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HARMONIZATION TARIFF LIBERALIZATION UNDER AfCFTA AND WTO RULES: IMPLICATION FOR WEST AFRICAN ECONOMIES

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Abstract

The African Continental Free Trade Area (AfCFTA) has the potential to transform the African economy through integration, tariff liberalisation, and the removal of non-trade barriers. However, in pursuing its future of economic prosperity and regional cohesion, Africa must contend with existing commitments to the WTO and regional blocs. This is because the text of the African Continental Free Trade Agreement is designed in such a way as not to affect the third-party obligations of AfCFTA member states. In reality, however, these overlapping obligations will pose a challenge to the implementation of the Agreement. In West African economies, this presents a significant problem as all fifteen West African states are members of the WTO, with twelve of them also being members of ECOWAS. This paper aims to examine the dynamics between the double commitments of West African states to the WTO and ECOWAS to determine how these can be managed. The findings suggest that the AfCFTA adopts a more favourable approach than the WTO regime due to its flexibility and phased reduction of tariffs for 90% of goods traded within Africa. Additionally, the AfCFTA permits the protection of sensitive products. If the differences and divergences between the WTO and the AfCFTA are mismanaged, they could lead to conflict, administrative stagnation, and legal uncertainties. The paper recommends policy alignment and coordination at national, regional, and continental levels to ensure a smooth transition. It also suggests that West African economies review their tariff lists and commit to clearly defined strategies of liberalisation that align with WTO rules within the framework of the AfCFTA. Furthermore, technical assistance and capacity building are essential for the continent to meet its goals under the AfCFTA, with support coming from third-party nations and within Africa itself.

Keywords: African Continental Free Trade Agreement, World Trade Organisation Agreements, Global Value Chains, Regional Integration, Institutional Readiness

1. INTRODUCTION

The AfCFTA is one of the flagship initiatives of the African Union's Agenda 2063. The other initiatives of the AU include the Single African Air Transport Market (SAATAM)[1], the Boosting Intra African Trade (BIAT)[2] program which is a predecessor to the AfCFTA, the African Financial Institutions and the Great African Museum[3] amongst others.

The Agreement (AfCFTA) which was launched in 2018[4] and came into force in 2019[5], hopes to achieve a single continental market for goods and services that eases the movement of people and further deepens economic cohesion among African Union (AU) member states. The Agreement is geared towards increasing the volume of intra-African trade[6], reduce reliance on extractive industries[7], promote the development of the services sectors, build the manufacturing sector in Nigeria to refine and produce raw materials such as lithium, uranium, gold, diamonds and crude oil into finished products that will fetch more income in the global market[8]. The Agreement also promotes sustainable development and hopes to lift over 100 million Africans out of poverty[9]. The AfCFTA covers over 1.4 billion Africans and 3 trillion USD in GDP[10].

As part of the trade liberalization of the AfCFTA, it is required to progressively remove at least 90% of tariffs on all but 10 of the AfCFTA member states. This systematic method

tries to improve the barriers of trade, stimulate economic activities, and boost diversification in the economy. Nonetheless, the undertaking of such reforms is a gradual process, specifically to countries from West Africa where it's already shaped by several other pre-existing commitments/trade policies like the WTO or ECOWAS CET.

West African economies are having to juggle their WTO obligations which are sometimes at crosshairs with their commitments under the AfCFTA and ECOWAS. These commitments, although intended to foster some degree of predictability and liberalization in trade, could become a big challenge once countries start trading under the AfCFTA. Additionally, West African countries are at varying levels in their institutional capacity, dependence on tariffs and even industrialization. The foregoing factors will affect their ability to comply and fulfil their obligations under the AfCFTA.

In this paper, the intricacies of balancing dual, tripartite and multiple obligations of West African countries will be dissected. The focus of this analysis is in three parts- legal and policy alignment of AfCFTA and WTO tariff systems; institutional preparedness and vulnerability to coordination failure in West Africa; and the consequences of harmonization for trade, revenue, and regional integration.

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[1]AU, Flagship Projects of Agenda 2063, <https://au.int/en/agenda2063/flagship-projects>. Accessed 02/06/2025.

[2] See footnote 1.

[3] See footnote 1.

[4]TradeLawCenter(TRALAC),'StatusofAfCFTARatification(Infographics)',<https://www.tralac.org/resources/infographic/13795-status-of-afcfta-ratification.html#:~:text=The%20Agreement%20entered%20into%20force,Niger%20on%207%20July%202019> accessed 02/06/2025.

[5]See footnote 4.

[6]AfricanUnion(AU),CFTA-ContinentalFreeTradeArea,ObjectivesoftheCFTA,<https://au.int/en/ti/cfta/about>. Accessed 02/06/2025.

[7]See footnote 6.

[8]Hippolyte Fofack, The future of African trade in the AfCFTA era, 23rd February 2024.<https://www.brookings.edu/articles/the-future-of-african-trade-in-the-afcfta-era/#:~:text=As%20corporations%20take%20advantage%20of%20competitiveness%20and%20productivity%20gains%20associated,global%20volatility%20and%20negative%20shocks>. Accessed 02/06/2025.

[9] The East African, 'AfCFTA on track to lift 100 million Africans out of poverty by 2035'.<https://www.theeastafrican.co.ke/tea/kusi-ideas/afcfta-on-track-to-lift-100-million-africans-out-of-poverty-3664440>. Accessed 02/06/2025.

[10]Brand Spur 'AfCFTA Strongly supports bid of Made in Africa to buy Vlisco', [2021],<https://brandspurng.com/2021/07/27/afcfta-strongly-made-in-africa-vlisco/>. Accessed Accessed 02/06/2025.

By drawing on primary legal texts, trade data, examining the tariff liberalization scheme and evaluating the readiness of West African countries for the kind of overhaul the AfCFTA proposes, this paper will offer practical insights into how nations in the West African sub-region can implements their commitments under AfCFTA without compromising their WTO obligations. This will contribute to the broader discourse on multilateralism and regionalism in Africa, and the need for coherent, unambiguous and development-oriented trade policies in the burgeoning economy of the great African Continent.

2. OVERVIEW OF AFCFTA TARIFF LIBERALIZATION FRAMEWORK

The tariff liberalization framework under the AfCFTA, is comprehensive and split into three phases. The first phase involves 90% of all goods and services under the AfCFTA regime, the second phase covers 7% and the third phase covers 3%. This overview would cover a discourse on these phases, explore the sensitive and excluded products lists and examine the objectives of liberalization under the AfCFTA.

2.1 OBJECTIVES AND SCOPE OF TARIFF LIBERALIZATION UNDER AfCFTA

At its launch, the framework agreement establishing the African Continental Free Trade Area (AfCFTA) was signed by 44 countries at a summit of the African Union (AU) held in Kigali, Rwanda, March 21, 2018. AfCFTA was proposed in 2012[11], and it was hoped that an agreement would be reached by 2017.

The first phase comprised negotiation of three protocols: Trade in Goods[12], Trade in Services[13], and Rules and Procedures for Settlement of Disputes. The agreement requires members to progressively remove tariffs on at least 97 percent of tariff lines that account for 90 percent of intra-Africa imports[14].

Average tariffs are 6.1 percent, but with high variation across countries and sectors. Intra-Africa trade is highly concentrated, with 1 percent of tariff lines accounting for 74 percent of imports in the average African country. Thus, some of the most onerous and protectionist tariffs may be maintained even if countries liberalize most tariff lines. Trade in certain sensitive sectors is expected to be liberalized over a longer period, but other goods are likely to remain excluded from liberalization[15, 16].

