



HOW TO

NOTES

How to Modernize Customs Procedures to Successfully Implement the African Continental Free Trade Area

Gilles Montagnat-Rentier, Brian Brimble, Georges Dudouyt,
and José García Sanjinés

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the African Continental Free Trade Area**

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Contents

How to Modernize Customs Procedures to Successfully Implement the African Continental Free Trade Area	1
Purpose of the Note	1
Main Recommendations.....	3
The Agreement, Its Objectives, Scope, Coverage, and Benefits.....	4
Tariff Elimination—Customs Management and Control of AfCFTA Origin	7
Customs Aspects of Trade Facilitation and Removal of Administrative Obstacles to Circulation, Border Crossing, and Clearance of Goods in Africa	17
Conclusion.....	25
Appendix 1. Brief Description of, and Observations on, Annexes to the AfCFTA Protocol on Trade in Goods ...	27
References	28

Boxes

Box 1. Positive Impacts of Effective and Timely Implementation of the AfCTA.....	6
Box 2. Main Arguments Supporting the Selection of Customs as the "Designated Competent Authority" for Origin Matters under the AfCFTA Agreement.....	12
Box 3. Recommended Principles to Strengthen Customs Valuation in Low-Income Countries.....	24

Figures

Figure 1. Suggested Functions of an AfCFTA Customs Portal.....	16
Figure 2. Suggested Technology to Support Exchange of Customs Information	19
Figure 3. Average Selectivity Channel for Customs Inspection by Economic Groups	22

Tables

Table 1. Components of the AfCFTA Agreement	5
Table 2. Tariff Elimination Timeline under the AfCTA.....	7

How to Modernize Customs Procedures to Successfully Implement the African Continental Free Trade Area

Gilles Montagnat-Rentier, Brian Brimble, Georges Dudouyt, and José García Sanjinés
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The African Continental Free Trade Area (AfCFTA), initiated by the African Union in 2012, aims to create the world's largest free trade area by reducing tariffs and facilitating trade among 54 African countries. Officially entering into force on May 30, 2019, it has the potential to diversify exports, accelerate growth, and attract foreign investment, potentially boosting regional incomes by 9 percent by 2035 and helping 50 million people exit extreme poverty. The agreement includes provisions to facilitate trade and investment, address regulatory measures, and cover trade in both goods and services. Customs administration is crucial for its success, requiring modernization, government support, and business cooperation. Trading under the AfCFTA began on January 1, 2021, but significant changes are needed for full implementation. This note discusses recommendations for customs administration reforms to optimize AfCFTA implementation, suggesting a regional one-year deadline for most relevant measures.

Purpose of the Note

The AfCFTA was conceived by the African Union in 2012; its negotiations started in 2015 and were completed in 2018. Officially, it entered into force on May 30, 2019, when the required number of State Parties (24) had deposited their instruments of ratification.¹ It has created the world's largest free trade area, which is measured by the number of participating countries. It comprises 54 member countries with a total population of 1.3 billion people and a gross domestic product estimated at US\$3.4 trillion.

The AfCFTA is an ambitious initiative with considerable potential. The IMF and the World Bank see it as a major opportunity to help African countries diversify their exports, accelerate growth, and attract foreign direct investment in a global economy that is increasingly fragmented and hard hit by multiple shocks since 2020. The World Bank estimates that if fully implemented to harmonize investment and competition rules, the agreement could boost regional incomes by as much as 9 percent by 2035, creating almost 18 million more jobs and helping up to 50 million people exit extreme poverty (Echandi, Maliszewska, and Steenberg 2022). A 2023 IMF study² concludes that in an “AfCFTA+ scenario ... the median bilateral trade flow between African countries would grow by 53 percent, of which 15 percentage points would be from tariff and non-tariff measure reductions, and the remaining 38 percentage points from improvements in the trade environment.” However, proper implementation will determine whether the objectives of the agreement are met and the expected benefits are obtained.

As with all free trade area agreements, the AfCFTA will reduce tariffs among its participating countries. As a modern trade agreement, it includes provisions aimed at facilitating trade and investment and addressing

¹ At the time of preparation of this note, 47 signatories had deposited their instruments of AfCFTA ratification.

