

# Authorised Economic Operators What is in the AfCFTA?

WCO-ESA-RPSG Webinar on Authorized Economic Operators

Trudi Hartzenberg  
Trade Law Centre (tralac)

[trudi@tralac.org](mailto:trudi@tralac.org)

18 March 2021



# Brief update on the AfCFTA

- Ambitious initiative to integrate the member states of the African Union
- Entry into force: 30 May 2019 (negotiations are not complete)
- **Launch of trade: 1 January 2021 (Decision by Heads of State on 5 December 2020 -negotiations (tariffs and some rules of origin) continue**
- 'Interim arrangement' for trade from 1 Jan 2021:
  - Tariff offers (if compliant with agreed modalities) will apply
  - Trade possible for products whose rules of origin are agreed
    - Reciprocal tariff offers are in place
    - Trading State Parties are 'customs ready' - tariff book is updated, necessary customs and related processes, procedures are in place



# Launch of the start of trade under the AfCFTA

ASSEMBLY OF THE AFRICAN UNION  
Thirteenth Extraordinary Session (on the AfCFTA)  
5 December 2020  
Johannesburg, South Africa  
VIRTUAL PLATFORMS (ZOOM)

Ext/Assembly/Dec.1(XIII)  
Original: English

Details are provided  
here

DECISION ON THE START OF TRADING UNDER THE AFRICAN  
CONTINENTAL FREE TRADE AREA (AfCFTA)

ASSEMBLY OF THE UNION  
13<sup>th</sup> EXTRAORDINARY SESSION ON  
THE AFRICAN CONTINENTAL FREE TRADE AREA (AfCFTA)  
5 December 2020  
VIDEOCONFERENCE  
Johannesburg, South Africa

Ext/Assembly/AU/Decl.1(XIII)  
Original : English

JOHANNESBURG DECLARATION ON THE START OF TRADING  
UNDER THE AGREEMENT ESTABLISHING THE AFRICAN  
CONTINENTAL FREE TRADE AREA

# Legal Architecture of the AfCFTA

## Agreement establishing the AfCFTA

### Phase 1

Protocol on Trade in Goods

Protocol on Trade in Services

Protocol on Rules and Procedures on the Settlement of Disputes

#### Annexes

- Schedules of Specific Commitments
- MFN Exemptions
- Air Transport Services
- List of Priority Services
- Framework Document on Regulatory Cooperation

### Phase 2

Protocol on Investment

Protocol on Competition Policy

Protocol on Intellectual Property Rights

#### Annexes

- Working Procedures of the Panel
- Expert Review
- Code of Conduct for Arbitrators and Panellists

### Phase 3

Protocol on Ecommerce

#### Annexes

- Schedules of Tariff Concessions
  - Rules of Origin
  - Customs cooperation and mutual administrative assistance
  - Trade Facilitation
  - Non-tariff barriers
  - Technical Barriers to Trade
  - Sanitary and Phytosanitary Measures
  - Transit
  - Trade Remedies
- Guidelines for implementation of Trade Remedies

# Update on AEO Program in AfCFTA

- The AfCFTA has established a sub-committee on Trade Facilitation, Customs Cooperation and Transit (SCTFCCT) which shall be responsible for implementing **Annexes 3, 4 and 8**.
- The sub-committee has not developed its priority workplan
- The AUC has developed a draft Trade Facilitation Strategy - not yet been finalised. **There is no firm plan as yet on AEOs.** Discussion on digital trade solutions is ongoing.
- The Sub-committee will meet in April to consider its priorities – focusing on the requirements in the **Annexes** to determine how it will sequence implementation. Its priority has been to ensure that the mandatory documents of trading are in place to support start of business.
- **Role of the AfCFTA Secretariat** - to support State Parties in the implementation and operationalization of the AfCFTA – including customs provisions and related instruments. The Secretariat also has a training mandate.