2.1.1 Phased Liberalization Approach (90%, 7%, 3% Rule)

The AfCFTA will see the progressive liberalisation of 97% of intra-Africa tariffs, 7% of which are categorised as sensitive products and will be liberalised over a longer time frame than the 90% of tariff

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[11] African Union Assembly Decision Assembly/AU/Dec. 394 (XVIII) as part of the Action Plan on Boosting Intra-Africa Trade (BIAT).

[12]The overarching aims of the agreement for goods are (1) progressively eliminating tariffs; (2) progressively eliminating nontariff barriers; (3) enhancing the efficiency of customs, trade facilitation, and transit; (4) promoting cooperation on technical barriers to trade (TBTs) and sanitary and phytosanitary (SPS) measures; (5) developing and promoting regional and continental value chains; and (6) promoting socioeconomic development, diversification, and industrialization across Africa.

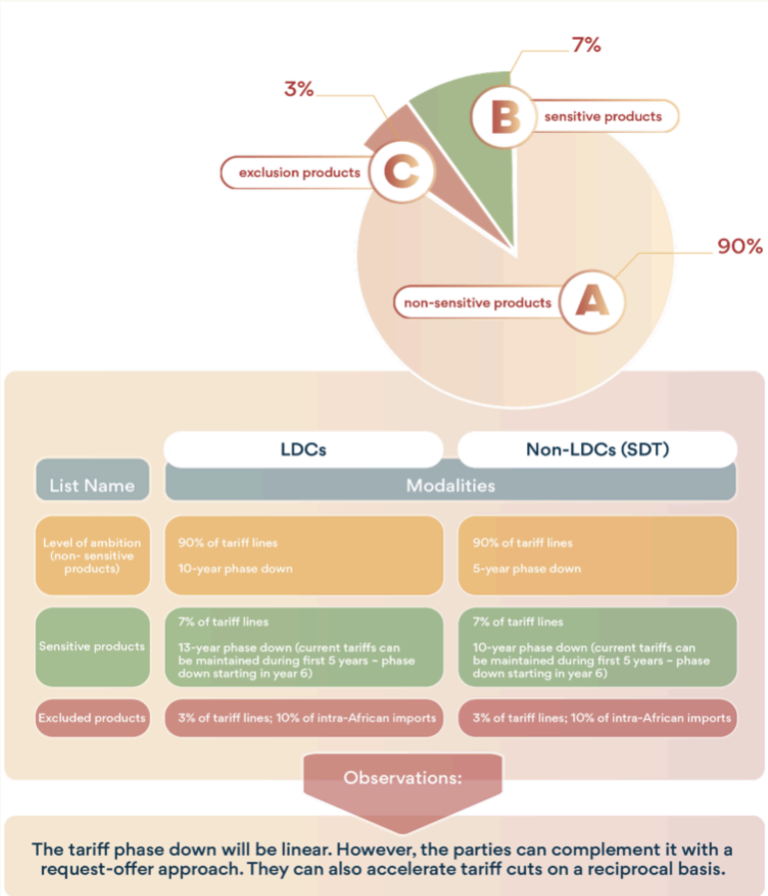
[13]The overarching aims of the agreement for services are (1) enhancing competitiveness of services; (2) promoting sustainable development; (3) fostering investment; (4) accelerating efforts in industrial development to promote the development of regional value chains; and (5) progressively liberalizing trade in services.

[14]A special dispensation for seven least developed countries has also been tabled, providing for a reduced level of ambition on tariff liberalization. At entry into force of AfCFTA, Djibouti, Ethiopia, Madagascar, Malawi, Sudan, Zambia, and Zimbabwe will be expected to meet a reduced level of ambition of 85 percent of tariffs, with a 15-year period to reach 90 percent.

[15]AfCFTA would benefit from the lessons produced by the World Bank's most recent analysis of trade policy and barriers in the Economic and Monetary Community of Central Africa (CEMAC). Fiess et al. (2018) finds that trade within CEMAC remains limited despite a significant regional integration effort.

[16]World Bank. The African Continental Free Trade Area: Economic and Distributional Effects. Washington, DC: World Bank. doi:10.1596/978-1-4648-1559-1. License: Creative Commons Attribution CC BY 3.0 IGO Infographic credit: https://www.macmap.org/en/learn/afcfta

lines. The remaining 3% of tariffs may be excluded from liberalisation for reasons relating to food security, national security, fiscal revenue, livelihood, and industrialisation.



Infographic credit: https://www.macmap.org/en/learn/afcfta

Within the above schedule, non-Least Developed Countries will have a five-year period to implement trade liberalisation and LDCs a decade. Six countries (Ethiopia, Madagascar, Malawi, Sudan, Zambia and Zimbabwe) secured a 15-year phase-down period claiming they face specific development issues.

In addition to the LDC distinction made within the AfCFTA, the Trade Law Centre notes that certain decisions have already been made on the percentage of goods that will be liberalised:

- Member states have already agreed that 90% of the different tariff lines will be liberalised.
- The remaining 10% are divided into two categories: 7% will be sensitive products; 3% will be excluded completely, but the excluded products may not account for more than 10% of their total trade

Thus, the ultimate agreed goal is 97% tariff-free trade over 15 years.

2.1.2 Sensitive And Excluded Product Lists

There are 408 products in the sensitive goods tariff lines. These products include:

- beef, pork, lamb, goat meat & fresh chicken meat
- sugar,
- garlic
- preserved sardines & anchovies
- malt extract, pasta, tapioca & prepared foods containing cereals
- cotton pants, suits, ensembles, jackets & dresses

- tea
- plastic packaging
- perfume
- trunks & suitcases
- butter, processed cheese, gouda & cheddar, skimmed & full-fat milk & cream cereals
- most goods & passenger vehicles

Under the excluded goods tariff lines, there are 175 goods.

i. Three (3) products have 5% tariffs- (unsweetened low-fat milk brown wheaten meal waste pharmaceuticals).
ii. Sixty- one (61) products have 10% tariffs- (crude palm oil, unmanufactured tobacco& tobacco refuse, mica-waste, slag& ash, chemical-waste, recovered scrap paper, waste of man-made fibres, and air gun pellets).
iii. Nine (9) products have 20% tariffs- (bovine carcasses other dried fish, denatured ethyl alcohol, Portland cement, other hydraulic cement, mastics, aluminium doors guns for military use, air pistols for military use)
iv. One Hundred and Two (102) products have 30% tariffs-(include: buttermilk& yoghurt, apples, corn flour, margarine, refined sugar, sugar confectionery, chocolate, fruit juices, sparkling wine, cigars& cigarettes, soaps& surface agents, arms& ammunitions, and plated, corrugated flat-rolled steel)[17].

2.2 MODALITIES FOR TARIFF REDUCTION AND TIMELINES

Tariff liberalization under the AfCFTA takes place in line with the AfCFTA Tariff Modalities. Each country or customs union (ECOWAS, CEMAC, SACU, EAC) designates a schedule of tariff concessions which includes: At least 90% of products are non-sensitive (category A) and the base rate, which is the most-favoured nation (MFN) tariff applied as of May 2019, is dismantled within 5 years (for LDCs 10 years); 7% of products are sensitive (category B) and the base rate is dismantled within 10 years with a flexibility of a transitional period of 5 years (for LDCs 13 years); no more than 3% of products are Exclusion List (category C) and no tariff reduction is applied. Excluded products in addition shall not exceed 10% of total import value from other State Parties[18]. This clause is known as "double qualification and anti-concentration" clause[19].

