



## SHETRADES: EMPOWERING WOMEN IN THE AFRICAN CONTINENTAL FREE TRADE AREA

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### Introduction

#### What is Trade Facilitation?

Trade Facilitation is described by the WTO<sup>1</sup> as “Cutting Red Tape at the Border”. Trade Facilitation is about making it easier to trade – it is about the simplification, modernisation and harmonisation of import, export and transit procedures, at the border and behind the border. It is about improving trade-related infrastructure, reducing bureaucracy, eliminating unnecessary stops and checks along the transport and transit corridors of Africa. It is about improving safety of traders and reducing costs and time of cross-border trade.

Africa has many entrepreneurs and has goods and services that we can trade between ourselves, which is what the AfCFTA is trying to encourage. Presently intra-African trade hovers around 10% of Africa’s total trade, meaning that we trade very little between ourselves and mainly trade with the rest of the world.

What is often holding African small and medium-sized enterprises back, and preventing them from benefitting from trade, is a lack of market access within Africa. This lack of market access has more to do with non-tariff barriers than it has to do with tariffs and taxes. If the obstacles put in a trader’s way, including administrative and bureaucratic barriers, are high, and trading becomes too difficult, then trade, especially small-scale trade, will reduce as the opportunity costs for the trader become too high, and the national economy suffers accordingly. In addition, as barriers to formal trade increase so does the attraction of informal trade, using paths through the bush and smuggling.

The United Nations Conference on Trade and Development (UNCTAD) estimates that the average customs transaction involves 20–30 different parties, 40 documents, 200 data elements (30 of which are repeated at least 30 times) and the re-keying of 60–70 per cent of all data at least once<sup>2</sup>. With the lowering of tariffs across the globe, the cost of complying with customs formalities often exceeds the cost of duties to be paid.

African Regional Economic Communities (RECs) use preferential, or free, trade agreements, to deepen regional economic integration. As building blocks of the African Economic Community, RECs have been at the forefront of developing regional, intra-African trade policy, including preferential and free trade agreements and, in some cases, customs and monetary unions. They have also been at the forefront of trade facilitation measures, such as customs harmonisation programmes, transit arrangements, and development of preferential trader schemes and simplified trading regimes. However, despite all of this good work, and the upscaling of these efforts first to the COMESA-EAC-SADC Tripartite level and then to the continental level, logistics inefficiencies, including in customs, transit, transport and warehousing, continue to slow down regional and continental integration, economic competitiveness (and so deter direct investment into productive sectors) and growth.

<sup>1</sup> [https://www.wto.org/english/thewto\\_e/minist\\_e/mc9\\_e/brief\\_tradfa\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc9_e/brief_tradfa_e.htm)

<sup>2</sup> Quoted in: <https://www.tralac.org/documents/events/tralac/2740-tralac-brief-trade-facilitation-and-the-african-continental-free-trade-area-march-2019/file.html>

## Trade Facilitation and the AfCFTA

Trade Facilitation is vital for the realisation of the African Continental Free Trade Area's (AfCFTA) ambitious objective of increasing intra-African trade flows. UNECA projects that, with enhanced Trade Facilitation, the AfCFTA would increase intra-African trade by 21.9% of total trade of Africa by 2022<sup>3</sup>. UNCTAD estimates that improved Trade Facilitation within the AfCFTA would add US\$85 billion to intra-African trade; a 128.4% increase by 2022<sup>4</sup>.

The Protocol on Trade in Goods of the AfCFTA Agreement contains two annexes addressing Trade Facilitation: Annex 3 on Customs Co-operation and Mutual Administrative Assistance; and Annex 4 on Trade Facilitation. Annex 3 covers state parties' cooperation in all areas of customs administration. Annex 4 addresses issues of transparency; charges and formalities for import, export and transit; customs cooperation and institutional arrangements. These are the same issues as are addressed under the World Trade Organisation's Trade Facilitation Agreement, which, in turn outlines implementation modalities of Articles V, VIII and X of the General Agreement on Tariffs and Trade (GATT). The trade facilitation provisions in the AfCFTA legal text, which has been agreed at the technical level, are, therefore, completely compatible and synchronised with the text of the WTO's Trade Facilitation Agreement.

