

Africa Union launches Africa Continental Free Trade Area: Status of trading among African countries

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Executive summary

On 1 January 2021, trading under the Africa Continental Free Trade Area (AfCFTA) was officially launched by the Africa Union in conjunction with the Heads of States. Commencement of trading follows a series of negotiations resulting from the conception of AfCFTA during the 25th ordinary session of the assembly of Heads of State and Government of the Africa Union on 7 to 15 June 2015 in Johannesburg.

AfCFTA is the flagship program of Agenda 2063 which aims to boost intra-African trade in goods and services. The agreement covers 55 Member States with a population of 1.2 billion people and estimated Gross Domestic Product (GDP) of over US\$3.4 trillion.

As of 1 January 2021, 34 countries had signed and ratified the AfCFTA agreement thereby meeting the legal conditions required for trading under the Free Trade Area (FTA). Malawi and Zambia ratified the agreement subsequently, bringing the total number of State Parties to 36. AfCFTA aims to create a single market for goods and services, expand intra-Africa trade, resolve the challenges faced in intra-African trade (including overlapping regional economic community membership), create a large investment area and leverage on economies of scale to boost manufacturing competitiveness.

Eritrea is the only African country yet to sign the AfCFTA agreement.

Detailed discussion

The status of various provisions under the FTA arrangement include the following:

Phase 1: Trade in goods and services, rules and procedures on dispute settlement

AfCFTA trade in goods

The protocol of trade in goods aims to liberalize 90% of tariff lines to be traded under a preferential rate of import and export duty in 10 years. The protocol recognizes 7% of the tariff lines identified to be sensitive goods and 3% of tariff lines which will be excluded from preferential trade terms subject to negotiation through request and offer mechanism. The latter will not be subject to preferential treatment.

Product category	% of total	Least developing countries (LDCs)	Developing countries (DCs)
Category A: Goods under preferential trading	90%	10 years	5 years
Category B: Sensitive goods	7%*	13 years	10 years
Category C: Exclusion list	3%*	–	–
Total	100%		

* Anti-concentration clause indicates not more than 10% of intra-African imports should be excluded from preferential terms. The exclusion list will be reviewed after five years from commencement of trading.

The phasing down of tariffs to the preferential rate will take place systematically over a transition period. However, the principle of variable geometry applies where Member States, upon notification and on a reciprocal basis, lower their tariffs earlier than the systematic linear approach. Tariff offers from 44 Member States (including 33 state parties) have been submitted to the Africa Union with outstanding offers expected to be submitted by June 2021.

Under AfCFTA, liberalization of trade is being implemented through the already existing Customs Unions - East Africa Community (EAC), Southern African Customs Union (SACU), CEMAC and Economic Community of West African States (ECOWAS). Each of the Customs Unions is required to prepare its tariff offers, rules of origin and schedules of commitment in trade in goods and services for submission to the AfCFTA secretariat.

AfCFTA trade in services

Consideration of specific commitments on trade in services: 16 specific commitments are under consideration with outstanding tariff offers. The protocol on trade in services has prioritized five sectors for liberalization including financial services, transport, communication professional services and tourism.

Dispute settlement mechanism

Rules and procedures - involve arrangements for dispute settlement. The non-tariff barrier online portal is already in place to enable traders facing Non-Tariff Barriers (NTBs) to report them to the relevant offices and seek support on resolution. The mechanism is expected to be on a state-to-state basis and will involve consultations and conciliation, among others.

Phase 2: Other trade-related aspects

Substantive technical working group sessions were stalled by the COVID-19 pandemic. The sessions aimed to align positions on intellectual property rights, investments and competition policy.

Member States through decision Assembly/AU/Dec.751(XXXIII) agreed to commence e-commerce considerations under the FTA following conclusion of Phase II negotiations.

Status of AfCFTA negotiations and their benefits

Consideration of tariff offers: 41 tariff offers are under consideration with outstanding tariff offers expected to be submitted by June 2021.

Overview of AfCFTA rules of origin and required documentation

Rules of origin are a very key area of play for parties undergoing integration if the states/ member countries are to benefit from preferential rates or enjoy duty-free imports within the member/state parties. For a product to benefit from preferential rates, it must fulfil certain rules to confirm that the goods actually “originated” from that State Party. Supply from a country may not necessarily denote origin. Upon fulfilling the rules of origin, a product is issued with a certificate of origin as proof that the goods originated from a particular country.

Outstanding rules of origin: 81% of product specific rules of origin forming Appendix IV of the draft rules of origin have been agreed by Member States.

