



The African Continental Free Trade Area

A tralac guide



tralac | trade law centre



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Where does the AfCFTA fit in Africa's development agenda?

The Agreement establishing the African Continental Free Trade Area (AfCFTA) was signed at the 10th Extraordinary Summit of the AU Assembly on 21 March 2018 in Kigali, Rwanda. The AfCFTA Agreement entered into force on 30 May 2019.

The AfCFTA is the continent's most ambitious integration initiative. The main objectives of the AfCFTA are:

- create a single continental market for goods and services, with free movement of business persons and investments
- expand intra-Africa trade across the regional economic communities and the continent in general
- enhance competitiveness and support economic transformation

Eight RECs have been officially recognised as building blocs of the AfCFTA: ECCAS, ECOWAS, EAC, SADC, COMESA, AMU, CEN-SAD and IGAD.

Agenda 2063 is Africa's framework for structural transformation. It builds on, and aims to facilitate the implementation of existing continental initiatives (AIDA, PIDA, BIAT and CAADP). The establishment of the AfCFTA, a single African air transport market (SAATM) and the free movement of people are Agenda 2063 flagships. The AU has adopted legal instruments for effective implementation of these flagship projects. Importantly, the UN Agenda 2030's 17 SDGs are in the 20 goals of Agenda 2063. By implementing Agenda 2063, Africa will also meet its global commitments under the SDGs.





Architecture of the AfCFTA

The AfCFTA Agreement is a framework agreement covering Trade in Goods and Services, Investment, Intellectual Property Rights and Competition Policy.

The Protocols on Trade in Goods, Trade in Services, Investment, Intellectual Property Rights, and Competition Policy, as well as Dispute Settlement, form an integral part of the Agreement. The Protocols on Trade in Goods and Trade in Services each have a number of Annexes covering substantive disciplines.

Trade in Goods and Trade in Services are being negotiated in Phase 1; with negotiations on a number of issues (e.g. tariff concessions, rules of origin for goods and schedules of specific commitments for services) still ongoing.

Phase 2 of the negotiations will cover Investment, Competition Policy and Intellectual Property Rights. Phase 2 negotiations and the draft texts of the Protocols on Investment, Competition Policy and Intellectual Property Rights are expected to be complete by January 2021.



Agreement establishing the AfCFTA

Protocol on Trade in Goods

Protocol on Trade in Services

Protocol on Rules and Procedures on the Settlement of Disputes

Protocol on Competition Policy

Protocol on Intellectual Property Rights

Annexes

- Schedules of Specific Commitments
- MFN Exemption(s)
- Air Transport Services
- List of priority sectors
- Framework document on Regulatory Cooperation

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 on implementation of Trade Remedies

Annexes

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

Protocol on Investment

Phase Two

Institutions of the AfCFTA

The institutions established under the AfCFTA, and their powers, represent a compromise between the typical institutional arrangements of a stand-alone Free Trade Agreement (FTA) and the AfCFTA as a flagship project of the African Union (AU) under Agenda 2063.

The founding Agreement does not state that this arrangement will be a legal person (as is the case in several regional economic communities, including SADC and EAC). It does provide an institutional architecture for this arrangement (shown below). It is notable that the apex institution is the Assembly – this is the Assembly of the African Union.

The Assembly is the African Union Assembly comprising *all* AU Heads of State, not just those of State Parties to the Agreement. It provides oversight and guidance on the AfCFTA and is the ultimate decision-making body for the AfCFTA.

The Council of Ministers comprises Ministers for Trade or other nominees from State Parties. It has authority to take decisions on all matters under the AfCFTA Agreement, and works in collaboration with the relevant AU organs and institutions. It reports to the Assembly through the Executive Council of the AU and makes recommendations to the Assembly for the adoption of authoritative interpretation of the Agreement. It is separate from the African Union Ministers of Trade (AMOT) under the AU.

The Committee of Senior Trade Officials: consists of Permanent Secretaries or other officials designated by State Parties. It is responsible for the development of programmes and action plans for the implementation of the AfCFTA Agreement.

The AfCFTA Secretariat is the administrative organ to coordinate the implementation of the AfCFTA. It is based in Accra, Ghana.

The Dispute Settlement Mechanism replicates, with the necessary adaptations, the WTO dispute settlement system. The principles and procedures appear in a dedicated Protocol. Only State Parties will be able to bring applications. Private party litigation is not possible.



