

African Continental Free Trade Area

Update on the Negotiations

26 October 2023

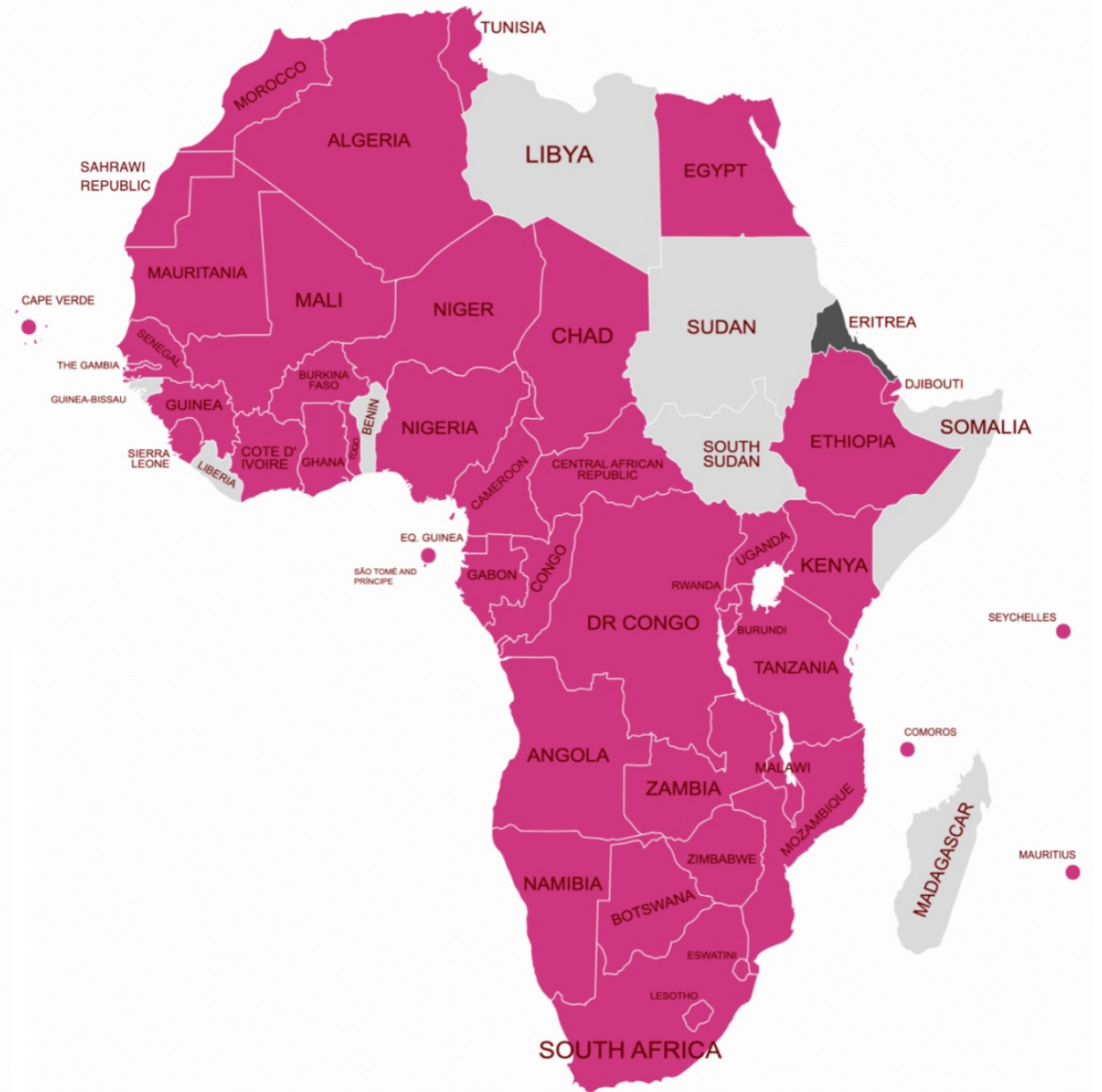
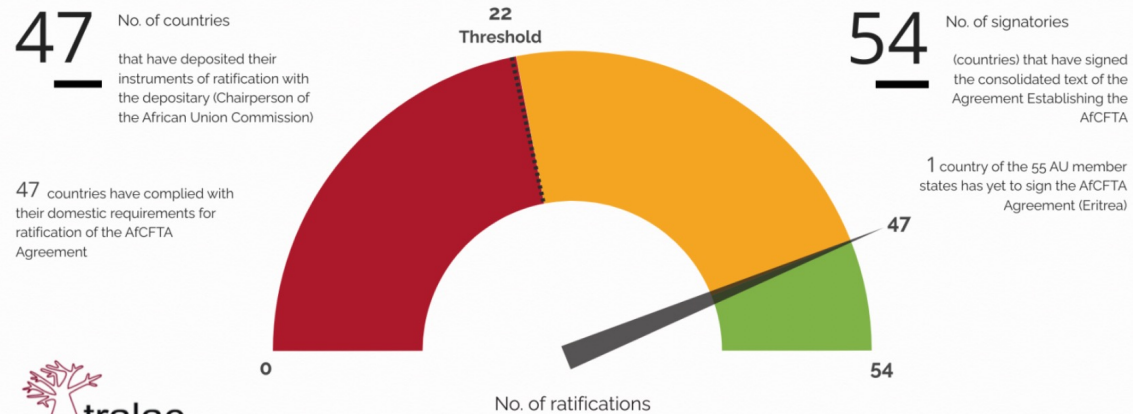
Trudi Hartzenberg
Trade Law Centre (tralac)
trudi@tralac.org