The 7th Meeting of the AfCFTA Council of Ministers responsible for Trade, on 10th October 2021, adopted the Ministerial Directive on the Application of Provisional Schedules of Tariffs Concessions. This Ministerial Directive provided a legal basis for the countries that had submitted their tariff schedules in accordance with the agreed modalities to trade preferentially amongst themselves.

[17]Tralac, African Continental Free Trade Area (AFCFTA), <https://www.tralac.org/documents/resources/infographics/4276-afcfta-comparative-tariff-offer-analysis-march-2021/file.html > accessed 21/05/2025.

[18]Market Access Map, African Continental Free Trade Area, <https://www.macmap.org/en/learn/afcfta#:~:text=Each%20country%20or%20customs%20union,10%20years)%3B%207%25%20of> accessed 02/06/2025.

[19]The "double qualification and anti-concentration" clause, aims to ensure that excluded products from liberalization are not disproportionately concentrated in specific sectors or tariff lines. It essentially limits the scope of exclusions to prevent them from undermining the overall goal of liberalization.

The Provisional Schedules of Tariffs Concessions can be accessed and searched at the product code level at the AfCFTA e-Tariff Book. Please note that between 30 and 40 countries have submitted their provisional tariff offers, and some have not yet designated their Sensitive and Exclusion lists[20].

2.2.1 LDC Vs Non-LDC Differentiation

Least Developing Countries have special considerations over non-LDCs. These considerations are essential to ensure equitable participation, prevent marginalization, and promote balanced integration across the continent[21].

a. Differentiated Tariff Liberalization Timelines

Under AfCFTA's tariff liberalization modalities, member states are classified into two broad categories: LDCs and non-LDCs. Each group is given different timelines and flexibility levels for implementing tariff reductions:

- **LDCs:**

  Required to liberalize 90% of tariff lines over 10 years.

  Sensitive products (up to 7% of tariff lines) may be liberalized over a 13-year period.

  Up to 3% of tariff lines can be excluded from liberalization altogether (subject to trade volume limits).

- **Non-LDCs:**

  Must liberalize 90% of tariff lines over 5 years. Sensitive products over 10 years.

  The same 3% exclusion rule applies.

  This differentiation acknowledges the limited productive capacities, weaker industrial bases, and heavier reliance on tariff revenues among LDCs, providing them with more time to adjust to competition and implement complementary reforms[22].

b. Support Measures and Capacity Building

Beyond timelines, the AfCFTA provides for technical assistance, capacity building, and institutional support for LDCs through:

- The AfCFTA Adjustment Facility, spearheaded by the African Export-Import Bank (Afreximbank), which is designed to help countries manage revenue shortfalls and competitiveness challenges during the transition.
- Collaboration with development partners and regional economic communities (RECs) to enhance customs infrastructure, trade facilitation, and industrial capacity in LDCs[23].

[20] Market Access Map, African Continental Free Trade Area,

<https://www.macmap.org/en/learn/afcfta#:~:text=Each%20country%20or%20customs%20union,10%20years)%3B%207%25%20of> accessed 02/06/2025.

[21] Mpeo Matsipa, Implementation of the AfCFTA in Least Developed Countries (LCDs): Bold or Premature? 12th November2022 ,<https://www.afronomicslaw.org/category/analysis/implementation-afcfta-least-developed-countries-lcds-bold-or-premature>. Accessed 02/06/2025.

[22] See footnote 21.

[23] Benedict Oramah, "Afreximbank in the Era of the AfCFTA:, (2021) " Journal of African Trade: Vol. 8: Iss. 2, Article 7. Accessed 02/06/2025.

c. **Implications for West Africa**
- In West Africa, LDCs such as Sierra Leone, Burkina Faso, Mali, Guinea, and Niger benefit from these provisions, while countries like Ghana, Nigeria, and Côte d'Ivoire are categorized as non-LDCs.
- The differentiation allows West African LDCs to maintain longer protection for strategic sectors and gives them breathing space to build domestic industries.
- However, harmonizing national implementation within ECOWAS, which has a Common External Tariff (CET), is a challenge, especially when LDC and non-LDC members operate on different liberalization schedules[24].

d. **Challenges and Considerations**
- Overlapping obligations (e.g., WTO, ECOWAS, AfCFTA) can cause legal and policy friction.
- There is a risk that the slower liberalization by LDCs could undermine the unity and predictability of the AfCFTA regime if not well managed.
- Institutional capacity in many LDCs remains weak, potentially hindering the full utilization of SDT provisions.

2.2.2 Implementation Challenges In The West African Region

In West Africa, as in other sub-regions of Africa, implementing the AfCFTA is faced with numerous challenges amongst which are-overlapping regional commitments, differential development, Weak infrastructure and trade facilitation bottlenecks, limited productive and industrial capacity, challenge of digitization, political arrangements and trade related innovation.

a. **Overlapping Regional Commitments:** Under the AfCFTA, the Regional Economic Communities (RECs) are the building blocs of the trade area[25] and there are special provisions for goods and services produced in these special economic zones. It is worthy of note however that these RECs such as ECOWAS (Economic Community of West African State), SADC (South African Development Community), IGAD (Intergovernmental Authority on Development) do not all operate with the same rules and mechanisms and there is a need to align the obligations, standards, commitments, processes and procedure under these RECs with the AfCFTA in order to ensure a single and harmonized market.

It is pertinent to note that the AfCFTA treaty legislates for this phenomenon. For example, RECs would be permitted to maintain their integration arrangements where such arrangements specify commitments higher than those of the AfCFTA. In any case, one of the general objectives of the AfCFTA is to "resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes."[26] There is a glaring absence of a specific protocol that delineates the relationship between the existing RECs and the AfCFTA. Additionally, some economic alliances/agreements such as the Indian Ocean Commission, Southern African Customs Union, and Mano River Unions are not specifically countenanced by the AfCFTA and their status with respect to the AfCFTA treaty remains uncertain[27].

[24] Olumide Ojo, Ph.D. Trade Liberalisation in West Africa: A Case Study of ECOWAS Trade Liberalisation Scheme (ETLS), LinkedIn, 21st April 2019, <https://www.linkedin.com/pulse/trade-liberalisation-west-africa-case-study-ecowas-scheme-olumide-ojo/>. Accessed 02/06/2025.
[25] Article 5 of the AfCFTA
[26] Article 3 of the AfCFTA
[27] Lisandro Abrego, Mario de Zamaroczy, Tunc Grosoy, Salifou Issoufou, Garth P. Nicholls, Hector Perez-Suiz, Jose-Nicolas Rosas(2020): The African Continental Free Trade Area: Potential Economic Impact and Challenges; IMF Discussion Notes, Pg19.

b. Differential Development

Article 5 of the AfCFTA Treaty anticipates that State Parties will proceed at their own pace in implementing the Agreement. Existing supply chain infrastructure and trade liberalization conditions are simply inadequate. Without continent – wide infrastructure to support coastal, inland and air trade, commerce can simply not flourish under the AfCFTA. Proper implementation of the AfCFTA in Africa and in the West- African sub-region will require a shift in the immediate priorities to focus on the possibilities of an African Single Market[28]. Despite the speedy ratification of the treaty and the commencement of trade On 1st January 2021, countries have been seemingly reluctant to begin trade of goods and services under the AfCTFA regime.

