



# THE AFRICAN CONTINENTAL FREE TRADE AGREEMENT (AfCFTA)

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Strengthening Africa's Trade Capacity

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Historically, Africa has always been known for its ancient trade routes that criss-crossed the continent promoting commerce, ensuring political interaction and of course sometimes resulting in war. The emergence of sea travel and cross ocean movement and trade played a significant part in diminishing traditional internal trade amongst African nations. With present-day focus on the digital and knowledge economy, including the drive to bridge Africa's so called infrastructure and technological gap, free trade movement still unfortunately occupies the back seat.

Intermediately, in 1980 the then Organisation of African Unity ('OAU') the precursor of the African Union (AU) concluded the 'Lagos Plan of Action' for Economic Development of Africa 1980-2000 in which it proposed a regional development plan that conceived and included an 'African Common Market'.

The next stepping stone was the 1991 Abuja Treaty establishing an African Economic Community in pursuit of Art. 3 of the AU statute objective in 'accelerating the political, socioeconomic integration of the continent'.

And so, when the 18th Ordinary Session of the Assembly of Heads of State and Government (HOSG) of the African Union met in Addis Ababa in 2012, they came to the decision that a Continental Free Trade Area would be formed in Africa and endorsed the Action Plan on Boosting Intra-Africa Trade (BIAT). It was the most significant moment in securing the future of African adherence to the Treaty obligations – almost a promise to re-enact in modern terms, the ancient trade routes.



image source: <https://au.int/en/pressreleases/20200707/statement-assembly-african-union-afcfta-occasion-commemoration-african>

## Legal Framework

AfCFTA is a super-regional multilateral treaty with all the features of both an investment treaty as well as tariff pact, designed at promoting foreign investment and at the same time protecting against the potential harm from over trading.

The approval of the African Union Ministers of Trade at the Extraordinary Summit in Rwanda on 9 March 2018, gave life to AfCFTA, kick starting crucial instruments of its phased implementation; the Protocol on Trade in Goods and associated annexes; Protocol Trade in Services and its annexes as well as the Protocol on Rules and Procedures on the Settlement of Disputes.

To show the intent of African countries, fifteen nations have ratified the protocol on free movement of persons, right of residence and right of establishment.

Whereas forty-four countries first signed the agreement in March this year, the number increased to forty nine with the signing by South Africa, Sierra Leone, Namibia, Lesotho and Burundi at the recent Summit in Nouakchott, Mauritania. Six countries namely, Rwanda, Ghana, Kenya, Ethiopia, Chad and Swaziland have now ratified the agreement. The process of ratification of international treaties is completed by filing instruments of ratification as provided for in the Treaty by respective countries through their legislature passing appropriate bills. With the stipulation that only twenty-two ratifications are needed for the AfCFTA to come into force, the prospects are high.



10th Extraordinary Summit of the African Union | Kigali, 21 March 2018. Source: <https://www.flickr.com/photos/paulkagame/26062088607/in/photostream/>

The modalities of barrier elimination, cooperation and tariffs removal is contained in the three protocols mentioned above and their annexes. The protocols provide a better understanding of the scope, potential, reach and ramifications of this transformational agreement.