Assembly



**Council of
Ministers**



**Dispute Settlement
Mechanism**



**Committee of
Senior Trade
Officials**



**Dispute
Settlement
Body**



Secretariat



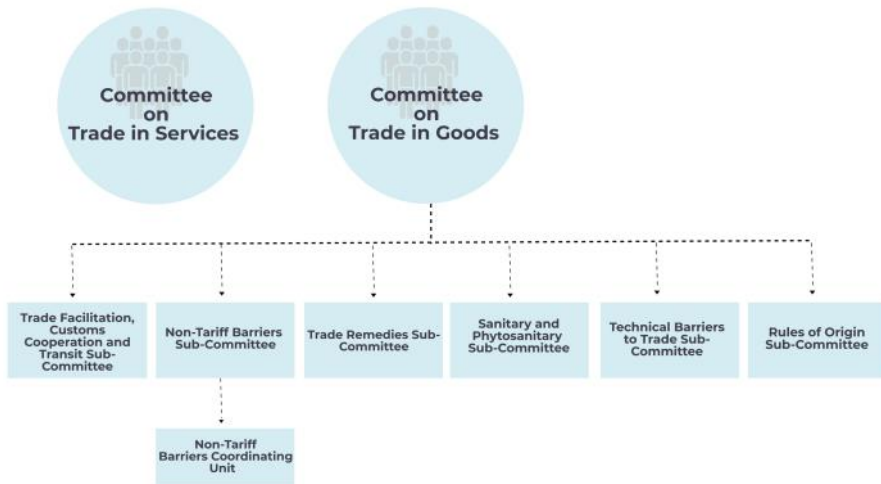
Panels



**Appellate
Body**

AfCFTA Committees

The Protocols of the AfCFTA Agreement establish various technical committees to assist with the implementation of the Agreement. The committees will comprise designated representatives from State Parties. The Committee on Trade in Goods will facilitate the operation of the Protocol on Trade in Goods. The Committee will establish sub-committees responsible for the operationalisation of the annexes of the Trade in Goods Protocol. The Committee on Trade in Services will facilitate the operation of the Protocol on Trade in Services.



Other AfCFTA initiatives

African Trade Observatory: the African Trade Observatory (ATO) aims to create a continent-wide trade information portal to facilitate intra-African trade and to support the roll-out of the AfCFTA. The ATO will seek to collect trade-related data from member-states and provide trade intelligence to both market players and governmental and non-governmental agencies. The ATO will also seek to include services trade, exchange rate and competitiveness indicators, internal tax data and foreign direct investment data.

The **AfCFTA Online Mechanism for Reporting, Monitoring and Elimination of NTBs** provides a facility for online reporting of identified non-tariff barriers (NTBs) including for reporting via SMS. Reported NTBs and the status of their resolution can be accessed on the public domain. Various informative pages on the website, including FAQs, assist in the use of the system. NTB notifications will be received by the focal points of the reporting country, the responding country and the AfCFTA Secretariat for processing. In a non-public space, the system then allows information exchange between the concerned State Parties to monitor and resolve NTBs.



Intra-African trade at a glance

In 2018 intra-African exports were valued at US\$74 billion; 15% of Africa's world exports. Between 2017 and 2018 intra-Africa exports increased by only 1%, while Africa's exports to the rest of the world increased by 22%.

- South Africa is the main intra-Africa exporter and importer; 34% of intra-Africa exports are from South Africa while South Africa imports 20% of intra-Africa imports.
- Other main intra-African exporters include Nigeria (9%), Egypt (6%), Ivory Coast (4%) and Zimbabwe (4%).
- Apart from South Africa, the other main intra-African importers are also all located in southern Africa—Botswana, Zambia, Namibia and Mozambique accounting for a further 24% of intra-Africa imports.
- Eswatini, Zimbabwe, Togo, Gambia and Uganda are the only countries with intra-Africa exports more significant than exports to the rest of the world.

