

ARTICLES

The African Continental Free Trade Area (AfCFTA) - Myth or Reality?

An Analysis Focusing on Free Trade in Goods

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Abstract

The ratification of the African Continental Free Trade Area (AfCFTA) Agreement symbolizes a pivotal moment in Africa's quest for continental integration. This legal framework establishes AfCFTA as one of the world's largest free trade areas in terms of geographical expanse, population, and participating nations, and presents an opportunity for significant income and welfare gains for its member states.

This article critically evaluates the AfCFTA Agreement, exploring its historical context, essential features, goals, and the complexities of its implementation. It focuses particularly on the Protocol on Trade in Goods, which governs intra-African trade. The article also delves into the broader concept of regional economic integration, highlighting trade facilitation as a crucial element hampered by infrastructural deficiencies. It proposes a synergistic approach combining regional economic integration and trade facilitation as a strategy for poverty alleviation and continental growth.

Furthermore, the article examines the role of comparative regionalism, drawing lessons from European and Asian experiences to inform Africa's trade facilitation tactics. It advocates for an initiative-taking stance in navigating AfCFTA's challenges and opportunities, emphasizing the necessity of collaborative efforts among policymakers, businesses, and stakeholders for effective implementation. The article concludes by stressing the transformative potential of the AfCFTA for economic growth and the importance of ongoing collective action and learning from global regional integration experiences. The analysis specifically focuses on the impact of the AfCFTA and the Protocol on Trade in Goods, underscoring the central role of trade facilitation in this process.

Keywords: AfCFTA, Protocol on Trade in goods, African Continental Free Trade Area, regional economic integration, barriers to free trade, European Union, African Union.

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1. Introduction

Since the former European colonies in Africa achieved independence, the Organization of African Unity (OAU), now replaced by the African Union (AU), has made considerable strides towards promoting continental integration. A significant step in this endeavor was the formation of Regional Economic Communities (RECs) by members of the AU,¹ designed to foster regional cooperation and spur economic development. The African Union's vision is to see "An integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in global arena".² A key instrument to actualizing this vision is Agenda 2063, adopted by the AU Assembly in Addis Ababa, Ethiopia, in January of 2015.³ The Agenda 2063 is a 50-year plan that covers a period from 2013 – 2063 and "divided into a series of five ten year implementation plans to be developed to realize the vision of the 'Africa We Want By 2063'".⁴ Agenda 2063 has 15 flagship projects, one of which is the establishment of the African Continental Free Trade Area (AfCFTA).⁵ The overarching aim of this project is to promote continental trade and give Africa a competitive edge in international markets. Currently, intra-African trade is less than 20% of the continent's trading activities.⁶ The rest is mostly made up of trade of African nations with European, Asian, and American partners, often on the terms of those non-African countries. Agricultural products like cocoa, coffee, tea, cotton, fruits, and nuts, as well as spices, make up the majority of intra-African trade, and the majority of Africa's exports to the rest of the world. The level of intra-African trade could be more but poor industrial and manufacturing capability, which results in a lack of export concentration and competitiveness, is to blame for Africa's low rate of internal trade.⁷

The Agreement Establishing the African Continental Free Trade Area (AfCFTA Agreement) is of historical significance as it constitutes the world's largest free trade area to date, aiming to unify 55 African Union (AU) countries and eight (8) Regional Economic Communities (RECs).⁸ The AfCFTA, as a legal framework, provides Africa with the best potential to address the continent's major trade and economic development concerns. The principal aim of the AfCFTA Agreement is to form a unified market for goods and services in Africa, harnessing the power of a

1 The 55 member states of the African Union are divided into five regions namely: Central, North, Southern, West and East Africa.

2 "Vision and Mission", Vision and Mission | African Union, <https://au.int/en/about/vision#:~:text=The%20vision%20of%20the%20African,dynamic%20force%20in%20global%20arena.%E2%80%9D> (last accessed 23 July 2023).

3 "Agenda 2063: The Africa We Want; First Ten-Year Implementation Plan, 2013-2023", UN Environment Document Repository Home, <https://wedocs.unep.org/handle/20.500.11822/20823> (last accessed 23 July 2023).

4 *Ibid.*

5 "Flagship Projects of Agenda 2063", Flagship Projects of Agenda 2063 | African Union, <https://au.int/agenda2063/flagship-projects> (last accessed 23 July 2023).

6 Mene Wamkele, "The African Continental Free Trade Area (AfCFTA): Boosting Intra-Africa Trade", *Georgetown Journal of International Law* 51, no. 4 (2020): 751-752.

7 Mene, "The African Continental Free Trade Area (AfCFTA): Boosting Intra-Africa Trade".

8 "About the AfCFTA", AfCFTA, 15 April 2023, <https://au-afcfta.org/about/>.

population of 1.3 billion people and a combined GDP of US\$ 3.4 trillion.⁹ The potential impact of the AfCFTA is indeed substantial, with expectations that it could catalyze a transformation in African economies, enhance intra-regional trade, boost foreign direct investment and increase Africa's competitiveness both in its own markets and internationally.¹⁰ However, for the AfCFTA Agreement in its glory to yield the anticipated results, successful implementation of the Agreement is required. This is no small task and necessitates well-conceived policies, cooperation, and strong political will from all the State Parties to the AfCFTA Agreement. Notably, the AfCFTA integrates elements of the multilateral legal system of the World Trade Organization (WTO), along with Africa's unique vision for a trade agreement.¹¹ The structure of the AfCFTA Agreement is reminiscent of a framework agreement, with the main agreement serving as a foundation for additional agreements to be negotiated in stages.

This article endeavors to explore the potential advantages that a free trade area could bring to the African continent, the promising economic implications, as well as the possible challenges in implementation. Specifically, it will delve into the subject of free trade of goods within the context of the AfCFTA.

Section 1 of this article shall give a historical background of the evolution of the AfCFTA, that is the various initiatives the countries in the continent of Africa have taken through the AU and RECs towards the goal of regional economic integration. In this chapter, the principles, scope, and objectives of the AfCFTA Agreement are summarized to give the reader an overview of the AfCFTA Agreement. The AfCFTA Agreement is an agreement between African nations, the majority of which are active participants of the World Trade Organization (WTO).¹² The AfCFTA Agreement, therefore, must be consistent with the WTO rules for Free Trade Agreements (FTAs).¹³

Section 2 focuses on the institutional framework of the AfCFTA Agreement and the Protocol on Trade in Goods (PTGs) to the Agreement. In addition, the prospects, and challenges to the successful implementation of the PTGs shall be analyzed. The main objective of the PTGs is to create a single market for trade in goods. The intent of the PTGs is to increase intra-African trade in goods through gradual elimination of tariffs, step by step elimination of non-tariff barriers,

9 "About the AfCFTA".

10 Prudence Sebahizi, *et al.*, "From Negotiations to Implementation: Building Effective AfCFTA National Implementation Committees", ODI Policy Brief, 19 April 2023, <https://odi.org/en/publications/from-negotiations-to-implementation-building-effective-afcfta-national-implementation-committees/>, 1.

11 Katrin Kuhlmann and Akinyi Lisa Agutu, "The African Continental Free Trade Area: Toward a New Legal Model for Trade and Development", *Georgetown Journal of International Law* 51, no. 4 (2020): 753-808, <https://doi.org/10.2139/ssrn.3599438>, 756.

12 UNCTAD, "African Continental Free Trade Area: Policy and Negotiation Options for Trade in Goods", 2016.

13 Magadi A. Farahat, "African Continental Free Trade Area: Policy and Negotiation Options for Trade in Goods", UNCTAD, 2016, https://unctad.org/system/files/official-document/webditc2016d7_en.pdf, 4.

efficient custom procedures, trade facilitation, and a host of other listed options as stated in the PTGs.¹⁴

Section 3 delves deeper into the concept of regional economic integration, its importance and benefits to Africa. Subsequently, this chapter digs into the importance of trade facilitation, discussing the increase in benefits from free trade and the contribution towards the reduction of poverty on the continent.

Section 4 discusses comparative regionalism. This section explores the regional integration efforts in Europe, particularly the European Union (EU), and the establishment of a single market for goods. In addition, this chapter analyzes the Association of Southeast Asian Nations (ASEAN), focusing on that association's strategies bringing together a diverse number of nations to impact on free trade of goods. This section is looking at the best practices, if any, of the EU and ASEAN, as potential models that the AU could adopt to its own unique situation. This chapter will focus on learning the right lessons when creating a single market for goods without barriers.

The concluding section seeks to present an answer to the initial question, namely whether the implementation of the PTGs can indeed be successful as currently envisaged. In addition, the final section provides further trade-related recommendations to improve growth and development.

2. The Agreement Establishing the African Continental Free Trade Area

A. *Summary of the Evolution of the AfCFTA*

From the 1950s to the 1960s, in the wake of their post-colonial independence, African leaders embarked on various strategies aimed at achieving economic integration in Africa.¹⁵ The initial attempt at forging unity and cooperation among African heads of state culminated in the formation of the Organization of African Unity (OAU) in 1963. This event heralded the inaugural phase in the pursuit of African economic integration.¹⁶ The OAU gave the continent of Africa an institutional platform on which to test the workings of regional integration.¹⁷ At the early stages of its inception, there were attempts at continental economic integration which relied on political statements and resolutions that could not be enforced because these declarations were not based on enforceable legal agreements.¹⁸

14 "Agreement Establishing the African Continental Free Trade Area" - AfCFTA, <https://au-afcfta.org/wp-content/uploads/2022/06/AfCFTA-Agreement-Legally-scrubbed-signed-16-May-2018.pdf>, Protocol on Trade in Goods (last accessed 18 July 2023).

15 Theophile Albert, "The African Continental Free Trade Agreement: Opportunities and Challenges", *CUTS International*, Geneva, 2019, 4.

16 Albert, "The African Continental Free Trade Agreement", 4.

17 The OAU's principal objective was to foster cooperation amongst African countries, create a better standard of living for Africans and put an end to colonization.

18 Guillaume Gérout, *et al.*, "The AfCFTA as yet Another Experiment towards Continental Integration", in *Inclusive Trade in Africa: The African Continental Free Trade Area in Comparative Perspective* (London, London: Routledge, 2019), 15-34, 15.

Essentially, regional integration during this phase was primarily seen as a tool for achieving political goals rather than continental unity and market integration.¹⁹

The Lagos Plan of Action (LPA) of 1980 delineates the second phase of the quest for African regional economic integration. During this phase, politics wielded an even more dominant influence over legally binding instruments in the approach to continental integration.²⁰ However, there was also a growing recognition of sub-regional integration as a possible or even likely prelude to continental integration.²¹ The LPA was Africa's line of attack after the disappointment of "economic decolonization" of the continent, as it seemed to offer a more promising and home-grown foundation for the advancement of the continent.²² However, the execution of the LPA was at best sluggish, mostly due to the economic crisis that engulfed Africa in the 1980s.²³ Progress towards implementation of the LPA was slow, and by the end of the 1990s, trade barriers and restrictions remained between the Regional Economic Communities (RECs) that were in existence at the time.²⁴

Proceeding to the third phase of continental economic integration, we encounter the pivotal 1991 Abuja Treaty. This treaty proposed the establishment of the African Economic Community (AEC), an ambitious project aimed to be realized within a span of 34 years.²⁵ Unlike the second phase, law was finally supposed to play a dominant role over politics as seen with the adoption of the Abuja Treaty.²⁶ This phase was defined by a much more notable presence of political will and cooperation amongst African heads of states.²⁷ The treaty was a legal expression of the LPA and a well-thought-out program for ensuring regional economic integration.²⁸ However, progress towards fulfilling the AEC goals was again disappointing, with only limited progress towards economic integration because of the increase in RECs.²⁹ The Abuja treaty ultimately saw less attention than it deserved, as African countries created and joined more RECs instead of pursuing a continental agenda as stated in the Treaty.³⁰ It is worthy of mention that the OAU was replaced by the African Union (AU) during this third phase.

19 Gérout, et al., "The AfCFTA as yet Another Experiment towards Continental Integration", 15.

20 *Ibid.*, 15.

21 Quite a good number of African countries faced economic challenges in the 1980s, including poor growth rates, high levels of debt and limited access to global markets. African governments and policymakers identified regional integration as a tool to foster economic growth and attract foreign investment.

22 Adebayo Adedeji, "The Monrovia Strategy and the Lagos Plan of Action for African Development-Five Years After", United Nations Economic Commission for Africa, November 1, 1984, <https://hdl.handle.net/10855/21080>, 2.

23 Adedeji, "The Monrovia Strategy".

24 *Ibid.*, 36

25 Brock R. Williams and Nicolas Cook, "African Continental Free Trade Area (AfCFTA)", Congressional Research Service, 7 February 2020, <https://crsreports.congress.gov/product/pdf/IF/IF11423>.

26 Gérout, et al. et al., "The AfCFTA as yet Another Experiment towards Continental Integration", 15.

27 *Ibid.*

28 The Abuja Treaty and the Lagos Plan of Action shared the common objective of fostering economic growth and continental integration in Africa. However, the Abuja Treaty was a codified document that established various institutions to facilitate the integration process.

29 Gérout, et al., "The AfCFTA as yet Another Experiment towards Continental Integration", 15.

30 *Ibid.*, 16.