The TFA and Annexes 3 and 4 of the AfCFTA provide for the establishment of National Trade Facilitation Committees and the AfCFTA provides for the establishment of a Sub-Committee on Trade Facilitation, Customs Cooperation and Transit. These Committees could be combined and support effective implementation, compliance and enforcement of trade facilitation measures and instruments.

Disputes between the state parties arising out of or relating to the interpretation or application of any provision of the Annexes 3 and 4 will be resolved in accordance with the AfCFTA Protocol on Rules and Procedures on the Settlement of Disputes. Private parties do not, in their own right, have access to the dispute settlement mechanism under the AfCFTA Agreement.

## Opportunities And Challenges

### Challenges

Challenges faced by small-scale traders, including women, in Africa are many and varied and include, but not limited, to:

- Access to finance: many small-scale traders lack capital to buy the goods they are trading in and also lack finance to pay for the transport and other services they require to complete a trade.
- Access to information: small-scale traders are often unaware of the rules and regulations governing small-scale trade, which makes them vulnerable to coercion by officials as they don't know their rights.
- Lack of data sharing between customs authorities and between national border agencies: A single data entry point (the ultimate solution being a single window system) where all data required by all border agencies can be entered once, would save a considerable amount of time and money.
- Safety: Small-scale traders, often women, operate in locations and circumstances where their personal safety is put at risk, especially where small-scale traders use informal border crossing points.
- Infrastructure: In Africa there are multiple gaps in trade infrastructure which, if filled, would make trading much easier and predictable.

There are also cultural challenges to overcome in that the majority of traders, who are women, need to balance their roles as primary carers, mothers and wives with the pressures of being a trader and often away from the family home.

<sup>3</sup> [https://www.uneca.org/sites/default/files/PublicationFiles/aria5\\_print\\_uneca\\_fin\\_20\\_july\\_1.pdf](https://www.uneca.org/sites/default/files/PublicationFiles/aria5_print_uneca_fin_20_july_1.pdf)

<sup>4</sup> <https://www.tralac.org/documents/events/tralac/2740-tralac-brief-trade-facilitation-and-the-african-continental-free-trade-area-march-2019/file.html>

## Opportunities and Priorities

Private sector operators (i.e. importers, exporters, service providers) should be the main beneficiaries of trade facilitation which will allow them to reduce the costs of trade and to grow their businesses, whether they are traders or whether their businesses depend on trade.

Many trade facilitation initiatives have been implemented by African countries and African Regional Economic Communities but these efforts have not gone far enough to eliminate non-tariff barriers to trade. With the coming into force of the Trade Facilitation Agreement and the AfCFTA, and with advances in technology, there is an opportunity for African countries to put in place trade facilitation measures that will benefit all traders and producers and attract foreign direct investment into the continent. Probably the most urgent measures of the TFA to implement, which will go a long way to assist countries to coordinate border management both between national border control agencies and between national Customs, are:

### **Article 7: Release and Clearance of Goods:**

- Article 7.1 - Pre-arrival processing – saves time as documents required for the release of imported goods are submitted electronically and processed by customs and OGAs before goods arrive at the border.
- Article 7.2 - Electronic payment – allows traders to pay taxes and duties electronically
- Article 7.3 - Separation of release from final determination of customs duties, taxes, fees and charges – allows importers to have their goods released under a guarantee, if required, prior to the final determination and payment of customs duties, taxes, fees and charges where the final determination is not done prior to, upon arrival or as rapidly as possible after arrival.
- Article 7.4 - Risk Management – apply risk management to customs control in connection with import, export and transit of goods. Customs should use the risk management system to concentrate customs control on high risk consignments and expedite the release of low-risk goods.
- Article 7.5 - Post Clearance Audit – allows goods to be released from the border and to do a post clearance audit when the goods arrive at destination if there is any doubt about the documentation so as to expedite the release of goods.
- Article 7.7 - Trade facilitation measures for Authorised Operators – allows trusted traders to be given clearance priority at the border.
- Article 7.9 - Perishable goods – Customs should adopt or maintain procedures for the importation of perishable goods that allow release within shortest possible time; give priority to such goods when scheduling examinations; allow release from cold storage; etc.