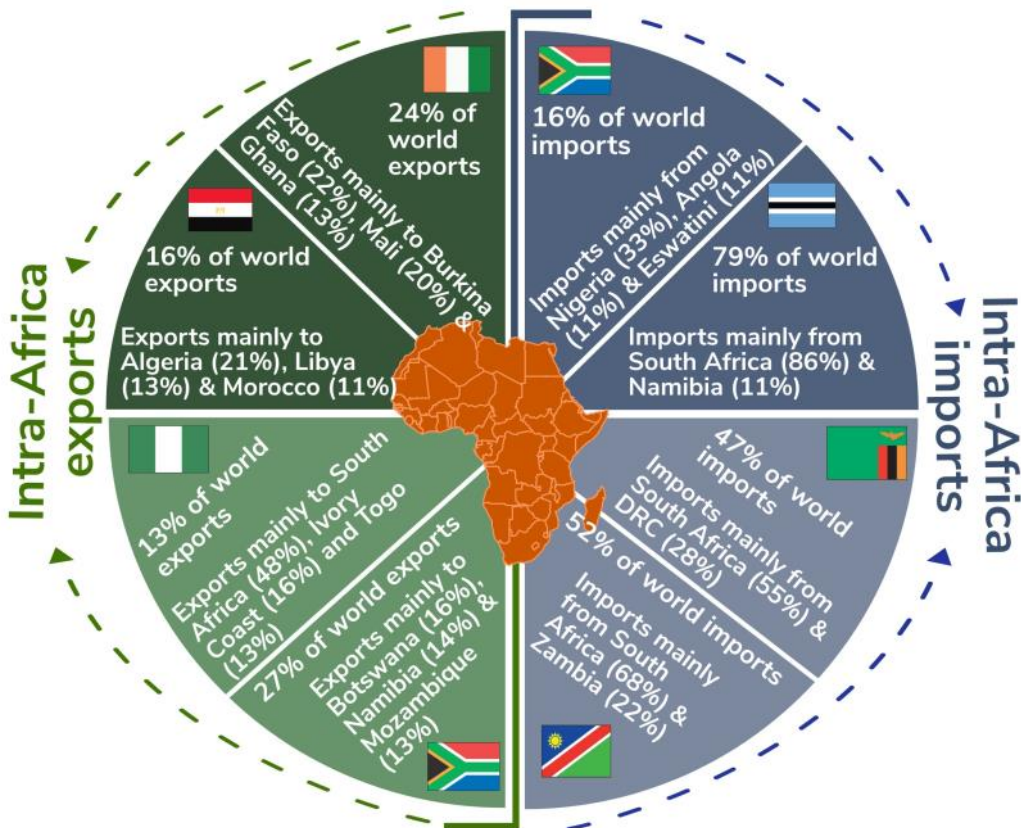
Exports mainly intra-Africa

Eswatini (93%)	➔	South Africa (74%)
Zimbabwe (65%)	➔	South Africa (80%)
Togo (62%)	➔	Benin (17%)
Gambia (54%)	➔	Mali (84%)
Uganda (52%)	➔	Kenya (36%)

Imports mainly intra-Africa

Lesotho (86%)	South Africa	(99.8%)
Botswana (79%)		(96%)
Eswatini (77%)		(79%)
Namibia (52%)		(86%)
Mozambique (57%)		(46%)

Intra-Africa exports and imports 2018



Sources: tralac calculations, ITC Trademap 2019

Intra-REC trade

In 2018 20% of intra-Africa exports were exports among the SACU member states; 4% intra-EAC exports; 0.1% intra-CEMAC exports and 13% exports among the ECOWAS countries. Intra-REC exports as a percentage of total African exports by a REC show most countries trade more with their REC counterparts. The exceptions are intra-REC trade in CEMAC and ECCAS.

50% of intra-Africa exports are exports among SADC member states; close to all intra-Africa exports by Zambia, Namibia, Botswana, Mozambique, Zimbabwe and Lesotho are intra-SADC exports. 97% of intra-Africa exports by Burkina Faso, 96% by Niger, 95% by Gambia and 92% by Guinea-Bissau are exports to other ECOWAS member states. 93% of the DRC's intra-Africa exports and 94% of Eritrea's are intra-COMESA exports.

Measuring intra-REC trade is complicated by overlapping membership to different RECs and bilateral trade agreements in place. It can also be difficult to gauge under which agreement countries are trading with one another.

INTRA-AFRICA EXPORTS

South Africa	41% to SACU / 87% to SADC	60% to EAC / 72% to COMESA / 48% to IGAD	Kenya
	46% to SADC excluding SACU 13% to the rest of Africa	35% to COMESA excluding EAC 5% to Africa outside EAC & COMESA	
Nigeria	45% to ECOWAS / 46% to CENSAD	44% to COMESA / 58% to CENSAD	Egypt
	1% to CENSAD excluding ECOWAS 54% to the rest of Africa	30% to CENSAD excluding COMESA 26% to the rest of Africa	

Intra-REC exports as a % of the RECs total intra-Africa exports



Agricultural trade

In 2018, total intra-African agricultural trade was valued at US\$25 billion (US\$13 billion exports and US\$12 billion imports) representing some 18% of total intra-African exports and 16% of intra-African imports. However, between 2017 and 2018 intra-Africa agricultural exports and imports decline by 15% and 3% respectively.

