

## DECISION ON THE AFRICAN CONTINENTAL FREE TRADE AREA (AfCFTA)

### The Assembly,

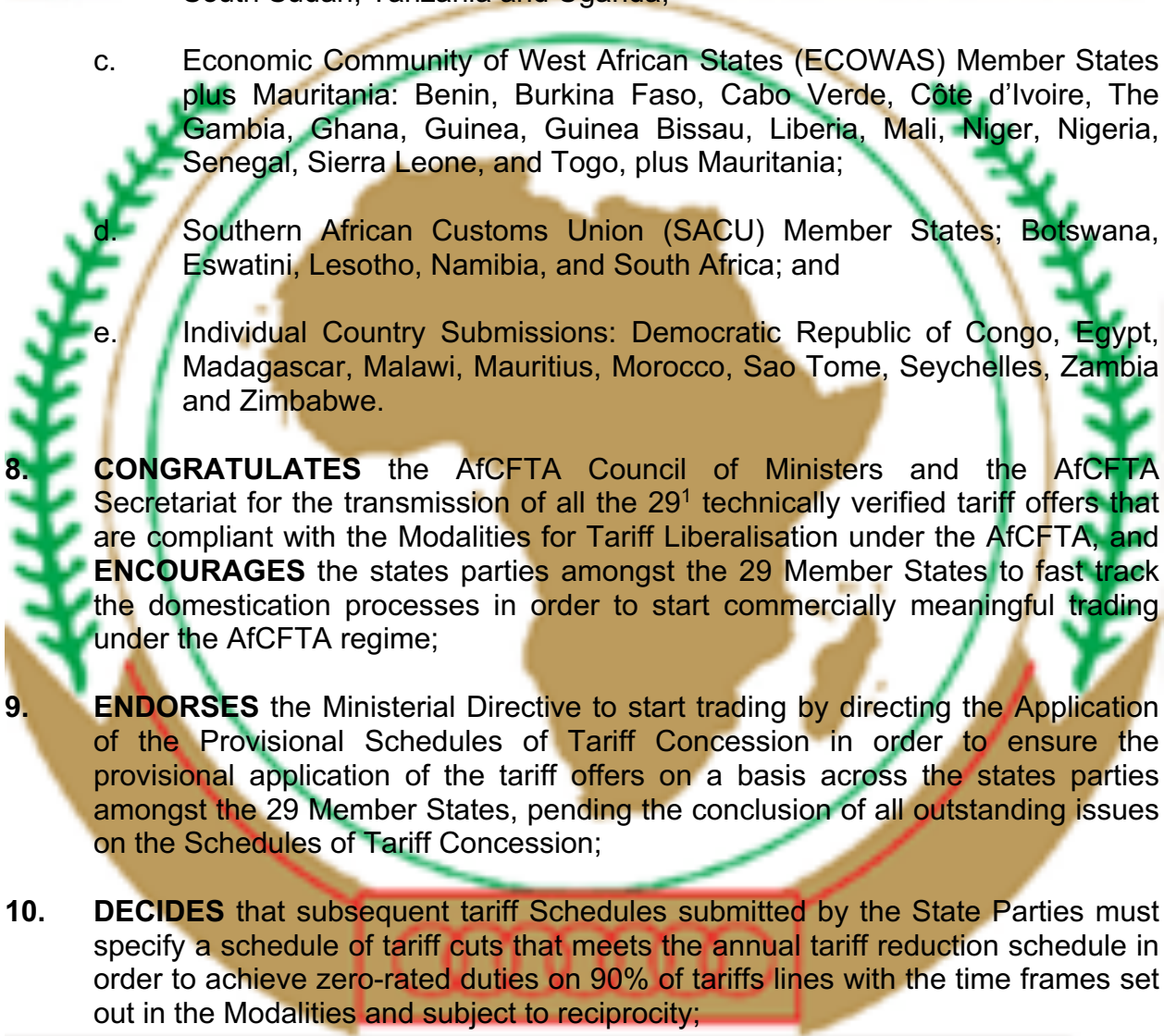
1. **RECALLS** Decision Ext/Assembly/AU/Dec.1(XIII) adopted at its 13<sup>th</sup> Extraordinary Session held on 5 December 2020 to start trading under the AfCFTA on 1 January 2021, on the basis of legally implementable and reciprocal Schedules of Tariff Concessions, with agreed Rules of Origin, and Customs Documentation and **COMMENDS** the provisional commencement of trading;
2. **TAKES NOTE** of the Report of the 8<sup>th</sup> Meeting of the Council of Ministers Responsible for Trade held in Accra – Ghana on 28-29 January 2022;
3. **FURTHER TAKES NOTE** of the Report of the 40<sup>th</sup> Session of the Executive Council, held in Addis Ababa – Ethiopia on 2 – 3 February 2022, and the recommendations contained therein;
4. **COMMENDS** the role of all State Parties, non-State Parties, Customs Unions, the Council of Ministers Responsible for Trade, other AfCFTA Implementing Institutions, the African Union Commission (AUC), Regional Economic Communities (RECs), African Development Bank (AfDB), the African Export Import Bank (Afreximbank) and the other African Union Cooperating Partners, on the significant progress made towards conclusion of the remainder of all outstanding issues in the negotiations and the start of commercially meaningful trading under the AfCFTA;