In the fourth phase, the AU's main objective was to pursue the goals of Agenda 2063 and promote economic integration among African countries, which led to the Boosting Intra-African Trade (BIAT) decision in 2012.³¹ This decision facilitated negotiations surrounding the agenda of creating a Continental Free Trade Area (CFTA). The BIAT decision laid down a road map to accelerate the establishment of the CFTA through the merging of existing RECs. The road map recognized the watershed decision by RECs such as the Common Market for Eastern and Southern Africa (COMESA), Southern African Development Community (SADC) and East African Community (EAC) to establish a single Tripartite Free Trade Area (TFTA)³² which covered 26 African countries.³³ The plan to establish the CFTA as stated in the BIAT, was to consolidate the COMESA-EAC-SADC Tripartite FTA with non-Tripartite RECs recognized by the AU. These non-Tripartite RECs such as the Economic Community of West African States (ECOWAS), the Community of Sahel-Saharan States (CEN-SAD), the Economic Community of Central African States (ECCAS), and the Arab-Maghreb Union (UMA), were encouraged to either form a similar arrangement to the Tripartite FTA or join the Tripartite process.³⁴ In addition, any other AU Member States outside the eight³⁵ AU-recognized RECs were also encouraged to join the CFTA process directly.³⁶

The CFTA intends to increase continental trade and stimulate economic growth in Africa by establishing a single market for goods and services. In essence, the BIAT decision to create the AEC as agreed under the Abuja Treaty is heavily reliant on the existing RECs with a road map to gradually integrate all RECs and AU member states into an African continental free trade area.

The commencement of negotiations for the African Continental Free Trade Area (AfCFTA) Agreement in 2015 marks the final phase of African regional economic integration. The AfCFTA Agreement is now the codified document of the plan proposed in the BIAT Action Plan that attempts to create a single free trade area on the African continent.³⁷ This endeavor represents a significant step towards greater economic integration in Africa. This last phase emphasizes and strengthens the role of law in the creation of an African Continental Free Trade Area and makes a daring move, even though still incomplete, towards finally unifying the numerous conflicting REC trading schemes in Africa.³⁸ The long-standing vision of regional economic integration in Africa

31 "Boosting Intra-African Trade", Issues Affecting Intra-African Trade, Proposed Action Plan for boosting Intra-African Trade and Framework for the fast tracking of a Continental Free Trade Area, 2012, https://au.int/sites/default/files/documents/32456-doc-boosting_iat_assembly_au_2_xviii_english.pdf.

32 "Boosting Intra-African Trade".

33 The 26 African countries are Angola, Botswana, Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Lesotho, Libya, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, South Africa, Sudan, Swaziland, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.

34 "Boosting Intra-African Trade", 49.

35 The eight recognized RECs are as follows: SADC, EAC, COMESA, ECOWAS, ECCAS, IGAD, UMA and CENSAD. See list of abbreviation for full name.

36 *Ibid.*, 49.

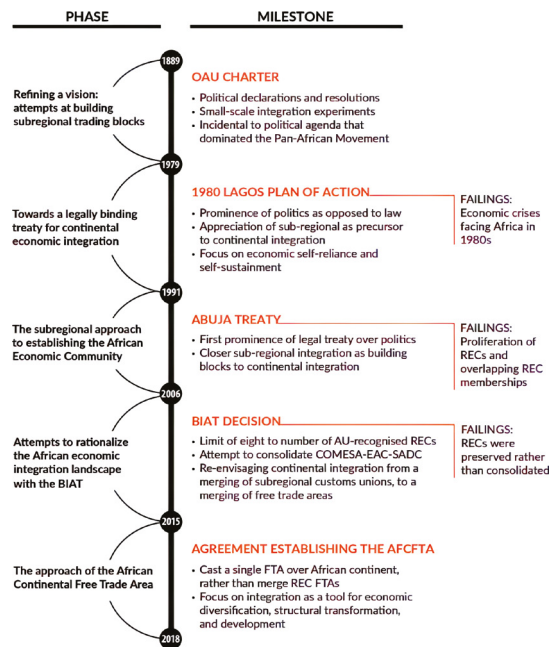
37 Action plan for boosting intra-African trade, https://au.int/web/sites/default/files/newsevents/pressreleases/26498-pr-action_plan_for_boosting_intra-african_trade_f-english.pdf.

38 Gérout, et al., "The AfCFTA as yet Another Experiment towards Continental Integration", 16.

has progressed into a well-established tool for economic development towards African industrialization.³⁹ The AfCFTA Agreement⁴⁰ was adopted by the 10th Extraordinary Session of the AU Assembly in Kigali, Rwanda, on 21 March 2018.⁴¹ The Agreement came into effect on 30 May 2019 following the deposit of the 22nd ratification⁴² instrument as duly stated in Article 23 of the Agreement.⁴³

In summary, the evolution of African continental economic integration has been marked by the creation of numerous regional economic communities, renewed interest in continental economic integration, the creation of the African Union, and the launch of the Continental Free Trade Area. While progress towards achieving the long-standing vision for continental integration has been slow, the AfCFTA Agreement represents a hopeful step in achieving economic integration and driving economic growth in Africa.

Figure 1. Summary of the Evolution of African Continental Integration



Source: Assessing Regional Integration in Africa IX, 2019 United Nations Economic Commission for Africa, African Union, African Development Bank, and United Nations Conference on Trade and Development. Adapted from Gerout, MacLeod and Desta, 2019.

39 *Ibid.*

40 As of April 2023, there are 54 AU Member states that have signed the AfCFTA Agreement and 46 State Parties that have ratified the Agreement.

41 "About the AfCFTA", AfCFTA, 15 April 2023, <https://au-afcfta.org/about/>.

42 As of November 2024, 54 out of 55 African Union member states have signed the AfCFTA, and 47 out of the 54 signatory parties to the AfCFTA Agreement have ratified and deposited the Agreement.

43 Agreement Establishing the African Continental Free Trade Area - AfCFTA, <https://au-afcfta.org/wp-content/uploads/2022/06/AfCFTA-Agreement-Legally-scrubbed-signed-16-May-2018.pdf>, Art. 23.

B. Objectives, Principles and Scope of the AfCFTA Agreement

The preamble to the AfCFTA Agreement acknowledges the start of negotiations for the creation of the Continental Free Trade Area, which was intended to integrate the markets of Africa in accordance with the goals and guiding principles set down in the 1991 Abuja Treaty for the creation of the African Continental Free Trade Area.⁴⁴ The negotiations were divided into two phases which also means that implementation of the AfCFTA Agreement is to be achieved in the same two phases.⁴⁵ Phase I of the Agreement covers trade in goods, trade in services, as well as rules and procedures for the settlement of disputes, all of which have been carefully laid out in the Agreement.⁴⁶ Phase II of the negotiations is set to cover investment, intellectual property, competition policy, digital trade, and women and youth in trade.⁴⁷

1. Objectives of the AfCFTA Agreement

“According to Article 3 of the AfCFTA Agreement, the main objectives are

- a) to create a single market for goods and services, facilitated by movement of persons in accordance with the vision enshrined in Agenda 2063;
- b) to create a liberalized market for goods and services through successive rounds of negotiations;
- c) to contribute to the movement of capital and natural persons;
- d) to facilitate investments;
- e) to leverage the initiatives and developments in the State Parties and recognized RECs;
- f) to establish the framework for the establishment of a Continental Customs Union;
- g) to promote and attain sustainable and inclusive socio-economic development;
- h) to promote gender equality;
- i) to promote structural transformation of the State Parties;
- j) to enhance the competitiveness of the economies of Member States within the continent and the global market;
- k) to promote industrial development; and
- l) to resolve the challenges of multiple and overlapping REC memberships and to expedite the regional and continental integration processes”.⁴⁸

The general objectives, as stated in Article 3 of the AfCFTA Agreement, are to be achieved in accordance with the special objectives as stated in Article 4 of the

44 Agreement Establishing the African Continental Free Trade Area – AfCFTA, <https://au-afcfta.org/wp-content/uploads/2022/06/AfCFTA-Agreement-Legally-scrubbed-signed-16-May-2018.pdf>, 1 (last accessed 18 July 2023).

45 AFCFTA Factsheet - A New Era of Trade in Africa, April 2023, https://au-afcfta.org/?jet_download=5601.

46 “Agreement Establishing the African Continental Free Trade Area”, Art. 6.

47 AFCFTA Factsheet - A New Era of Trade in Africa, April 2023, https://au-afcfta.org/?jet_download=5601.

48 “Agreement Establishing the African Continental Free Trade Area”, Art. 33.

AfCFTA Agreement. According to Article 4 of the AfCFTA Agreement, State Parties, for the purpose of fulfilling the general objectives shall:

- a) “progressively eliminate tariffs and non-tariff barriers to trade in goods;
- b) progressively liberalize trade in services;
- c) cooperate on investment, intellectual property rights and competition policy;
- d) cooperate on all trade related matters;
- e) cooperate on customs matters and the implementation of trade facilitation measures;
- f) establish a mechanism for the settlement of disputes concerning their rights and obligations; and
- g) establish and maintain an institutional framework for the implementation and administration of the AfCFTA.”⁴⁹

Having examined the evolution of continental economic integration in Africa and the objectives of the AfCFTA Agreement, it is worth noting that the Agreement could bring enormous benefits to the African continent, its people, and businesses, if implemented successfully. The following chapter goes into detail on the matter of practical implementation of the AfCFTA Agreement, particularly the protocol on Trade in Goods.

3. Implementation of the African Continental Free Trade Area (AfCFTA) Agreement

A. Institutional Framework

The administrative and organizational structure of the AfCFTA is encapsulated in Part 3 of the AfCFTA Agreement. As outlined in Article 9, the institutional framework for the AfCFTA’s implementation, administration, facilitation, monitoring, and evaluation consists of: “the Assembly; the Council of Ministers; the Committee of Senior Trade Officials; and the Secretariat.”⁵⁰

In its capacity as the African Union’s supreme decision-making body, the Assembly oversees the affairs and sets policies in favor of the vision and mission of the AfCFTA. Furthermore, it also guides the implementation of the Action Plan for Boosting Intra-African Trade (BIAT)).⁵¹ The Assembly is vested with the exclusive authority to adopt interpretations of the AfCFTA Agreement, based on recommendations of the Council of Ministers.⁵²

The Council of Ministers is duly established under Article 11 of the AfCFTA Agreement. As part of its authority, the Council of Ministers is responsible for, among other things, making decisions that are consistent with the goals of the AfCFTA Agreement, and ensuring its effective enforcement.⁵³

Article 12 provides for the Committee of Senior Trade Officials. This Committee shall consist of Permanent Secretaries or other officials selected by each State Party

49 *Ibid.*, Art. 4.

50 *Ibid.*, Art. 9.

51 *Ibid.*, Art. 10.

52 *Ibid.*

53 *Ibid.*, Art. 11.

to serve under the AfCFTA Agreement. This Committee's duties include, but are not limited to, creating working groups, carrying out other tasks required by the AfCFTA Agreement, and implementing the Council of Ministers' decisions as directed.⁵⁴

Article 13 of the AfCFTA Agreement states that the Assembly shall create the Secretariat, determine its purpose and location, and adopt the Secretariat's organizational chart and budget. Within the African Union system, the Secretariat will function as a fully independent institutional authority with a distinct legal identity. The Council of Ministers of Trade determines the Secretariat's responsibilities.⁵⁵

Article 14 addresses issues involving AfCFTA institutional decision-making. Decisions on procedural or non-procedural issues must be made by a simple majority of State Parties who are qualified to vote, while decisions on matters of substance must be made by consensus.⁵⁶

Lastly, there is the dispute settlement mechanism of the AfCFTA, which is a huge component of the institutional framework. The dispute settlement mechanism is provided by the Agreement⁵⁷ and shall operate in conformity with the Protocols on Rules and Procedures on Settlement of Disputes under the AfCFTA Agreement.⁵⁸ The dispute settlement mechanism mimics the World Trade Organization (WTO) dispute resolution process⁵⁹ with some appropriate modifications. State Parties may only bring disputes against other State Parties. Applications for the resolution of AfCFTA-related disputes may not be made by either natural or legal persons.⁶⁰ The dispute settlement mechanism has its own organizational structures, including Panels and an Appellate Body.⁶¹

54 *Ibid.*, Art. 12.

55 *Ibid.*, Art. 13.

56 *Ibid.*, Art. 14.

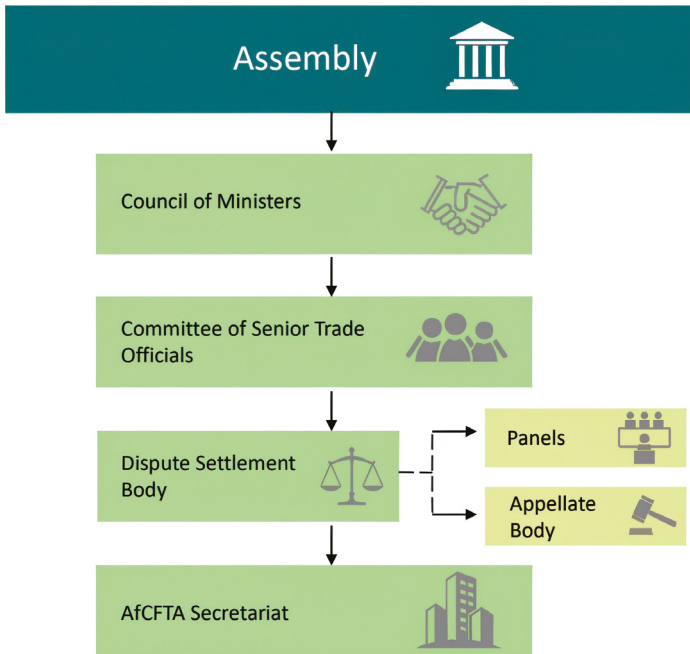
57 *Ibid.*, Art. 20(1).

58 *Ibid.*, Art. 20(2).

59 "World Trade Organization", WTO, https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c6s1p1_e.htm (last accessed 5 January 2024).

60 "The African Continental Free Trade Area - A Tralac Guide 10th Edition", Tralac Trade Law Centre, May 2023, <https://www.tralac.org/documents/resources/booklets/4803-afcfta-a-tralac-guide-10th-edition/file.html>, 5.