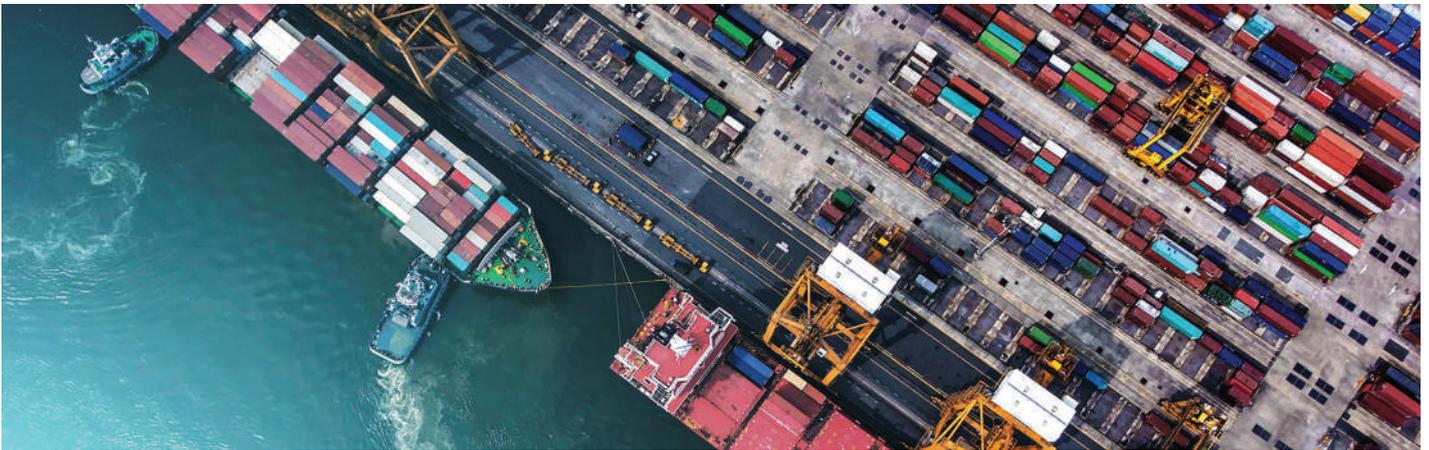
Broadly the Protocol on Trade in Goods will remove import duties and create import parity with customs cooperation between nations while ensuring standards of the cooperation amongst parties, technical assistance required and capacity building obligations.

The Protocol on Trade in Services will oblige equal treatment of services between foreign service providers within and across host countries, mutual recognition of service providers and the Strengthening Africa's Trade Capacity liberalisation of service sectors to accommodate free participation in service sectors.

The Protocol on Dispute Settlement which is yet to be finalised (it is a phase II activity) is expected to cover Intellectual Property, Investment and anti-competition measures and promises to give the much needed boost to the dispute resolution industry by creating an international investment dispute resolution framework and infrastructure on the continent.

Institutionally the African Union's HOSG will have general oversight over the operation and policy objectives of AfCFTA while the Council of African Ministers responsible for Trade will ensure implementation and enforcement of AfCFTA.

## The Future



Globally, Free Trade Agreements have exhibited numerous benefits in the promotion and increase of international trade which by extension increases economic growth. The North American Free Trade Agreement (NAFTA), which is arguably the world's largest free trade area of 450 million people and links Canada, Mexico and the USA, saw trade between the 3 countries quadruple over a 15-year period. There has clearly been an obvious boost in the respective economies, increased profits and job creation for all three countries, with vibrant competition, competitive prices and wider choices for consumers. Certainly, if Free Trade Agreements were negative in their impact, the UK would not be actively pursuing a post Brexit Free Trade arrangement with the EU, and now the US. The ASEAN Free trade agreement and Asia Pacific Free Trade agreements have also both recorded significant success.

Currently, only 18% of Africa's exports are traded in Africa, which is an abysmal return for the continent. From all observable evidence AfCFTA will open market access to goods and services; create more trade and therefore wealth for the continent; increase economic growth and ensure greater employment opportunities for the continent's 60% youth population. There will inevitably be a greater exchange of raw materials across the continent making for cheaper cost of manufacturing, goods and services.

With increased Foreign Direct Investments (FDI), small businesses and local manufacturers have an opportunity to improve on their processes, upscale their production and acquire new technology. These businesses inevitably become exposed to international markets that would ordinarily have been out of their reach and become able to compete on a regional if not global level.

There is also the added benefit of Technology transfer and the knock-on effect of increasing GDP of member States, better economic development and increased standard of living - raising Africa's prospects for the future.

All indicators point to the overwhelming change in the economic landscape of the continent from the free movement and intra-African trade; wealth and economic development will positively disrupt the services industries of a very talented continent. Already Pan African businesses are well situated to benefit. With an 'African Common Market', the future is encouraging.

In fact, it is an exciting time for Africa and African businesses, ultimately the signing and ratifying AfCFTA will usher in the largest Free Trade Area since 1995 multiplying intra Africa trade and Africa's GDP 'when Africans trade in Africa'.

We note that Nigeria has recently inaugurated a Presidential Committee on Impact and Readiness for AfCFTA perhaps a sign that she will join other countries in pursuing this laudable AU Treaty objective.



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