Differential development is a significant challenge when the AfCFTA is compared to the successes of the European Union. Most African countries do not have the level of economic independence nor the infrastructural support that is available in most EU member states. These infrastructure and market information gaps are exacerbated by bureaucratic incompetence, human capital deficit, and financial incapacity[29].

The poverty rate in most countries is another reason for then slow progress of the AfCFTA as other successful PTAs (Preferential Trading Agreements) and RTAs (Regional Trading Agreements) such as the ASEAN Trading Agreement (AFTA) and the North Atlantic Trading Agreement (NAFTA) are made up of a number of first world countries while the African Continental Free Trade Area is made up of majorly third world countries.

c. Weak Infrastructure and Trade Facilitation Bottlenecks

i. Poor road networks, limited rail connectivity, underdeveloped ports, and unreliable energy supply significantly impede trade across borders.
ii. Inefficient customs procedures, delays in cargo clearance, and lack of harmonized trade documentation increase the cost of doing business.
iii. Border posts such as those between Nigeria and Benin often face congestion and delays due to inadequate logistics and border management.

2.3 INSTITUTIONAL AND LEGAL STRUCTURES

The institutional and legal structures of the African Continental Free Trade Area (AfCFTA) form the backbone of its implementation and governance. Anchored by the AfCFTA Secretariat based in Accra, Ghana, the framework includes key organs such as the Council of Ministers, Committee of Senior Trade Officials, and various technical sub-committees. These bodies oversee the administration, dispute resolution, and progressive negotiations across trade in goods, services, and other protocols. The legal framework comprises the AfCFTA Agreement and its annexes, protocols, and schedules, providing the rules and standards that guide member states toward achieving a unified, rules-based continental trading system.

2.3.1 AfCFTA Secretariat

The African Continental Free Trade Area (AfCFTA) Secretariat plays a central role in the effective implementation, coordination, and administration of the AfCFTA Agreement. Established in 2020 and headquartered in Accra, Ghana, the Secretariat operates as an autonomous body within the African Union

[28] AfCFTA: Examining the challenges and opportunities – OLUWATOBI OJO; available at – <https://www.thecable.ng/afcfta-examining-the-challenges-and-opportunities> accessed 22/05/2025

[29] Rebecca Ebokpo et al, Implementation of the AfCFTA: Cogs in the Wheel, Stumbling Blocs and Windows of Opportunity, available at: <https://www.aelex.com/implementation-of-the-afcfta/> accessed 22/05/2025

(AU) system, tasked with facilitating the realization of one of the continent's most ambitious economic integration projects[30].

One of the primary functions of the AfCFTA Secretariat is administrative coordination. It provides technical and logistical support to the various institutional structures of the AfCFTA, including the Assembly of Heads of State and Government, the Council of Ministers Responsible for Trade, the Committee of Senior Trade Officials, and specialized committees. These bodies are responsible for making key policy decisions, negotiating outstanding protocols, and monitoring implementation. The Secretariat ensures that these processes are coherent, timely, and aligned with the broader objectives of the AfCFTA Agreement[31].

Another critical role is the monitoring and evaluation of implementation across member states. The Secretariat tracks progress in areas such as tariff reduction schedules, the adoption of rules of origin, and the elimination of non-tariff barriers (NTBs). It provides a centralized platform for sharing data, tracking trade flows, and assessing the impact of liberalization on different economies. For example, the development of the AfCFTA online NTB reporting mechanism is a concrete output of the Secretariat's coordination efforts[32].

The Secretariat also facilitates capacity building and technical assistance, particularly for least developed countries (LDCs) and smaller economies. It works with international partners, such as the United Nations Economic Commission for Africa (UNECA) and the African Development Bank (AfDB), to provide training, resources, and policy guidance to national trade ministries and private sector stakeholders[33]. In addition, the Secretariat plays a legal and dispute resolution role, helpingtooperationalizeprotocolsondisputesettlementand competition policy. By fostering a transparent and rules-based system, it aims to build confidence among member states and the business community in the reliability of the AfCFTA framework.

2.3.2 Role of ECOWAS and National Governments

ECOWAS and national governments play distinct, but complementary, roles in implementing the AfCFTA. ECOWAS primarily facilitates the negotiation and harmonization of trade policies among member states, providing a regional platform for negotiating tariff offers and coordinating positions. National governments, on the other hand, are responsible for enacting domestic legislation, adapting their trade policies to the AfCFTA framework, and ensuring that their businesses can take advantage of the new opportunities[34].

Some of ECOWAS' roles include:

a. Negotiation and Harmonization
b. Capacity Building
c. Regional Coordination
d. Private Sector engagements

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[30] African Union (AU). (2018). Agreement Establishing the African Continental Free Trade Area.

[31] African Union (AU). (2018). Agreement Establishing the African Continental Free Trade Area.

[32] Tralac. (2021). AfCFTA Non-Tariff Barrier (NTB) Mechanism. Available at: https://www.tralac.org/. Accessed 22/05/2025.

[33] United Nations Economic Commission for Africa (UNECA). (2020). AfCFTA: A Catalyst for Industrialization and Inclusive Growth.

[34] Amanda Bisong, ECOWAS and the Role of the RECs in AfCFTA Implementation, 26th March 2020. Available at: <https://ecdpm.org/work/the-african-continental-free-trade-area-from-agreement-to-impact-volume-9-issue-1-2020/ecowas-and-the-role-of-the-recs-in-afcfta-implementation#:~:text=ECOWAS%20has%20played%20a%20key,regional%20positions'%20on%20the%20A fCFTA>. Accessed 22/05/2025.

National Governments also have their roles to play including:

a. National Legislation: National governments are responsible for enacting domestic legislation that aligns with the AfCFTA framework and enables trade liberalization[35].
b. Policy Adaptation: Governments must adapt their trade policies, including tariffs, regulations, and trade facilitation measures, to the requirements of the AfCFTA[36].
c. Enabling Environment: National governments must create an enabling environment for trade by investing in infrastructure, improving border procedures, and promoting digital trade[37].

3. WTO TARIFF COMMITMENTS AND RULES

The World Trade Organization (WTO) provides the foundational legal and institutional framework governing global trade, including rules related to tariffs—one of the most significant instruments of trade policy. WTO tariff commitments are established through binding agreements negotiated by member countries, primarily under the General Agreement on Tariffs and Trade (GATT) 1994. These commitments form a schedule of bound tariff rates that members must not exceed, ensuring predictability and transparency in international trade.

Under WTO rules, tariff reductions are typically achieved through negotiations in multilateral or plurilateral trade rounds, where members agree to lower their bound tariffs in exchange for reciprocal concessions. One of the central principles governing tariff commitments is the Most-Favored Nation (MFN) principle, which requires members to apply the same tariff rate to imports from all other WTO members, unless an exception (e.g., free trade agreement or preference for developing countries) applies.

Tariff bindings under the WTO are legally enforceable, meaning a member can be challenged under the WTO dispute settlement system if it imposes duties above its bound rates. These rules are designed to foster a stable and fair-trading environment, limit protectionism, and promote market access—especially crucial for developing and least developed countries seeking integration into the global economy.

3.1 MOST FAVOURED NATION (MFN) PRINCIPLE

Under the WTO agreements, countries cannot normally discriminate between their trading partners. Grant someone a special favor (such as a lower customs duty rate for one of their products) and you have to do the same for all other WTO members. This principle is known as most-favored-nation (MFN) treatment (see box). It is so important that it is the first article of the General Agreement on Tariffs and Trade

(GATT), which governs trade in goods. MFN is also a priority in the General Agreement on Trade in Services (GATS) (Article 2) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Article 4), although in each agreement the principle is handled slightly differently. Together, those three agreements cover all three main areas of trade handled by the WTO.