South Africa is the main exporter of agricultural commodities to the rest of the continent, followed by Uganda and Zimbabwe. In 2017 Niger were one of the main intra-Africa exporters; however, agricultural exports halved between 2017 and 2018. South Africa, Kenya and Botswana are the main intra-Africa agricultural importers.

Intra-African agricultural exports are mainly tobacco, sugar and palm oil. The main agricultural products Africa exports to countries outside Africa include cocoa beans, nuts and coffee.

Main intra-Africa agricultural export products

Unmanufactured tobacco (8%)



77% exported by Zimbabwe

Sugar (8%)



Mainly exported by Eswatini (22%), South Africa (19%) and Uganda (10%)

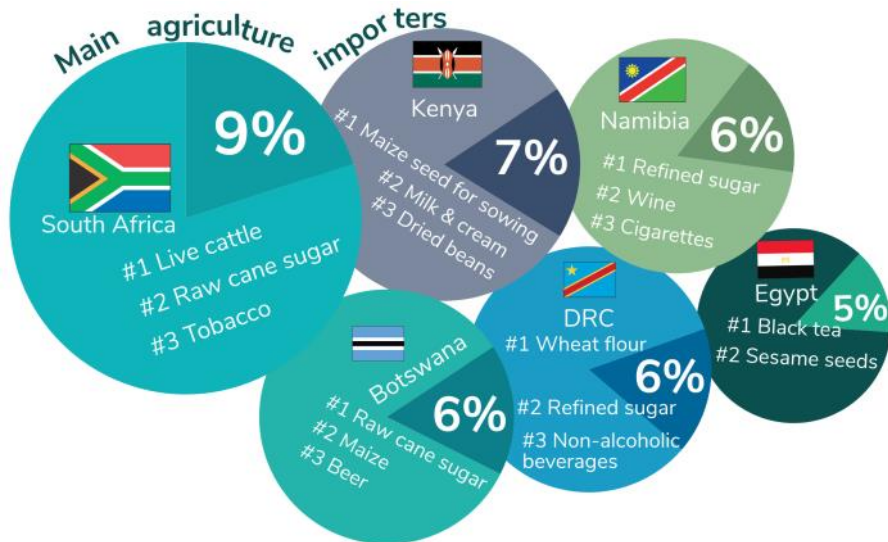
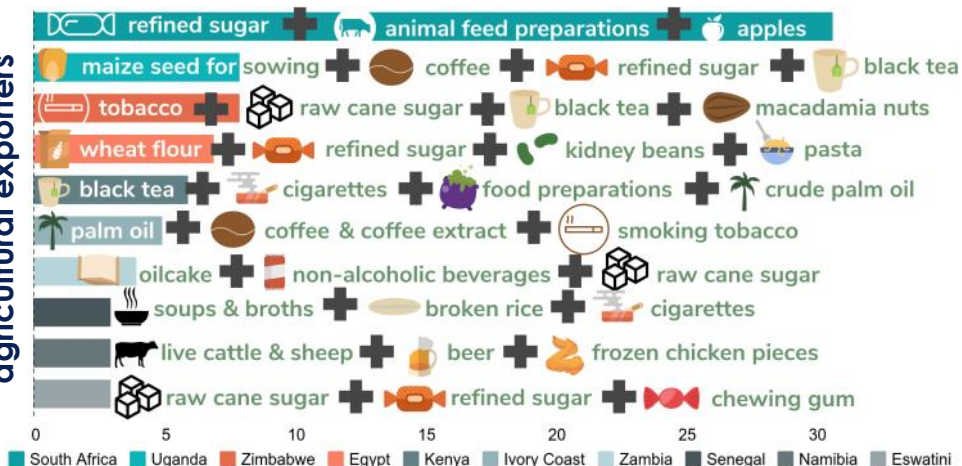
Palm oil (4%)



74% is exported by Ivory Coast, Ghana, Kenya and Uganda

Main intra-Africa

agricultural exporters



Trade in Commodities

Commodities include both agricultural and non-agricultural goods; intra-Africa commodity exports for 2018 accounted for 33.8% of intra-Africa exports. However, 19% were exports of petroleum oil with the remaining 14.3% exports of commodities including gold, copper, iron ores, maize, wheat and milk.