² Trade integration in Africa: unleashing the continent's potential in a changing world. Prepared by an IMF team led by Ganainy and others (2023).

regulatory measures such as technical barriers to trade, sanitary standards, and protection of intellectual property and investment. It should be noted that the agreement covers trade in both goods and services.

Among multiple stakeholders, customs administration is key to the successful implementation of the AfCFTA procedures and processes—with a role that is probably even more important than for (smaller) existing subregional trade agreements. With regard to trade in goods, together with the modernization and strengthening of trade logistics and infrastructure, the performance of the African customs administrations will be decisive in the fulfillment of the AfCFTA's goals. This will require substantial efforts on their part, strong support from their governments, and cooperation from the business community. Despite ongoing modernization programs supported by development partners (including the IMF), many African customs administrations, if not most, still require numerous improvements for the proper implementation of the AfCFTA.

Time is of the essence for these customs improvements. Trading under the agreement officially began on January 1, 2021, but only actively started in October 2022, when the Guided Trade Initiative was launched to pilot AfCFTA preferential trade among eight member states for selected commodities. Although more countries are now joining it, the Guided Trade Initiative remains a small-scope transitional initiative. Without a clear mandate at the national level, significant changes in border procedures, and realignment of resources and tools in most administrations, it is unlikely that the agreement will be implemented correctly. Traders will likely continue facing costly procedures and inconsistent treatment throughout the continent, which may ultimately discourage them from taking advantage of the AfCFTA's intended benefits.

The purpose of this note is, therefore, to discuss and propose recommendations on priority reforms and actions in customs administration to optimize the implementation of the AfCFTA for trade in goods. A number of African customs administrations are working on these issues, but they should accelerate the pace. A regional one-year deadline for the implementation of the most relevant measures is desirable.

Specifically, the note reviews the challenges implied by the most relevant provisions of the AfCFTA Protocol on Trade in Goods.³ It presents proposals on the role customs should play in their implementation and on the necessary modernization and improvement of customs administration for their operation. It is based on analyses by the authors and other IMF experts, followed by extensive discussions they held with representatives of 48 national customs administrations, seven RECs, and the World Customs Organization (WCO) through a series of regional workshops organized by the IMF's Fiscal Affairs Department across the continent in 2023 and early 2024. The authors are grateful to those participants for the invaluable feedback they provided.

The Protocol on Trade in Goods calls for customs administrations to be capable of addressing two main challenges in an environment where compliance is often weak and resources and capacities are limited:

- Tariff removal for “African-made” goods, which will require customs administrations to enhance their management, professional, and technological capacities to, concomitantly, (i) promote and facilitate access to preferential treatment by compliant traders, as this is essential to boost trade across the continent, and (ii) verify compliance with the (complex) AfCFTA rules of origin and impede abuse. Otherwise, revenue leakage and unfair competition could occur on a large scale, with the correlated risk of diminishing commitment to apply the agreement.
- Facilitated cross-border trade within Africa, which will require customs administrations to implement modern and efficient procedures supported by advanced technologies to allow for secure and easier circulation of goods and compliance with border and clearance formalities, including by small- and medium-sized enterprises (SMEs).

³ <https://au-afcfta.org/wp-content/uploads/2024/02/EN-AfCFTA-PROTOCOL-ON-TRADE-IN-GOODS.pdf>

To address the challenges, strategic moves are expected from African customs administrations with support from their governments to (1) expand their “economic” function (that is, publish procedures, inform and advise traders, and proactively encourage voluntary compliance and proper use of the agreement); (2) implement transformative reforms, including overhaul of administrative processes, expanded digitalization efforts, and investment in advanced technologies; and (3) prevent and detect abuse in efficient ways that do not hamper/impede legitimate business of compliant operators. Improved coordination among customs administrations and with other government agencies and investing in the preparation of personnel will also be critical.