saait South African
Institute of
Taxation

Ratification of the AFCFTA (October 2023)

AfCFTA Ratification Barometer



Overview

- Background
- Overview of the AfCFTA Agreement
- Trade in Goods Agenda
- AfCFTA and Agenda 2063
- AfCFTA and Regional Economic Communities (RECs)
- Status Update
- Guided Trade Initiative – Phase 2 for trade in goods, and Phase 1 for trade in services
- Conclusions

The General Objectives of the AfCFTA (Article 3)

- (a) create a **single market for goods, services**, facilitated by movement of persons in order to deepen the economic integration of the African continent;*
- (b) create a liberalised market for goods and services through successive rounds of negotiations;*
- (c) contribute to the movement of capital and natural persons and facilitate investments building on the initiatives and developments in the State Parties and RECs;*
- (d) lay the foundation for the establishment of a Continental Customs Union at a later stage;*
- (e) promote sustainable, inclusive socio-economic development, gender equality & structural transformation;*
- (f) enhance the competitiveness of the economies of State Parties within the continent and the global market;*
- (g) promote industrial development through diversification and regional value chain development, agricultural development and food security; and*
- (h) resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes*

The State Parties shall

The Specific Objectives of the AfCFTA (Article 4)

(a) progressively eliminate tariffs and non-tariff barriers to trade in goods

(b) progressively liberalise trade in services

(c) cooperate on investment, intellectual property rights and competition policy

(d) cooperate on all trade-related areas

(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; (g) establish and maintain an institutional framework for the implementation and administration of the AfCFTA

AfCFTA Principles - Basic Design (Article 5)

AfCFTA is an FTA
(not a Customs
Union)