The AfCFTA adopts flexible rules of origin which are product-specific comprising the following:

- ▶ Wholly produced
- ▶ Material content
- ▶ Change in tariff heading (CTH)
- ▶ Ex-works (EXW) price

Required documents to qualify for preferential treatment

- ▶ Certificate of origin and supplier
- ▶ Producer’s declaration
- ▶ Company registration/individual registration documents

Implementation of the AfCFTA by selected trading blocs or countries

1. East African Community

Out of the Member States of the EAC, Burundi, Tanzania and South Sudan have yet to ratify the agreement. These states are expected to ratify the agreement by June 2021 to enable the EAC to submit its tariff offers, rules of origin and other schedules of commitment to enable full trading with the rest of the State Parties.

Kenya’s implementation of the AfCFTA

- ▶ **Institutional framework:** Focal point for NTBs, trade facilitation, customs cooperation, administration and transit, sanitary & phyto-sanitary (SPS), technical barriers to trade (TBT), trade observatory, trade in services and rules of origin.
- ▶ **Legislative framework:** An EAC gazette issued by the Council of Ministers is expected to be published.
- ▶ **Trading system:** The EAC tariff offer is expected to be uploaded into Kentrade Single Window System (SWS) to enable selection of tariff by customs agent under preferential terms and in relation to prescribed procedure code to be made available by the revenue authority.
- ▶ **ACFTA import/export duty rate:** The duty reductions are based on a straight-line reduction over the prescribed period.

2. Southern African Customs Union

In SACU, Botswana has yet to ratify the agreement. Lesotho, South Africa, Namibia and Eswatini are already State Parties.

South Africa’s implementation of the AfCFTA

- ▶ **Institutional framework:** AfCFTA will be implemented and administered by the South African Revenue Service (SARS). The *Customs & Excise Act 91 of 1964* (the Act) is the piece of legislation that governs free trade agreements and AfCFTA will also be dealt with in terms of the Act.
- ▶ **Legislative framework:** Notice R1433 in *Government Gazette* No. 44049 was published on 31 December 2020, amending the rules to the *Customs & Excise Act 91 of 1964* to give effect to AfCFTA from 1 January 2021.
- ▶ **Trading system:** The SARS has published the tariff offer on its website at www.sars.gov.za, indicating the preferential import duty rates under AfCFTA.
- ▶ **AfCFTA import/export duty rate:** The duty reductions are based on a straight-line reduction over the prescribed period.

3. ECOWAS

The AfCFTA has been ratified by 13 out of the 15 ECOWAS Member States. Benin and Liberia have not yet ratified the agreement.

Common schedules of tariff concessions for trade in goods and specific commitments on trade in services in the five priority sectors have been submitted to the African Union.

Ghana

As part of the country's readiness for the AfCFTA, a National AfCFTA Coordinating Office has been established to coordinate the activities of the economic bloc in the country. Additionally, the Government's flagship programs such as the One District One Factory, Planting for Food and Jobs, Planting for Jobs and Export, the Strategic Industries Anchor Initiative, and the port modernization program are all geared towards making the country the new manufacturing hub of the African region. The Government has developed initiatives such as the new integrated trade facilitation and customs management programs which aim to transform the Ghanaian economy to position it as a leader in continental free trade arrangements.

To ensure the country derives benefits from the AfCFTA, the Government of Ghana is investing in trade-related infrastructure in order to facilitate trade, citing the ongoing expansion of the Ports of Tema and Takoradi, as well as the expansion and rehabilitation of numerous roads and railways.

Further, to help the private sector take advantage of the AfCFTA, the Government has pledged to assist the private sector by developing and implementing a comprehensive set of policies that will empower the private sector. Consequently, a national steering committee to coordinate and guide the support that would be given to the private sector and other stakeholders had been set up by the Government.

Also, the Ghana Investment Promotion Centre (GIPC), the government agency responsible for investment promotion, intends to reform its laws to make the country comparatively competitive without compromising either the political economy or Ghana's own productive base.

Ghana has already sent out exports to South Africa under the AfCFTA trading terms.

Nigeria

Nigeria ratified the agreement in December 2020. A National Action Committee (NAC) for implementation of the AfCFTA was set up by the Nigerian Government with the mandate to coordinate relevant ministries, departments and agencies, and stakeholder groups to implement the trade readiness interventions detailed in the AfCFTA Impact and Readiness Assessment Report for Nigeria, including projects, policies and programs.

The NAC is further tasked with facilitating the development and implementation of readiness interventions to develop production and service capacities, improve competitiveness and coordinate adjustment programs and facilitate policies, regulations and update of laws as may be required.