Although implementation of the AfCFTA is a responsibility of each State Party, the Regional Economic Communities (RECs) also have an important role in establishing the necessary building blocks for the implementation of the agreement. There are many RECs (eight of them officially recognized by the agreement) within the African continent, where countries have grouped themselves mainly according to their geographical location, maintaining their own trade rules and requirements. As intra-African trade expands, it is likely that, if properly implemented, the AfCFTA will eventually supersede the numerous trade agreements within existing RECs through a continental regulatory framework that includes matters such as intellectual property and investment, which are not currently covered by most of those subregional agreements.

The main recommendations from the needed customs administration initiatives across the continent are set out in the following section.

Main Recommendations

Tariff Removal for “African-Made” Goods

- African customs administrations should treat the implementation of the AfCFTA and building their capacity to manage fairly and control effectively the AfCFTA rules of origin as one of their top priorities in the short, medium, and long term.
- The AfCFTA State Parties should appoint Customs as the sole “Designated Competent Authority” to manage AfCFTA origin and to be in charge of implementing all customs-related provisions, particularly those of the Protocol on Trade in Goods and its annexes.
- Promote the use of the Origin Declaration (OD) issued by approved exporters: approved by Customs in the producing/exporting country after a thorough verification disconnected from the export clearance process.
- Develop a peer-to-peer infrastructure and shared data storage (customs portal) between AfCFTA State Parties to support electronic transmission of proofs of origin, record of origin information, and for consultation by customs administrations on a need-to-know basis.
- Facilitate compliance by publishing official comprehensive and easy-to-use information on AfCFTA rules and procedures in each country and offering web services to traders for preferential origin requests and approvals through the customs portal.⁴
- Develop intelligence and data analysis capacities, including mirror data analysis, on trade flows and country of origin of exchanged commodities.
- Collect data and monitor transactions pertaining to shipments of US\$5,000 or less claiming AfCFTA preferential treatment (ODs issued by nonapproved exporters).
- Create or strengthen an operational specialist origin unit within customs, designated as the focal point for customs, traders, and other stakeholders to deal with all export and import matters of origin.

Facilitated Cross-Border Trade within Africa

- Implement preventive measures to facilitate and improve compliance, including:

⁴ The AfCFTA Secretariat publishes information on AfCFTA tariff concessions through an e-tariff book—AfCFTA (au-afcfta.org).

- a set of mandatory key data elements to be shared and used for clearance of the same shipment on both sides and
- an AfCFTA-trader electronic verified account.
- Enhance predictability of customs administration through authorized economic operators' programs, advanced rulings, and implementation of key performance indicators.
- Remove nontariff barriers that originate from customs procedures and practices. As part of this exercise:
 - based on modern risk management and coordinated border management, significantly reduce examination rates for intra-Africa trade,
 - continue aligning import valuation procedures and methods to the World Trade Organization (WTO) Valuation Agreement, and
 - resolve inconsistent tariff classifications among members of the same regional economic community.
- Draw up action plans to streamline and better control cargo transit operations, distinguishing between the national and regional authorities capable of solving each problem.
- Customs to focus on:
 - conversion of the AfCFTA Transit Document (TD) into an electronic document,
 - investment in technologies for better traceability and control of transit,
 - strengthened customs sanctioning framework applicable to fraudulent transit operators,
 - strengthened cooperation and coordination with the national ministries of transportation,
 - improve systems for access, management, and collection of financial guarantees.
- Use mobile telephony to simplify procedures and declarations for SMEs and to attract informal traders to formality.
- Adopt WCO tools as the base for standardization of procedures across Africa.
- Request capacity development support on AfCFTA implementation from development partners, where needed, including from the WCO and the IMF.