### **Article 8: Border Agency Cooperation:**

- Article 8.1 - Border Agency Cooperation – National border authorities/agencies shall cooperate and coordinate border controls and procedures to facilitate trade and countries with common land borders shall cooperate and coordinate procedures to facilitate cross-border trade.

### **Article 10: Formalities Connected with Importation, Exportation and Transit:**

- Article 10.7 - Common Border Procedures and Uniform Documentation Requirements – Customs shall apply uniform documentation requirements and uniform release and clearance procedures.

### **Article 11: Freedom of Transit:**

- Article 11.1-17 - Transit charges, regulations and formalities; strengthening non-discrimination; transit procedures and controls; transit guarantees; and transit coordination and cooperation.

### **Article 12: Customs Cooperation:**

- Article 12 - Customs Cooperation - Customs-to-Customs exchange of information for purposes of verifying goods declarations. One Member shall provide another, upon request and subject to conditions, information and/or documents concerning specific import or export declarations.

If each Customs Agency in each African country implemented just these components of the Trade Facilitation Agreement this significantly improve the trade environment for all and would create a significant boost to African economies. There are no technical reasons why these measures cannot be implemented. What is stopping implementation is partly a lack of administrative capability, or governance issues, and partly a fear of revenue loss. The opportunity exists for Africa to embrace available technology and leapfrog out of the cumbersome paper-based and slow procedures that were more suited to the 20<sup>th</sup> Century and into the 21<sup>st</sup> Century and create a model for the rest of the world to follow.

## What does the AfCFTA mean for business?

### Importance of Trade Facilitation for Africa's Development and the AfCFTA

It is no exaggeration to say that Africa will not develop economically without trade and there will be little trade unless trade facilitation measures are put in place, so there will be little economic development, job creation and poverty reduction in Africa without trade facilitation.

Trade has been a defining factor in Africa's development for centuries; from the cities built along the salt-for-gold trading routes in West and North Africa, to the city state of Aksum in Ethiopia at the crossroads of trading routes linking Egypt and Sudan to the Red Sea ports of antiquity such as Berbera in Somaliland; to East African trading routes, linking Africa's hinterland to Arabia and Asia; and to Great Zimbabwe on the crossroads of the southern African trading routes.

Yet Africans, of all genders, are still striving for a conducive environment in which to trade. Production systems all over the world are now globalised. A Boeing 787 Dreamliner is assembled in Seattle, USA, but with parts manufactured from all over the world; Apple i-Phones are assembled in China but with parts manufactured all over the world; Mercedes Benz cars are assembled in South Africa from parts obtained from all over the world; and garments are manufactured in Lesotho, Kenya and Ethiopia, destined for USA, from material imported mainly from Asia. For a manufacturer to invest in a manufacturing, or assembly, plant he will want to be sure that, amongst other things (such as access to water, land, power and labour) they can freely import the components they need and export the finished products cheaply and quickly. Modern manufacture requires secure and efficient logistics and supply chains to facilitate trade. These trade facilitation instruments are absolutely critical to ensure Africa's competitiveness and Africa's competitiveness is absolutely critical to ensure Africa's sustainable and equitable economic growth, poverty alleviation and job creation.

### Women Entrepreneurs and Producers, AfCFTA and Trade Facilitation

Most small-scale cross-border trade is carried out by women and most women cross-border traders depend on cross-border trade as their primary or sole source of income. With that in mind, and accepting the proviso that the AfCFTA will improve both opportunities for intra-African trade and will make this trade easier, the AfCFTA and the TFA should make the lives of women easier.