# Committees for Trade in Goods

Art 31: Council of Ministers shall establish Committee on Trade in Goods

*Ad hoc technical bodies* are also provided for – these are relevant to our discussion:

- Art 14: Customs Cooperation & Mutual Adm. Assistance (Annex 3)
- Art 15: Trade Facilitation (Annex 4)
- Art 16: Transit (Annex 8)

Sub-committee on Trade Facilitation, Customs Cooperation and Transit (SCTFCCT) has been established

Also note: Committee of Directors-General of Customs Administrations also constituted

# AEO Program – supporting trade facilitation and trade governance

AfCFTA includes provisions on ‘Authorised Operators’ and ‘Authorised Exporters’

- Authorised Economic Operator (AEO) - ‘a party involved in the international movement of goods in whatever function that has been approved by, or on behalf of a national customs administration, so as to comply with WCO or equivalent supply chain security standards’
- AEOs include **manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors and freight forwarders** (compare with ‘Approved Exporter’)
- **Rationale for AEO Program:** transparent and predictable trading environment, secure supply chains – improves governance and trade competitiveness, has a multiplier effect (further enhanced by MRAs)
- Note: AfCFTA principles: **acquis and building on best practice (AEO Program will build on what exists at national and at regional levels, e.g. SACU and EAC, as well as WTO TFA and WCO Conventions and AEO Program)**

# AEO programs in Africa

WCO Region	African Member Country from the region	Title	Type
Middle East and Northern Africa	Algeria	AEO	Importer/Exporter Manufacturer
	Egypt	AEO-Egypt	Import/Export/Customs Brokers/Warehouse Keepers
	Morocco	AEO	Importers/Exporters and Logisticians (Agents, Carriers, Express Carriers and Warehouse Managers).
	Tunisia	AEO	Import/Export.
East and Southern Africa	Angola	AEO	Importer/Exporter
	Burundi	AEO	Importer/Exporter/Customs Brokers/Warehouse Keepers/Manufacturers/Freight Forwarders
	Kenya	AEO	Import/Export
	Malawi	AEO	Importers, Exporters, Customs Brokers, Warehouse Keepers, Manufacturers, Transporters
	Mauritius	AEO	Importer & Exporter
	Rwanda	AEO Programme	Importers, Exporters, Customs Brokers, Warehouse Keepers, Manufacturers and Transporters.
	Uganda	AEO	Importer, Exporter, Customs Brokers, Warehouse Keepers, Manufacturers, Freight Forwarders.
	Zimbabwe	AEO	All operators in international supply chain
Western and Central Africa	Ivory Coast	AEO	Importer Exporter



# Programs under development

Regional programs:

- COMESA (note:

MRA with Korea Customs Service)

- SACU Trade facilitation

(meeting - April to approve)

WCO Region	African Member Country from the region	Title	Type
West and Central Africa	Burkina Faso	AEO	Importer/Exporter/Customs brokers/Manufacturer
	Democratic Republic of Congo	AEO	Whole supply chain
	Ghana	AEO	Import/Export.
	Gabon	AEO	Importers/Exporters.
	Nigeria	AEO PILOT PROGRAMME	Importers/Manufacturers.
	Cameroon	AEO	Importer/Exporter /Customs brokers
East and Southern Africa:	Botswana	Trans Kalahari Accreditation Scheme	Import/Export
	Comoros	AEO	Import/Export
	Lesotho	LRA Preferred Trader Accreditation Programme	Importers/Exporters/Customs Brokers & Transporters.
	Namibia	AEO	Importer Exporter Customs brokers Warehouse keeper Manufacturer
	Seychelles	AEO	Whole supply chain
	South Africa	AEO (previously Preferred Trader)	Importers/Exporters/Customs Brokers/Warehouse Keepers/Manufacturers/Tier1 Suppliers/Transporters.

# What does the AfCFTA provide for?

- Annex 4: Trade Facilitation (Authorised Operators)

Also note:

- Annex 2: Rules of Origin (Approved Exporter)

# Annex 4 – Trade Facilitation (Authorised Operators)

# Article 13

## Article 13

### Trade Facilitation Measures for Authorised Operators

1. Each State Party shall provide additional Trade Facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 4 of this Article, to operators who meet specified criteria, hereinafter called Authorised Operators. Alternatively, a State Party may offer such Trade Facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.
2. The specified criteria to qualify as an Authorised Operator shall be related to compliance or the risk of non-compliance with requirements specified in a State Party's laws, regulations or procedures.
3. The criteria referred to in paragraph 2 of this Article shall be published and may include:
  - (a) an appropriate record of compliance with customs and other related laws and regulations;
  - (b) a system of managing records to allow for necessary internal controls;
  - (c) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and
  - (d) supply chain security.
4. The criteria referred to in paragraph 3 of this Article shall not:
  - (a) be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and