### Signatures and Ratifications

5. **CALLS UPON** the remainder of the non-State Parties, namely: Benin; Botswana; Comoros; Eritrea, Guinea Bissau, Libya; Liberia; Madagascar; Morocco; Mozambique; Somalia; Sudan; and South Sudan, which have not yet ratified the Agreement to do so as soon as possible and qualify as State Parties, in order to increase the size of the market and the volume of trade under the AfCFTA;
6. **ALSO COMMENDS** members of the four (4) Regional Economic Communities (RECs) that have submitted offers collectively as part of Customs Unions, and **URGES** their constituent members that are yet to ratify and deposit their respective instruments of ratification of the Agreement Establishing the AfCFTA to take urgent steps necessary to do so.

### Protocol on Trade in Goods

7. **WELCOMES** the submissions of the 43 tariff offers by:

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- a. Economic and Monetary Community of Central Africa (CEMAC) Member States: Cameroon, Chad, the Central African Republic, Equatorial Guinea, Gabon, and the Republic of Congo;
  - b. East African Community (EAC) Member States: Burundi, Kenya, Rwanda, South Sudan, Tanzania and Uganda;
  - c. Economic Community of West African States (ECOWAS) Member States plus Mauritania: Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo, plus Mauritania;
  - d. Southern African Customs Union (SACU) Member States; Botswana, Eswatini, Lesotho, Namibia, and South Africa; and
  - e. Individual Country Submissions: Democratic Republic of Congo, Egypt, Madagascar, Malawi, Mauritius, Morocco, Sao Tome, Seychelles, Zambia and Zimbabwe.
8. **CONGRATULATES** the AfCFTA Council of Ministers and the AfCFTA Secretariat for the transmission of all the 29<sup>1</sup> technically verified tariff offers that are compliant with the Modalities for Tariff Liberalisation under the AfCFTA, and **ENCOURAGES** the states parties amongst the 29 Member States to fast track the domestication processes in order to start commercially meaningful trading under the AfCFTA regime;
  9. **ENDORSES** the Ministerial Directive to start trading by directing the Application of the Provisional Schedules of Tariff Concession in order to ensure the provisional application of the tariff offers on a basis across the states parties amongst the 29 Member States, pending the conclusion of all outstanding issues on the Schedules of Tariff Concession;
  10. **DECIDES** that subsequent tariff Schedules submitted by the State Parties must specify a schedule of tariff cuts that meets the annual tariff reduction schedule in order to achieve zero-rated duties on 90% of tariffs lines with the time frames set out in the Modalities and subject to reciprocity;
  11. **ALSO DECIDES** that the AfCFTA dismantling of tariffs should be annual tariff cuts based on the date of start of trading on 1 January 2021, and **DIRECTS** that

<sup>1</sup>CEMAC: Cameroon, Chad, the Central African Republic, Equatorial Guinea, Gabon, and the Republic of Congo.

ECOWAS plus Mauritania: Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo + Mauritania;

Democratic Republic of Congo, Egypt, Madagascar, Malawi, Mauritius, Seychelles and Zambia

future submissions and accessions should, reciprocally, apply tariff reductions following the current stage of liberalisation as set in the Modalities;