Annex 4 and 5 of the AfCFTA address customs, transparency and administrative issues of trade facilitation. However, if the overall objective of the AfCFTA is to create a conducive environment for African trade to take place, other aspects may be required to improve supply chains and logistics. These may include transport facilitation, improvements in trade infrastructure and improvements in managing warehouses and inland container depots. In addition, there is also a need to assess whether there are specific instruments needed to address the needs of women traders, who make up the majority of Africa's small-scale traders.

## Looking Forward and Recommendations

### Good REC practices to replicate all over Africa

#### Well-Established National Trade Facilitation Committees

Each country that has signed up to Trade Facilitation Agreement should have established a national Trade Facilitation Committee (NTFC) to guide the implementation of the measures designed to implement the TFA. This committee could also be used to implement the protocols of the AfCFTA that address Customs and Trade

Facilitation. In order to ensure the voices of women are heard it is important to ensure that there is a strong representation of Women's Business Associations on AfCFTA National Committees and Trade Facilitation Committees.

### **Capacity Building**

There is an urgent need to “demystify” trade and to build capacity of the traders themselves so that they understand trade instruments such as rules of origin and the basics of customs procedures such as valuation and classification. If traders themselves are empowered through capacity building they will be able to counter unnecessary barriers put in the way of trade, usually referred to as non-tariff barriers. As part of the implementation procedures of the AfCFTA it is necessary to develop accessible capacity building programmes and processes to empower small-scale traders, especially women traders, and so make them conversant with trade facilitation measures and instruments. This capacity building should also include targeted sensitization and communication campaigns that will allow female traders to take better advantage of the preferential market access opportunities opened to them by the AfCFTA and to assist them to identify and take advantage of niche markets.

### **Simplified Trade Regimes**

COMESA, EAC and SADC are either implementing Simplified Trade Regimes (STRs) that support small-scale traders within the framework of the free trade areas by allowing small-scale traders to trade across borders without having to use the customs management systems used by commercial traders. This means that under the STR system small scale trades can benefit from preferential market access provisions without having to get a certificate of origin and commercial invoices and without having to go through a process of classification of goods and valuations. Other checks, such as sanitary and phytosanitary and standards regulations need to be complied with. Under the different STRs small-scale traders are defined by the value of the trades they are making and if the value of the trade is estimated by customs to be below a certain threshold, and the goods do not contravene SPS or standards regulations, and the goods are on a common list of agreed goods, then the small-scale trader is not charged duties on the goods. The recommendation is to design and implement a continental STR as part of the AfCFTA.

### **Regional Cross-Border Traders Associations**

At the regional level there are usually regional cross-border traders associations that coordinate activities of national cross-border associations. These regional cross-border associations are a very useful component of the regional trading environment as they represent the interests of mainly small-scale cross-border associations and act as a feed-back mechanism to policy makers. If these regional cross-border associations could have an apex institution at the continental level to feed into monitoring the AfCFTA this would assist with the smooth implementation of the AfCFTA.

### **Electronic Data Transfer**

Working closely with the WCO and national administrations, Regional Organisations are developing electronic data transfer systems that allow data to be transferred between border agencies in one country and between Customs across borders. This reduces the time and bureaucracy of clearance procedures and supports trading systems to be more effective and efficient through both time and cost savings.

### **Separation of Traffic at Borders**

One of the challenges faced at African borders is one of congestion, often caused by a lack of traffic separation into lanes. African cross-border traders often make use of bus transport and there is usually no dedicated lanes for bus transport which is a combination of passenger and semi-commercial. If buses could be separated from trucks (and trucks could be separated into red, amber, green and blue lanes based on a robust risk assessment system) this would greatly ease traffic congestion at borders and make the clearance and exit process much faster.

### **Physical Infrastructure Support**

One-Stop Border Posts are being constructed under the auspices of Regional Economic Communities. These OSBPs enable coordinated border management which saves time and money for traders. However, OSBPs

should not be seen as a universal panacea. OSBPs are expensive to build and maintain and need a very high degree of cross-border cooperation to be effective and work best when most trade is commercial trade. OSBPs only work when there is a high degree of cooperation between the two adjoining states and coordinated border management between national border control agencies.