Traded commodities include :

Energy—natural gas, coal and oil—22% of intra-Africa exports

Precious metals—gold—4% of intra-Africa exports

Industrial metals—copper, nickel and iron ore—3% of intra-Africa exports

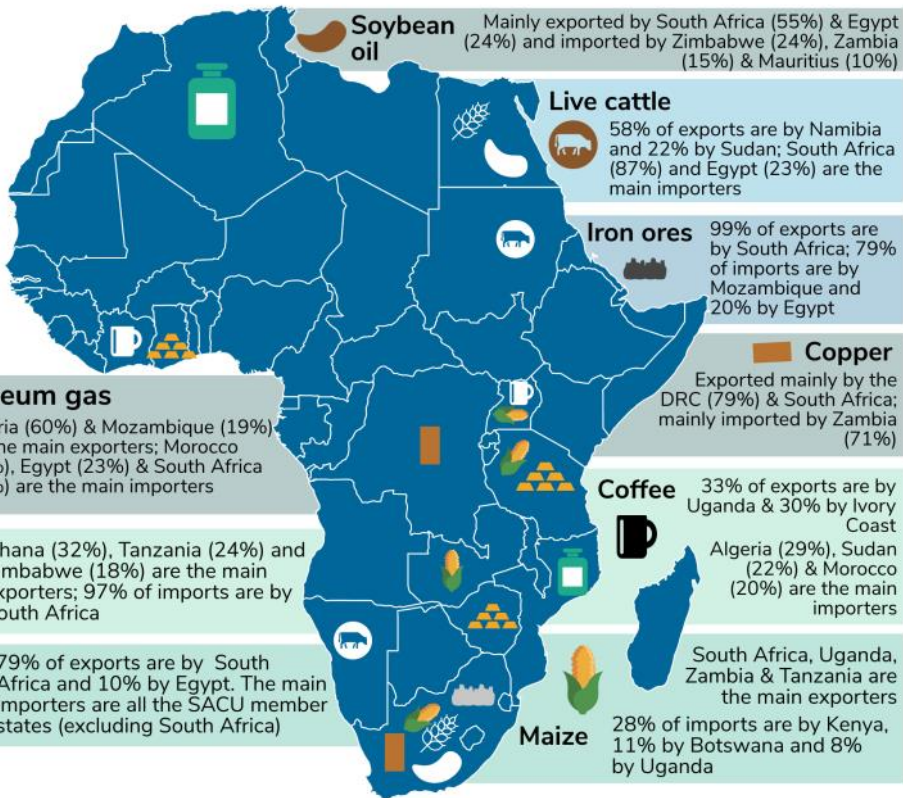
Agriculture—including sugar, maize, palm oil and cocoa—4.6 % of intra-Africa exports

According to the data, only 1% of cocoa, 4% of iron ore and 5% of petroleum gas remain on the continent. On the contrary, almost all wheat, milk, live cattle and soybean oil remain on the continent.

Gold is mainly exported by Ghana and Tanzania; almost all of which destined for South Africa. 73% of crude petroleum oil exports are by Nigeria, while 51% of non-crude exports are from South Africa and Togo. Algeria's and Mozambique's respective exports of petroleum gas accounts for 60% and 19% of intra-Africa gas exports. 86% of these gas exports are destined for Morocco, Egypt and South Africa.



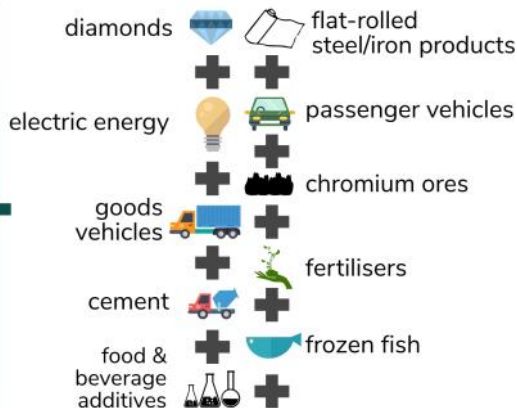
Intra-Africa trade in specific commodities



Non-agricultural, non-commodity trade

Approximately 53% of intra-Africa exports are products which are neither agricultural products, nor commodities and include diamonds, electric energy, motor vehicles and cement.