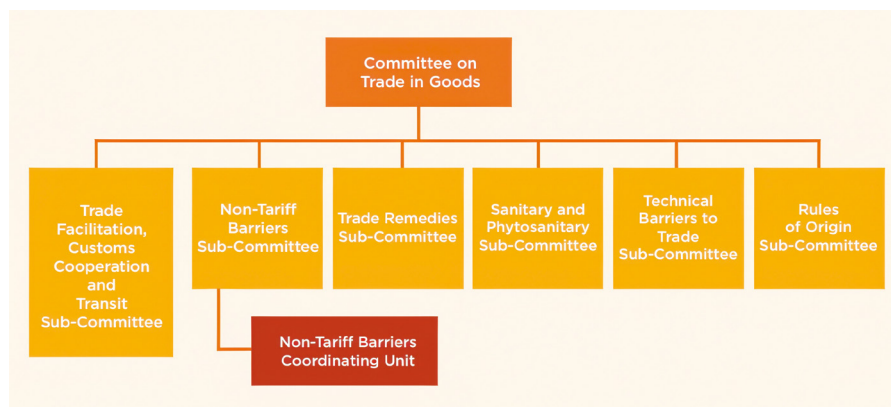
61 "A Tralac Guide 10th Edition".

Figure 2. Institutions of the AfCFTA

Source: “The African Continental Free Trade Area - A Tralac Guide 10th Edition”, Tralac Trade Law Centre, May 2023.

The AfCFTA Agreement, as an integrated agreement, consists of several protocols that provide guidelines for the implementation of the Agreement. In a bid to ensure the successful implementation of the Agreement, the Council of Ministers, in accordance with Article 11 of the Agreement, shall establish technical committees to advance the operation of each protocol and aid the objectives of these protocols.⁶² This article is focused on trade in goods and how the implementation of the AfCFTA Agreement can eliminate the barriers to free trade in goods and consequently contribute to economic growth in Africa. The key element in the liberalization of trade in goods on the continent is the Protocol on Trade in Goods (PTGs). The PTGs and its Annexes are implemented by the Committee on Trade in Goods and its Subcommittees.

62 “Agreement Establishing the African Continental Free Trade Area”, Protocol on Trade in Goods, Art. 31(1).

Figure 3. Committee on Trade in Goods

Source: Daniel, Marie. "Trade Unions and Trade - A Guide to the AfCFTA Protocol on Trade in Goods", Labour Research Service, December 2022.

B. Unpacking the Protocol on Trade in Goods

The Protocol on Trade in Goods (PTGs) sets the tone for the elimination of tariffs on 90% of product categories. In the case of sensitive commodities, countries may choose to reduce tariffs gradually over an extended amount of time. Also, countries can keep tariffs in place for the remaining 10% of product categories.⁶³ The PTGs centers on the exchange of tangible items and the need to liberalize the transportation of these items across the continent of Africa. The PTGs main objective is to facilitate the fulfillment of the general objectives of the AfCFTA Agreement as specified in Article 3 of the AfCFTA Agreement.⁶⁴ The Protocol on Trade in Goods shall achieve the main objective, which is to boost African continental trade in goods, through:

- “progressive elimination of tariffs;
- progressive elimination of non-tariff barriers;
- enhanced efficiency of customs procedures, trade facilitation and transit;
- enhanced cooperation in the areas of technical barriers to trade and sanitary and phytosanitary measures;
- development and promotion of regional and continental value chains; and
- enhanced socioeconomic development, diversification and industrialization across Africa.”⁶⁵

63 Lisandro Abrego, et al., “The African Continental Free Trade Agreement: Welfare Gains Estimates from a General Equilibrium Model”, IMF Working Paper, 7 June 2019, <https://www.imf.org/en/Publications/WP/Issues/2019/06/07/The-African-Continental-Free-Trade-Agreement-Welfare-Gains-Estimates-from-a-General-46881>, 4-5.

64 “Agreement Establishing the African Continental Free Trade Area” - AfCFTA, <https://au-afcfta.org/wp-content/uploads/2022/06/AfCFTA-Agreement-Legally-scrubbed-signed-16-May-2018.pdf>, Protocol on Trade in Goods, Ar. 3.

65 “A Business Guide to the African Continental Free Trade Area Agreement - ITC”, International Trade Centre, September 2018, <https://intracen.org/file/afcftabusinessguidefinalowrespdf>, 11.

The Protocol on Trade in Goods has nine annexes that deal with fundamental matters relating to free trade in goods within the continent of Africa. Part one of the PTGs states the objectives and the scope of the protocol. Ultimately, the goal of the PTGs is to establish a liberalized market for free trade in goods across the continent of Africa.⁶⁶ Part two of the PTGs governs trade without discrimination which is one of the bedrock principles of trading under the World Trade Organization (WTO) agreements. Article 4 of the PTGs covers the principle of Most-Favored-Nation Treatment,⁶⁷ where State Parties to the Agreement shall treat each other equally, and preferences given to any one Party must not be less favorable than those given to any other Party or any third parties.⁶⁸ Part three of the PTGs covers trade liberalization which is the removal of trade tariffs and non-tariff barriers. This section of the PTGs shall be administered in accordance with Annex 1 to the protocol.⁶⁹ The tariff liberalization schedule for each AfCFTA State Party is described in this annex. It offers information on the precise tariffs imposed on different products, as well as a timeframe for their removal or reduction as part of the AfCFTA implementation process.⁷⁰ The issue of trade liberalization and its positive impact towards fulfilling the principal objective of the Agreement will be discussed extensively in the further sections of this article.

Part four of the PTGs covers issues surrounding customs cooperation, trade facilitation and transit.⁷¹ States Parties to the AfCFTA Agreement are encouraged to take appropriate measures, which include creating policies and cooperating with each other, to make intra-African trade accessible and ultimately contributing to the success of the free trade area in Africa.⁷² Part five of the PTGs states provisions regarding trade remedies such as anti-dumping and countervailing measures.⁷³ Part six of the PTGs shall be in accordance with Annex 6 on technical barriers to trade and Annex 7 on sanitary and phytosanitary measures.⁷⁴ The nine annexes to the PTGs supplement the protocol and provide a more detailed framework for promoting intra-African trade in goods. Figure 4 below lists the nine annexes to protocol.

In a nutshell the principal components of the PTGs include:⁷⁵

- a) Elimination of tariffs and duties: The aim of the PTG is to achieve a zero tariff on product categories that are not labelled as sensitive, making trade in Africa more attractive and lucrative.
- b) Rules of origin: These are standards used to identify the country of origin of a product. These regulations are essential for preventing trans-shipment in

66 "AfCFTA Agreement", Protocol on Trade in Goods, Art. 2.

67 "AfCFTA Agreement", Protocol on Trade in Goods, Art. 4.

68 "AfCFTA agreement", Art. 18.

69 "AfCFTA Agreement", Protocol on Trade in Goods

70 Draft compiled annexes to the establishment of the AFCFTA, https://au-afcfta.org/wp-content/uploads/2022/01/Compiled-Annexes-to-the-CFTA-Agreement_E-2.pdf.

71 "African Trade Agreement", Protocol Trade in Goods.

72 *Ibid.*, Arts. 14, 15 and 16

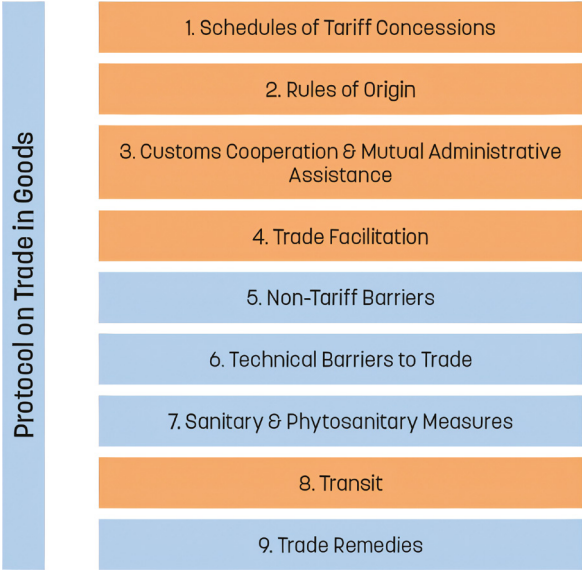
73 *Ibid.*, Art. 17.

74 *Ibid.*, Arts. 21 and 22.

75 "AfCFTA Agreement", Protocol on Trade in Goods.

- which products from a non-AfCFTA nation could be transported via AfCFTA State Parties to reap membership benefits, *i.e.* duty-free access for goods originating outside of AfCFTA.
- c) Trade Remedies: The treaty offers defenses against unfair trade tactics such as dumping and subsidies, as well as safeguard measures in case of sharp increases in imports.
 - d) Non-Tariff Barriers (NTBs): NTBs, such as needless or duplicative licensing or quota schemes, must be eliminated for trade to be genuinely free. There is now a system in place for reporting and tracking NTBs online.
 - e) Custom and Trade Facilitation: This helps to provide quick, transparent, and predictable customs operations.
 - f) Sanitary and phytosanitary measures are crucial for the survival and health of people, animals, and plants. The procedure makes sure that regulations do not impede trade more than absolutely inevitable.⁷⁶

Figure 4. Annexes to the Protocol on Trade in Goods



Source: African Continental Free Trade Area Background and Role of Customs by Creck Buyonge Mirito

C. Status of the AfCFTA Protocol on Trade in Goods

On the issue of trade in goods within the AfCFTA, signatories to the AfCFTA Agreement have committed to removing tariffs on 90% of non-sensitive product lines within five years, or ten years for least developed countries (LDCs),⁷⁷ starting

⁷⁶ *Ibid.*

⁷⁷ Least Developed Countries.

1 January 2021, and to liberalizing 7% of sensitive product lines within ten years, or thirteen years for LDCs.⁷⁸ Each State Party to the AfCFTA Agreement may reserve up to 3% of the tariff lines that make up no more than 10% of its intra-African imports from liberalization.⁷⁹ By November 2023, 47 nations had submitted their tariff schedules, and rules of origin had been agreed upon for 88% of the commodities (the remaining goods are related to autos, textiles, and clothes).⁸⁰ In addition, member states have made a commitment to lessen nontariff trade restrictions through the development of institutional frameworks for removing such obstacles, as well as reporting and monitoring mechanisms.⁸¹

In theory, trading under the new regime within the AfCFTA can only commence when all necessary legal frameworks have been established.⁸² However, the African Union (AU) Summit resolved in December 2020 to permit trade even if discussions over tariff schedules and rules of origin are yet to be concluded.⁸³ The State Parties to the AfCFTA determined that trade in goods for which rules of origin have been settled can be conducted under the tariff proposals made, so long as the tariff proposals are in line with the procedures that were drawn up for tariff negotiations.⁸⁴ Consequently, State Parties would need to create national policies that will facilitate the implementation of domestic procedures, such as updating of the tariff book, the gazette of amendments to the customs legislation, and the establishment of the required paperwork requirements and procedures (such as requests for certifications of rules of origin).

With the conclusion of Rules of Origin for clothing, textile, and automotive products still pending, the AfCFTA's Secretariat proposed an initiative titled Guided Trade Initiative (GTI) and presented it at the 9th meeting of the Council of Ministers.⁸⁵ Article 11 paragraph 3-j of the AfCFTA Agreement, which gives the Council of Ministers authority to issue directives, formulate rules, and make recommendations, serves as the foundation for the GTI.⁸⁶ It was introduced as a solution-based strategy with the aim of achieving its objective by coordinating with the national AfCFTA implementation committees of interested State Parties to match companies (no matter the scale), and goods ready for export and import

78 Asmaa A ElGanainy, et al., "Trade Integration in Africa: Unleashing the Continent's Potential in a Changing World", IMF, 5 May 2023, <https://www.imf.org/en/Publications/Departmental-Papers-Policy-Papers/Issues/2023/05/03/Trade-Integration-in-Africa-Unleashing-the-Continent-s-Potential-in-a-Changing-World-529215>, 3.

79 "Trade Integration in Africa", 3.

80 *Ibid.*

81 *Ibid.*

82 "African Continental Free Trade Area (Afcfta) Frequently Asked Questions", Tralac Trade Law Centre, May 2023, <https://www.tralac.org/documents/resources/faqs/4621-updated-tralac-afcfta-faqs/file.html>, 6.

83 "African Continental Free Trade Area (Afcfta) Frequently Asked Questions".

84 *Ibid.*

85 *Ibid.*

86 Cham Etienne Bama, "What Have We Learned from the Guided Trade Initiative of the AfCFTA", TRALAC, May 2023, <https://www.tralac.org/documents/events/tralac/4831-tralacconf2023-session-6-cham-etienne-bama-guided-trade-initiative-of-the-afcfta/file.html>.

between interested State Parties.⁸⁷ The AfCFTA's policies, legislative framework, operational environment, and institutional environment will all be put to the test by the GTI.⁸⁸ Cameroon, Egypt, Ghana, Kenya, Mauritius, Rwanda, Tanzania, and Tunisia are the eight GTI participants that have complied with the minimal standards set out in the AfCFTA's tariff book and rules of origin.⁸⁹ These countries will serve as a kind of laboratory for preferential trading of goods in Africa, proffering lessons on areas for improvement, in order to ensure the successful implementation of a continent-wide free trade area for goods in Africa.

The potential benefits of the successful implementation of the protocol on trade in goods and its annexes include removal of tariffs on intra-African trade, lowering unemployment, accelerating infrastructure development, and fostering a more competitive and sustainable environment for cross-border commerce in Africa.⁹⁰ The AfCFTA's ultimate objective is to make it easier for people to invest and trade across African borders, but first the continent has to address the challenges it faces collectively. Africa's capacity to trade has been limited by vast infrastructural gaps on the continent, particularly in the areas of utilities and transportation. Significant trade barriers have been created, particularly when it comes to moving products into and out of the continent's ports, because of transit constraints in African nations that have been made worse by problems in global supply chains in recent years.⁹¹ The supply chains for commerce in Africa are also being impacted by other problems, such environmental factors,⁹² and high levels of corruption, which create added costs for doing business in Africa. These challenges and potential benefits will be discussed extensively in the next section of this article.