Member-driven

REC FTAs are the
building blocks

Preservation of
the *acquis*

Reciprocity

Consensus
decision-making

Trade deals with
third Parties
allowed

Variable geometry
and special and
differential
treatment

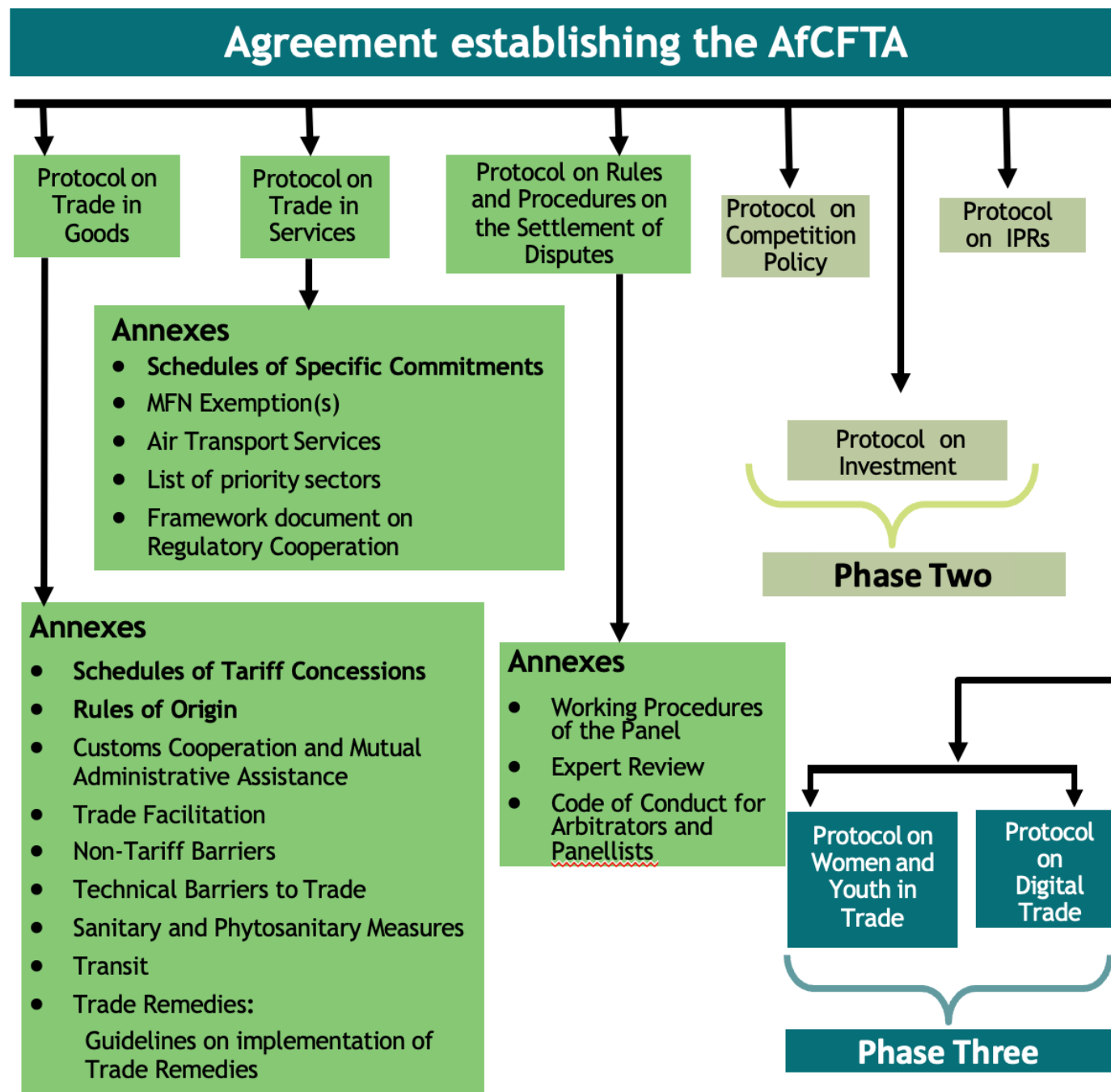
Transparency and
disclosure of
information

Dispute settlement
only for the State
Parties

Progressive
liberalization



AfCFTA Legal Compact



Details of the Trade in Goods Agenda: tariff concessions, Rules of Origin.....

AfCFTA and the African Union: Flagship Projects

AfCFTA links to:

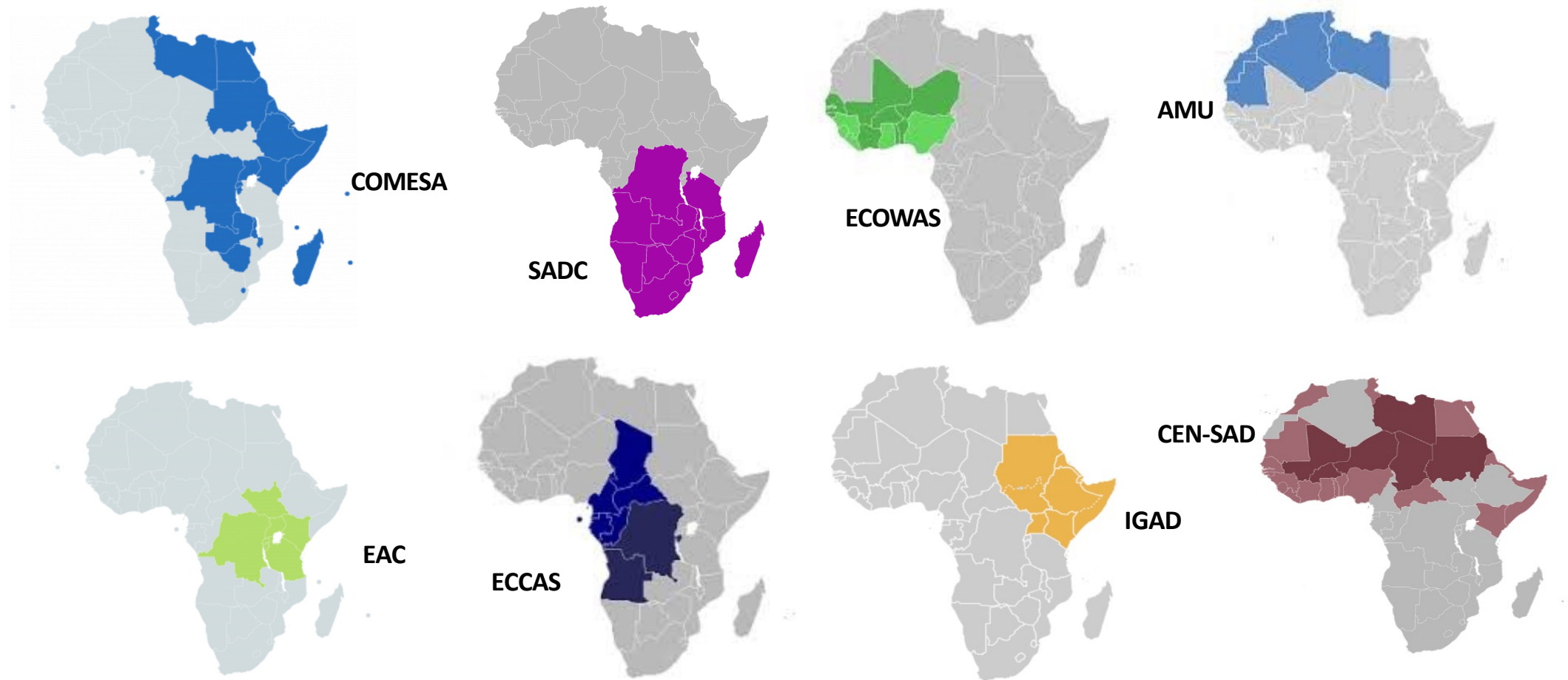
PIDA (Infrastructure)
AIDA (Industrialization)
BIAT (Boosting intra-Africa trade)
CAADP (Agriculture)
SAATM (Air transport)
Yamoussoukro Decision (Air transport)

Protocol to the Treaty establishing the AEC relating to free movement of persons, right of residence and right of establishment



Intra-Africa Trade: 14% of total trade
WTO Statistics Report (June 2023)

The REC FTAs are *building blocks* of the AfCFTA



These 8 RECs are recognised by the Africa Union
Other trading arrangements: SACU will also co-exist with
the AfCFTA – Tripartite Free Trade Area