Main intra-Africa export products

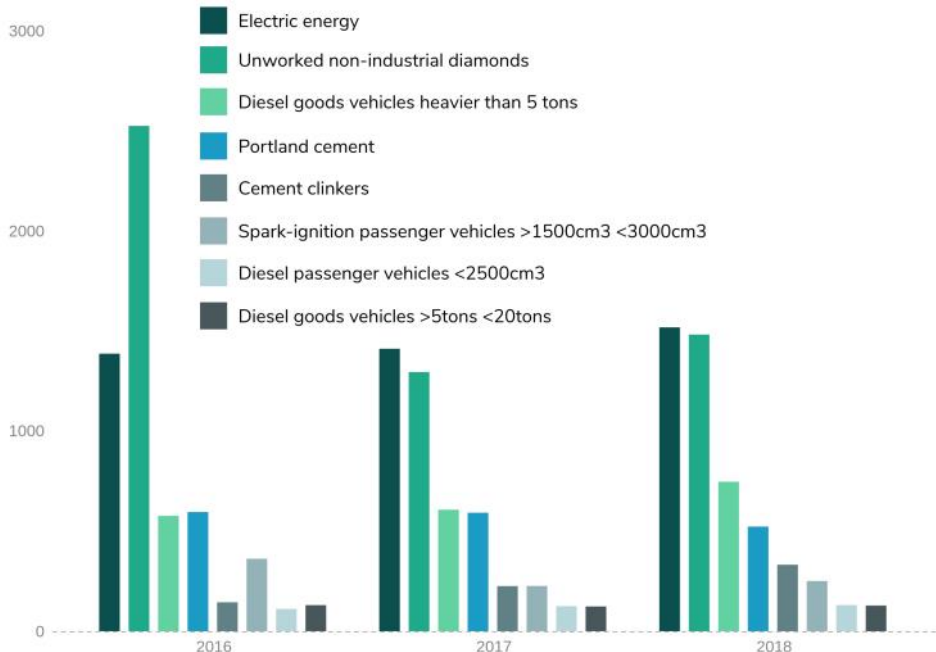


97% of world electric energy exports are intra-Africa

92% of Africa's cement exports remain on the continent

31% of goods vehicles and 6% of passenger vehicles remain in Africa



49%, 47% & 22% of Africa's respective exports of flat-rolled iron/steel products, frozen fish & fertiliser are intra-Africa exports



Electric energy is mainly exported by South Africa (36%), Mozambique (26%) and Ivory Coast (11%)

47% of unworked non-industrial diamond exports are by Namibia & 74% of imports are by Botswana

2017-2018: Exports of cement clinkers by Togo increased by 27%

Portland cement 69% of exports are by  (Senegal) &  (Nigeria)

60% of imports are by Mali, DRC, Niger & Libya



South Africa is the main exporter of motor vehicles:



92% of diesel goods vehicles heavier than 5 tons & 69% of diesel goods vehicles weighing between 5 and 20 tons



49% of spark-ignition passenger vehicles between 1500cm3 and 3000cm3 & 85% of diesel passenger vehicles greater than 2500cm3

Intra-African tariffs

Many African countries trade under the free-trade areas of their regional economic communities (RECs), with reduced or zero tariff preferences and members of fully fledged customs unions such as SACU trade duty-free with one another. Tariffs are therefore highest between those countries that do not already have a preferential agreement in place.

Non-REC intra-Africa tariffs

Ethiopia is a signatory of COMESA and IGAD. While Ethiopia is a member of COMESA, **it is still in the process of joining the COMESA FTA**. IGAD is not yet a Free Trade Agreement.



General tariff on goods from outside COMESA



Refined sugar (5%)



Diesel passenger vehicles (35%)



Maize seed for sowing (5%)

PAFTA and AGADIR members have duty-free access to **Egypt's market**, while imports from COMESA (except Eswatini & DRC) are granted preferential access. CENSAD is not yet an FTA.



MFN tariffs on goods from outside PAFTA, AGADIR & COMESA



Fresh peaches, plums, plantains & apricots (60%)

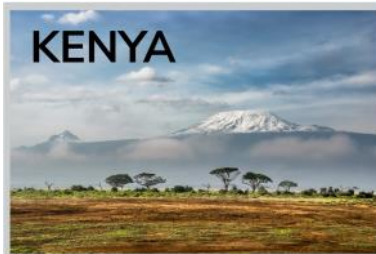


Cashew nuts (20%)



Spark-ignition passenger vehicles (135%)

Kenya is party to 4 RECs in Africa, however, the CENSAD and IGAD preferential arrangements are not yet in force. Countries that are members of COMESA and the EAC enjoy preferential access into Kenya.



MFN tariffs on goods from outside EAC & COMESA



Assembled diesel passenger vehicles (25%)



Apples (25%)



Second-hand clothes (35% or US\$0.20/kg whichever is higher)

South Africa is a member state of both SACU and SADC. SACU is a customs union with duty-free intra-SACU trade and a common external tariff applicable to all goods entering from outside the Union.



SOUTH AFRICA

MFN tariffs on goods from outside SACU & SADC



Cotton t-shirts (45%)



Black fermented tea (400c/kg)



False beards, eyebrows and eyelashes (20%)

Nigeria is a member of ECOWAS and CENSAD. CENSAD is not yet an FTA. All qualifying goods, under the ECOWAS Trade Liberalisation Scheme (ETLS) imported from approved ECOWAS producers into Nigeria enter duty-free.