### NTB Monitoring and Removal System

The COMESA-EAC-SADC Tripartite designed and rolled out a monitoring, reporting and elimination system for non-tariff barriers. The mechanism allows stakeholders to report and monitor the resolution of barriers encountered as they conduct their business in the region. The system improved transparency and relied on “naming-and-shaming” to remove NTBs. This system could also supplement a more formal, rules-based system of removing non-tariff barriers

## Suggestions for the AfCFTA and the BIAT/SSDP

Suggestions for the BIAT/SSDP are:

- Assist each AU member state to do a gap analysis of what is required, in terms of regulations and institutions, to implement the Trade Facilitation Agreement and Annexes 3 and 4 of the AfCFTA protocol on Trade in Goods
- Assess what the capacity building requirements are to equip each AU member state with the necessary tools and the necessary budget to ensure that the provisions of Annex 3 and Annex 4 of the AfCFTA Protocol on Trade in Goods and the WTO Trade Facilitation Agreement can be implemented
- With each member state, design a programme that will result in Annexes 3 and 4 of the AfCFTA protocol on Trade in Goods and the TFA being implemented in full and to a specified time line.
- Support the creation and maintenance of a trade information portal which provides information relevant to traders, especially small-scale and women traders, and which cover all aspects of trade. Provide podcasts through the trade portal make podcasts that explain the procedures and documentation required to trade in local language. These podcasts could be downloaded by traders if and when they are needed. This could be supported, if resources were available, by an on-line training manual.
- Work with the AU member states develop a regional Single Window system that could, eventually, be rolled out as a continental single window.

Topics to be addressed	Recommendations (BIAT or others)	Objectives	Implications for Women	Relevant Actor(s)
Implementation of the TFA and AfCFTA trade facilitation provisions	Assist each AU member state to do a gap analysis of what is further required to implement the TFA and Annexes 3 and 4 of the AfCFTA Trade in Goods Protocol and assistance with programme design and implementation	Increase levels of intra-African trade	Increase economic opportunities for women through removing trade barriers	<ul style="list-style-type: none"> <li>- AU Commission</li> <li>- Women traders associations</li> <li>- ITC</li> <li>- UN Agencies</li> <li>- donors</li> </ul>
Capacity building	Assess what the capacity building requirements are to equip each AU member state with the necessary tools and the necessary budget to ensure implementation of trade facilitation measures	Country capacity building and training programme developed	Capacity of women traders and entrepreneurs improved.	<ul style="list-style-type: none"> <li>- Women traders associations</li> <li>- ITC</li> <li>- Regional Economic Organisations</li> <li>- donors</li> </ul>
Advocacy	Conduct national workshops and disseminate information through other media on the benefits of trade facilitation	Consistent national policy on trade facilitation to support intra-Africa trade	A more stable and equitable doing business environment	<ul style="list-style-type: none"> <li>- Women traders associations</li> <li>- ITC</li> <li>- Regional Economic Organisations</li> <li>- Donors</li> </ul>

Access to information.	Support the creation and maintenance of a trade information portal.	Procedures and documentation required to trade made clear to local populations disseminated using multiple media channels	A more stable and equitable doing business environment with access to information to all.	<ul style="list-style-type: none"> <li>- ITC</li> <li>- Donors</li> <li>- UN Agencies and WBG</li> </ul>
Customs Cooperation, Border Agency Cooperation, Ease of Doing Business	Establish a regional Single Window system that could, eventually, be rolled out as a continental single window.	More efficient trading environment through improved customs cooperation and data sharing	Less delays at borders and streamlined processes	<ul style="list-style-type: none"> <li>- AU Commission</li> <li>- Regional Economic Organisations</li> <li>- Donors</li> <li>- UN Agencies and WBG</li> </ul>
Deepening trade facilitation	Design of Africa-specific trade facilitation measures that would benefit women and small scale traders.	Making trade easier and safer for women	Specific trade facilitation measures geared more specifically to women	<ul style="list-style-type: none"> <li>- Women Traders Associations</li> <li>- Regional Economic Organisations</li> <li>- Donors</li> </ul>