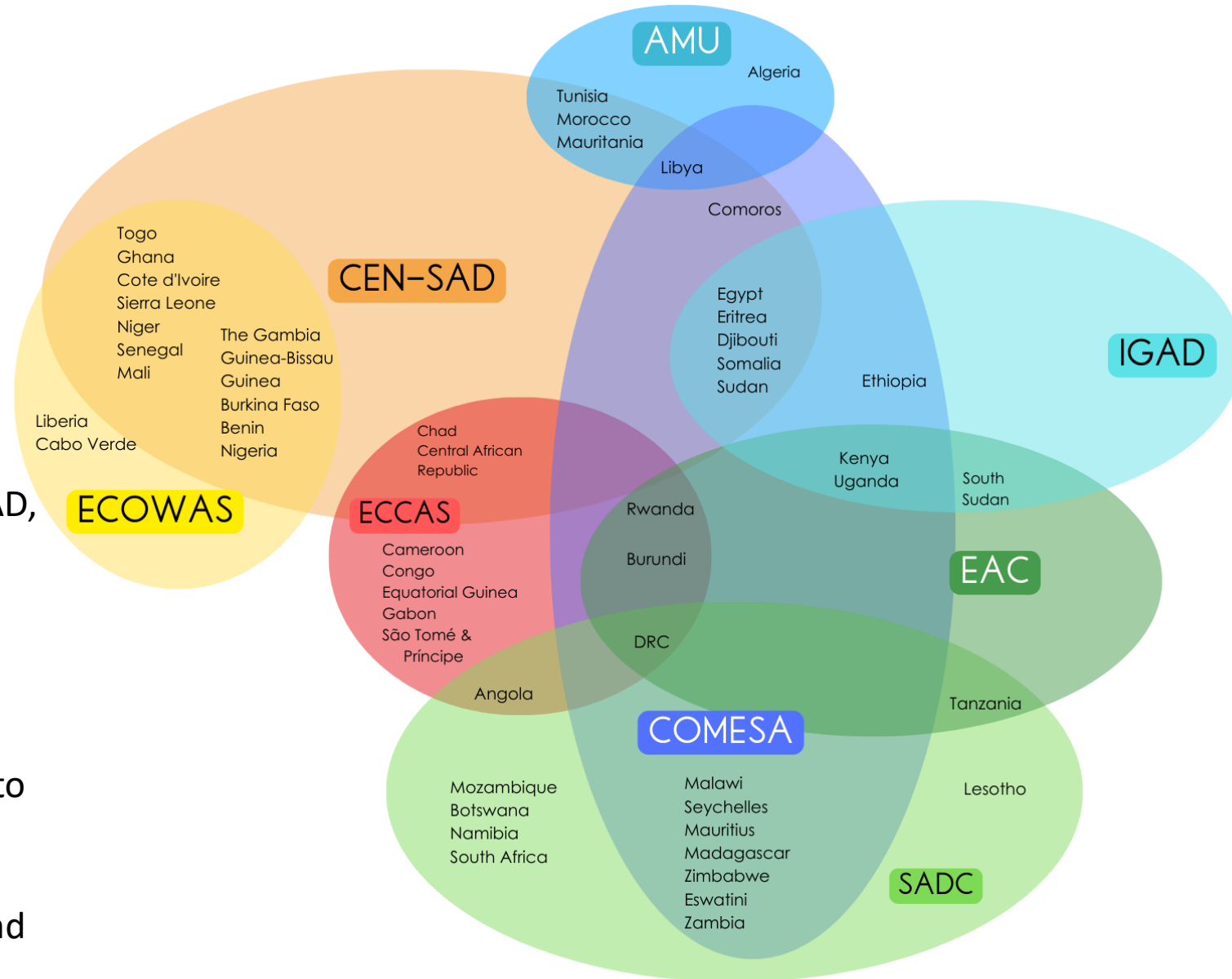
Membership of REC FTAs and customs unions

There is no tariff liberalization under AMU, CENSAD, ECCAS, and IGAD

Most intra-REC trade takes place within the trade arrangements of SADC, COMESA and the EAC

In many cases, countries and companies are free to decide which provisions to apply

Some African countries also have bilateral FTAs and investment agreements between them



Negotiations Update

Phase 1: tariff negotiations; select Rules of Origin (clothing lines, automotive products);
Trade in Services specific commitments and Frameworks for Regulatory Cooperation

Phase 2: Investment, Competition Policy and Intellectual Property Rights

Phase 3: Digital Trade; Women Youth in Trade

Current Round of Negotiations/Meetings (starting 12 October)

Council of Ministers Meeting (23-25 November)

Tariff negotiation modalities

Category	Tariff line coverage (%)	Liberalisation time frame	
		LDC	Non-LDC
General: A	90	10 yrs	5 yrs
Sensitive: B	7	13 yrs	10 yrs
Excluded: C	3	-	-