4. Regional Economic Integration in Africa: A Focus on Intra-African Trade in Goods

A. *Regional Economic Integration in Africa*

Regional economic integration has been a goal for Africa for many years, starting from the post-independence era. To solve the continent's developmental issues, lessen its marginalization in international affairs, and pave the way for a more affluent future, these integration attempts have been predicated on the idea that

87 Bama, "What Have We Learned from the Guided Trade Initiative of the AfCFTA".

88 "An Update on Free Trade in Africa – the Guided Trade Initiative, Regional Value Chains and Measures for Sustainable Trade", ZAWYA, 1 March 2023, <https://www.zawya.com/en/economy/north-africa/an-update-on-free-trade-in-africa-the-guided-trade-initiative-regional-value-chains-and-measures-for-sustainable-trade-nc83vc2f>.

89 "An Update on Free Trade in Africa".

90 United Nations. Economic Commission for Africa; African Union Commission; African Development Bank, *Assessing Regional Integration in Africa Area IX : Next steps for the African Continental Free Trade Area*, 2019, <https://repository.uneca.org/handle/10855/42218>.

91 United Nations. Economic Commission for Africa, "Assessing Regional Integration in Africa Area IX".

92 *Ibid.*

group action and intra-regional economic cooperation may work as a vehicle.⁹³ Intra-African trade in goods, which has great promise but also presents a mosaic of problems, is at the center of this integration.

Regional integration is a multifaceted process that increases the level of interaction between neighboring countries within a defined geographic area, having regard to economic, security, political, social, and cultural issues.⁹⁴ In order to improve collaboration through shared institutions and regulations, neighboring governments will often come to an agreement through the process of regional integration.⁹⁵ Regional integration as a concept can also be described as an attempt to realize mutual benefits through collaboration among a number of self-interested governments in an international system that is otherwise anarchical in nature.⁹⁶ Regional integration can be done through any of the following forms: free trade areas, custom unions, economic unions, and political unions.⁹⁷ The most basic kind of economic cooperation is a free trade area, which allows for the unrestricted exchange of (certain) products and services, and the elimination of (most) tariffs and quotas within the group.⁹⁸ The AfCFTA initially takes the form of a free trade area as it is formed by a trade agreement among African countries for the purpose of ultimately establishing a single market for goods and services, and boosting economic integration on the continent.

The African Union (AU) and the Regional Economic Communities (RECs) have taken a number of ambitious steps to increase opportunities for economic integration and free trade, improve environmental conditions and sustainable resource use, strengthen democracy, increase gender equality, and increase respect for human rights, among other things.⁹⁹ The launch of the AfCFTA negotiations is one of the latest tangible initiatives of the AU to foster continental economic integration. To date, the AfCFTA Agreement has been signed by 54 out of 55 countries and ratified by 47 countries in the continent of Africa.¹⁰⁰

The process of regional integration in Africa is not without its challenges. Africa's prosperity in the past was stifled by policies that were not favorable to the market, private sector, and foreign investment.¹⁰¹ There has also been a lack of political commitment from various African state governments due to a lack of

93 United Nations, Economic Commission for Africa; African Union Commission; African Development Bank, "Assessing Regional Integration in Africa Area IX".

94 Brendan Vickers, *A Handbook on Regional Integration in Africa: Towards Agenda 2063* (Commonwealth Secretariat, 2017), 1.

95 Mery Ana Farida (2015), "The Regional Integration: The Impact and Implications in Member States Sovereignty", <https://medium.com/pangripta-loka/the-regional-integration-the-impact-and-implications-in-member-states-sovereignty-5679e0990>.

96 Hidetaka Yoshimatsu (2008), "State Sovereignty, Collective Action Problems and Regional Integration in Southeast Asia", *The Political Economy of Regionalism in East Asia*, 24-43. London: Palgrave Macmillan.

97 Babalola Abegunde, "Regional Cooperation and State Sovereignty", *Athens Journal of Law* 7, no. 2 (2021): 169-188.

98 Babalola Abegunde, "Regional Cooperation and State Sovereignty", 175.

99 *Ibid.*

100 African Union, "About the African Union", <https://au.int/en/overview>.

101 Babalola Abegunde, "Regional Cooperation and State Sovereignty".

confidence in the integration process.¹⁰² As in other parts of the world, it is not easy for African governments to yield sovereignty of any kind to a regional body. One major obstacle to regional integration in Africa is the concept of sovereignty and how it has been understood and implemented.¹⁰³ African countries are strongly tied to their culture, and this strengthens the will to preserve their individual national identities. Also, because of the colonial legacy, transfers or self-limitation of sovereignty is a particularly sensitive subject in the region. Closely related to the above challenge is that of political instability and conflict in some regions in Africa. Weak institutional capacity and governance are another challenge to regional integration in Africa. The various Regional Economic Communities, including the African Union itself, have a weak set up for efficient operation of the institutions.¹⁰⁴

Despite the challenges to Africa's continental integration, the continent needs regional integration as a tool to confront a massive lack of infrastructure, in particular hard infrastructure in areas specific to modes of transportation such as roads, railways, water, and air. This is where regional integration comes into play by providing a platform on which countries can share resources, work on broadening their economies, and reduce reliance on the export of natural resources to create jobs for the growing number of young adults, reduce hardship, and ultimately bring about shared prosperity throughout the African continent.¹⁰⁵ Even if full implementation takes a long time or is never quite achieved, the AfCFTA Agreement will bring significant benefits to the continent of Africa. However, any meaningful level of implementation of this Agreement requires strong and continuing cooperation and dedication from all State Parties.

B. Current State of Intra-African Trade

Food, natural resources, and manufactured commodities are the key drivers of Africa's rather small intraregional commerce, which has been growing gradually. Between 2022 and 2023, intra-African commerce increased from 13.6% to 15% of the continent's overall trade.¹⁰⁶ The majority of commerce in Africa is still done with nations outside the continent. Since 2000, China - and more broadly speaking Asia - have become the primary trading partners for Africa, as opposed to the United States and Europe.¹⁰⁷

The existing trade patterns show gaps in Africa in comparison to other continents. Gaps, such as the low degree of industrialization, are indicative of a

102 *Ibid.*

103 *Ibid.*

104 *Ibid.*

105 Gozde Isik, "The Importance of Regional Integration in Africa", World Economic Forum, March 2016, <https://www.weforum.org/agenda/2016/03/the-importance-of-regional-integration-in-africa>.

106 "African Trade Report 2024 Climate Implications of the AfCFTA Implementation", n.d. https://media.afreximbank.com/afrexim/African-Trade-Report_2024.pdf.

107 Lisandro Abrego, et al., "The African Continental Free Trade Area: Potential Economic Impact and Challenges".

regional focus on exportation of raw materials.¹⁰⁸ The average export value of intra-African commerce between 2014 and 2016 was almost US\$72 billion.¹⁰⁹ This amount rose to around US\$192 billion by 2023, representing 15% of Africa's overall commerce. Ongoing initiatives to strengthen economic cooperation throughout the continent are reflected in this rise.¹¹⁰ With US\$33 billion in intra-African exports, SADC leads all Regional Economic Communities (RECs)¹¹¹ as the main intra-African exporter, making up 45% of all intra-African exports.¹¹² ECOWAS (12%) and COMESA (11%) were distant second and third, respectively.¹¹³ The Arab Maghreb Union's (UMA) share is just 5%, while the Economic Community of Central African States' (ECCAS) contributes only 2%.¹¹⁴ Although SADC has the greatest percentage of intra-African trade, the majority of its intra-African commerce occurs inside the SADC region. This, however, is different for COMESA and ECOWAS countries. Slightly over half of intra-African trade for ECOWAS and COMESA occurs within various RECs.¹¹⁵ The two largest economies in Africa, South Africa and Nigeria, as well as, to some extent, Egypt, Ghana, Cote d'Ivoire, Kenya, and Algeria, are the biggest exporters within the continent.¹¹⁶ South Africa's proportional relevance to the continent is more apparent in its contribution of about 33% to all intra-African exports (33%).¹¹⁷ This shows that South Africa has a large tendency to export to other countries within Africa, probably due to its relative competitiveness in exporting manufactured goods to the area. Nigeria, on the other hand, contributes only about 10% to intra-African exports, and the country exports mostly oil to the continent, and the rest of the world.¹¹⁸

108 Bernhard Tröster and Eva Janechová, "The Long Journey towards Pan-African Integration: The African Continental Free Trade Area and Its Challenges", *ÖFSE Briefing Paper*, No 31, Austrian Foundation for Development Research (ÖFSE), Vienna, 2021, <https://doi.org/https://www.oefse.at/publikationen/briefing-papers/detail-briefing-paper/publication/show/Publication/the-african-continental-free-trade-area-and-its-challenges/>, 8.

109 UNCTAD, "Designing Trade Liberalization in Africa: Modalities for Tariff Negotiations towards an African Continental Free Trade Area", UNCTAD, 5 June 2020, 8.

110 "Intra-African Trade up 7.2% in 2023, Report Finds – PACCI", 2023, Pacci.org, 21 June 2024. <https://www.pacci.org/intra-african-trade-up-7-2-in-2023-report-finds/>.

111 There are eight recognized AU RECs.

112 UNCTAD, "Designing Trade Liberalization in Africa".

113 *Ibid.*

114 *Ibid.*

115 *Ibid.*

116 *Ibid.*

117 *Ibid.*, 10.

118 *Ibid.*

Figure 5. *Share of Manufacturing Products in Total Exports, for Africa and Main Comparator Groups (2021)*



Source: COMTRADE (UNSTAT). Adapted from “African Trade Report 2023 Export Manufacturing and Regional Value Chains in Africa under a New World Order”, 2023.

With the new AfCFTA Agreement, present African trade patterns are going to reorganize themselves and will result in increased intra-African trade. Current trends also indicate the need for domestic policies to favor changes in production patterns and the possibility for greater and more varied commerce among African nations.¹¹⁹

C. Challenges to Intra-African Trade in Goods

Compared to intra-regional trade in Latin America, Asia, North America, and Europe, intra-African trade currently remains at a substantially lower level.¹²⁰ The AfCFTA is expected to increase intra-African trade by roughly 33% and reduce Africa’s overall trade shortfall by 51%, according to United Nations Conference on Trade and Development (UNCTAD) predictions.¹²¹ The creation of a functional free trade area will speed up the creation of regional supply networks in addition to

119 Bernhard Tröster, “The Long Journey towards Pan-African Integration: The African Continental Free Trade Area and Its Challenges”.

120 “African Union: AfCFTA Launched”, *Africa Research Bulletin: Economic, Financial and Technical Series* 55, no. 3 (2018): 22060A-22062A.

121 Douglas, Okwatch, “Africa’s Free Trade on Track, More Efforts Needed”, *Africa Renewal*, January 2023, [https://www.un.org/africarenewal/magazine/january-2023/africa%E2%80%99s-free-trade-track-more-efforts-needed#:~:text=lies%20ahead%2C%20though.,Presently%2C%20intra%20Africa%20trade%20stands%20low%20at%20just%2014.4%25%20of,day\)%2C%20according%20to%20UNCTAD](https://www.un.org/africarenewal/magazine/january-2023/africa%E2%80%99s-free-trade-track-more-efforts-needed#:~:text=lies%20ahead%2C%20though.,Presently%2C%20intra%20Africa%20trade%20stands%20low%20at%20just%2014.4%25%20of,day)%2C%20according%20to%20UNCTAD).

promoting intra-regional trade.¹²² To achieve all the benefits attached to the AfCFTA, the challenges to trade must be addressed. Only in so doing, can Africa expect structural changes like in other regions, such as Asia.¹²³

1. *Non-Tariff Barriers*

Free trade in goods faces two distinct types of barriers, namely tariff and non-tariff barriers. Businesses currently incur greater duties when exporting within Africa than when exporting outside of it, with an average tariff rate of 6.1 percent applied by African countries.¹²⁴ Tariffs and custom charges are mostly imposed to defend indigenous industries against foreign rivals.

By contrast, non-tariff barriers are more subtle and can take many different forms, including quotas that place restrictions on the quantity of specific importable goods, licensing requirements that limit the number of businesses that can import a given good, and technical or sanitary and phytosanitary requirements that imports must meet.¹²⁵ In certain instances, these requirements are purposefully imposed to make it challenging for imported goods to meet them. Additionally, administrative obstacles like cumbersome processes and red tape often impede or delay the admission of imported goods. Governments may also impose currency restrictions to restrict the amount of foreign currency that can be used to pay for imports. These are all examples of non-tariff barriers, and they range from lengthy border processing times to complicated product safety regulations. NTBs are more limiting than tariff barriers such as custom duties, not least because their impact is often hard to predict.

Aware of this huge restriction, Annex 5 of the PTGs is dedicated to eliminating NTBs. The creation of a system for the recognition, classification, and eradication of NTBs is required under Annex 5. This Annex outlines processes for removing non-tariff trade barriers, which may include laws, rules, policies, restrictions, labeling requirements, business practices, and other restrictions.¹²⁶

An example of the effect of NTBs on cross-border trade in Africa is when border guards requested Zambian businessmen transporting molasses into Botswana on the Kazungula Ferry for a fumigation certificate.¹²⁷ The Zambians were certain that

122 Muazu Ibrahim, "Why the African Free Trade Area Could Be the Game-Changer for the Continent's Economies", *The Conversation*, August 2020, <https://theconversation.com/why-the-african-free-trade-area-could-be-the-game-changer-for-the-continents-economies-142397>.

123 Muazu, "Why the African Free Trade Area Could Be the Game-Changer for the Continent's Economies".

124 "African Continental Free Trade Area: Questions & Answers", United Nations. Economic Commission for Africa, 2019, <https://repository.uneca.org/handle/10855/43253>.

