Architecture of the AfCFTA Protocol on Women and Youth in Trade

Introduction

The inclusion of a Protocol on Women and Youth in the African Continental Free Trade Area (AfCFTA) provides an opportunity to mainstream gender through the Agreement. Gender issues currently feature in some of the AfCFTA legal instruments,\(^1\) including the Agreement Establishing the AfCFTA (AfCFTA Agreement) and the Protocol on Trade in Services:

1. **Preamble of the AfCFTA Agreement**
   
   "RECOGNISING the importance international security, democracy, human rights, gender equality, and the rule of law for the development of international trade and economic cooperation." (Emphasis added)

2. **Article 3(e) of the AfCFTA Agreement**
   
   "The general objectives of the AfCFTA are to ... promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties." (Emphasis added)

3. **Article 27(2)(d) of the Protocol on Trade in Services**
   
   "State Parties agree, where possible, to mobilise resources, in collaboration with development partners, and implement measures, in support of the domestic efforts of State Parties, with a view to, inter alia ... improving the export capacity of both formal and informal service suppliers, with particular attention to micro-small and medium size, women and youth service suppliers." (Emphasis added)

The Assembly of the Heads of State and Government of the African Union (AU Assembly) has recognised the need to ensure that women and youth effectively participate in and benefit from the AfCFTA.

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\(^1\) The Draft AfCFTA Protocol on Investment also makes explicit reference to gender (see Factsheet on Investment and Gender).
The 13th Extraordinary Session of the AU Assembly (November 2022) committed to “broaden inclusiveness in the operation of the AfCFTA through interventionists that support young Africans, women, and small and medium enterprises as well as integrating informal cross-border traders into the total economy by implementing the simplified trade regime.” (Emphasis added).

The 35th Ordinary Session of the AU Assembly (February 2022) decided to “include a Protocol on Women and Youth in Trade” in the AfCFTA Agreement.

**Preparatory work towards the development of the AfCFTA Protocol on Women and Youth in Trade**

In line with the abovementioned directives of the AU Assembly, significant preparatory work has been conducted by the AfCFTA Secretariat, in collaboration with various development partners, ahead of the negotiations and development of the AfCFTA Protocol on Women and Youth in Trade. This includes, among others, 26 National Consultations on Women in Trade, Regional Stakeholder Consultations for Women and Youth in Trade, and the Inaugural AfCFTA Women and Youth in Trade Conference (held in Tanzania in September 2022).

The main objective of this preparatory work programme was to seek the inputs of various stakeholders on the substantive issues the Protocol on Women and Youth in Trade should address in order to enhance the participation and benefits of women and youth traders in the AfCFTA.

Some of the substantive issues identified, include:
The above are necessary to address the constraints and barriers women and youth face when trading across borders as well as to enhance their access to broader markets, competitiveness in the domestic and international markets, and participation in regional value chains. However, some of the issues, though important, may not necessarily fall within the scope of a trade agreement.

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What has been clear from the preparatory work is that the challenges women and youth face in cross-border trade are different from those that other traders face. There is emerging consensus that the Protocol on Women and Youth in Trade should include two substantive chapters: (1) Women in Trade; and (2) Youth in Trade. The other chapters will cover general and final provisions as well as institutional arrangements.

The AfCFTA Protocol on Women and Youth in Trade is a subsidiary instrument of the AfCFTA Agreement. The Protocol will form an integral part of the Agreement upon adoption by the AU Assembly, and part of the single undertaking upon entry into force.

Equally important, the Protocol will be incorporated into the AfCFTA Agreement alongside the Protocols on Trade in Goods, Services, Investment, Intellectual Property Rights and Digital Trade, or any other legal instruments that may be added to further the objectives of the AfCFTA. In this regard, the Protocol should be aligned to the objectives of the AfCFTA Agreement and not contradict the other AfCFTA Protocols covering substantive trade related issues in the AfCFTA.

The best approach is that the Protocol on Women and Youth in Trade should mainstream gender issues in the AfCFTA. This includes incorporating a gender perspective to all trade related issues of the AfCFTA with a view to achieving gender equality and eliminating all forms of discrimination.²

In addition, the negotiators of the Protocol on Women and Youth in Trade should consider how gender issues have been tackled in other trade agreements including African trade agreements. Recent tralac research³ shows that gender provisions have been included in a number of Africa’s trade agreements, starting with the first provisions included in the ECCAS Agreement.

About 74 regional trade agreements in force and notified to the WTO included at least one gender-related provision. There is much to build on in the development of a bespoke Protocol to address the systemic challenges that women and youth face in intra-Africa trade.

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² See [https://www.un.org/womenwatch/osagi/gendermainstreaming.htm](https://www.un.org/womenwatch/osagi/gendermainstreaming.htm)
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