12. **FURTHER DIRECTS** the AfCFTA Secretariat to facilitate negotiations of the remaining 10% of the tariff lines [Sensitive Products (7%) and Excluded Products (3% not exceeding 10% of the total value of trade)], and **REQUESTS** the AfCFTA Council of Ministers to submit the final Schedules of Tariff Concessions as required by the AfCFTA Agreement by xxx.
13. **DIRECTS** the Council of Ministers, the AfCFTA Secretariat, State Parties and Customs Authorities to annually develop AfCFTA Electronic Tariff book identifying the annual tariff reduction by State Parties;
14. **ALSO DIRECTS** the AfCFTA Secretariat to assist the State Parties in migrating to the HS 2022 and transpose their Schedules of Tariff Concessions to HS 2022 and **REQUEST** the AfCFTA Secretariat to conduct an impact assessment within three (3) months;
15. **URGES** the State Parties to fast track the publication of the trade procedures, documents and put in place necessary trade infrastructure that is needed for effective trading;
16. **COMMENDS** the AfCFTA Secretariat on the progress made on trade facilitation on the Abidjan – Lagos Corridor, and **ENDORSES** corridor approach to trade facilitation interventions towards the implementation of the AfCFTA;
17. **DIRECTS** the AfCFTA Secretariat to continue the capacity building for Customs Officers to implement the AfCFTA Agreement, and ensure its sustainability;
18. **TAKES NOTE** of the progress made in the Rules of Origin negotiations with 87.7% of agreed tariff lines, and **DIRECTS** the AfCFTA Council of Ministers and the AfCFTA Secretariat to facilitate the publication of the agreed Rules of Origin, pending the conclusion of all outstanding issues under negotiations;
19. **ENDORSES** the Provisional Application of Rules of Origin for the remaining outstanding tariff lines, the additional provisions and definition, as adopted by the Council of Ministers pending the adoption of all outstanding issues in the Rules of Origin negotiations, in line with Article 42(3) of Annex 2 of the Protocol on Trade in Goods;
20. **DIRECTS** the Council of Ministers and the AfCFTA Secretariat to adapt the agreed Rules of Origin to HS 2022 nomenclature;
21. **TAKES NOTE** and **COMMENDS** the Government of the Republic of Gabon for successfully hosting the AfCFTA Forum on Special Economic Zones (SEZ) and encourages implementation of Article 23 of the Agreement Establishing the

AfCFTA and **DIRECTS** the AfCFTA Secretariat to provide Guidelines towards finalization of the Regulations on SEZs and the Guidelines on Infant Industries;

### Protocol on Trade in Services

22. **WELCOMES** the submissions of services offers by 46 State and non-State Parties namely: Angola, Algeria, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central Africa Republic, Cape Verde, Chad, Comoros, Congo, Cote d'Ivoire, Democratic Republic of Congo, Egypt, Eswatini, Equatorial Guinea, Gabon, The Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Namibia, Niger, Nigeria, Rwanda, São Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda, Zambia and Zimbabwe;
23. **TAKES NOTE** of the establishment of the Committee on Trade in Services and its five (5) Sub-Committees, namely: Sub-Committee on Specific Commitments; Sub-Committee on Regulatory Frameworks; Sub-Committee on Mutual Recognition of Professional Qualifications; Sub-Committee on Trade in Services-related Issues; and Sub-Committee on AfCFTA Trade in Services Rules;
24. **COMMENDS** the Council of Ministers on the considerable amount of work and progress undertaken in the negotiations on the five priority sectors and the development of cross-cutting regulatory frameworks, to facilitate the achievements of the objectives under the AfCFTA Agreement and the Protocol on Trade in Services;
25. **COMMENDS** the Council of Ministers on the progress made in the negotiations on the Movement of Natural Persons (Mode 4) under Trade in Services and **DIRECTS** the Council of Ministers to facilitate the movement of business people in the Continent in line with the modalities to be adopted through the due process;
26. **TAKES NOTE** of the great deal of outstanding work still to be undertaken in the conclusion of the negotiations in the five priority sectors and the development of regulatory frameworks, therefore **ENDORSES** the decision to extend the deadline for completion of the trade in services negotiations in the 5 priority sectors to June 2022, including legal scrubbing; and
27. **DIRECTS** the Council of Ministers to fast track the completion of all outstanding issues in the 5 priority services sectors as it relates to the development of Regulatory Frameworks;

### Permanent Structure of the AfCFTA Secretariat

28. **TAKES NOTE** of the recommendation of Decision EX.CL/Dec.1126(XXXIX) of the Executive Council of October 2021 on the Phase II Structure (265 positions)

of the AfCFTA Secretariat for a 4-year phased period, merit-based and transparent approach for recruitment of the positions in the structure, which should be open to all African Union Member States;

29. **WELCOMES** the transfer of the coordination Unit of the AfCFTA from the Commission to the AfCFTA Secretariat and **DIRECTS** the staff to undertake staff skills and competency audit to determine whether they meet the requirements of the AfCFTA approved structure;
30. **ALSO WELCOMES** the appointments to the 4 Director positions under the Phase I Structure, and **COMMENDS** the AfCFTA Council of Ministers for ensuring merit, gender and geographic balance.

### Dispute Settlement Mechanism

31. **REITERATES** the role of the Dispute Settlement Mechanism of the AfCFTA as a central element for providing certainty and predictability in the resolution of disputes on the rights and obligations of State Parties and in clarifying the provisions of the Agreement Establishing the AfCFTA;
32. **NOTES** the progress made by the Dispute Settlement Body in operationalising the Protocol on Rules and Procedures on the Settlement of Disputes, including the establishment of a permanent Roster of Panellists and the Appellate Body as a standing tribunal of final instance; and
33. **DIRECTS** the AfCFTA Secretariat to ensure that the appropriate budget provision is made available to enable the Dispute Settlement Mechanism to remain transparent, accountable, fair, predictable and independent in resolving disputes consistently with the provisions of the Agreement Establishing the AfCFTA.

