

Policy Brief

Private sector as the backbone of the AfCFTA implementation

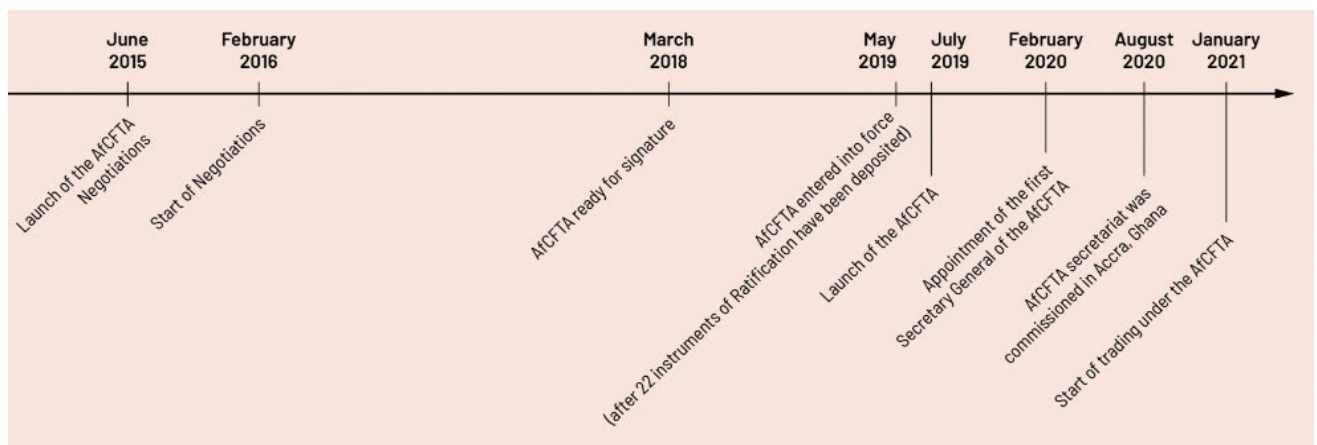
1. Introduction

The AfCFTA, through trade liberalization in goods and services, is expected to provide opportunities for growth through diversification led by expanded market opportunities. A recent study by the United Nations Economic Commission for Africa (ECA) suggests that effective implementation of the AfCFTA will positively impact Africa’s GDP, trade, output, and welfare with notably intra-African trade foreseen to increase by nearly 40 per cent in 2045 when compared to a situation without the AfCFTA in place.¹ Most of the intra-AfCFTA gains are expected to be realized in all main sectors and strong potential to promote industrialization, which offers great opportunities for the private sector, including Small and mid-size enterprises (SMEs) in Africa. Moreover, ECA estimates forecast that the establishment of the AfCFTA could increase intra-African freight demand by around 28 per cent compared with the no-AfCFTA scenario. Africa would require close to 2 million additional trucks, over 100,000 rail wagons, 250 aircraft, and more than 100 vessels by 2030. ² Alone for trucks, this demand would translate into US 345 billion investment needs. A tremendous prospect for the African private sector to invest, create jobs and revenue on the continent.

2. AfCFTA processes: State of play

The Agreement entered into force on 30 May 2019 and the start of trading commenced on 01 January 2021. As of 1st of June 2022, 54 out of 55 African Union (AU) Member States have signed the Agreement, only Eritrea is yet to sign, and 43 member States (see Figure2) have deposited instruments of ratification. Legally, the rights, provisions, and obligations of the AfCFTA apply to the countries that have deposited their instruments of ratification. However, not all countries have yet submitted tariff schedules of concessions and have the required AfCFTA related customs procedures in place to trade under the Agreement³. Besides, negotiations on trade in Goods and trade in Services (Phase1) and issues on Intellectual property rights, Investment, Competition policy, Digital trade, Women and Youth in Trade (phase 2) are still ongoing and there are yet outstanding issues that need to be resolved.