125 Christian Knebel, *The African Continental Free Trade Area: From Agreement to Impact* 9, no. 1 (2020), <https://ecdpm.org/work/the-african-continental-free-trade-area-from-agreement-to-impact-volume-9-issue-1-2020>, 19.

126 Draft compiled annexes to the establishment of the AfCFTA, https://au-afcfta.org/wp-content/uploads/2022/01/Compiled-Annexes-to-the-CFTA-Agreement_E-2.pdf (last accessed July 19, 2023).

127 Christian Knebel, *The African Continental Free Trade Area: From Agreement to Impact* 9, no. 1 (2020), <https://ecdpm.org/work/the-african-continental-free-trade-area-from-agreement-to-impact-volume-9-issue-1-2020>, 19.

this was not necessary, but the custom officers prohibited entry of the goods.¹²⁸ This resulted in the dealers having to pay storage fees and miss out on a lucrative venture. It would seem at least possible that the Botswanan customs officers were fishing for a bribe. Alternatively, consider Kenya's convoluted border crossing procedures. According to the United Nations Development Programme, the nation's ports, borders, and airports have more than 20 government organizations tasked with clearing cargo.¹²⁹

The AfCFTA Agreement, by virtue of the Annexes to the PTGs, has made provision for a monitoring mechanism in Article 10 of Annex 5 to the PTGs.¹³⁰ This provision allows for the establishment of monitoring mechanisms for the purpose of tracking and monitoring of NTBs that negatively affect cross-border trade in Africa.¹³¹ From 13 January 2020, anyone can use the AfCFTA NTB Reporting, Monitoring, and Eliminating Mechanism, which is available online. The straightforward and accessible website lets merchants report NTBs they run into when doing business in Africa. State Parties are then required to act and remove the obstacles. Annex 5 of the PTGs provides for the establishment of institutions and mandatory procedures to ensure NTB complaints are tackled efficiently and within reasonable time.¹³² A possible challenge to the implementation of the online reporting mechanism is the issue of language barriers. More than 1,000 languages are spoken in Africa. Therefore, linguistic difficulties are a given in any cross-continental information system. However, the online mechanism has a plug-in that automatically translates complaints from 12 different African languages, including English, French, Arabic, Portuguese, and Swahili, into the official language of the receiving nation, hereby reducing potential linguistic barriers to the NTB online application.¹³³

128 Christian, "The African Continental Free Trade Area", 19.

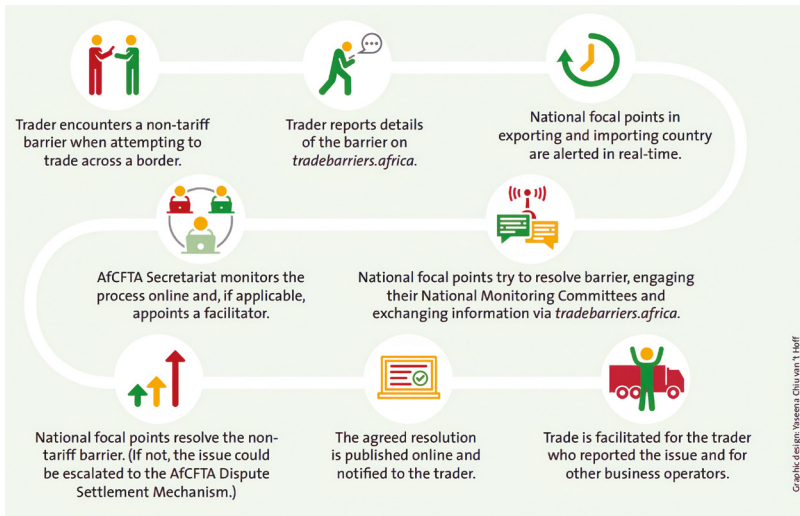
129 Daniel, Marie, "Trade Unions and Trade - A Guide to the AfCFTA Protocol on Trade in Goods", Labour Research Service, December 2022. <https://www.tradeunionsinafcfta.org/wp-content/uploads/2023/06/AfCFTA-Protocol-on-Trade-in-Goods.pdf>.

130 "Draft compiled annexes to the establishment of the AfCFTA".

131 *Ibid.*

132 *Ibid.*

133 Christian, "The African Continental Free Trade Area".

Figure 6. AfCFTA Non-Tariff Barriers Mechanism in Action

Source: Christian Knebel, *The African Continental Free Trade Area: From Agreement to Impact* 9, no. 1 (2020).

By removing or at least reducing NTBs, there is a chance that trade processes will be simplified and the appeal of the African market to domestic and international investors will increase. Barriers that are protective and obstructive must coexist in harmony. To effectively allow for the free flow of commodities within the continent, it is necessary to protect domestic enterprises while also removing prohibitive and unjustified barriers.¹³⁴ A big question will be how disputes over the necessity and proportionality of non-tariff barriers will be managed, for example, in the case of food safety regulations. The Annexes to the PTGs look optimistic but the challenge is in the implementation. The African Union and its Member States will need to invest more in ongoing surveillance, border checks, and cooperation amongst State Parties to the AfCFTA Agreement.¹³⁵ Some have argued that improving governance, trade facilitation, and tougher customs enforcement will have a greater positive impact on intra-African trade than eliminating tariffs.¹³⁶ One study found that a 20% reduction in truck transit times would have a greater positive impact on

134 Daniel, Marie, "Trade Unions and Trade - A Guide to the AfCFTA Protocol on Trade in Goods". Labour Research Service, December 2022, <https://www.tradeunionsinafcfta.org/wp-content/uploads/2023/06/AfCFTA-Protocol-on-Trade-in-Goods.pdf>.

135 "Trade Union and Bilaterals: Do's and Don'ts", ITUC International Trade Union Confederation, 24 August 2021, <https://www.tradeunionsinafcfta.org/ituc-trade-union-guide-to-bilaterals/>.

136 Gerhard Erasmus, "Trade Remedies and Safeguards: Important for States and Private Parties", tralac, 21 February 2022, <https://www.tralac.org/publications/article/15514-traderemedies-and-safeguards-important-forstates-and-private-parties.html>.

intra-African trade than complete tariff liberalization.¹³⁷ It is the opinion of the present author that only the elimination or at least reduction of all challenges, including non-tariff barriers, will result in the ultimate success of the AfCFTA Agreement. The presence of non-tariff barriers, even with adequate infrastructure to facilitate trade within the continent, will still inhibit the free flow of goods within Africa. Moreover, as other barriers, including tariffs, are reduced, countries might resort to more non-tariff barriers to protect domestic industries and markets, if those NTBs are not simultaneously targeted and reduced.

The aim of the AfCFTA Agreement is to eliminate tariffs on 90% of product categories within 10 years and a longer time frame for Least Developed Countries (LDCs).¹³⁸ The remaining 10% of products are to be classified as sensitive by State Parties to the AfCFTA Agreement.¹³⁹ State Parties are currently working towards classifying products as either sensitive or excluded. Regarding NTBs, it is clear that bribery and corruption must be addressed on a continental level. If widespread corruption is not addressed, the AfCFTA's benefits will be substantially less than they could be.

Within the AfCFTA, the process of tariff liberalization presents both a challenge and an opportunity. The complex task of coordinating tariff schedules among several African nations requires careful negotiation and compromise. However, this procedure also offers a chance to boost intra-African commerce by lowering corporate costs and encouraging the effective distribution of resources throughout the continent.¹⁴⁰

2. *Rules of Origin (RoO)*

RoO are another issue that challenges the success of the free flow of goods in Africa. RoO are standards that identify a product's place of origin and, as a result, specify which goods qualify for preferential tariffs.¹⁴¹ An example for the kind of question addressed by RoO is whether a shirt made of Chinese silk that was designed and sewn in China but packaged in Kenya can qualify for favorable tariff rates under the AfCFTA?¹⁴² What if it was sewed together in Kenya but was made of imported Chinese silk?¹⁴³ This question of value added could be determined by a percentage of the final cost but also by requirements of particular production steps that alone would confer origin. Depending on the RoO that is being negotiated by the State Parties to the AfCFTA, the answers to these questions will vary. On the one hand, stricter regulations would make it impossible for countries that are not

137 Chad Capon, "Understanding the AfCFTA: Observations and Opportunities by Chad Capon - Imani Development", Imani Development - Global Vision, Local Knowledge, 18 December 2020, <https://imanidevelopment.com/understanding-the-afcfta-challenges-and-opportunities-by-chad-capon/>.

138 "Trade Union and Bilaterals: Do's and Don'ts", ITUC International Trade Union Confederation.

139 *Ibid.*

140 Landry Signé, John W. McArthur and John Mulligan, "Keys to Success for the AfCFTA Negotiations", Brookings, 9 March 2022, <https://www.brookings.edu/articles/keys-to-success-for-the-afcfta-negotiations/>.

141 Landry Signé, "Keys to Success for the AfCFTA Negotiations", Brookings.

142 *Ibid.*, 7.

143 *Ibid.*

members of the AfCFTA to reap rewards from this African trade agreement.¹⁴⁴ However, on the other hand, the more stringent the RoO, the harder it will be for companies, particularly small and medium enterprises in LDCs, to satisfy the value-added level and qualify for AfCFTA tariff benefits.¹⁴⁵ To give an example, it would be far simpler to be compliant with a requirement that only 30% of a product must come from the country claiming origin.¹⁴⁶ Similarly, it would be simpler to prove that 30% of a product must come from the origin-claiming nation than, for instance, to prove that a product underwent “double transformation”,¹⁴⁷ in which case the nation must create both the clothes and the fabric from which it is made.¹⁴⁸ Stringent RoO will prevent the bulk of African companies from benefiting from advantageous tariffs under the AfCFTA since manufacturing is in a poor state in many African countries and because the continent’s private sector is primarily made up of SMEs that lack the necessary know-how and equipment to make many of the input products needed for the consumer products they are making.¹⁴⁹ State Parties should, therefore, choose to adopt somewhat permissive rules of origin in order to guarantee that as many companies as possible in these State Parties will be able to trade using AfCFTA preferences.¹⁵⁰ This would not prevent State Parties from subsequently increasing the requirements for RoO, in line with the evolving manufacturing capacity on the continent. In sum, only smart definitions for RoO encourage value addition whilst preventing trade deflection. While it would be possible to draw up highly specific RoO for each industry and line of products, only clear and practical rules can foster industrialization, promote cross border transactions, and encourage innovation within Africa. Overly complex rules will not achieve any of these goals.

3. *Low Level of Trade Facilitation*

Tariffs have typically been blamed for low intra-African and regional commerce. However, in addition to tariffs, the poor level of trade facilitation measures is one of the primary causes of limited intra-African and regional trade. Trade facilitation can be described as “the simplification and harmonization of international trade procedures, including activities, practices, and formalities involved in collecting, presenting, communicating, and processing data required for the movement of

144 Tralac, African Continental Free Trade Area faqs June 2018 Update - tralac, June 2018, <https://www.tralac.org/documents/resources/faqs/2377-african-continental-free-trade-area-faqs-june-2018-update.html>.

145 Landry Signé, “Keys to Success for the AfCFTA Negotiations”, Brookings.

146 Peter Draper, Cynthia Chikura and Heinrich Krogman, “Can Rules of Origin in Sub-Saharan Africa Be Harmonised? A Political Exploration”, *IDOS Discussion Papers*, January 2016, <https://ideas.repec.org/p/zbw/diedps/12016.html>.

147 The term “double transformation”, otherwise known as “substantial transformation”, refers to a fundamental change in the good’s form, appearance, nature, or character that increases its value by an amount or percentage that is appreciably greater than the value the good (or its parts or materials) had when it was first produced or cultivated (typically as a result of processing or manufacturing in the country claiming origin).

148 Peter Draper et al, “Can Rules of Origin in Sub-Saharan Africa Be Harmonised?”.

149 *Ibid.*

150 *Ibid.*

goods in international trade”.¹⁵¹ In other words, trade facilitation is a comprehensible and standardized set of international trade procedures. The AfCFTA Agreement provides a regulatory framework for State Parties that will enhance trade facilitation and border control. This regulatory framework includes many Annexes covering trade facilitation,¹⁵² customs cooperation and mutual administrative aid,¹⁵³ and transit freedom.¹⁵⁴ In furtherance of promoting and enforcing trade facilitation measures, the AfCFTA Agreement provides an institutional framework which includes the Sub-Committee on Trade Facilitation, Customs and Transit.¹⁵⁵ The Trade Facilitation Annex is an essential component of international trade treaties, particularly the World Trade Organization (WTO) Trade Facilitation Agreement (TFA). Annex 4 of the Protocol on Trade in Goods (PTGs) within the AfCFTA Agreement is largely based on the ideas of the TFA.¹⁵⁶ Annex 4 covers requirements for publication of trade-related information, pre-arrival processing, pre-shipment inspection, electronic payment of tariffs and fees, special procedures for expedited shipments, use of information and communications technology, and transit freedom, among other things.¹⁵⁷ In accordance with the TFA, signatories have committed to pursuing trade facilitation measures that enhance trade processes and speed up the movement of commodities.¹⁵⁸ They have pledged to, among other things, embrace electronic duty payments, and to standardize, streamline, and automate customs procedures.¹⁵⁹ They have also agreed to publish all pertinent rules online.¹⁶⁰ It is worth noting that the African countries are still behind on the implementation of their political commitments to the TFA although that agreement dates back to 2017.¹⁶¹ Implementation of these commitments would go a long way in addressing many of the trade-related issues the AfCFTA Agreement seeks to

151 Annex 4 of the AfCFTA Agreement Protocol on Trade in Goods, “Draft compiled annexes to the establishment of the AfCFTA”, https://au-afcfta.org/wp-content/uploads/2022/01/Compiled-Annexes-to-the-CFTA-Agreement_E-2.pdf (last accessed 19 July 2023).