The Agreement, Its Objectives, Scope, Coverage, and Benefits

Strategic Objectives of the AfCFTA

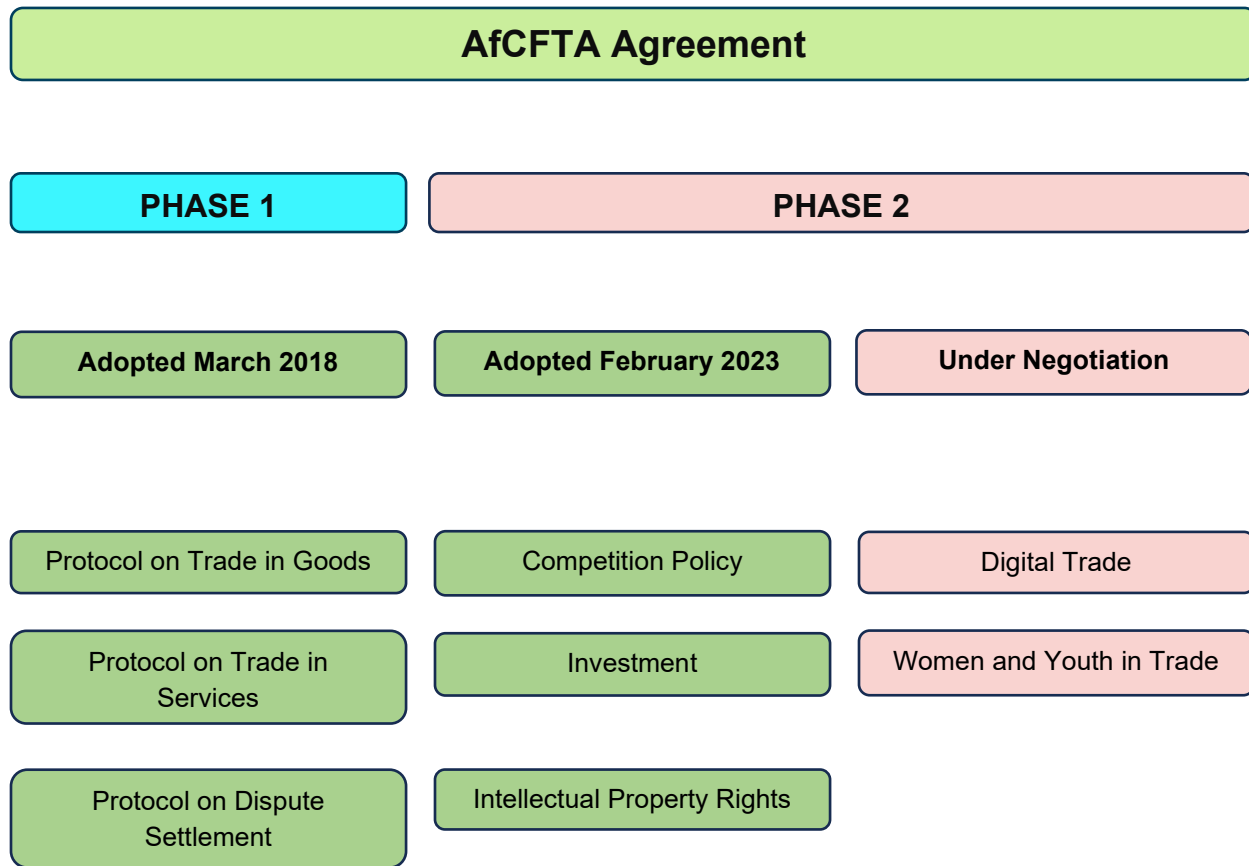
The State Parties have identified four strategic objectives under the AfCFTA: (i) expand intra-African trade in goods and services; (ii) increase competitiveness through economies of scale and diversification; (iii) promote industrialization, structural transformation, and gender equality; and (iv) lay the foundation for a future customs union and single market.

The expansion of the intra-African trade in goods beyond the current RECs' boundaries is key, and it will certainly be an immediate positive result from the implementation of the agreement. In addition to the rate at which traders pursue use of the agreement, the pace of such expansion will be critically affected by how well customs administrations are able to implement it.

Coverage and Phased Negotiation and Implementation of the Agreement

The ample coverage of the AfCFTA has required phased negotiations and implementation. Completing and putting in place all of its components has necessitated, and keeps necessitating, considerable efforts. Table 1 shows the timeline followed by the African governments to deliver the agreement's main components.