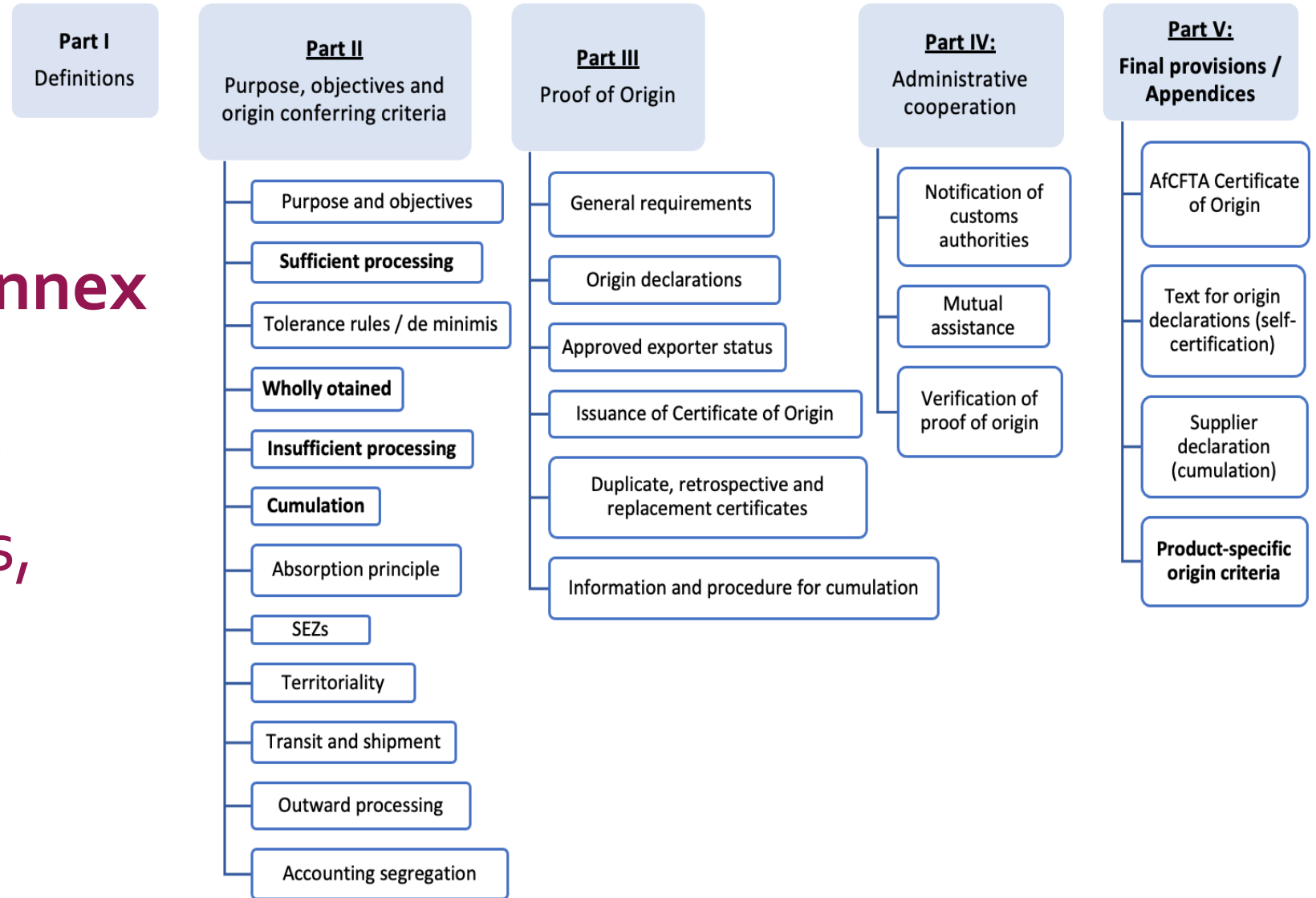
Challenges:

All customs unions include at least one LDC

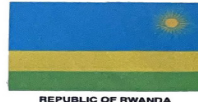
Negotiations re Categories B and C still to take place

Structure of the Rules of Origin Annex

Rules of origin for clothing & textiles, and automotive products are still being negotiated