152 *Ibid.*

153 Annex 3 of the AfCFTA Agreement Protocol on Trade in Goods, “Draft compiled annexes to the establishment of the AfCFTA”, https://au-afcfta.org/wp-content/uploads/2022/01/Compiled-Annexes-to-the-CFTA-Agreement_E-2.pdf (last accessed 19 July 2023).

154 Annex 8 of the AfCFTA Agreement Protocol on Trade in Goods, “Draft compiled annexes to the establishment of the AfCFTA”, https://au-afcfta.org/wp-content/uploads/2022/01/Compiled-Annexes-to-the-CFTA-Agreement_E-2.pdf (last accessed 19 July 2023).

155 Article 12 of Annex 8 of the AfCFTA Agreement Protocol on Trade in Goods, “Draft compiled annexes to the establishment of the AfCFTA”, https://au-afcfta.org/wp-content/uploads/2022/01/Compiled-Annexes-to-the-CFTA-Agreement_E-2.pdf (last accessed 19 July 2023).

156 Trade Facilitation Agreement, 2013, <https://www.tfafacility.org/agreement-article-resources>.

157 Annex 4 of the AfCFTA Agreement Protocol on Trade in Goods.

158 Edina Mudzingwa, et al, 2021. “Trade facilitation in Africa”.

159 Asmaa A ElGanainy, et al., “Trade Integration in Africa: Unleashing the Continent’s Potential in a Changing World”, IMF, May 5, 2023, <https://www.imf.org/en/Publications/Departmental-Papers-Policy-Papers/Issues/2023/05/03/Trade-Integration-in-Africa-Unleashing-the-Continent-s-Potential-in-a-Changing-World-529215>, 3.

160 Asmaa A ElGanainy, et al., “Trade Integration in Africa: Unleashing the Continent’s Potential in a Changing World”.

161 Edina Mudzingwa and Talkmore Chidede (2021), Trade facilitation in Africa: Solutions and recommendations, tralac Trade Brief No. G21TB09/2021. Stellenbosch: tralac. Out of the 44 African WTO member countries, 39 have ratified the TFA.

address. By contrast, the lack of implementation of these commitments by African signatories to the TFA justifies doubts about the success of even more far-reaching measures forthcoming in the AfCFTA Agreement.

Trade facilitation depends on collaboration between all border services. When border agencies, authorities, and traders work together, the number of interventions that are frequently needed before products are cleared at ports and borders can be greatly reduced.¹⁶² Article 25 of Annex 4 of the PTGs mandates cooperation and coordination between authorities and agencies in charge of border management and processes pertaining to the passage of goods in order to ease transactions.¹⁶³ To ensure cooperation between border services in the various State Parties, Article 18 of Annex 4 of the PTGs calls for the establishment and operation of single windows as a realistic means of facilitating cross-border trade.¹⁶⁴ A single window intends to use digital information instead of physical documentation and to connect diverse computer networks of government agencies and businesses to develop a strong international logistics network.¹⁶⁵ Through a single-entry point, traders may present paperwork and/or data needed for importation, exportation, or movement of goods. After the appropriate national authorities thoroughly examine the documents or data, the results are conveyed to the applicants through a single time frame.¹⁶⁶ Currently, only a few African nations have established single windows.¹⁶⁷ However, for those that have, the introduction of single windows has provided smooth clearing of items and shortened clearance times. In Uganda, the installation of a single-window system has saved traders around US\$85,000.00 per year, which was previously spent due to traditional filing of trade documentation.¹⁶⁸

According to the World Bank, clearing a cargo of car components through Congolese customs takes roughly three and a half weeks.¹⁶⁹ East African nations like Tanzania and Uganda constructed a one-stop border post to speed up the passage of cargo between them.¹⁷⁰ With the ratification of the AfCFTA Agreement,

162 OECD, "Trade Facilitation and the Global Economy", OECD Publishing, Paris, 30 May 2018, <https://doi.org/10.1787/9789264277571-en>.

163 Article 25 of Annex 4 of the AfCFTA Agreement Protocol on Trade in Goods, "Draft compiled annexes to the establishment of the AfCFTA", https://au-afcfta.org/wp-content/uploads/2022/01/Compiled-Annexes-to-the-CFTA-Agreement_E-2.pdf (last accessed 19 July 2023).

164 Article 18 of Annex 4 of the AfCFTA Agreement Protocol on Trade in Goods, "Draft compiled annexes to the establishment of the AfCFTA", https://au-afcfta.org/wp-content/uploads/2022/01/Compiled-Annexes-to-the-CFTA-Agreement_E-2.pdf (last accessed 19 July 2023).

165 UNECE. "The Single Window Concept", United Nations Economic Commission For Europe, April 2003, <https://tfeg.unece.org/contents/single-window-concept.htm>.

166 Edina Mudzingwa, et al, 2021, "Trade facilitation in Africa".

167 See below for examples of the African nations that have implemented the single windows concept: Senegal in 2004, Mozambique in 2011, Rwanda in 2012, Kenya in 2014, Mauritius and Uganda in 2016.

168 Uganda Revenue Authority, "The Uganda electronic Single Window offers seamless clearance of goods", 2020, https://www.newvision.co.ug/new_vision/news/1513314/electronic-single-window-offers-seamless-clearance-ura.

169 Hanzhi, Ma, "The African Continental Free Trade Area and China-Africa Cooperation", *China International Studies* 90 (2021): 164.

170 Kingsley Ighobor, "AfCFTA: Africa Ready for Free Trade Come January 2021 | Africa Renewal", United Nations, November 2020, <https://www.un.org/africarenewal/magazine/november-december-2020/afcfta-africa-readying-free-trade-come-january-2021>.

State Parties have made a commitment to ensure measures to facilitate trade in Africa are implemented. Trade facilitation measures that work are critical to guarantee seamless cross-border trade flows. Infrastructure development, standardized customs procedures, and effective logistical networks are critical to the success of any free trade area, particularly for trade in goods. Going digital opens a door that ensures the efficiency of the AfCFTA Agreement. To achieve a high level of digitization in the trade facilitation process, State Parties under the umbrella of the AfCFTA must seek out collaboration with the private sector. Trust is a necessary ingredient for successful collaboration with the private sector. At this moment in the implementation process of the AfCFTA Agreement, the AfCFTA must consistently engage in stakeholder meetings with the private sector in various African countries that have ratified the AfCFTA Agreement. Although the AfCFTA Agreement and its implementation mechanisms have outlined a clear roadmap for enhancing African trade facilitation, much work remains before things can significantly improve. Despite the fact that these provisions and implementation mechanisms have paved the way and established the conditions for trade facilitation in Africa, significant barriers to cooperation in this area remain, as a result of the continent's shortage of reliable infrastructure, varying technical standards and regulatory systems, linguistic and cultural and disparities between State Parties to the AfCFTA Agreement, the ambiguity of the rules caused by the coexistence and overlap of the membership in the various Regional Economic Communities (RECs), and other factors. Only a small number of sub-Saharan African nations, like Kenya, Ghana, and Rwanda, have recently achieved significant success in trade facilitation, while other nations' development remains far from ideal. State governments to the AfCFTA Agreement must show commitment and political will by making political decisions, no matter how stringent, in order to implement real policy reforms for trade facilitation in Africa. Intra-Africa trade will only see meaningful growth if governments of State Parties to the AfCFTA Agreement focus on trade facilitation challenges and swiftly implement the trade facilitation measures advocated in the African Continental Free Trade Agreement.¹⁷¹

4. *Severe Shortage of Infrastructure*

The next challenge to accelerated economic growth powered by accelerated intra-African trade is the fact that many African nations lack the advanced and reliable physical infrastructure required for such trade and growth, in particular in telecommunications, power, and water systems, as well as transportation infrastructure.

(a) *Water and Electricity*

Regarding water and electricity, North Africa has nearly achieved universal access to both. However, in sub-Saharan Africa, only some 45% of the population have

171 Edina M. Mudzingwa, and Talkmore Chidede (2021), Trade facilitation in Africa: Solutions and recommendations, tralac Trade Brief No. G21TB09/2021, Stellenbosch: tralac.

access to electricity, and roughly 60% are connected to water services.¹⁷² With only about 28% of rural areas having electricity, compared to 65% of metropolitan areas, the lack of electricity is particularly pronounced there.¹⁷³ Based on the most recent data from the International Energy Agency (IEA), it is estimated that 660 million people in Africa will still not have access by the year 2030, with 85% of that number, or roughly 560 million, living in Sub-Saharan Africa.¹⁷⁴

(b) Transportation

Transport infrastructure includes roads, railways, airports, and ports. With 53% of the roads unpaved, too many individuals are cut off from the necessary pre-conditions for economic growth, including basic healthcare, access to national and international transportation hubs, opportunities to participate in cross-border trade, and even access to more than basic education.¹⁷⁵ Railways in Africa are less effective today than they were in the early years after decolonization due to outdated infrastructure and poor maintenance. 64 international ports provide access to Africa but a majority of them are ill-equipped and run inefficiently.¹⁷⁶ Non-trade impediments that impede the efficiency of African ports include lengthy processing times and high handling expenses. In addition, road and rail systems are not well connected to ports. Simply put, there are insufficient connections between the various transportation systems in Africa and this makes the movement of goods in Africa difficult. Even more compact regions and sub-regional economic groups in Africa have made only sluggish growth because of inadequate transit links. For instance, market access is constrained in the ECOWAS because of subpar transportation despite the single market agreements that were signed and ratified decades ago.

(c) Information and Communication Technology

The African Development Bank Group (AFDB) estimates that around 197.6 million individuals, or roughly 18.6% of Africa's population, use the internet.¹⁷⁷ This number is very low in comparison to other parts of the world and given the size of the continent. However, there is a glimmer of hope as the number has been growing annually due to the high number of youths on the continent. Elon Musk's Starlink network of satellites that can directly connect smart phone and computer users on

172 Jerry Haar, "Modernizing Infrastructure Vital to Fulfilling Africa's Promise", Wilson Center, 26 April 2023, <https://www.wilsoncenter.org/article/modernizing-infrastructure-vital-fulfilling-africas-promise#:~:text=How%20much%20is%20the%20infrastructure,remaining%20one%2Dthird%20for%20maintenance.>

173 Jerry Haar, "Modernizing Infrastructure Vital to Fulfilling Africa's Promise".

174 IEA, "SDG7: Data and Projections – Analysis", IEA, 2023, <https://www.iea.org/reports/sdg7-data-and-projections>.

175 "Infrastructure Development | African Development Bank Group", African Development Bank Group, <https://www.afdb.org/en/knowledge/publications/tracking-africa%E2%80%99s-progress-in-figures/infrastructure-development> (last accessed 17 July 2023).

176 "Infrastructure Development | African Development Bank Group", African Development Bank Group.

177 *Ibid.*

the ground who otherwise do not have access to high-speed internet can also become an important factor in this regard.

Infrastructure and industrialization are crucial cornerstones for the success of the implementation of the AfCFTA.¹⁷⁸ Much of Africa's transportation infrastructure, including highways, ports, and railway networks, were constructed during the colonial period for political control and resource exploitation rather than to connect and unite regions economically or socially.¹⁷⁹ There have been almost no major improvements in the continent's infrastructure systems since the 1960s. The AU and the African Development Bank (AFDB) created the Program for Infrastructure Development in Africa (PIDA) in 2012 to address this infrastructure gap.¹⁸⁰ The program, which, like the establishment of the AfCFTA, is an initiative of the AU Agenda 2063, acts as a roadmap for building infrastructure for African nations and regional organizations from 2012 to 2040 by combining cross-border and cross-regional infrastructure development plans of all sorts throughout Africa.¹⁸¹ By 2040, the PIDA initiative hopes to build a network of 37,200 kilometers of roads, 30,200 kilometers of railways, and 16,500 kilometers of interconnected power lines, covering four key areas: energy, transportation, information and communications technology (ICT), and transboundary water resources.¹⁸² It also intends to increase port capacity by 1.3 billion tons.¹⁸³

Africa is in dire need of private investment and involvement. Investments in infrastructure can have incredibly positive externalities on growth, particularly in tourism, building, and agricultural industries. The failure of previous infrastructure initiatives in Africa has unfortunately been largely due to a lack of leadership, and the question is whether anything has really changed in this regard. There are many political and economic issues involved that must be handled through significant commitment from political leaders, by developing policies and regulations that can attract high quality investments.¹⁸⁴ Also, in the past, African countries have not fared particularly well in investor-state dispute settlement (ISDS), which is at least partly attributable to the lack of expertise on the continent. Initiatives like the multinational Investment Law Group of the Council on International Law and Development can support change in this respect.¹⁸⁵ Additionally, Africa needs to leverage the role the World Bank is willing to play in seeking new investments for Africa. Over the last 3 years, the World Bank has doubled its investments to

178 Ambassador Mark A. Green, "Why Africa Talks so Much about Infrastructure", Wilson Center, 25 July 2023, <https://www.wilsoncenter.org/blog-post/why-africa-talks-so-much-about-infrastructure>.

179 African Union, Program infrastructure development for Africa (PIDA), 2023, <https://au.int/en/ie/pida>.

180 African Union, "Program Infrastructure Development Africa".

181 African Union, "Programme for infrastructure development in Africa", 2015.

182 African Union, "Programme for infrastructure development in Africa".

183 *Ibid.*

184 GÖZDE ISIK, "Why Regional Integration Is so Important for Resource-Driven Diversification in Africa", World Bank Blogs, March 2016, <https://blogs.worldbank.org/trade/why-regional-integration-so-important-resource-driven-diversification-africa>.

185 See <https://www.cilpnet.com/investment-law-group>.

increase electricity access rates in Central and West Africa.¹⁸⁶ This financial commitment, together with private sector partnership, can make a meaningful difference in closing the infrastructure funding gap in Africa.

