



AfCFTA – African trade pact launched

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Discussion paper



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Launch of the AfCFTA

The African Continental Free Trade Area (AfCFTA) has entered into force. The world's largest free trade area in terms of participating members was officially launched on 7 July 2019, during the African Union (AU) Extraordinary Summit in Niamey, Niger. It had come into force on 30 May 2019, after 22 countries had deposited their ratifications with the AU Commission and the minimum threshold had been reached.

Never before has an African free trade area been negotiated and ratified in such record time. The AU Trade Ministers' kick-off meeting took place mid-2015, followed by the start of negotiations early 2016. Two and a half years later, an overwhelming majority of 44 African states already signed the agreement. It entails protocols on Trade in Goods, Trade in Services and Dispute Settlement. In addition, the second phase of AfCFTA negotiations will also deal with chapters on Investment, Intellectual Property Rights and Competition. To date, 27 African states have ratified the AfCFTA, 54 have signed it, after Benin and Nigeria finally joined the accord although negotiations on key elements, such as tariff concessions and Rules of Origin, are still ongoing.

Not surprisingly, there are divergent views on the AfCFTA. Many hope the AfCFTA will be a serious undertaking, unlocking great economic and employment potential for the African continent. Other voices warn against the upcoming complex implementation of the agreement, while also pointing out the missing ratifications from many North African states, or the lengthy signature process of Nigeria, Africa's largest economy.

Incentives to ratify the AfCFTA

More interesting, however, is the question as to why the AfCFTA got its way so quickly in a first step of negotiations and ratifications; at a time when the international trade system is seriously challenged and most pan-African treaties and resolutions are predominantly not ratified, let alone implemented by African states¹; in an institutional and regional context in which the legitimacy of the AU was called into question anew from 2016 onwards; in which the AU reform is stalling and the financing system of the AU “*Financing the Union*”² is still not fully implemented. It is also noteworthy that the negotiations on the AfCFTA have been quite straightforward, while other mega-regional trade agreements such as the Transatlantic Trade and Investment Partnership (TTIP) and the Trans-Pacific Partnership (TPP), whilst launched with great publicity, had come to a standstill in recent years.

Seeking to maintain or intensify their regional influence, supporting “swing” states such as Kenya, Rwanda or Ghana seem to have been

key drivers of the AfCFTA especially during the kick-off year of negotiations mid-2015. Countries such as Egypt, Kenya, Uganda, Ghana and South Africa joined for economic reasons, after completing varying internal consultation processes before ratification. Surprisingly, among the first ratifying states were not only regional or economic heavyweights but also smaller countries such as Chad, Rwanda, Niger or Guinea, concurrently regarded as drivers of the AU reform. A coalition of political figures, such as Idriss Déby, Alpha Condé, Issoufou Mahamadou, Paul Kagame, former Nigerian president Olusegun Obasanjo or Moussa Faki, current incumbent of the AU Commission Chair, highly influenced the political motion and traction of the agreement by advocating strongly for the AfCFTA. Future benefits of the AfCFTA were actively touted and brokered despite negotiations still being underway. Countries such as Southern Sudan and the Democratic Arab Republic of Sahara are seeking recognition of their states by joining regional state alliances.



¹ Paul Kagame's Report The Imperative to strengthen our Union mentions over 1500 resolutions by the AU without any clear picture on the status of ratification and/or implementation
² The new financing mechanism of the AU launched in 2017 entails the provision of 0,2% levy on eligible international imports of AU Member States to finance the AU

The AfCFTA certainly personifies part of a dream that has been cherished for decades: a united and strengthened African continent, preferably within the framework of a common market. The AU frequently drew on this pan-African narrative during negotiations to remind its currently 54³ Member States of the founding purpose of the Organisation of African Unity (OAU) and the milestones of the Abuja Treaty of 1991. From early 2018 and during meetings of African Heads of States, the AfCFTA was increasingly presented and lobbied for as an opportunity to act as a unified African bloc, also in view of existing or pending trade agreements with third parties.