Some exceptions are allowed. For example, countries can set up a free trade agreement that applies only to goods traded within the group — discriminating against goods from outside. Or they can give developing countries special access to their markets. Or a country can raise barriers against products that are

[35] Jide Ajia, FG Gazzettes ECOWAS Tarriffs, Advancing AfCFTA Implementation, 15th April 2025. Available at: <https://punchng.com/fg-gazzettes-ecowas-tarriffs-advancing-afcfta-implementation/#google_vignette>. Accessed 22/05/2025.

[36] See footnote 19.

[37] CBN, African Continental Free Trade Area (AfCFTA), available at: <https://www.cbn.gov.ng/MonetaryPolicy/AfCFTA.html>. Accessed 22/05/2025.

considered to be traded unfairly from specific countries. And in services, countries are allowed, in limited circumstances, to discriminate. But the agreements only permit these exceptions under strict conditions[38].

3.2 TARIFF BINDINGS AND SCHEDULES

Tariff bindings are commitments made by WTO members to set maximum tariff rates for specific goods. These commitments are legally binding and are included in a country's WTO Schedule of Concessions, also known as a "Goods Schedule". The Schedule outlines the treatment a member must provide to the traded goods of other WTO members[39].

What are Tariff Bindings?

a. Tariff bindings specify the highest tariff rate a country can apply to a particular product.
b. These bindings are legally binding, meaning a WTO member cannot raise the tariff rate beyond the bound level.
c. Tariff bindings contribute to transparency, security, and predictability in international trade by establishing clear rules and expectations[40].

Key Functions of Tariff Bindings and Schedules:

a. Trade Predictability: By setting clear tariff limits, tariff bindings reduce uncertainty for businesses involved in international trade.
b. Fair Competition: They help ensure fair competition by preventing countries from arbitrarily raising tariffs on imported goods.
c. Dispute Resolution: Tariff bindings provide a framework for resolving disputes related to tariffs and trade practices[41].

3.3 REGIONAL TRADE AGREEMENTS (RTAS) UNDER WTO LAW

Regional Trade Agreements (RTAs) are treaties between two or more countries within a particular region that aim to facilitate trade by reducing or eliminating barriers such as tariffs and quotas. While the World Trade Organization (WTO) promotes global multilateral trade liberalization, it also recognizes the role of RTAs in advancing economic integration, provided they adhere to WTO rules. RTAs, including free trade areas (FTAs) and customs unions, have grown significantly in number and importance, and their regulation under WTO law is primarily governed by ‘Article XXIV of the General Agreement on Tariffs and Trade (GATT) 1994’, the ‘Enabling Clause (1979)’, and ‘Article V of the General Agreement on Trade in Services (GATS)’.

Under Article XXIV of GATT, WTO members may form RTAs as long as they cover "substantially all trade" and do not raise barriers to non-members. This provision ensures that RTAs contribute positively to global trade rather than undermining the multilateral system. The formation of RTAs must be notified to the WTO, and a transparency mechanism was introduced in 2006 to enhance the review process[42].

[38] WTO,Principles of the Trading System. Available at: https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm accessed on 22/05/2025.

[39] WTO, Schedules of Concessions, available at: https://www.wto.org/english/tratop_e/schedules_e/goods_schedules_e.htm accessed 22/05/2025.

[40] See footnote 23

[41] See footnote 23

[42] WTO, Regional Trade Agreements: Rules and Procedures, 2023. Available at: <https://www.wto.org>. Accessed 22/05/2025.

The Enabling Clause, on the other hand, provides flexibility for developing countries. It permits them to enter preferential trade arrangements without fulfilling the strict requirements of **Article XXIV**, allowing special and differential treatment in recognition of their unique developmental needs. This clause has been instrumental in the establishment of South-South trade agreements and regional groupings like the Economic Community of West African States (ECOWAS) and the African Continental Free Trade Area (AfCFTA)[43].

In the services sector, **Article V of GATS** allows for economic integration agreements, provided they have substantial sectoral coverage and eliminate discrimination among members. This enables countries to form regional services markets while remaining compliant with WTO rules.

Despite these provisions, the proliferation of RTAs poses challenges to the multilateral trading system, including issues of fragmentation, overlapping obligations, and complexity in rules of origin. Critics argue that RTAs can create trade diversion, favoring regional partners over more efficient global producers.

In conclusion, while RTAs are permissible under WTO law, they must conform to specific legal frameworks designed to ensure they complement—not compete with—the multilateral trading system. As global trade continues to evolve, effective governance and transparency of RTAs remain essential for maintaining coherence in international trade law.

4. POINTS OF CONVERGENCE AND DIVERGENCE

4.1 AREAS OF CONVERGENCE

The World Trade Organization is the leading economic organization in the world established in 1995 and currently with 164 member states including every single African Country. Both the AfCFTA and the WTO have demonstrated a shared commitment to trade liberalization and economic development. Additionally, both institutions are strategic in their approach and uphold non-discrimination, predictability, transparency and safety values as tenets of regional and global trade respectively.

One major commonality of both the AfCFTA and WTO agreements is their emphasis on the reduction of tariffs and elimination of non-tariff barriers. It is obvious to experts that there are similarities between the AfCFTA protocols and the WTO agreements. One example is how the Protocol on Trade in Goods aligns with the General Agreement on Tariffs and Trade (GATT) under the WTO. When considering areas of convergence, it seems that the implementation of both agreements would support the development of regional value chains without undermining global trade rules.

One specific area of convergence between the GATT and Protocol on Trade in goods of the AfCFTA is that quantitative restrictions are not allowed[44]. This replicates Article XI of GATT 1994[45]. However, certain exceptions are allowed as permitted under Article XI of GATT 1994 to wit-

- restrictions to safeguard the balance of payments;
- import or export restrictions made effective through State-trading operations;
- assistance for economic development through protective or other measures;
- safeguard actions; and
- security exceptions

[43] WTO. (1979). Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (Enabling Clause)

[44]Article 9, Protocol on Trade in Goods of the AfCFTA, <https://africanlii.org/akn/aa-au/act/protocol/2018/trade-in-goods/eng@2018-03-21/source>. Accessed 02/06/2025.

[45]Quantitative restrictions are instruments that limit the quantity or volume of goods that can be imported or exported between countries. Some examples of quantitative restrictions include import and export quotas, embargoes, and import and export licences.

Another point of alignment is between the AfCFTA protocol on Trade in Services and the WTO's General Agreement on Trade is Services (GATs). The approach for negotiating the agreements was on a GATs-plus basis. This means that commitments were made building on the already existing commitments under the WTO[46]. Principles of GATs including transparency, non-discrimination, and progressive liberalization. Both frameworks provide for sectoral commitments and regulatory cooperation, allowing African countries to build their services sectors in ways that are globally consistent while still reflecting local priorities and developmental needs. The Dispute settlement mechanisms of both bodies also share a lot of similarities. The AfCFTA established a system modeled after the Dispute Settlement Understanding of the WTO, aiming at providing legal certainty and enforceability of trade rules.