Table 1. Components of the AfCFTA Agreement



Source: <https://au-afcfta.org/trade-areas/>

Although customs administrations play a role in various of these components, the implementation and operation of the Protocol on Trade in Goods and its annexes, which are already in force, is their priority and it demands their full attention and commitment.

The Protocol on Trade in Goods

The Protocol on Trade in Goods regulates trade in all goods, AfCFTA originating and non-originating, between traders within the AfCFTA territory. Its main purpose is to create a liberalized market for traders of the AfCFTA State Parties, and its main objective is to boost intra-African trade through:

- (a) progressive elimination of most tariffs;
- (b) progressive elimination of nontariff barriers;
- (c) enhanced efficiency of customs procedures, trade facilitation, and transit;
- (d) enhanced cooperation in the areas of technical barriers to trade and sanitary and phytosanitary measures;
- (e) development and promotion of regional and continental value chains; and
- (f) enhanced socio-economic development, diversification, and industrialization across Africa.

It is clear that, out of these elements, the progressive elimination of most tariffs and nontariff barriers (particularly those derived from customs inefficiencies), and the implementation of enhanced customs procedures, trade facilitation measures, and transit procedures, are of utmost importance and interest for the African customs administrations.

In addition, to fulfill its objectives and regulate intra-African trade, the protocol contains nine annexes (some annexes also contain appendixes), which are an integral part of the AfCFTA. Customs administrations have an

interest and legal competencies in most of them, but particularly in Annex 2 (Rules of Origin), Annex 3 (Customs Cooperation and Mutual Administrative Assistance), Annex 4 (Trade Facilitation), Annex 5 (Nontariff Barriers), and Annex 8 (Transit). Many of the topics covered by these annexes still require further clarification to allow for a proper implementation of the agreement by the African customs administrations. A brief description of each of the annexes to the Protocol on Trade in Goods is included in Appendix 1 to this note.

Properly implemented, the AfCFTA is expected to derive significant benefits for the African economies in general, and traders, investors, and consumers in particular. Box 1 highlights key positive impacts that are expected.

Box 1. Positive Impacts of Effective and Timely Implementation of the AfCFTA

For State Parties' economies

- Intra-African trade in goods and services is expanded.
- Economic competitiveness increases through economies of scale and diversification.
- Industrialization, SMEs, and gender equality are promoted.
- Structural transformation is fostered.
- Millions of jobs are created.
- A strong foundation for a future customs union and single market emerges.

For traders, investors, and consumers

- Greater legal certainty and uniformity of treatment in their cross-border trade transactions.
- Clear incentives to invest, including at currently underutilized locations where they can place their businesses closer to key inputs and markets, as well as for taking advantage of the agreement's provisions on cumulation of preferential origin.
- As import, export, and transit procedures are modernized and automated, transactional costs are reduced, increasing African traders' competitiveness.
- As customs and trade procedures, requirements, and formalities are facilitated and trade barriers removed, traders are encouraged to comply voluntarily.
- Overall, it provides easier access to new markets, lower costs (including for SMEs), and lower prices for consumers.

For African customs administrations

- African customs administrations are able to manage customs and trade matters better (AfCFTA and non-AfCFTA) to the extent their legal, human, and technological capacities are strengthened, as proposed in this note.
- Governance progresses thanks to standardized and automated procedures minimizing discretionary decision-making and expediting operations.
- Expanded data analysis and risk management capacities ensure that only legitimate traders gain access to preferential treatment, and noncompliant ones are identified and properly sanctioned.
- Customs are able to prioritize and allocate their resources more efficiently.
- Customs' institutional image improves as its stakeholders perceive, confirm, and trust that it is fulfilling its mandate and that a leveled playing field exists for all, inducing them to voluntary compliance.

Source: Authors.

Note: SMEs = Small- and medium-sized enterprises.