On a technical level, negotiating rounds intensified as they progressed from 2017 onwards. African Head of States set increasingly tight deadlines to keep the negotiating momentum. The AU tapped into resources from its own Member States as well as International Partners, and skillfully involved individual Chief Negotiators, holding them accountable for milestones such as the agreement reached on the modalities for trade in services in 2017. Contentious issues where no breakthrough could be achieved at technical level were increasingly escalated by the AU onto the trade minister level.

Remaining negotiations and implementation

The AfCFTA will likely enter its implementation phase in 2020. Despite the political and diplomatic success it embodies, it remains to be seen if swing states amongst the State Parties to the AfCFTA prioritize implementation to the same extent as they did during the phase of signing and ratification. Member States may have shown endorsement of the AfCFTA even though implementation was never an immediate objective. Actual steps of implementation will show whether joining the AfCFTA was partly about “empty signaling” for very different and rather political interests of national political elites.

The operational phase was officially declared to start 1 July 2020. Implementation of the AfCFTA is only possible once schedules of tariff concessions of individual Member States



or Customs Unions have been submitted to the AU and negotiations on Rules of Origin are fully completed. Rules of Origin are mostly finished but there are contentious issues that need to be further looked at. By end of June 2019 only Egypt, Mauritius and Seychelles had submitted their tariff offers. The deadline of submission of schedules of tariff concessions

³ The AU has suspended Sudan on 06/06/2019. Sudan had signed the AfCFTA 03/31/2018

was therefore shifted to January 2020. This allows negotiators to further discuss sound tariff offers and avoiding a potential subsequent revision of offers. The provisions on Trade in Services is far from being completed and further progress has yet to be made on Phase II topics such as Investment, Competition and Intellectual Property Rights.

There are indications that many State Parties of the AfCFTA might not yet be ready to fully implement the AfCFTA in 2020. In view of the imminent implementation phase, State Parties to the AfCFTA have to build capacity according to their individual needs. Same goes for the AfCFTA Secretariat to be set up

in Ghana which is supposed to take over soon from the outgoing AfCFTA Unit based in Addis Ababa. Supporting instruments of the AfCFTA, such as the African Trade Observatory, the Trade in Goods Portal, the Pan-African Payments and Settlement System, the AfCFTA App and others, need not only to be set up but also to become fully functional. The substantial pressure on the technical level after the successful launch should also be eased by providing reasonable time limits for negotiations and ensuring proper stakeholder consultations, especially with the private sector. This is to inform remaining negotiations and to ensure outcomes meet the actual needs of those that stand to benefit from the agreement.

Outlook

A long way lies still ahead before the AfCFTA will be fully implemented. Further negotiation outcomes will show if the AfCFTA is an economically meaningful agreement for the private sector and whether it will significantly enhance intra-African trade. Analogous to the signing and ratification process, driver and swing states with a genuine economic interest in the implementation of the AfCFTA are needed to take the agreement through the initial crucial phase of implementation. Egypt, the new Chair of the AU following Rwanda, has already taken on a propelling role for the AfCFTA by launching the *Rules of Origin Portal* and the *Digital Payments and Clearing System*.



An essential question for the future is whether the AfCFTA can be upgraded from a mere free trade agreement into a Customs Union. In his State of the Union speech held in 2018, EU Commission President Juncker said the way was cleared for a “continent-to-continent” agreement between the EU and Africa as a bloc. This would only be possible once the AfCFTA would reach the stage of a Customs Union with a common external tariff. Such a scenario could at best come true within the next 15 - 20 years. However, the fact that the

EU taps into the AU narrative on the AfCFTA as a bloc is promising and could potentially develop into a common narrative and thread to get away from the often-divisive debate around the Economic Partnership Agreements (EPA). In the best case then, the EPA would have served as stepping stones of the AfCFTA. Either way, one should refrain from setting the AfCFTA up against the EPA. The AfCFTA stands for itself with its potential to quadruple intra-African trade and to fundamentally shape long-envisioned regional integration efforts.

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