AfCFTA Certificates of Origin



AfCFTA CERTIFICATE OF ORIGIN

AfCFTA Certificate of Origin		Competent Authority Ref	Country Code	Serial No.
		Customs Services Department	RW	007
1. Exporter (Name & Address) IGIRE COFFEE COMPANY LTD TEL +250 780 29637		2. Consignee (Name & Address) THE B.B. HARRINGTON VENTURES LTD 19 NIKOZI STREET, EAST LEGON, ACCRA, GHANA TEL: +233 27 1687145		3. For Official Use Only
4. Particulars of Transport B-1 AIR (RUSA AIR)				
5. Marks & No.s	6. Invoice No. & Date	7. No. & Kind of Package	8. Description of Goods	9. Gross Weight
2	2209220	2 CARTONS	COFFEE	105
13. Declaration By The Exporter / Supplier I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate, and are originating in (Country) KIGALI, RWANDA 30/09/2022 BRIGGERS COFFEE COMPANY LTD (Full Name and Designation) Briggers Coffee Company Ltd (Signature)		14. Certification of Origin Origin Stamp (Designated Authority) Umuhirwa (Full Name) (Signature)		15. For Customs Purposes Export Document No.: E 2634 Airport Customs Office & Date GASHWA (Full Name) (Signature)

AfCFTA Certificate of Origin											
AfCFTA Certificate of Origin		Competent Authority Ref		Country Code KE		Serial No.					
		KEN/NBI/P/5141		The Republic of Kenya		0000001					
1. Exporter (Name & Address) KENYA TEA PACKERS LTD P O BOX 413-20200 KERIGO-KENYA TEL:+254 052 20530				2. Consignee (Name & Address) CHAKEM TRADING ENTERPRISE P O BOX KN3757 KANESHE ACCRA-GHANA				3. For Official Use Only			
4. Particulars of Transport MAERSK BROOKLYN VOYAGE NO.241N BKG NO.221983615											
5. Marks & No.s	6. Invoice No. & Date	7. No. & Kind of Package	8. Description of Goods	9. Gross Weight	10. Suppl. Quantity	11. HS Code	12. Origin Criterion				
AS ADDR	CTE/2201-22	1777 CARTONS	KETEPRA PRIDE TEA KETEPRA GREEN TEA	3954KGS	2177KGS	090230	WP				
	24.2.2022										
13. Declaration By The Exporter / Supplier I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate, and are originating in KENYA (Country) Place and date: KETEPRA NAIROBI 30.09.2022 JANIS GACHOKI EXPORT ADM (Full Name and Designation) (Signature)											
14. Certification of Origin Kenya Revenue Authority (Designated Authority) STEPHEN TIONY (Full Name) (Signature)											
15. For Customs Purposes Export Document No.: (Customs Office & Date) (Full Name) (Signature)											

Special Economic Zones

Decision of the 8th Meeting of the Council of Ministers to draft a regulation on SEZs and submit for consideration by the Member States. Experience sharing from various SEZs.

Ministerial Regulation 1/ 2023

Treatment of Products from the Special Economic Arrangements or Zones of State parties to the Agreement Establishing the Africa Continental Free Trade Area

Definition of SEZ (Annex 2 on Rules of Origin under the Protocol on Trade in Goods):

“special regulatory provisions applicable in a geographical demarcation within a State Party’s Territory where the legal, regulatory and fiscal and Customs schemes, applicable to business, differ, generally in a more liberal way, from those in application in the rest of the State Party’s Territory.”

- Goods produced in an SEZ shall be treated as originating, provided they meet the Rules of Origin (Annex 2, Protocol on Trade in Goods) and importing State Parties shall apply preferential duties (as per Annex 1, Protocol on Trade in Goods)
- Products produced in SEZs shall be subject to the provisions under the Annex on Trade Remedies, Competition Policy and Infant Industry Protection
- Enterprises that wish to benefit from SEZs shall register with the competent authority; and the AfCFTA Secretariat in collaboration with the competent authorities shall maintain a registry of SEZs in State Parties
- The Committee on Trade in Goods shall submit an annual report on SEZs to the Council of Ministers
- **Review after 5 years**