Figure 1. Key milestones in the negotiations of the AfCFTA Agreement



Source: Existential Priorities for The African Continental Free Trade Area, Chapter 5, From Ratification to Implementation of The African Continental Free Trade Area: What We Have Learned in The State Parties, UNECA(Forthcoming)

¹ UNECA, 2021 New assessment of the AfCFTA’s economic impacts on Africa, policy brief, July 2021

² ECA (United Nations Economic Commission for Africa), Forthcoming. “Implications of the African Continental Free Trade Area for Demand of Transport Infrastructure and Services.” Addis Ababa: ECA 2https://archive.uneca.org/sites/default/files/uploaded-documents/abf/abf2022/eng-summary_of_ecas_report_on_implications_of_afcfta_on_transport_services_.pdf

³ David Luke, Judith Ameso, Mahlet Girma Bekele, 2021, On implementing the AfCFTA in 2021, Trade for Development news, https://trade4devnews.enhancedif.org/en/op-ed/implementing-afcfta-2021

Figure 2: AfCFTA Status of ratification (as of June 2022)

AfCFTA Status of Ratification



Source: African Union (2022)

Significant progress has been made in negotiating Phase I issues with outstanding work on key annexes to the protocols on trade in goods and trade in services expected to be completed by June 2022. And negotiation of Phase II protocols is expected to be completed by September 2022 (Table 1). Besides, concerted efforts are being made to accelerate the domestication into national laws of the negotiated outcomes, such as tariff reduction commitments, rules of origin and various customs related regulations and procedures. Furthermore, trade facilitation initiatives are being strengthened across transport/trade corridors, including promoting digital transformation of trade corridors and harmonization of transit and border crossing processes and procedures. The AfCFTA is also complemented by a few other initiatives, including the Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment, and the Single African Air Transport Market (SAATM); These are very important to promote the movement of business and labour across the continent.

Table 1. Progress of the AfCFTA Agreement negotiations (As of June 1, 2022)

Agreement Establishing the AfCFTA	Main Text Agreed
Phase 1	
<ul style="list-style-type: none"> • Protocol on Trade in Goods 	
<ul style="list-style-type: none"> - Rules of Origin 	Rules of origin have been agreed upon for 87.7% of the tariff lines, while negotiations are being intensified for the remaining 12.3 percent tariff lines, for which it has been agreed that trade can, in the interim, take place under REC rules of origin regimes.
<ul style="list-style-type: none"> - Schedules of Tariff Concessions 	Verification and finalization of the tariff phased down offers submitted by 44 of the 55 AU Member States is in progress. The offers for 29 countries have so far been certified as being ready for implementation.
<ul style="list-style-type: none"> - AfCFTA Tariff handbook 	An AfCFTA Tariff handbook that the AfCFTA Secretariat is compiling will be available by the end of June 2022.

<ul style="list-style-type: none"> • Protocol on Trade in Services 	<ul style="list-style-type: none"> - 47 countries have submitted their offers of specific commitments. Verification has been completed for 28 of these offers, of which 26 are from State Parties. Once finalized, these would be ready for implementation. - Negotiation of a Framework for regulatory cooperation is at an advanced stage. - Negotiation of a framework for mutual recognition of professional qualifications is ongoing. - Capacity building of negotiators and policy makers is being provided on an ongoing basis.
<ul style="list-style-type: none"> • Protocol on Rules and Procedures on the Settlement of Disputes 	<p>The AfCFTA Dispute Settlement Mechanism is in place and its Dispute Settlement Body established. The DSB is in the process of establishing a Roster of Panellists and is already receiving nominations to the Indicative List of Panellists. The DSB has also agreed Modalities for the Selection of the Members of the Appellate Body.</p>
Phase 2	
<ul style="list-style-type: none"> • Protocol on Investment • Protocol on Competition Policy • Protocol on IPRs 	<ul style="list-style-type: none"> - Negotiating modalities, principles and guidelines have been approved. - Draft protocols are being negotiated. - Capacity building of negotiators and policy makers is being provided on an on-going basis
<ul style="list-style-type: none"> • Digital Trade/e-Commerce/Digital Trade and Women and Youth in Trade Protocols 	<p>Consultation are still being undertaken; negotiations are yet to commence.</p>

3. Challenges and opportunities for the private sector

The active engagement of the private sector alongside the government to support the AfCFTA's successful implementation is central to ensuring sustainable development under this Agreement. However, lessons learnt so far suggest a considerable gap when it comes to the private sector awareness of the AfCFTA and what it means to them. Yet, they are the backbone of production and trade under the Agreement. Capacity building and awareness-raising are therefore essential for the private sector to understand the implications of the Agreement on their businesses including the phase II issues for instance the role of the investment Protocol in supporting the development of an effective and competitive private sector by establishing and equal playing field for investment⁴. In this vein, the AfCFTA national implementation strategies of several countries⁵ entail the importance of inclusive implementation of the AfCFTA through improved private sector engagement, including SMEs as well as women and youth.⁶