5. *Weak will and lack of political commitment*

To address the issues discussed above, African nations must increase their political commitment to the AfCFTA initiative, align their local laws and policies, raise sufficient funds, invest in infrastructure and human capital, encourage intra-African trade and investment, and enhance regional collaboration and communication. African leaders' lofty political aspirations compare unfavorably with their unwillingness to give the institutions established by regional integration more authority citing the loss of sovereignty as a primary concern – and are the main reasons why regional integration is still weak in Africa.¹⁸⁷ There are African nations that have yet to liberalize inside their various RECs. They are unlikely to commit to an Africa-wide trading system, if they are not even able to commit to their smaller local free trade agreements.¹⁸⁸

Governmental political will to work across party lines and overcome ethnic and linguistic divisions, tribal patronage, and traditional practices is another crucial component in the success of the AfCFTA. State Parties to the AfCFTA will only achieve this by setting the right priorities, working with diligence and perseverance, and concentrating on the structures and laws required for the people to prosper rather than the perpetuation of their positions of power.¹⁸⁹

D. *Potential Global Impact of the Protocol on Trade in Goods under the AfCFTA Agreement*

Despite these challenges, Africa has embarked on a new course of action and might gradually become a single market as a result of the accord, creating new commercial possibilities and fostering economic growth and development. The success of the Protocol on Trade in Goods is anticipated to improve commerce and foster economic growth throughout the continent by lowering tariffs, streamlining customs procedures, and implementing sensible rules of origin. The AfCFTA will first increase commerce inside Africa and increase the ability of African countries to produce finished goods. The current trading structure, which is dominated by the exportation of raw resources and the importation of processed goods, has not only prevented broader accumulation of wealth in Africa. It has weakened the economic complementarity of African nations by fostering uniformity in their industrial and

186 Riccardo Puliti, "Putting Africa on the Path to Universal Electricity Access", World Bank Blogs, 2022, <https://blogs.worldbank.org/energy/putting-africa-path-universal-electricity-access>.

187 Masimba Tafirenyika, "Intra-Africa Trade: Going beyond Political Commitments | Africa Renewal", Africa Renewal, 2014, <https://www.un.org/africarenewal/magazine/august-2014/intra-africa-trade-going-beyond-political-commitments>.

188 United Nations, "Assessing Regional Integration in Africa V", *Assessing Regional Integration in Africa*, 2012, <https://doi.org/10.18356/3029b347-en>.

189 Antonio Castellano, et al., "Powering Africa", McKinsey & Company, 1 February 2015, <https://www.mckinsey.com/industries/electric-power-and-natural-gas/our-insights/powering-africa>.

trading patterns.¹⁹⁰ It has never been easy for goods produced in Africa to find markets beyond Africa and develop a value proposition with the tag *made in Africa*. The AfCFTA has the potential to dramatically cut business costs by reducing and eliminating tariffs, as well as gradually removing non-tariff obstacles, and facilitating intra-African trade and investment. Additionally, the AfCFTA is anticipated to increase foreign direct investment in the manufacturing and industrial sectors. Building a free trade area is helpful for fostering knowledge transfer, boosting product specialization, boosting production efficiency, and stimulating healthy competition. As a result, the AfCFTA is expected to foster a climate that is conducive to the growth and expansion of African businesses, particularly those that are small and medium-sized. Local businesses that can thrive in the African market can join global value chains based on their own competitiveness, allowing Africa to advance its position in global industrial chains as the AfCFTA significantly lowers the costs of participation in the international division of labor.

The African economy's success is frequently reliant on that of others because of its significant reliance on foreign markets in the global division of labor.¹⁹¹ Africa's reliance on European industrial networks is evident in both its direct exports to Europe and the exports of third parties to Europe.

Africa's industrial and supply networks will inevitably become more resilient because of the AfCFTA. Increased usage of raw resources from Africa for the creation of manufactured goods inside the continent would result in the development of its own manufacturing industries, reducing Africa's dependency on external markets.¹⁹²

In conclusion, the AfCFTA holds significant promise for transforming the economic landscape of the African continent. By fostering regional economic integration, the AfCFTA aims to stimulate intra-African trade, attract foreign investment, and spur job creation. In the next chapter, the focus of this article will shift to a comparative analysis of regionalism, drawing insights from the experiences of the European Union (EU) and Asian regional integration.

5. Comparative Analysis of Free Trade in Goods: European and Asian Experiences

The evolution of regional economic cooperation around the world has been heavily influenced by the process of economic integration. The African Continental Free Trade Area (AfCFTA) is evidence of the desire of African countries to promote economic development and growth through improved commercial ties. In order to draw useful conclusions regarding the viability of the AfCFTA, this article shall examine the experiences of European and Asian economic integration, paying

190 Lisandro Abrego, et al., "The African Continental Free Trade Agreement: Welfare Gains Estimates from a General Equilibrium Model", IMF Working Paper, 7 June 2019.

191 Hanzhi, Ma, "The African Continental Free Trade Area and China-Africa Cooperation", *China International Studies* 90 (2021).

192 *Ibid.*

particular attention to the growth of free trade in goods, with the goal of identifying insights that could contribute to the viability of the AfCFTA.

A. *European Economic Integration: Free Trade in Goods*

The post-World War II era saw Europe struggling with the consequences of destruction, and leaders were eager to create a future that would reduce the likelihood of additional conflict. The creation of the European Coal and Steel Community (ECSC) in 1951 set the groundwork for European integration.¹⁹³ The major goal of the ECSC was to unite the coal and steel industries of its founding members, the Netherlands, Luxembourg, Germany, Italy, France, and Belgium, under a supranational body.¹⁹⁴ This project aimed not just to promote economic cooperation, but also to establish interdependence among these essential industries, lowering the likelihood of individual nations amassing resources for militarism.¹⁹⁵ The success of the ECSC prepared the path for greater economic union in Europe. In 1957, the European Economic Community (EEC) was put in place by the Treaty of Rome, with the target of creating a common market and eliminating barriers to the movement of commodities, services, capital, and labor among the member countries.¹⁹⁶ The EEC's single market envisioned the elimination of tariffs and other trade barriers, creating a framework favorable to free commerce.¹⁹⁷

The march toward European economic unity reached a turning point with the creation of a customs union by 1968. With the support of the EEC, this customs union created a single external tariff for its members, leading to a shared trading strategy with non-member nations.¹⁹⁸

The customs union was a watershed moment in the European Economic Community's journey toward free trade. In addition, the customs union established the viability of harmonizing trade policy across varied economies with varying industrial systems and economic agendas.¹⁹⁹ This harmonization provides member countries with a predictable and stable trading environment, allowing businesses to plan and invest more confidently.²⁰⁰ The removal of trade obstacles inside the customs union also improved market access by allowing goods to flow more freely across borders and lowering trade costs.²⁰¹ All these benefits are what Africa can hope to enjoy upon the successful implementation of the AfCFTA Agreement.

The success of the customs union set the stage for the subsequent developments that would lead to the establishment of a unified internal market. The internal

193 Richard Baldwin and Charles Wyplosz, *EBOOK The Economics of European Integration 7e*, McGraw Hill, 2022

194 Richard Baldwin, *EBOOK The Economics of European Integration*.

195 *Ibid.*

196 *Ibid.*

197 Michelle P. Ega, *Single markets: Economic integration in Europe and the United States*, OUP Oxford, 2014.

198 *Ibid.*

199 Martin Dedman, *The origins and development of the European Union 1945-1995: a history of European integration*, Routledge, 2006.

200 *Ibid.*

201 *Ibid.*

market aimed to eliminate or harmonize not only tariff barriers but also non-tariff barriers such as technical regulations, standards, and discriminatory practices.²⁰² It aimed to create a unified regulatory framework that would facilitate the free movement of goods, services, capital, and labor across member states.²⁰³

The establishment of the customs union within the European Economic Community exemplifies the potential for harmonized trade policies and the strategic advantages derived from a unified approach in international trade negotiations.²⁰⁴ Drawing from the European experience, the AfCFTA's journey to promote free trade in goods across the African continent is poised to benefit from the lessons learned, offering a blueprint to navigate challenges, enhance cooperation, and establish a more cohesive trade environment.

The establishment of the European Coal and Steel Community in 1951 marked a pioneering initiative with the overarching goal of nurturing cooperation and fostering interdependence among its founding member states.²⁰⁵ The ECSC orchestrated the implementation of a common external tariff, and the elimination of tariff barriers in coal and steel product between the member states.²⁰⁶ For businesses, this meant that it became easier and cheaper to trade within the common market, while also making it irrelevant where and how third-country products enter into the common market. Third country imports are charged the same tariff regardless of their first point of entry, which encourages the use of the most cost-efficient routes and means of transport.

The successful elimination of certain tariffs within the ECSC set an illuminating precedent, propelling subsequent integration endeavors. The Treaty of Rome in 1957, which put in place the groundwork for the European Economic Community, expressed the ambition to construct a customs union and, by natural extension, the elimination of all internal tariffs among member states.²⁰⁷ The progressive dismantling of internal tariffs within the EEC facilitated the seamless movement of goods, thus contributing to the birth of a unified market.²⁰⁸ This ambitious undertaking strove to amplify trade flows, mitigate transaction costs, and orchestrate the more efficient allocation of resources among member states. As tariff barriers were systematically lowered, industries within member states garnered enhanced access to each other's markets.²⁰⁹ This translated into a tangible augmentation of trade volumes, ultimately culminating in a heightened sense of economic collaboration. At the same time, industries that used to be shielded by

202 Michelle Egan, and Maria Helena Guimarães, "The single market: Trade barriers and trade remedies", *JCMS: Journal of Common Market Studies* 55, no. 2 (2017): 294-311.

203 *Ibid.*

204 Anna Kolesnichenko, "Institutional Harmonization and Its Costs and Benefits in the Context of EU Cooperation with Its Neighbors: An Overview", *CASE Network Studies and Analyses* 387 (2009).

205 Kaiser Wolfram, Brigitte Leucht and Morten Rasmussen (eds.), *The history of the European Union: origins of a trans-and supranational polity 1950-72*, Vol. 7, Routledge, 2008.

206 Twentieth anniversary of the Schuman plan declaration, European Community, No. 134, May 1970, <https://aei.pitt.edu/43776/1/A7519.pdf>.

207 *Ibid.*

208 Mario Monti, "A new strategy for the single market", *Report to the President of the European Commission José Manuel Barroso*, 10 May 2010.

209 Mario Monti, "A new strategy for the single market".

national tariffs against all foreign competition had to learn to survive and thrive in the internal market, which forced them to become more competitive also vis-à-vis the rest of the world.

The development of tariff reductions and elimination within the ECSC and EEC underscores the significance of trade liberalization as a driving force behind European economic integration.²¹⁰ The ECSC's common external tariff and the subsequent elimination of internal tariffs within the EEC paved the way for a more integrated, open, and prosperous Europe.²¹¹ These historical experiences offer valuable lessons and encouragement for the AfCFTA's endeavor to promote intra-African trade by gradually reducing and eventually eliminating tariffs, enhancing cooperation, and realizing the potential for economic growth.

To further comprehend the driving forces that propelled the promotion of free trade in goods within Europe, we turn to Moravcsik's rationalist approach which posits that states are rational actors guided by their national interests.²¹² In the context of European integration, the pursuit of economic welfare and political stability emerged as paramount motivations behind the promotion of free trade in goods.²¹³ Moravcsik argues that economic interdependence and the mutual benefits of trade spurred member states to seek harmonization of trade policies.²¹⁴ Moreover, the inherent desire for political stability drove states to engage in institutionalized integration efforts, fostering an environment where cooperation reduced the chances of future conflicts.²¹⁵

Comparatively analyzing the European experience highlights the negotiation processes that underpinned the harmonization of trade policies.²¹⁶ The culmination of negotiations often rested on intricate compromises that balanced national interests, highlighting the interplay of state power in shaping trade policy decisions. The rationalist perspective demonstrates that trade liberalization was a strategic choice grounded in a calculated assessment of costs and benefits, resulting in mutually advantageous outcomes.²¹⁷

Further lessons and insights from Europe's intra-regional trade in goods can be gleaned from Balassa's theory of economic integration.²¹⁸ Balassa's theory elucidates the importance of trade creation and trade diversion effects within integrated regions.²¹⁹ The European journey underscores the positive impact of trade creation – the expansion of trade between member states as tariff barriers

210 Ali M. El-Agraa, *The European Union: economics and policies*, Cambridge University Press, 2011.

211 *Ibid.*

212 Helen Wallace, James A. Caporaso, Fritz W. Scharpf and Andrew Moravcsik, "Review section symposium: The choice for Europe: Social purpose and state power from Messina to Maastricht", *Journal of European Public Policy* 6, no. 1 (1999): 155-179.

213 Helen Wallace, et al., "Review section symposium: The choice for Europe"

214 *Ibid.*

215 *Ibid.*

216 *Ibid.*

217 *Ibid.*

218 André Sapir, "European integration at the crossroads: a review essay on the 50th anniversary of Bela Balassa's theory of economic integration", *Journal of Economic Literature* 49, no. 4 (2011): 1200-1229.

219 *Ibid.*

are dismantled. This trade-enhancing phenomenon fosters economic growth, leading to increased market access and specialization.²²⁰

The European integration narrative also illuminates the role of institutions and supranational bodies in ensuring effective coordination and dispute resolution. Mechanisms such as the European Court of Justice and the European Commission played pivotal roles in interpreting and enforcing trade policies, thereby creating a level playing field for member states. In this context, the preliminary rulings procedure under Article 267 of the Treaty on the Functioning of the European Union (TFEU) deserves particular mention, since it allows private parties like manufacturers or traders to have their cases heard by a supranational court while co-opting the ease of access and enforcement powers of the national courts. More than a few analysts have argued that the success of European integration could not have happened without this ingenious mechanism.²²¹

B. Asian Economic Integration: Free Trade Strategies

As this article extends its exploration of regional integration experiences, the gaze is shifted to Asia, a region marked by a diverse tapestry of integration initiatives aimed at fostering free trade in goods.

