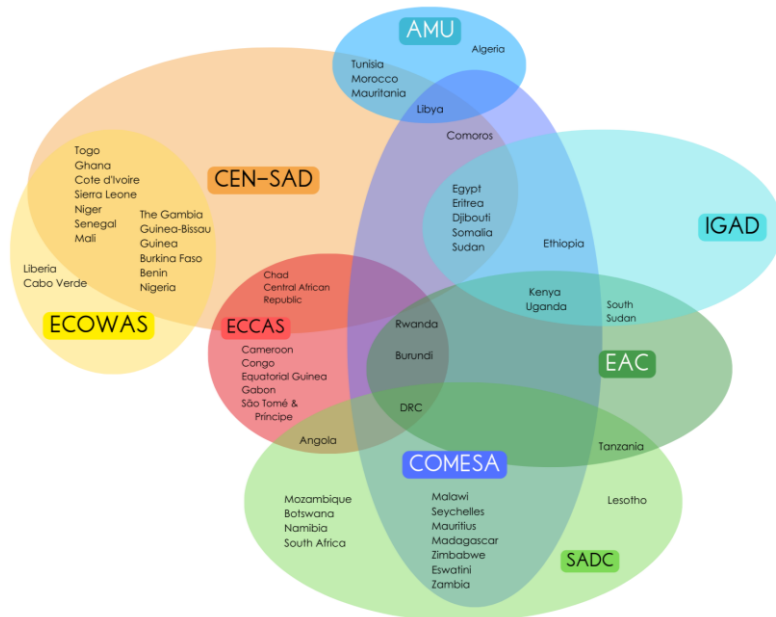
## Tea





# Regional Economic Communities

The African Union recognises eight Regional Economic Communities (RECs) as building blocks for the AfCFTA. These are the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA), Southern African Development Community (SADC), Economic Community of West African States (ECOWAS), Economic Community of Central African States (ECCAS), Intergovernmental Authority on Development (IGAD), Community of Sahel-Saharan States (CENSAD) and the Arab Maghreb Union (AMU).





# Regional Economic Communities & the AfCFTA



Article 19(2) of the AfCFTA Agreement states: “State Parties that are members of other regional economic communities, regional trading arrangements and custom unions, which have attained among themselves higher levels of regional integration than under this Agreement, shall maintain such higher levels among themselves.”



Source: African Union

This means that the eight recognised RECs, as well as other trading arrangements such as the Southern African Customs Union (SACU) and the Tripartite Free Trade Area (TFTA), shall be maintained.

See also Art 8(2) of the AfCFTA Protocol on Trade in Goods

Given that the RECs will remain in place and implement their own regional agendas, **trade among members of an existing REC trading arrangement (FTA or customs union) will continue according to this trade regime.**

# Intra-African tariffs

Many African countries trade under the free-trade areas of their 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 on goods traded between those countries that do not already have a preferential agreement in place; they trade under the Most Favoured Nation (MFN) terms.

## Examples of Non-REC intra-Africa tariffs

### ETHIOPIA



**MFN Tariffs on goods from outside of COMESA:**



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



Flasks, TV reception apparatus **(20%)**

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.

### EGYPT



**MFN Tariffs on goods from outside of PAFTA, AGADIR & COMESA:**



Fresh peaches, plums & apricots **(60%)**



Iron/steel articles **(30%)**



Plastic seats and covers **(40%)**

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.

# KENYA



MFN Tariffs (EAC common external tariffs) on goods from outside of EAC & COMESA



Assembled diesel passenger vehicles **(25%)**



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



Maize **(50%)**

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.

# SOUTH AFRICA



MFN Tariffs (SACU common external tariffs) on goods from outside of SACU & SADC.



Cotton t-shirts **(45%)**



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



Soaps with medical applications **(20%)**

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.

# SENEGAL



MFN Tariffs (ECOWAS common external tariffs) on goods from outside of ECOWAS.



Potatoes **(35%)**



Apples **(20%)**



Grapes **(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.

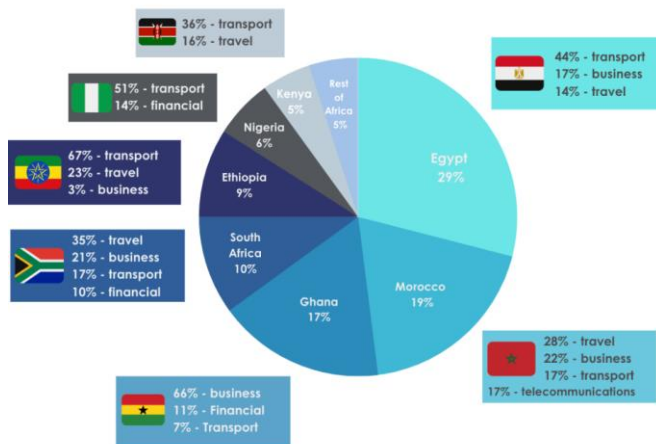


# Trade in Services

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 agreed to schedule commitments in 5 priority sectors, as a starting point: financial services, travel, transport, business services and communications.

- 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

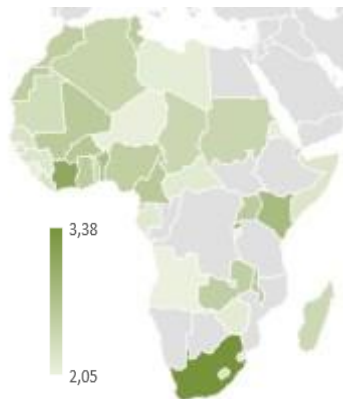
High transport costs, delays, port inefficiencies and cumbersome border procedures can have a more negative impact on the trade of goods than any tariffs.

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 and 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 & compliance	
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:



## INFORM

Publications  
Daily news service  
Trade data  
Infographics



## CAPACITATE

Training programs  
Internship program  
Trade law and policy  
advisory services



## EMPOWER

Policy dialogue &  
forums  
Policy dialogue  
contributions

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