4.1.1 Trade Liberalization Objectives

Both the WTO and the AfCFTA are geared towards trade liberalization. The WTO's core objective in relation to trade liberalization is to create a more predictable and open global trading system by reducing or eliminating trade barriers. This involves negotiating agreements that lower tariffs, quotas, and other restrictions on trade, ultimately aiming for greater freedom of movement for goods and services across borders. The WTO also provides a platform for resolving trade disputes and monitoring national trade policies, ensuring that agreements are adhered to and that trade flows smoothly[47].

Some of the objectives of the WTO on trade liberalization include:

a. Reducing Trade Barriers: The WTO facilitates negotiations among member countries to reduce or eliminate trade barriers like tariffs, quotas, and other regulatory restrictions.
b. Promoting Fair Competition: By ensuring that trade rules are followed, the WTO helps to create a more level playing field for businesses and promotes fair competition in international markets.
c. Resolving Trade Disputes: The WTO provides a dispute resolution mechanism for member countries to resolve trade disagreements, ensuring that agreements are enforced and trade flows smoothly.
d. Building Trade Capacity: The WTO assists developing countries in improving their capacity to trade, helping them to participate more effectively in the global trading system.
e. Monitoring Trade Policies: The WTO monitors national trade policies, ensuring that they are consistent with WTO agreements and promoting greater transparency in international trade[48].

The AfCFTA also shares the above objectives in addition to:

a. Promote Industrial Development: The agreement seeks to promote industrial diversification and regional value chain development, leading to more sustainable and inclusive socio-economic development.
b. Trade Facilitation: The AfCFTA also aims to cooperate on customs matters and implement trade facilitation measures to streamline trade processes.
c. Address Existing Challenges: The AfCFTA aims to address existing challenges, such as multiple and overlapping regional membership, and expedite regional and continental integration processes.
d. Establish a Framework for Dispute Settlement: The agreement establishes a mechanism for

[46]TRALAC, Tradein Services Negotiations under the AfCFTA, March 2020, https://www.tralac.org/documents/resources/faqs/3190-trade-in-services-negotiations-under-the-afcfta-q-a-march-2020/file.html. Accessed 02/06/2025.

[47]Emeka C. Iloh et al, World Trade Organization's Trade Liberalization Policy on Agriculture and Food Security in West Africa, 22 April 2020, DOI: 10.5772/intechopen.86558.

[48]See footnote 28.

resolving disputes concerning trade-related rights and obligations.

e. Create a Single Continental Market: The AfCFTA's ultimate goal is to create a single continental market for goods and services, with free movement of business persons and investments, paving the way for a Continental Customs Union.

4.1.2 Gradual Reduction Of Trade Barriers

The gradual reduction of trade barriers is a central pillar of both the World Trade Organization (WTO) agreements and the African Continental Free Trade Area (AfCFTA). Both frameworks aim to liberalize trade in a phased and structured manner, allowing member states to adjust progressively while safeguarding developmental objectives[49].

Under the WTO, the General Agreement on Tariffs and Trade (GATT) facilitates the step-by-step reduction of tariffs through successive negotiation rounds, encouraging members to commit to bound tariffs and reduce non-tariff barriers. Special and differential treatment provisions further ensure that developing and least-developed countries can liberalize at a pace aligned with their economic capacity[50].

Similarly, AfCFTA adopts a progressive approach. It mandates member states to eliminate tariffs on 90% of goods over a 5 to 15-year period, depending on their level of development. This allows more vulnerable economies the time and policy space needed to build competitive industries. The agreement also promotes the removal of non-tariff barriers, including complex customs procedures and licensing requirements, through cooperation and digital monitoring mechanisms. Together, these frameworks reflect a shared belief in gradual liberalization as a sustainable path to economic integration. They enable countries to expand trade while minimizing disruption, fostering industrial development and inclusive growth[51].

4.2 AREAS OF DIVERGENCE

Both the AfCFTA and WTO seek to advance trade in goods and services, but both diverge in emphasis due to context, history and institutional ambitions. AfCFTA and WTO seem to have different approaches to the same problem. These differences are particularly sharp with regard to sensitive products, the level of scope and flexibility extended to developing countries and the structure of mechanisms for enforcement and resolution of disputes.

4.2.1 Sensitive Products

The WTO's diplomatic approach, permits member countries to designate "sensitive products" which are prudently liberalized within a protective special safeguard mechanism. Moreover, they are rather limited in the number that may be encumbered and demand thorough justification. The intention is to ensure trim liberal gates are open so that countries shivering under global competition are invited in. Such aid blanket protections are provided to hesitant countries that may not be able to withstand the competition. On the other hand, AfCFTA provides greater flexibility. It enables members to reserve up to 10% of tariff lines as sensitive products and another 3% as excluded entirely. This level of leeway demonstrates the economic weakness and political complexities many African states face. Many African states are embroiled in armed

[49]Nahom Teklewold et al, The African Continental Free Trade Area (AfCFTA) and the Search for Continental Peace and Security: An exploration, https://www.wto.org/english/res_e/booksp_e/pathways_sustainable_tfp_ch09_e.pdf, accessed 02/06/2025.

[50]Tralac, African Continental Free TradeArea (AFCFTA), <https://www.tralac.org/documents/resources/infographics/4276-afcfta-comparative-tariff-offer-analysis-march-2021/file.html > accessed 02/06/2025.

[51]Market Access Map,African Continental Free Trade Area, <https://www.macmap.org/en/learn/afcfta#:~:text=Each%20country%20or%20customs%20union,10%20years)%3B%207%25%20of> accessed 02/06/2025.

conflicts, economic recession, rising inflation and generally weak leadership. These exemptions, which cover a cross-section of goods and services from agricultural produce to minerals, provide breathing room to sectors that would not otherwise survive the increased competition from liberalized trade[52].

4.2.2 Scope and Flexibility

This is another area of divergence between the AfCFTA and WTO. While the WTO theoretically recognizes the unique challenges faced by developing and Least Developed Countries by providing for "special and differential treatment" (SDT)[53], the implementation of this special treatment is almost impossible such that it appears as more of an ideal than a reality[54].

In contrast, the AfCFTA, embeds developmental priorities at its core. It tailors liberalization schedules based on the level of economic development: LDCs enjoy longer implementation periods and greater policy space. Additionally, the agreement explicitly emphasizes structural transformation, industrialization, and intra-African trade—areas often glossed over in WTO texts[55].

4.2.3 Dispute Resolution

The dispute resolution systems of the WTO and the AfCFTA vary greatly in comparison to each other. The Dispute Settlement Understanding (DSU) within the WTO is a rigid and legally authoritative mechanism which has worked as the cornerstone for multilateral trading systems. The system is built on the creation of panels and appellate bodies with the power to enforce retaliatory sanctions if a ruling is ignored. Nonetheless, the WTO's dispute settlement mechanism is in a state of paralysis because it has not been able to appoint new appellate judges since 2019.

In contrast, the AfCFTA does not pose this rigidity, having a more politically malleable dispute resolution system. The Dispute Settlement Protocol places greater importance on diplomacy and actively encourages negotiations towards settlement contracts before resorting to litigation. While it does include legal procedures based on the WTO system, it tries to incorporate less institutionalized designs that are better suited for the continent's relevant political climate and power dynamics[56].

5. IMPLICATIONS FOR WEST AFRICAN TRADE AND POLICY

5.1 POTENTIAL TRADE CREATION AND DIVERSION

Under the AfCFTA, Africa seeks to move from being a supplier of raw materials to integrating into the global value chain. Lithium-rich countries such as the Democratic Republic of Congo and Zambia would now export lithium batteries instead of exporting raw lithium. This will help these countries integrate into

[52]Luke, D. & MacLeod, J. The African Continental Free Trade Area: A New Framework for Trade and Development in Africa. (2021). In: Hoekman, B. & Njinkeu, D. (Eds.), Trade Policy and the Global Economy. Brookings Institution Press.