Cognizant of this, ECA developed the AfCFTA Country Business Index (ACBI) in 2018 as one of the primary and innovative tools to capture private sector opinion on the implementation of the Agreement. The preliminary results of the ACBI rollout in 7 countries⁷ provided some valuable insights into the main trade challenges facing the African private sector when trading and investing using existing Free Trade Agreements (FTAs). The ACBI survey enabled the identification of specific aspects of the trading regime that impede the private sector, particularly female-owned firms, and SMEs, when investing and trading goods across African borders. The results highlighted that women-owned businesses seem more negatively impacted by tariff and non-tariff barriers than male-owned businesses. The results also show that SMEs are more challenged by tariff barriers and unauthorized charges than large companies. Besides, the results stressed the urgency to raise awareness of the

⁴ Towards a Common Investment Area in the African Continental Free Trade Area, Levelling the Playing Field for Intra-African Investment, UNECA, 2021 <https://repository.uneca.org/handle/10855/46741>

⁵ Burkina Faso, Cameroon, Côte d'Ivoire, Democratic Republic of the Congo, Guinea, Malawi, Mauritania, Niger, Senegal, Sierra Leone, The Gambia, Kenya, Togo, Zambia and Zimbabwe

⁶ Existential Priorities for The African Continental Free Trade Area, Chapter 5, From Ratification To Implementation Of The African Continental Free Trade Area: What We Have Learned In The State Parties, UNECA (Forthcoming)

⁷ Angola, Côte d'Ivoire, Gabon, Kenya, Namibia, Nigeria, Namibia, and South Africa

AfCFTA opportunities and facilitated trade through simplified administrative procedures for the ease of doing business within the continent⁸. For instance, the development of simplified regimes on the rules of origin (RoO) can improve the utilization of existing FTAs and encourage deeper value chain integration across borders.

Moreover, digital trade is likely to be a significant driver of increased intra-African trade under the AfCFTA. And the role of the private sector in harnessing the full potential of digitization is critical. In this regard, the African Union digital transformation strategy for Africa⁹ stresses the need to empower digital enterprises to innovate by facilitating access to finance and funding mechanisms. Furthermore, to facilitate access for the private sector, particularly for small and medium-sized enterprises (SMEs) entering into new markets and enhance intra-African trade in the context of the AfCFTA, the ECA and the African Export-Import Bank (Afreximbank), in collaboration with the African Union and the AfCFTA Secretariat, have developed a digital business-to-business (B2B) and business-to-government (B2G) exchange platform known as African Trade Exchange Platform (ATEX). ATEX is connected within the digital ecosystem supporting the implementation of the AfCFTA, including PAPSS.

4. Recommendation for the private sector moving forward.

- Creating awareness and building capacity for the private sector on the AfCFTA opportunities and its mechanisms of operation at the national and continental levels. For instance, preparing AfCFTA toolkits in different languages at regional and national levels will be an effective way to reach out to a large number of private sectors, especially SMEs.
- Engaging the private in the national/regional AfCFTA Implementation processes to be able to take full advantage of the Agreement, including a good representation in the AfCFTA institutional step-ups such as the AfCFTA national/regional committees.
- The private sector must better organise itself to engage with policy and technical negotiators, particularly at the national level.
- Simplifying administrative procedures (e.g. through the installation of One-Stop Border Posts and digital single windows) for the ease of doing business from and across Africa by developing simplified regimes around the rules of origin.
- Adopting complementary measures to support women traders and women-owned SMEs to ensure a more inclusive trade under the AfCFTA.
- Investing in sectors of interest of the private sector and that are strategic for Africa with potential for regional value chains.

⁸ Primer for the AfCFTA country business index (ACBI) : summary results for Angola, Cote D'Ivoire, Gabon, Kenya, Namibia, Nigeria, and South Africa, UNECA 2022 , <https://repository.uneca.org/bitstream/handle/10855/47540/b12000322.pdf?sequence=1&isAllowed=y>

⁹ African Union digital transformation strategy for Africa (2020-2030), <https://au.int/sites/default/files/documents/38507-doc-dts-english.pdf>