NIGERIA

MFN tariffs on goods from outside ECOWAS



Apples (20%)



Assembled diesel goods vehicles weighing less than 5 tons (35%)



Frozen meat of mackerel (10%)

MFN tariffs for key

	Copper ores & concen-	Goods vehicles	Portland cement	Refined sugar
EAC CET	0	0; 25*	25	20; 100*
ECOWAS CET	5	0; 35*	20	20
SACU CET	0	0; 10; 20; 25*	0	476.71c/kg
Algeria	5	0; 5*	15	30
Angola	2	0; 2; 20; 30; 40*	2; 30*	20; 30*
Cabo Verde	0	0; 5; 10; 20*	5	5
Cameroon	10	10; 20*	20	30
CAR	10	10; 20*	20	30
Chad	10	10; 20*	20	30
Congo	5	5; 10; 20*	10	5; 20*
DRC	5	5	5; 10*	20
Djibouti	26	26	13; 26*	0; 13*
Egypt	2	5; 10; 20; 30*	0	5; 20*
Ethiopia	5	10; 35*	10	5
Gabon	10	10; 20*	20	30
Madagascar	5	10	10	10
Malawi	10	0; 10; 25*	10	25
Mauritania	5	13; 5; 20*	13; 20*	5; 20*
Mauritius	0	0	0	15
Morocco	2.5	2.5; 10; 25*	2.5; 10; 17.5*	25; 55; 60*
Mozambique	2.5	5	7.5	7.5
Tunisia	0	0; 20*	20	0; 36*
Zambia	0	15; 30	5	25
Zimbabwe	5	5; 10; 25; 40; 60*	10; 15; 20*	10% + US\$100/t



intra-African imports (%)

	Maize	Articles of iron or steel	Beer	Trousers	Palm oil
EAC CET	50	0; 10; 25*	25	25	0; 10; 35*
ECOWAS CET	5	5; 10; 20*	20	20	10; 35*
SACU CET	0	5; 10; 15; 20; 30*	5	40; 45*	10
Algeria	5	5; 15; 30*	60	30	5; 15; 30*
Angola	30	2; 10; 20; 30*	60	10	0
Cabo Verde	0; 20*	0; 10; 20*	50	30	0; 5*
Cameroon	30	10; 20; 30*	30	30	30
CAR	5	5; 10; 20; 30*	30	30	10; 15*
Chad	30	5; 10; 20; 30*	30	30	10; 30*
Congo	10	10; 20; 30*	20	20	10; 20; 35*
DRC	10	5; 10; 20*	20	20	5; 20*
Djibouti	1	13; 26*	26	13	1; 13*
Egypt	0	0; 5; 10; 30; 60*	1200	40	0
Ethiopia	5	5; 20; 35*	35	35	20
Gabon	30	5; 10; 20; 30*	30	30	0; 30*
Madagascar	10	0; 5; 10; 20*	20	20	5; 10*
Malawi	0	0; 10; 25*	25	25	10; 25*
Mauritania	5	5; 13; 20*	20	20	0; 13*
Mauritius	0	0; 15*	15	0	0
Morocco	2.5	2.5; 10; 17.5; 25*	49	25	2.5; 25*
Mozambique	7.5	2.5; 7.5; 20*	20	20	2.5; 20*
Tunisia	15	0; 20*	36	20	36
Zambia	15	0; 5; 15; 25*	25	25	0; 15; 25*
Zimbabwe	0	5; 10; 15; 20; 25; 40; 60; 65*	0; 25; 40*	40% + US\$3/kg	5; 15; 40*

*The import tariff varies depending on which specific product at national tariff line level is imported.

Sources: ITC MacMap 2019

Trade in Services

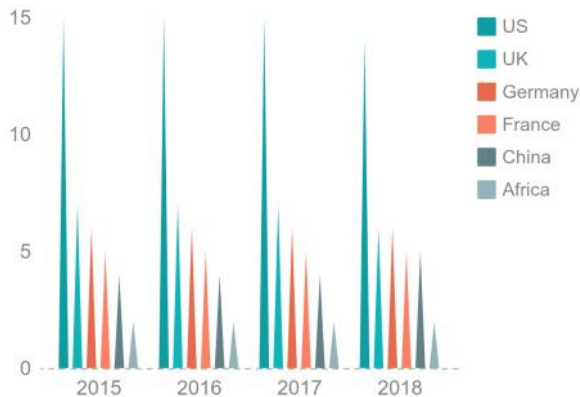
Currently, African services trade is low, and intra-African services trade is lower still. However, given the worldwide increase in services trade over the past few decades, there is potential for growth.