[53]The WTO agreements contain special provisions which give developing countries special rights and allow other members to treat them more favourably. These are "special and differential treatment provisions" (abbreviated as S&D or SDT). The special provisions include- longer time periods for implementing agreements and commitments, measures to increase trading opportunities for these countries, provisions requiring all WTO members to safeguard the trade interests of developing countries, support to help developing countries build the infrastructure to undertake WTO work, handle disputes, and implement technical standards and provisions related to least-developed country (LDC) members. WTO, Special and Differential Treatment, https://www.wto.org/english/tratop_e/dda_e/status_e/sdt_e.htm. Accessed 02/06/2025.

[54]African Union (AU). (2018). Agreement Establishing the African Continental Free Trade Area.

[55]African Union Agreement Establishing the African Continental Free Trade Area (AfCFTA). (2018). Available at: <https://au.int/en/treaties/agreement-establishing-african-continental-free-trade-area.> Accessed 23/05/2025.

[56]Erasmus, G. Dispute Resolution under the African Continental Free Trade Area Agreement. (2019). TRALAC Working Paper <https://www.tralac.org/documents/resources/african-continental-free-trade-area/3017-afcfta-dispute-settlement-eramus-july-2019/file.html>. Accessed 23/05/2025.

global value chains of new energy. Still within the automotive industry, West African Countries such as Cote d'Ivoire and Liberia will now become global hubs for tire manufacturing in place of being providers of natural rubber. The future of African trade under the AfCFTA is one in which commodity-based industrialization will become the continent's leeway to foster vertical integration[57].

But the future of regional trade is also one in which intra-African trade will become a more important component of total African trade to further enhance the resilience of the region to global volatility and negative shocks. Preliminary estimates show that intra-African exports would increase by 109%, led by manufactured goods, especially if the implementation of the AfCFTA is accompanied by robust trade facilitation measures, understandable in a region where the consequences of nontariff barriers—equivalent to an import tariff of 18%—have been just as costly for trade and endogenous growth as market fragmentation[58].

5.2 REVENUE IMPLICATIONS

Upon entry into force and with the deposit of 22 instruments of ratification and membership, AfCFTA will become the largest Free Trade Area (FTA) in the global economy that covers a market of 1.2 billion Africans with a combined GDP of US$2.5 trillion, expected to reach US$29 trillion by 2050[59]. AfCFTA could deepen and expand intra-Africa trade from its very low base of 15% to 52%[60].

At the national level, the estimated welfare gains of around 2.64% of continental GDP will be shared among all participating countries. On an individual level, it will increase real wages for both skilled and unskilled workers in diverse sectors as employment shifts from agricultural to non- agricultural sectors like manufacturing and services.

It is estimated that implementing the AfCFTA could boost Africa's income by $450 billion, bring 30 million people out of extreme poverty, and raise the incomes of 68 million others who live on less than $5.50 a day[61].

5.3 POLICY COORDINATION WITHIN ECOWAS

The implementation of the African Continental Free Trade Area (AfCFTA) within the ECOWAS sub-region raises critical policy considerations. Key among these is the need to harmonize trade policies and regulations to avoid duplication and ensure coherence with existing ECOWAS protocols. Infrastructure development, particularly in transport and digital connectivity, is essential to facilitate

[57]Hippolyte Fofack, The future of African trade in the AfCFTA era, 23rd February 2024, <https://www.brookings.edu/articles/the-future-of-african-trade-in-the-afcfta-era/#:~:text=As%20corporations%20take%20advantage%20of%20competitiveness%20and%20productivity%2 0gains%20associated,global%20volatility%20and%20negative%20shocks>. Accessed 23/05/2025.

[58]See footnote 35

[59]Prof. Kevin Chika Urama, Implementing the African Continental Free Trade Area (AfCFTA) Agreement: Assessing Country Readiness and the Implications for Capacity Building, (Opening Speech), 7th Africa Think Tank Summit, Harare, Zimbabwe "Virtual", 18th November 2020, https://www.afdb.org/en/news-and-events/speeches/implementing-african-continental-free-trade-area-afcfta-agreement-assessing-country-readiness-and-implications-capacity-building-opening-speech-prof-kevin-chika-urama-39093#:~:text=AfCFTA%20could%20deepen%20and%20expand,shared%20among%20all%20participating% 20countries. Accessed 02/06/2025.

[60]See footnote 59

[61]7th Africa Think Tank Summit, Harare, Zimbabwe "Virtual", Implementing the African Continental Free Trade Area (AfCFTA) Agreement: Assessing Country Readiness and the Implications for Capacity Building: Opening Speech by Prof. Kevin Chika Urama. Available at: <https://www.afdb.org/en/news-and-events/speeches/implementing-african-continental-free-trade-area-afcfta-agreement-assessing-country-readiness-and-implications-capacity-building-opening-speech-prof-kevin-chika-urama-39093#:~:text=AfCFTA%20could%20deepen%20and%20expand%20intra%2DAfrica%20trade,very%20low%20base%20of%2015%%20to%2052%.&text=It%20is%20estimated%20that%20implementing%20the%20AfC FTA,live%20on%20less%20than%20$5.50%20a%20day>. Accessed 23/05/2025.

cross-border trade. Member states must also address tariff revenue losses and support small and medium enterprises (SMEs) to compete effectively. Additionally, coordinated customs procedures and dispute resolution mechanisms are vital to ensure smooth intra-regional trade flows and to fully leverage AfCFTA's potential within West Africa.

5.4 LEGAL AND INSTITUTIONAL READINESS

The key indicators used in assessing the readiness of African countries for AfCFTA are: size of manufacturing, diversity of exports, size of services sector, current account balance and score on global trade indices such as the Enabling Trade Index and Global Competitiveness Index.

In terms of manufacturing value-added, Nigeria ranked 4th in Africa with \$35.45bn, after Algeria with $72.2bn, SouthAfrica$(42.7bn), and Egypt (\$42.2bn).
It should be noted that the average manufacturing value-added of the top 20 African countries is \$5.28bn. This underscores the lack of productive capacity in Africa as a whole[62].

On current account balance, the measure of a country's ability to withstand financial shocks. Oil and gas producing nations maintained the highest current account balances. Nigeria ranked first with \$10.12bn surplus, followed by Libya (\$6.2bn),

Angola (\$2.45bn), Gabon (\$2.33bn) and Botswana (\$ 0.72bn). South Africa, Egypt and Morocco recorded the considerable current account deficits of \$13bn, \$7.7bn and \$5.6bn respectively.

The Enabling Trade Index measures the factors, policies and services that facilitate international trade in goods. It is made up of four sub-indexes:

i. market access;
ii. border administration;
iii. transport & communications infrastructure; and
iv. business environment.

On the Enabling Trade Index, Morocco ranked top among African countries followed by South Africa, Botswana, Namibia, and Kenya. Zambia and Cote d' Ivoire are in the mid-tier range while Egypt, Congo and Nigeria rank the lowest.

On the global competitiveness index, South Africa and Morocco ranked in the top band among African countries. In the mid-range were Botswana, Algeria, Egypt, Namibia, Rwanda and Cape Verde, while Senegal, Cote d'Ivoire, Nigeria, Zambia and Ethiopia were in the bottom band of the competitiveness index.

