

# **AFCFTA: THE NEW TRADE ARENA AND AFRICA'S ECONOMIC GROWTH**

It may be said that the eagle has finally landed with the January 1, 2021 effective commencement date of trade under the African Continental Free Trade Area Agreement (AfCFTA). AfCFTA as a flagship project of the African Union's Agenda 2063 and a blueprint for attaining inclusive and sustainable development across the continent, aims to boost intra-African trade by providing a comprehensive and mutually beneficial trade agreement among the member states, covering trade in goods and services, investment, intellectual property rights and competition policy.

Founded in 2018, it was created by the African Continental Free Trade Agreement among 54 of the 55 African Union nations and it is the largest free trade area ("FTA") in the world in terms of the number of participating countries since the formation of the World Trade Organization ("WTO"). This signed Agreement establishing the AfCFTA no doubt, launched the Single Liberalized Market for Trade in Goods and Services ("SLM-TGS"). It is also a negotiated rules-based system, which seeks to establish the rule of law in trade, deepen, and expand intra-Africa trade from its very low base of 14% since 2018.

Broadly divided into two phases, AfCFTA Phase 1 and 2.

**Phase 1**

Trade in goods

- Tariff liberalization
- Non-tariff barriers
- Rules of Origin
- Trade facilitation (customs cooperation & harmonization of documents)
- Transit and transit facilities
- Trade remedies
- Technical barriers to trade
- Standards
- Dispute settlement
- Institutional arrangement

Trade in Services

- Transportation (Air & Maritime)
- Insurance (Tourism & Financial Services)
- Banking

**Phase 2**

This phase is projected to major on the areas of Intellectual property rights, investment competition policy & movement of business persons, particularly across individual State borders. Some of the general objectives of the agreement are to:

- Create and encourage a single market, deepening the economic integration of the continent.
- Liberalize the single market through multiple rounds of negotiations.
- Facilitate the movement of people and capital, thereby facilitating investment within the continent.
- Fast tracking the achievement of sustainable and inclusive socioeconomic development, gender equality and structural transformations within member States.
- Create and enhance competitiveness of member states within the continent and in the global market.
- Facilitate and encourage industrial development through diversification and regional value chain development, agricultural development and food security.

According to the United Nations Economic Commission for Africa (“ECA”) it is estimated that the agreement will boost intra-African trade by 52 percent by 2022. Nigeria became the 34th State Party to the AfCFTA with its ratification instrument of 5th December 2020. The benefits of AfCFTA to Africa in general and Nigeria in particular are considerable and some are listed below. Africa as a continent is projected to benefit from the implementation of AfCFTA in the following ways:

- AfCFTA presents a market of 1.2 billion Africans with a combined GDP of US\$2.5 trillion.
- It will provide a platform that would enable all African Union member States to share in the welfare gains, estimated at about 2.64% of continental GDP, which was estimated at \$65 billion in 2018.
- Projected to expand the size of Africa's economy to US\$29 trillion by 2050, as estimated by the ECA.
- Projected to increase intra-African trade by up to 52.3%.
- Projected to increase real wages for unskilled workers in the agricultural and non-agricultural sectors, as well as for skilled workers, with a small shift in employment expected from agricultural to non-agricultural sectors.
- Projected to increase export diversification, create durable sustained growth, and enlarged regional market that would attract large volume FDI, with bigger economic space for industrialization and structural transformations across the continent.



For Nigeria, it is projected that AfCFTA;

- Would eliminate barriers against Nigeria's home grown and produced products;
- improve competitiveness, and further improve on the ease of doing business in Nigeria;
- facilitate and expand market access for Nigeria's exporters of goods and services, spur growth and boost job creation;
- provide a Dispute Settlement Mechanism for stopping the hostile and discriminatory treatment directed against Nigerian natural and corporate business persons in other African countries;
- provide a platform for Nigeria's continued leadership role in Africa.
- consolidate and expand Nigeria's position as the number 1 economy in Africa.
- stimulate, particularly, an estimated 8.18 percent increase in Nigeria's total exports, with a small structural shift in Nigeria's economy towards manufacturing and services. This is expected to lead to a total increase in Nigerian economic welfare by 0.62% - equivalent to around US\$2.9 billion in 2018 terms. Changes would result from tariff reduction, ease of doing business and, trade facilitation.
- provide an expanded platform for Nigerian manufacturers and service providers for connection to regional and continental value chains.
- establish rules-based trade governance in intra-African trade to invoke trade remedies, safeguard the Nigerian economy from dumping and unfair trade practices.