### Phase II Negotiations

34. **COMMENDS** the Council of Ministers for the establishment of the Committees, namely, Investment, Competition Policy, Intellectual Property Rights (IPR), Digital Trade, and Women and Youth in Trade and the relevant guidelines for negotiating as emanating from the principles of negotiations and relevant Rules of Procedures;
35. **WELCOMES** the progress made in the Committee on Investment towards developing the Protocol on Investment that promotes, facilitates and protects intra-African investment and creates a harmonized and coordinated investment regime in the continent **AND EMPHASIZES** the need for the Committee on IPR to build upon on-going work within the continent;

36. **FURTHER WELCOMES** the progress made in the Committee on Competition Policy regarding the sequencing of work and capacity building needs, including the development of Guidelines for development of the Protocol on Competition Policy, and **DIRECTS** the Council of Ministers, the AfCFTA Secretariat, the Commissioners of Competition Authorities in the various State Parties and other stakeholders to identify interventions, including the AfCFTA Framework for implementing the Competition Policy;
37. **RECALLS** its earlier commitments to broaden inclusiveness in the operation of the AfCFTA through interventions that support women, young Africans, small and medium sized Enterprises as well as integrating small informal traders by implementing simplified trade regime, and **DECIDES** to include the Protocol on Women and Youth in Trade in the scope of the AfCFTA Agreement;
38. **DIRECTS** the Council of Ministers, the AfCFTA Secretariat and other relevant stakeholders to fast track the conclusion of all Protocols on Phase II issues by September 2022.

#### **Collaboration with Strategic Partners**

39. **APPRECIATES** the financial and technical support provided by the African Development Bank, Afreximbank and other partners in the implementation of the AfCFTA and the remainder of the AfCFTA negotiations;
40. **WELCOMES** the AfCFTA Strategy for Private Sector Engagement Plan and **DIRECTS** the AfCFTA Secretary-General to intensify collaboration between the AfCFTA Secretariat and the private sector.

#### **AfCFTA Implementation Tools**

##### **(i) AfCFTA Adjustment Fund**

41. **COMMENDS** the AfCFTA Council of Ministers, the AfCFTA Secretariat and Afreximbank for the progress made in the establishment of the AfCFTA Adjustment Fund to address near-term disruptions as tariff revenues are reduced, industrial sectors are disordered, businesses and supply chains are re-organised to comply with the AfCFTA Agreement;
42. **DIRECTS** the AfCFTA Secretariat and the Afreximbank to undertake all steps, including various private sector fund structures for the full operationalization of the AfCFTA Adjustment Fund and avail the facility to State Parties.

##### **(ii) Pan-African Payments and Settlement System (PAPSS)**

43. **COMMENDS** the Government of the Republic of Ghana for successfully hosting the commercial launch of the Pan-African Payments and Settlement System

(PAPSS) leading to the operational phase of PAPSS, piloting and execution of transactions in the West African Monetary Zone (WAMZ), and **DIRECTS** the AfCFTA Secretariat and the Afreximbank in consultation with Member States and Governors of the Central Banks to deploy the System to cover the entire continent and finalize the regulatory frameworks;

**(iii) AfCFTA Automotive Fund**

44. **COMMENDS** the AfCFTA Council of Ministers, the AfCFTA Secretariat and Afreximbank for mobilising a facility of US\$ 1 billion for the development of the automotive sector, to support industrialisation in Africa.

**(iv) 2<sup>nd</sup> Inter-Africa Trade Fair (IATF)**

45. **COMMENDS** the Republic of South Africa for hosting the 2<sup>nd</sup> Inter-Africa Trade Fair (IATF) hosted in, South Africa, from 15 to 21 November 2021 under the theme “*Bridging Bridges for a Successful AfCFTA*” **And WELCOMES** the offer of the Republic of Cote d’Ivoire to host IATF 2023.

**Trade and Industrial Development Advisory Council**

46. **COMMENDS** the AfCFTA Council of Ministers for the establishment of the AfCFTA Trade and Industrial Development Advisory Council in line with the Article 3(g) of the Agreement Establishing the AfCFTA and **DIRECTS** the AfCFTA Secretariat to work in collaboration with the African Union Commission towards its implementation.

**Extraordinary Meeting**

47. **RECOGNISING** the critical importance of the role of the Assembly in advancing progress in the implementation of the AfCFTA and in the remainder of the AfCFTA negotiations, **APPROVES** the recommendations of the Council of Ministers Responsible for Trade to convene an Extraordinary meeting, dedicated to the AfCFTA;