

# The African Continental Free Trade Area: The dawn of a new era

After years of planning, campaigning and negotiating, the time has come for execution. Trading under the agreement establishing the African Continental Free Trade Area (“AfCFTA” or “the Agreement”) has officially commenced. In what started years ago as a bold, and as many argued at that time (and still do) an unrealistic aspiration, the AfCFTA has morphed into a striking reality. Africa has created a working fifty-four member state<sup>1</sup> free trade agreement, the largest since the creation of the one hundred and sixty-four member state World Trade Organisation. Now that the thrill of planning a historic free trade agreement is over and the real work of implementation has commenced, what follows next?

It has often become necessary to review the basics of the AfCFTA, before embarking on a discussion on next steps. To start with, intra-Africa trade has been challenging to execute. Secondly and most importantly, there seems to be some mistrust of policies introduced by African governments, leaving many to write off an initiative of this magnitude. “It simply won’t work, so why bother”!

## The basics of the AfCFTA

The AfCFTA intends to remove tariff and non-tariff barriers that ordinarily apply on certain ‘African goods’ when they move across the continent. The idea – just like it is for the several regional free trade agreements – is to make ‘African goods’ cheaper and more competitive across the continent. The specific ‘African goods’ that will benefit from these trade incentives, as well as the criteria for determining when goods are indeed ‘African goods’ will be negotiated and documented by member states. The outcome of these negotiations is what has been referred to as the Schedule of Tariff Concessions (i.e. specific goods each member state agrees to eliminate tariffs upon entry into their territories) and the Rules of Origin (RoO) (i.e. the criteria for determining when the goods each member agrees to accord preferences can be regarded as ‘African goods’).

Similarly, as with many modern free trade



agreements around the world, services have become a key component of negotiations. This is because of the growing size, growing faster than worldwide merchandise trade in recent times. The trend is no different in Africa, with Nigeria as an example, where the service industry constitutes about 53% of its Gross Domestic Product<sup>2</sup>. Against this backdrop, services have also been incorporated in the Agreement, with the AfCFTA planning to drive the easing of regulations that currently inhibit free African participation in the African service market. Some member states, for instance, prohibit foreign participation in specific service industries.

The AfCFTA will attempt to remove these regulatory barriers for African service providers. This should increase competition, spur innovation and drive down service costs on the continent. The specific regulations to be relaxed in each African service market will be negotiated and documented by member states. The outcome of these negotiations is what has been referred to as the Schedule of Specific Commitments (i.e. the specific protectionist regulations that will be relaxed for African service enterprises when they offer for sale, services on the continent). Lastly, as with many emerging free trade agreements, the AfCFTA makes provision for stronger investment and intellectual property protection, as well as fairer treatment of African investments in member states by making sure that investments from one participating member

state is treated as favourably as investments from another participating member state in the territory of that other participating member state. The idea is to ensure the AfCFTA truly establishes a market that is fair and equitable for every African enterprise.

Eventually, an increase in demand for cheaper goods and services, as well as fairer and equitable treatment of foreign assets and investment (all of African origin), will lead to greater investment mobility, increased production and greater job creation on the continent. This is the prize!

## Now that trading has commenced

Trade deals negotiated by governments will be meaningless unless leveraged by businesses. The onus is therefore on businesses to understand the specific risk and opportunities triggered by the Agreement. Scenario planning on matters such as business structuring, raw material sourcing, location strategies and competition analysis becomes critical. There must be a clear realization that the AfCFTA does not only bring opportunities as widely flaunted, but also risks as there will be a realignment of production bases and current consumer preferences.

Once there is clear visibility of the risk and opportunities, and a decision is made to leverage the Agreement, businesses would need to understand the mechanics for compliant and optimal utilization. In particular, who can benefit from the AfCFTA? How can the benefits be derived? What systems,

processes and infrastructure needs to be set-up?

For immediate planning, and as trading under the AfCFTA officially commences, it is important that businesses around the continent understand the following:

- Trading under the AfCFTA can only be completed for transactions between State Parties (SPs) (i.e. member states that have signed the AfCFTA and deposited their instruments of ratification). Thus, businesses would need to ascertain which member states are now SPs
- Whilst tariff concessions have been submitted by some SPs, meaning there is clarity on what goods will be granted preferential market access by these SPs, - trade in goods cannot be completed until outstanding negotiations on the RoO are complete. There is some expectation that these rules will be completed in the next six months. However, trade may be executed by SPs as soon as the RoO for goods granted preferences have been finalised
- Whilst specific commitments have been submitted by some SPs, meaning there is clarity on what regulations will be relaxed by these SPs, service trade cannot be completed at the moment without these SPs amending their regulations to align with their commitments. It is not clear how quickly these SPs will complete the required amendments
- Businesses that would

not trade under the AfCFTA until there is clarity on the continental frameworks on fair competition, investment and intellectual property protection, should shelve trading plans until at least 2022. This is the expected timeline for completing these frameworks

## Conclusion

As trading commences under the AfCFTA, it is evident that changing trade patterns will have a broad impact on businesses across the world. While much of the impact will depend on the final crafting of critical aspects of the Agreement, most businesses will in the future need to evaluate if, what, where and how they trade. Determining what the impact will be, and consequently what changes each business would need to make, will be crucial to survive and prosper in the future trading environment. Taking early steps is key as a ‘wait and see’ strategy is no longer a viable approach for businesses that want to compete in the new market.

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<sup>1</sup>The Agreement is open to the fifty five African States and Government of the African Union. At the moment, only fifty four States and Government have signed the Agreement, with the exception being Eritrea.

<sup>2</sup>According to Nigerian Investment Promotion Commission: <https://nipc.gov.ng/opportunities/services/>

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