The Association of Southeast Asian Nations (ASEAN)²²² Free Trade Area (AFTA) emerges as a prominent cornerstone of Asian regional integration efforts.²²³ AFTA, established in 1992, endeavors to establish a unified market and production base, steadily eliminating tariffs and non-tariff barriers.²²⁴ This integration approach mirrors Europe's efforts in aiming for a unified market, though it also tries to account for the diversity of Asian economies.²²⁵

ASEAN has more recently launched a program of deeper integration through the ASEAN Economic Community (AEC) initiative. The AEC, inaugurated in 2015, strives to forge an integrated economic bloc through the establishment of a single market and production base, characterized by the free movement of goods, services, investment, and skilled labor.²²⁶ The strategy involves enhancing supply chain connectivity, promoting competition, and fostering closer economic ties among member states.²²⁷

220 *Ibid.*

221 See, e.g. Frank Emmert, *Der Europäische Gerichtshof als Garant der Rechtsgemeinschaft*, https://www.researchgate.net/publication/259848618_Der_Europaische_Gerichtshof_als_Garant_der_Rechtsgemeinschaft.

222 ASEAN is a regional intergovernmental organization established in 1967 and comprises of ten countries namely: Indonesia, Malaysia, The Philippines, Singapore, Thailand, Brunei, Vietnam, Laos, Myanmar and Cambodia.

223 Masahiro Kawai, and Ganeshan Wignaraja, "Asian FTAs: Trends, prospects and challenges", *Journal of Asian Economics* 22, no. 1 (2011): 1-22.

224 *Ibid.*

225 *Ibid.*

226 Sanchita Basu Das, Jayant Menon, Rodolfo C. Severino and Omkar Lal Shrestha (eds.), *The ASEAN economic community: A work in progress*, Vol. 14, Institute of Southeast Asian Studies, 2013.

227 *Ibid.*

Additional examples of bilateral and multilateral trade agreements in Asia underscore the region's dynamic approach to integration.²²⁸ The ASEAN Plus agreements, which involve ASEAN and its key trading partners, have gained prominence. For instance, the ASEAN-China Free Trade Area (ACFTA) envisions the gradual elimination of tariffs on goods, aiming to deepen economic cooperation and capitalize on the substantial trade volume between these partners.²²⁹

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)²³⁰ presents another notable development in Asian regionalism. While originating outside ASEAN, the agreement brings together countries from across the Asia-Pacific region, promoting trade liberalization and setting common standards.²³¹ This exemplifies the diverse strategies employed in the pursuit of greater economic integration.

The Asian experience also highlights the significance of differential speeds and more flexibility in integration efforts. Asia's approach is often characterized by variable geometry, where nations with differing levels of development engage in integration at varying paces, acknowledging the complexities of economic diversity.²³² The realm of Asian regionalism is characterized by a rich tapestry of integration initiatives, each tailored to address the unique needs and circumstances of its member states.²³³ One of the cardinal dimensions of diversity across Asian integration initiatives is the variegated range of goals pursued.²³⁴ While economic integration remains a common objective, the specific focus and emphasis differ markedly. Some initiatives, like the ASEAN Free Trade Area (AFTA), concentrate on the elimination of tariffs to facilitate trade in goods and, eventually, a single market and production base.²³⁵ Others, such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), cast a wider net by encompassing standards harmonization, investment provisions, and intellectual property rights.²³⁶

This diversity in goals underscores the multidimensional nature of regional integration. While trade liberalization is a shared core principle, the range of additional aspirations reflects the intricate web of economic and political considerations that shape these initiatives.

The Asian experience further underscores the challenges inherent in navigating divergent approaches and goals. Variations in economic development levels, industrial structures, and political sensitivities often introduce complexities in

228 *Ibid.*

229 *Ibid.*

230 The CPTPP is a free trade agreement among several countries in the Asia-Pacific region. Its members include Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

231 Robert A. Manning, "Global and Regional Trade Systems", Atlantic Council, 22 July 2020, <https://www.atlanticcouncil.org/in-depth-research-reports/issue-brief/global-and-regional-trade-systems/>.

232 *Ibid.*

233 Michael G. Plummer, David Cheong and Shintaro Hamanaka. *Methodology for impact assessment of free trade agreements*. Asian Development Bank, 2011.

234 *Ibid.*

235 *Ibid.*

236 *Ibid.*

negotiations and implementation. Asymmetrical power dynamics among member states can lead to differing priorities and occasionally hinder the harmonization of strategies.²³⁷

C. *Comparative Evaluation of Lessons Learned: European and Asian Experiences*

Even after this superficial analysis of Europe and Asia's integration experiences in promoting free trade in goods and other factors of production, we can draw certain conclusions that can inform the political and other decision-makers as they seek to develop and implement the aspirations of the African Continental Free Trade Area (AfCFTA).

First, the European journey offers a resounding lesson in the significance of aligning diverse economic interests. The evolution from a free trade area to a customs union and, eventually, a single market underscores the strategic value of harmonized trade policies and the elimination of tariff barriers but also the time it takes to accomplish these goals.²³⁸ This is particularly relevant for the AfCFTA, as fostering intra-African trade requires navigating diverse economies, industrial structures, and developmental priorities. The experiences of Europe emphasize that only the gradual reduction and elimination of tariffs will allow the partner countries to build trust at the political and institutional level while their economic actors can build resilience and adjust their supply chains and, thereby, stimulate trade growth and unlock latent economic potential.

Asian integration initiatives, in turn, offer insights into the importance of adaptable strategies. The multiplicity of approaches, from ASEAN's incremental tariff reductions to the comprehensive standards alignment within the CPTPP, highlights the importance of tailoring integration strategies to the distinctive needs of member states.²³⁹ This adaptability is crucial for the AfCFTA, where countries exhibit varying levels of development and industrialization. Embracing differentiated approaches within a common framework could foster inclusivity and support the growth aspirations of all members.

Furthermore, the European and Asian experiences both highlight the significance of institutional frameworks.²⁴⁰ The European Union's supranational bodies, such as the European Court of Justice and the European Commission, played pivotal roles in enforcing trade policies and resolving disputes.²⁴¹ This underscores the importance of establishing robust mechanisms for implementing and regulating trade agreements within the AfCFTA. Effective institutions are needed to ensure a level playing field and build a sense of trust among member states and their citizens.

The lessons gleaned from Europe and Asia extend beyond the realm of economic integration. Both regions faced challenges associated with asymmetrical development and varying levels of industrialization. This experience speaks to the

²³⁷ *Ibid.*

²³⁸ Maurice W. Schiff and L. Alan Winters, *Regional integration and development*, World Bank Publications, 2003.

²³⁹ *Ibid.*

²⁴⁰ *Ibid.*

²⁴¹ *Ibid.*

potential for the AfCFTA to not only facilitate trade but also to enhance economic inclusivity and alleviate disparities among member states.

The examination of lessons from Europe and Asia signifies that while each integration journey is unique, there are recurrent themes that resonate with the AfCFTA's objectives. By combining Europe's emphasis on harmonized trade policies and Asia's adaptable strategies, the AfCFTA can navigate the complexities of fostering intra-African trade while promoting shared growth and development.²⁴²

D. Policy Recommendations for AfCFTA: Insights from Europe and Asia

As the African Continental Free Trade Area (AfCFTA) embarks on its journey towards promoting intra-African trade in goods, it is essential to glean insights from the European and Asian integration experiences. Drawing upon research of a variety of policy recommendations,²⁴³ this article shall try to extract and formulate some best practices derived from the regions of Europe and Asia to enhance regional trade integration in Africa with the Agenda 2063 initiative that is the AfCFTA Agreement. These best practices are as follows:

- 1 *Gradual Tariff Reduction*: Building upon the European experience, the AfCFTA should consider a phased approach to tariff reductions. Gradually dismantling tariffs while addressing potential trade diversion effects can stimulate trade flows, enhance competitiveness, and facilitate the growth of nascent industries.²⁴⁴ This measured approach would mitigate the potential negative impacts on certain sectors while promoting sustainable economic development.
- 2 *Flexible Rules of Origin*: The Asian experience highlights the significance of adaptable rules of origin that encourage value addition and prevent trade deflection. The AfCFTA should establish rules that incentivize production within the continent, allowing countries with varying industrial capacities to participate.²⁴⁵ Flexibility in rules of origin can foster inclusive growth by accommodating the diverse economic structures of member states.
- 3 *Harmonized Standards and Regulations*: To address non-tariff barriers, the AfCFTA should prioritize the harmonization of standards and regulations across member states. Emulating the European example, this would streamline trade processes, reduce compliance costs, and allow for a more promising environment for businesses to thrive.²⁴⁶ A robust standards framework would enhance consumer confidence and promote cross-border trade.
- 4 *Infrastructure Development*: The Asian experience underscores the importance of investment in infrastructure for trade facilitation. The AfCFTA should prioritize the development of efficient transportation networks, customs procedures, and logistics infrastructure.²⁴⁷ This strategic investment would

²⁴² *Ibid.*

²⁴³ Brenton and Isik's seminal work "De-Fragmenting Africa: Deepening Regional Trade Integration in Goods and Services" (2012).

²⁴⁴ *Ibid.*

²⁴⁵ Andrew Mold, "Proving Hegel wrong: learning the right lessons from European integration for the African Continental Free Trade Area", *Journal of African Trade* 8, no. 2 (2021): 115-132.

²⁴⁶ *Ibid.*

²⁴⁷ *Ibid.*

lower transaction costs, accelerate cross-border trade, and connect disparate markets across the continent.

- 5 *Dispute Settlement Mechanisms:* Building upon the European example, the AfCFTA should establish efficient dispute settlement mechanisms. Ensuring transparency, fairness, and timeliness in resolving trade disputes is essential for fostering trust and confidence among member states.²⁴⁸ Accessible mechanisms will safeguard the interests of all parties and contribute to a stable trading environment.
- 6 *Strengthening Institutions:* As seen in both Europe and Asia, strong institutional frameworks are the cornerstone of successful integration. The AfCFTA should prioritize the development of institutions capable of implementing, monitoring, and enforcing trade agreements. These institutions will provide the necessary foundation for sustained cooperation, economic growth, and regional stability.²⁴⁹

6. Conclusions

This examination of the viability of the Agreement establishing the African Continental Free Trade Area (AfCFTA) has delved into various aspects, providing a thorough understanding of its historical context, key features, objectives, and the intricacies of its implementation. Chapters 1 and 2 analyzed the framework of the agreement, along with the institutional structure, and the implementation to date, shedding light on the prospects and challenges inherent in realizing the objectives of the Protocol on Trade in Goods.

The exploration of regional economic integration and the pivotal role of trade facilitation in Chapter 3 has highlighted the significance of overcoming barriers to free trade in Africa. The identification of weak political commitment as a substantial obstacle emphasizes the need for concerted efforts in ensuring the success of the AfCFTA. Furthermore, it is evident in this chapter that regional economic integration plus trade facilitation equals poverty reduction. This is a compelling narrative that underscores the potential positive impact of the AfCFTA and the importance of the Agreement to the continent of Africa.

Drawing upon the experiences of regional integration in Europe and Asia, as discussed in Section 4, this article has provided valuable insights and lessons that Africa can incorporate into its approach toward the facilitation of trade. By analyzing the historical experiences of the two continents of Asia and Europe, together with their unique approach to regional integration, Africa, in its implementation of the AfCFTA, can learn from their challenges and victories for the efficiency and effectiveness of the AfCFTA.

In essence, this article advocates for an initiative-taking approach to addressing the challenges and leveraging opportunities presented by the AfCFTA Agreement. The regional economic integration proposed by the AfCFTA framework, coupled

²⁴⁸ *Ibid.*

²⁴⁹ *Ibid.*

with robust trade facilitation measures, holds the key to releasing Africa's economic potential and fostering sustainable development. As the continent moves forward, it is imperative for policymakers, businesses, and other stakeholders to collaborate closely, ensuring the AfCFTA's successful implementation and its transformative impact on the African economies. The journey towards a more integrated and prosperous Africa through the AfCFTA requires steadfast commitment, collective action, and a continuous learning process from global experiences in regional economic integration.

The AfCFTA addresses a paradox in the context of Africa's rich natural resource endowment versus its heavy reliance on imports from outside the continent. Despite possessing vast natural resources, many African economies remain dependent on importing goods they could potentially produce domestically. This scenario is partly due to inadequate industrialization, infrastructure challenges, and lack of regional integration that hampers intra-African trade.

The successful implementation of the AfCFTA faces considerable challenges, including overcoming infrastructural deficits, addressing policy inconsistencies, and building efficient trade networks. However, there is a glimmer of hope. Agenda 2063, the African Union's strategic framework for the socio-economic transformation of the continent over the next three to five decades, includes projects that could address these challenges.²⁵⁰ Example of these projects are the African Integrated High Speed Network, the African Commodities Strategy, the Pan-African Virtual or E University, the African Passport and Free Movement of People project, Silencing the Guns, implementation of the Grand Inga Dam Project, creation of an Annual Consultative Platform for policy dialogue, the idea of the Single African Air Transport Market, and various plans for continental financial institutions.²⁵¹

By focusing on industrialization, improving infrastructure, and enhancing policy coordination among member states, Agenda 2063 could pave the way for the effective implementation of AfCFTA, gradually transforming Africa's economic landscape, reducing its reliance on imports, promoting African growth and innovation, and finally putting the continent on track to develop its full potential for all Africans.

250 Au Summit 2023, "Powering Trade through AfCFTA | Africa Renewal", United Nations Africa Renewal, February 2023, <https://www.un.org/africarenewal/magazine/february-2023/au-summit-2023-powering-trade-through-afcfta>.

251 *Ibid.*