**Include at least 3  
of these criteria**

## Article 13 (cont'd)

- (b) to the extent possible, restrict the participation of small and medium-sized enterprises.
5. The Trade Facilitation measures provided pursuant to paragraph 1 of this Article shall include at least three (3) of the following measures:
- (a) low documentary and data requirements, as appropriate;
  - (b) low rate of physical inspections and examinations, as appropriate;
  - (c) rapid release time, as appropriate;
  - (d) deferred payment of duties, taxes, fees and charges;
  - (e) use of comprehensive guarantees or reduced guarantees;
  - (f) a single customs declaration for all imports or exports in a given period; and
  - (g) clearance of goods at the premises of the Authorised Operator or another place authorised by Customs.
6. State Parties are encouraged to develop Authorised Operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued.
7. In order to enhance the Trade Facilitation measures provided to operators, State Parties shall afford to other State Parties the opportunity of negotiating mutual recognition of Authorised Operator schemes.
8. State Parties shall exchange relevant information within the Sub-Committee on Trade Facilitation, Customs Cooperation and Transit about Authorised Operator schemes in force.

**Complementary initiatives –  
eg WTO TFA (e.g. Article 7.7)**

# Article 26

## Article 26

### Other Measures to Facilitate Trade

**Building on the acquis  
(RECs, national levels)  
and international best  
practice**

1. State Parties recognise the importance of cooperation in order to expedite the movement of goods and reduce the cost of doing business and the volume of paper work in respect of trade within the AfCFTA.

2. The Secretariat shall keep State Parties informed regarding trade facilitation activities, instruments, recommendations and guidelines of other international organisations, particularly of:

- a) The UN Economic Commission for Africa (UNECA);
- b) The United Nations Conference on Trade and Development (UNCTAD);
- c) The World Customs Organisation (WCO);
- d) The International Maritime Organisation (IMO);
- e) The International Civil Aviation Organisation (ICAO);
- f) The International Standards Organisation (ISO);
- g) The International Chamber of Commerce (ICC) and the International Bureau of Chamber of Commerce (IBCC);
- h) The International Air Transport Association (IATA);
- i) The International Chamber of Shipping (ICS); and
- i) The World Trade Organisation (WTO)



# Articles 28 and 29

## **Article 28**

### **National Committee on Trade Facilitation**

Each State Party shall establish and / or maintain a National Committee on Trade Facilitation or designate an existing mechanism to facilitate both domestic coordination and implementation of the provisions of this Annex.

## **Article 29**

### **Implementation**

1. State Parties shall expedite the implementation of this Annex.
2. The extent and the timing of implementation of the provisions of this Annex shall be related to the implementation capacities of State Parties, the Sub-Committee for Trade Facilitation, Customs Cooperation and Transit or as notified under the WTO Agreement on Trade Facilitation.

# Annex 2: Rules of Origin – Article 20 (Approved Exporter)

## Article 20 Approved Exporter

1. The Designated Competent Authorities of the exporting State Party may authorise any Exporter, hereinafter referred to as “Approved Exporter”, who frequently exports Products covered by this Annex and provides, to the satisfaction of the customs authorities, all the guarantees for verifying the originating status of Products as well as compliance with all other requirements specified in this Annex, to make out Origin Declarations regardless of the value of the Products concerned.
2. The Designated Competent Authority may grant the status of Approved Exporter subject to any conditions considered appropriate.
3. The Designated Competent Authority shall issue to the Approved Exporter an authorisation number, which must appear on the Origin Declaration.
4. The Designated Competent Authority shall monitor the use made of the authorisation by the Approved Exporter.
5. The Designated Competent Authority may withdraw the authorisation at any time. The Designated Competent Authority must do so when the Approved Exporter:
  - (a) no longer provides the guarantees referred to in paragraph 1 of this Article;
  - (b) no longer fulfils the conditions referred to in paragraph 2 of this Article; or
  - (c) otherwise makes improper use of the authorisation.



# Conclusions

- AEO Program on the AfCFTA Trade Facilitation Agenda
- Benefits: good governance and competitiveness supporting  
- transparent and predictable trading environment, secure supply chains, efficiency and competitiveness gains.
- Multiplier effect of AEO program: further enhanced by Mutual Recognition Agreements
- AfCFTA AEO Program: building on national and regional programs (acquis), **WTO Trade Facilitation Agreement** and **World Customs Organisation Conventions and Programs**