Since inauguration, the NAC has conducted a series of strategy workshops to rally stakeholders in various sectors of the economy in developing a national strategy for implementation of the Agreement. As part of efforts in designing a roadmap for the implementation of the AfCFTA, the NAC has also started rallying state governments for support in the development of sub-national strategies.

The NAC Secretariat is working towards setting up AfCFTA implementation Focal Desks in the various states.

The NAC is also working on guidelines for implementation of the Agreement. Meanwhile, a guide on the steps to be taken by Nigerian businesses to export to other African countries that are part of the AfCFTA is available.

4. CEMAC

Only CEMAC and all its Member States (Cameroon, CAR, Congo Republic, Chad, Equatorial Guinea and Gabon) have submitted tariff offers as a Union. This implies that CEMAC is ready for full trading with all other State Parties that are ready for trading.

Next steps

Businesses should prepare for the benefits that the AfCFTA presents by considering the following action:

- ▶ Confirm the status of ratification of your country
- ▶ If your Country is a member of a Customs Union trading will ONLY commence once all the Member States of the Customs Union have ratified and submitted all necessary instruments as one Union
- ▶ Involve your in-house teams to assess eligibility of your Company for preferential rates on imports and Certificate of origin for exports
- ▶ For exports, contact your trade professionals for support on getting required documents from the revenue authorities and apply for registration as an exporter
- ▶ For imports, confirm the originating status of goods to enhance verification by the customs authority of the proof of origin
- ▶ Confirm duty rates for your imports from within the AfCFTA based on the agreed upon tariff offers for your region
- ▶ Optimize your supply chain for full benefits from the agreement

Local EY country teams from across the continent have the experience to assist you in coordinating your AfCFTA trading.

Below is a summary of the status of the different African states regarding the AfCFTA agreement.

Countries	Member State (Signed)	State Party (Ratified)	Tariff offer submitted (TIGs)	Schedule of commitment submitted (TISs)
 Nigeria	✓	✓	✓	X
 Egypt	✓	✓	✓	✓
 South Africa	✓	✓	✓	✓
 Algeria	✓	X	X	X
 Morocco	✓	X	X	X
 Kenya	✓	✓	✓	✓
 Ethiopia	✓	✓	X	X
 Ghana	✓	✓	✓	X
 Tanzania	✓	X	✓	X
 Angola	✓	✓	X	X
 Côte d'Ivoire	✓	✓	✓	X
 DRC	✓	X	✓	✓
 Tunisia	✓	✓	X	X
 Cameroon	✓	✓	✓	X
 Uganda	✓	✓	✓	✓
 Sudan	✓	X	X	X
 Senegal	✓	✓	✓	X
 Libya	✓	X	X	X
 Zambia	✓	✓	✓	✓
 Mali	✓	✓	✓	X
 Burkina Faso	✓	✓	✓	X
 Botswana	✓	X	✓	X
 Benin	✓	X	✓	X
 Gabon	✓	✓	✓	X
 Mozambique	✓	X	X	X
 Guinea	✓	✓	✓	X
 Madagascar	✓	X	✓	✓

Countries	Member State (Signed)	State Party (Ratified)	Tariff offer submitted (TIGs)	Schedule of commitment submitted (TISs)
 Zimbabwe	✓	✓	X	X
 Niger	✓	✓	✓	X
 Mauritius	✓	✓	✓	✓
 Chad	✓	✓	✓	X
 Rwanda	✓	✓	✓	✓
 Namibia	✓	✓	✓	✓
 Equatorial Guinea	✓	✓	✓	X
 Rep. of Congo	✓	✓	✓	X
 Malawi	✓	✓	✓	X
 Mauritania	✓	✓	✓	X
 Togo	✓	✓	✓	X
 Somalia	✓	X	X	X
 South Sudan	✓	X	✓	X
 Sierra Leone	✓	✓	✓	X
 Eswatini	✓	✓	✓	✓
 Djibouti	✓	✓	X	X
 Burundi	✓	X	✓	✓
 Liberia	✓	X	✓	X
 Central African Republic	✓	✓	✓	X
 Eritrea	X	X	X	X
 Lesotho	✓	✓	✓	✓
 Cape Verde	✓	X	✓	X
 The Gambia	✓	✓	✓	X
 Guinea-Bissau	✓	X	✓	X
 Comoros	✓	X	X	✓
 Seychelles	✓	X	✓	✓
 São Tomé and Príncipe	✓	✓	✓	✓

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