Between 2017 and 2018 Africa's services exports increased by 5%, while global services exports increased by 7%.

Services negotiations are included in phase 1 of the AfCFTA negotiations. The implementation of services liberalisation commitments and regulatory reform will be critical to achieve the aims of the African integration agenda.

Initially State Parties will schedule commitments in 5 priority sectors: financial services, travel, transport, business services and communications.

Percentage world services exports



Services trade restrictiveness is

4x higher

in Africa
than OECD
countries

Top services exporters

Egypt ✈️ 🚚 📠

Morocco ✈️ 🚚 📠

South Africa ✈️ 🚚 📠

Top services importers

Nigeria 📠 ✈️ 🚚

Egypt 🚚 📠 ✈️

South Africa 🚚 ✈️ 📠



Less than 2% of world services exports originate in Africa



Africa accounts for around 3% of world services imports

Exports—5 priority services sectors (2018)

All other services 26.1%

Transport 22.8%

Business services 5.3%

Telecommunications 3.2%

Financial 2.4%

Travel 40.2%

Trade facilitation

Improving trade facilitation is essential to improving trade outcomes. Transport costs, delays, port efficiency and customs and border procedures can in some cases have a bigger impact on the trade of goods than any tariffs.



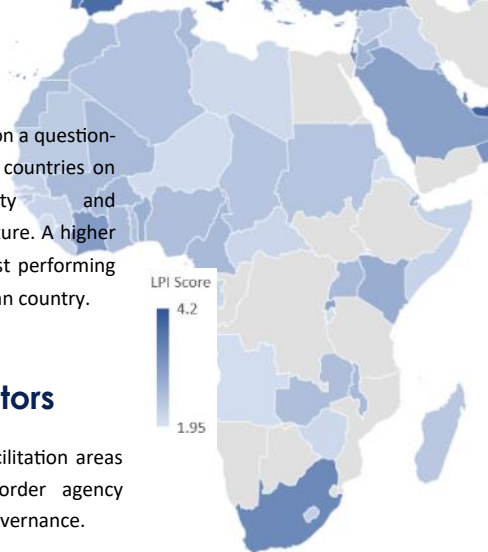
Trading across borders

The World Bank **Doing Business Index** includes a '**Trading Across Borders**' Score. The average score of African Union members is 54.36/100. This has gone down slightly since 2018. The score is based on 8 indicators of costs of imports and exports and time taken to cross borders.

Top 5	Score	Bottom 5	Score
Eswatini	92.9	Eritrea	0
Lesotho	91.9	DRC	3.5
Botswana	86.7	Cameroon	16
Morocco	85.6	Sudan	19
Mauritius	81	Liberia	19.2

Logistics performance index

The World Bank **Logistics Performance Index (LPI)** is based on a questionnaire sent to professionals in the logistics sector. It ranks countries on customs, international shipments, quality and competence, tracking and tracing, timeliness and infrastructure. A higher score indicates higher performance. South Africa is the best performing African country, with Angola at 2.05 the lowest scoring African country.



OECD trade facilitation indicators

The OECD trade facilitation indicators assess a range of facilitation areas including information availability, fees and charges, border agency cooperation, governance and impartiality, documents and governance.

Selected country scores (out of 2)

South Africa	1.5
Morocco	1.41
Kenya	1.21
Senegal	1.17
Tunisia	1.13
Botswana	1.12
Madagascar	0.89
Nigeria	0.82
Burundi	0.43

“The Sub-Saharan Africa region is the weakest performer across the board, due mainly to lower performance in the areas of information availability, advance ruling mechanisms and automation, as well as governance and impartiality”

- OECD 2018 *‘Trade facilitation around the world: The state of play’*

**Firms identifying
customs and trade
regulation as a major
constraint**

All 17%

SSA 26%

MENA 21%

About tralac

(Trade Law Centre) **tralac** is a public benefit organisation based in South Africa. We develop technical expertise and capacity in trade governance across Africa.

We are committed to the principles of rules-based governance at the national, regional and international levels. We believe that better governance and strong institutions are essential elements for inclusive and sustainable growth. tralac's activities are anchored on three pillars.



Inform

- Publications
- Daily news service
- Trade data & infographics



Capacitate

- Training activities
- Internship program
- Strategic partnerships & consulting



Empower

- Policy dialogue and forums
- Policy dialogue contributions



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