Jamie Alexander Macleod, a fellow in the African Trade Policy Centre of ECA, analyzed that by removing tariffs, the AfCFTA can increase intra-

African Trade by 52%. Also, by additionally reducing non-tariff barriers, the AfCFTA could double trade. In Macleod's firm view, Intra-African exports are more diversified and more useful to Africa's development than Africa's trade outside the continent. Buttressing further, the importance of AfCFTA, Andrew Mold, the Acting Director for the ECA in Eastern Africa, has stated that the AfCFTA is a "major milestone towards making the Pan-African aspiration a reality." He opined further that despite the expected losses from tariff revenues for the Continent, which is estimated at about 4 billion USD, the benefits are higher, especially from lower prices for consumer goods. However, a major concern has been raised by Macleod which is the challenge of implementation. He is of the opinion that AfCFTA implementation roadmap, including preparing schedules of commitments in goods and services should be completed as quickly as possible.

Clearly, AfCFTA has been the greatest initiative of African leaders to boost the continent's economy through the promotion of intra-African trade. However, it faces its challenges ranging from Rule of Origin ("RoO") to attitude of member States of the African Union toward continental integration. RoO is a clearance enabling goods to circulate duty-free within a free trade area as long as the goods are ascertained to originate from the trade area. The Rules sets criteria that must be met for a product to be considered as originating from the exporting country within the bloc, and thus qualifies for preferential treatment like no import duties and zero import tariffs.

For instance, in 2019, Nigeria, a month after signing the agreement, closed its borders to other West African states, citing smuggling of weapons among others. This created palpable fear on the likely success of AfCFTA as one of the instruments for the development of the new bloc lies on the Regional Economic Communities (RECs) such as ECOWAS, SADC, EAC etc., and about eight of them have been recognized by AfCFTA.



While the above was ongoing, Ghana, another member of the ECOWAS community, asked Nigerian traders operating in Ghana to close their shops or pay a whopping \$1 million for trading license fee. This again runs contrary to the objectives of AfCFTA. These are two out of many and consequently scores the need for more efforts from member States at true and objective implementation of the essence of AfCFTA Agreement.

It has been stated that one of the core objectives of AfCFTA is to promote non-tariff barriers, reduce, if not completely remove tariffs, as well as the deregulation of trade and services across African borders. It is projected that such tariff liberalization and deregulation of services would produce the market size and economies of scale that would attract investments needed to catalyze growth and generally develop Africa's economies.

Worthy of mention here also is the requirement for continental trade dispute forum. The effectiveness of the dispute settlement mechanism will play a major role in sustaining regional integration process and thereby creating conducive business environment for

investors and all other stakeholders. Dispute settlement mechanism would need to be based on the principles of cooperation and consultation among between member States. It will require the obliteration of practices that do not conform to the provisions and objectives of the AfCFTA; provide for arbitration in the event of failure at cooperation and consultation.

Pertinent to also state here, that a major security concern among member states, relates to the free movement of business persons. More measures that align with international best standards to augment the current measures should be encouraged among member States.

In concluding, to achieve significant development among African countries, there will be a need to trade more with one another and also globally. AfCFTA will consequently enable the African Continent to gain global access. The success of the AfCFTA rest squarely with the individual States displaying very strong commitment to implement the provisions.

Unfair trade practices among member States should be discouraged and an institutional punishment regime and mechanism created in order to protect businesses. In the words of Vera Songwe, ECA Executive Secretary:

“Africa and AfCFTA are today self-reinforcing. The AfCFTA, if done well, will be the platform that turbo-charges investment, innovation and ultimately growth and prosperity for Africa. The private and public sectors must work together to deliver on its promise”.

As the AfCFTA has commenced, its success and the economic growth of the continent depends largely on how the Africa leaders in their wisdom decide to drive it.

For further information on the foregoing (none of which should be construed to be an actual legal advice), please contact:

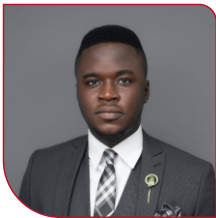
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