On average of all the readiness indicators, only South Africa and Morocco can be judged reasonably ready for AfCFTA, while Egypt, Nigeria, Kenya and Botswana can be regarded as moderately ready. All the other 51 African countries have not met the readiness criteria[63].

6. RECOMMENDATIONS

With the AfCFTA, there are boundless opportunities for the African Region to come together in order to move the continent forward. The potentials of the AfCFTA are immense and would cut across every sector affecting, old, young, men, women, rich and poor. There is however a lot of work to be done if Africa is to

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[62] Desmond Guobadia, AFRICA CONTINENTAL FREE TRADE AGREEMENT: The Role of Banks and other Stakeholders, available at: https://cibng.org/files/publications/1569406178speeches.pdf. Accessed 23/05/2025.

[63] Desmond Guobadia, AFRICA CONTINENTAL FREE TRADE AGREEMENT: The Role of Banks and other Stakeholders, available at: https://cibng.org/files/publications/1569406178speeches.pdf. Accessed 23/05/2025.

reap the fruit of its labors on the AfCFTA. For West African Economies, twelve of which are members of ECOWAS and all of which are members of the WTO, harmonization of commitments is not merely a suggestion but indeed compulsory if West African countries are to benefit considerably from the Agreement. This harmonization would ensure policy coherence, maximize developmental gains and reduce trade distortions by ensuring transparency, predictability and enforceability. The following steps can be taken in order to achieve harmonization in West Africa:

1. **Carry out a Comprehensive Tariff and Gap Analysis Audit**

The first obvious step to be taken towards ensuring harmonization by West African states is to conduct a comprehensive audit of existing overlapping commitments under the WTO, ECOWAS, Alliance of Sahel States (ASS)[64] and AfCFTA. This analysis will identify areas of overlap, legal inconsistencies and conflict. By clarifying trade rules, businesses and customs authorities would have clarity in their activities and this will also promote transparent implementation.

2. **Ensure Alignment with WTO Transparency and Notification Obligations**

Article X:1 of the GATT (General Agreement on Tariffs and Trade) 1994, mandates that all laws, regulations, judicial decisions, and administrative rulings of general application made effective by a member state must be published promptly in a manner that allows governments and traders to become acquainted with them according to the World Trade Organization. This provision ensures transparency and predictability in trade regulations, facilitating international trade[65]. The changes introduced under the

AfCFTA such as tariff reductions or exemption sensitive products and removal of non-tariff barriers are to be notified to the WTO Secretariat. This will ensure the continued predictability of trade rules and demonstrate commitment to global trade liberalization.

3. **Adopt Flexible but Rules-Based Treatment of Sensitive Products**

AfCFTA permits sensitive or excluded products to be ignored for as much as 10% of tariff lines. Although amending such policies could be helpful in protecting delicate industries, streamlining these processes needs to be strategic and clear. Member countries need to define robust guidelines for selection of products and maintain adherence to WTO principles, especially with regard to non-discrimination, trade facilitation, and other forms of lower barriers for international commerce.

4. **Synergize with the WTO in implementing the AfCTA**

The WTO can help Africa in many ways in its quest for regional integration and economic prosperity. The WTO already heavily influences the AfCFTA and can guide Africa through the implementation process. The African Export- Import Bank signed an MOU with the WTO[66] to amplify the impact of their strategically aligned joint efforts of promoting global trade leveraging Africa's unique resource endowment[67]. If properly managed, this is a good step towards supporting Africa's regional trade liberalization efforts. The MoU will allow the two organizations to pursue a collaborative framework for

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[64]Formed by military-led governments following coups, the AES was officially established in September 2023 through a treaty (the Liptako-Gourma Charter) aimed at deepening political, economic and security ties among the three West African nations. The confederation has taken bold steps to redefine its international alignment, including recent withdrawals from the Economic Community of West African States (ECOWAS) and the International Organization of La Francophonie (OIF).

[65]WTO, Article X of the General Agreement on Tariffs and Trade 1994, <https://www.wto.org/english/res_e/publications_e/ai17_e/gatt1994_art10_oth.pdf> accessed 02/06/2025.

[66]This MOU was signed in Cairo on the 24th of June 2024.

[67]Afrexim Bank, Afreximbank and the WTO Secretariat harmonize efforts to develop trade in Africa, 28th June 2024, https://www.afreximbank.com/afreximbank-and-the-wto-secretariat-harmonize-efforts-to-develop-trade-in-africa/. Accessed 02/06/2025.

harmonizing and coordinating their efforts towards deepening key trade development activities on the continent[68].

5. **Promote Regional Dialogues on Tariff Policy Harmonization**

The absence of a cross African border cooperative nations region makes it hard for the country coming up with individual strategies towards achieving AfCFTA targets to not conflict with each other. ECOWAS has the potential to help member states to discuss border trade facility rate policy and assist in strategizing. Regional tariff bands, such as those in the ECOWAS Common External Tariff (CET), should be reassessed in light of AfCFTA requirements[69].

6. **Invest in Capacity-Building for Customs Modernization and Trade Facilitation**

A sustained custom and frontier trade level facility bound rate setting also considers a custom and border trade institution's ability to use exact rules. With the enhancement of training, development partners should support the West African governments with the digital computational topical infrastructure and step by step grading works unpaid to processes. These initiatives will ensure the removal of restraining measures that do not involve tariffs, and that make sure that the commitments for deregulation made will actually result in tangible gains from trade.

7. **Strengthen Institutional Coordination Among Trade Ministries and Regional Bodies**

Policy harmonization requires robust institutional coordination. Governments should establish inter-ministerial committees or task forces dedicated to trade policy alignment. These should include representatives from national ministries, customs authorities, ECOWAS, and AfCFTA secretariats. Clear communication channels and shared data systems will improve coherence and reduce the risk of fragmented or contradictory policy actions.

7. CONCLUSION

The WTO and the AfCFTA have both similarities and dissimilarities. The challenge however lies in the fact that many of the areas of divergence and convergence are one and the same. One example is the dispute settlement mechanism of both bodies. The AfCFTA admittedly builds on the Dispute Settlement Understanding of the Dispute Settlement

Board (DSB) which is an organ of the WTO. This is where the similarities stop. While the WTO adopts a rigid approach in dispute settlement, the AfCFTA adopts a more flexible approach with emphasis on diplomacy and amicable settlement of disputes.

In the West African Context, the overlapping nature of WTO, AfCFTA, and ECOWAS trade obligations demands coherent policy coordination to avoid legal contradictions, market distortions, and implementation delays that could undermine the region's economic potential.

West African countries are poised to benefit from harmonization of tariff policies as this will assist in not only fostering industrial growth but will also stabilize the economy hence attracting investments both foreign and local. There is however a need for national governments to build capacity through training sessions and securing skilled resource persons in various sectors. There is also the need to regularize approaches to tariff exclusions and sensitive product lists.

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[68]See footnote 67.

[69]Luke, D., & MacLeod, J. The African Continental Free Trade Area: A New Framework for Trade and Development in Africa. (2021). In Hoekman, B., & Njinkeu, D. (Eds.), Trade Policy and the Global Economy.

Ultimately, the harmonization of tariff liberalization is more than a technical exercise—it is a foundational pillar of economic transformation. If pursued with foresight and coordination, it can strengthen the West African regional market, reinforce the continent's role in global value chains, and provide a framework for inclusive, resilient, and sustainable development across the region.

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