Guided Trade Initiative

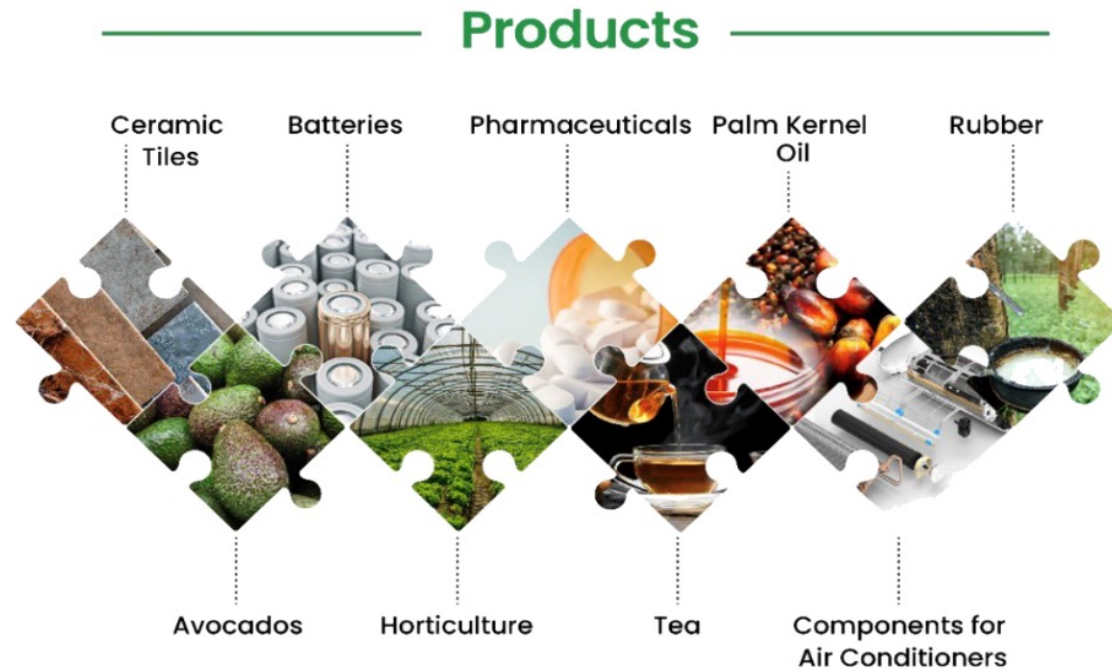
Launched: 7 October 2022

8 AfCFTA State Parties are trading select goods:

Cameroon, Ghana, Kenya
Uganda, Tanzania, Rwanda
Mauritius, Tunisia

Update:

1. Review of GTI underway – Launch of **Phase 2 of GTI** (new products and new participating State Parties)
2. GTI for Trade in Services to start



Question: what is the legal basis for the GTI?

Ministerial Declaration

Objectives of the Guided Trade Initiative

- test the operational, institutional, legal and trade policy environment under the AfCFTA
- allow commercially meaningful trading under the AfCFTA, and
- send a positive message to African economic operators about the AfCFTA.



16

Guided Trade Initiative Update

The Director, Trade in Goods and Competition, AfCFTA Secretariat, Mr Mohammed Ali
20 August 2023

He stated, “For the second phase, the target as mandated is to increase the number from seven to 29 African countries, which is a big task and that is why we are working in many countries at the same time.

“In West Africa, Nigeria has all but concluded the registration phase. Other countries like Cote d’Ivoire Senegal and Togo. Gabon, the Democratic Republic of Congo, and the Central Africa Republic have also indicated interest.

“In the Southern African region, we didn’t have any country in the first phase but now we are working with Mauritius, South Africa, Namibia, Botswana, and Angola in addition to Zimbabwe to join the GTI. In the East, Tanzania, Burundi, Kenya and Rwanda and Uganda and we are adding more countries.”

Conclusions

- AfCFTA negotiations nearing completion
- Implementation agenda – for State Parties to become *trade ready*
- Private sector needs information about the Operational Instruments (e-Tariff Book, Rules of Origin Handbook, NTB Monitoring and Notification Mechanism, PAPSS)