Tariff Elimination—Customs Management and Control of AfCFTA Origin

Elimination of Customs Tariffs

In less than 10 years, 97 percent of the intra-African trade in goods meeting AfCFTA preferential origin criteria will be exempt from duties. Tariff lines concerned are specific to each African country, and the agreement provides a longer phase-out timeframe for Least Developed Countries. Tariff elimination has started aggressively, encompassing 90 percent of tariff lines, those deemed nonsensitive goods, while the other 7 percent of goods (those deemed sensitive) are granted a more gradual phase-out schedule. The remaining 3 percent of tariff lines have been excluded from liberalization. Table 2 shows the general timeline agreed by the AfCFTA State Parties.

Table 2. Tariff Elimination Timeline under the AfCFTA

Tariff Lines	General	Least Developed Countries
90 percent of tariff lines—nonsensitive goods	Elimination over 5 years	Elimination over 10 years
7 percent of tariff lines—sensitive goods	Elimination over 10 years	Elimination over 13 years
Up to 3 percent of tariff lines that represent no more than 10 percent of the country's intra-African imports	Excluded from liberalization	Excluded from liberalization

Source: <https://www.africatradeoundation.org/afcfta-guide>

It is important to note that, as of the time of the preparation of this note, the rules of origin have not been completed for all goods, which is impacting the rollout of the tariff elimination schedules. This has been a highly complex process because each of the 54 signatory countries has its own interests and concerns, and each intends to have its particular phase-out timeline; in other words, its own tariff elimination start date for each tariff line. Thus, this is, still, an ongoing negotiation process.

Making available current and reliable information on the rules of origin to customs administrations and traders is not only necessary but critical to AfCFTA implementation. Without it, the agreement cannot be properly implemented. Goods may be entitled to a different preferential treatment in each country or not granted preference at all, because not all the goods will be entitled to it at the time of importation (according to each country's schedule and the final provisions of the AfCFTA rules of origin).

The AfCFTA Secretariat has recently published an e-tariff book and Rules of Origin (RoO) Manual, but these tools are still incomplete, which is understandable because of the aforementioned issues. Nevertheless, this is a commendable effort, and the expected final products will be of great value for the agreement's success.⁵

The Revenue Loss Debate and the Role of Customs

African customs administrations are highly focused on revenue collection, much more than on their other strategic missions. A broader perspective on this issue is required to understand that although tariff elimination will result in a loss of tariff revenue, it will be more than compensated for in the longer term by the expected growth in intra-African trade and the consequent economic expansion. The World Bank estimates the AfCFTA will boost Africa's income by \$450 billion by 2035 (a gain of 7 percent), increase Africa's exports by \$560 billion, mostly in manufacturing, and boost wages by about 10 percent.⁶

⁵ Both were developed with the support of the World Customs Organization (WCO) and the European Union (EU) under the EU-WCO Harmonized System (HS) and Rules of Origin (RoO) Africa programs.

⁶ <https://openknowledge.worldbank.org/server/api/core/bitstreams/ef1aa41f-60de-5bd2-a63e-75f2c3ff0f43/content>.

It should be kept in mind that the AfCFTA only eliminates the collection of tariffs (customs duties) on AfCFTA-originating goods, not the Value Added Tax and excise/special taxes, which are levied by each country according to their national legislation and are expected to grow because of the expanded trade and economic activity. In addition, an increase in imports of inputs from outside Africa for the manufacture of export products, as well as consumer goods, is expected. Both will be subject to customs duties and taxes, which should help compensate for the tariff reduction under the AfCFTA.

In 2019, an IMF team concluded that there will be limited reductions in fiscal revenue from the AfCFTA implementation, with a few exceptions (IMF 2019). Assuming the elimination of all tariffs on intraregional imports and using conservative growth and trade diversion elasticities to tariffs estimated in the literature, their analysis showed that the revenue loss would amount to about 0.5–0.8 percent of GDP, depending on the assumed elasticities. However, in a few countries, revenue losses may be as large as 3–5 percent of GDP. For these countries, authorities should define clear domestic revenue mobilization policies while beginning to implement the AfCFTA.

Trade revenue loss and trade revenue leakage are not the same thing. Under the AfCFTA, as under any other trade agreement, the strategic role of customs is (i) to apply the trade provisions of the agreement, including the tariff elimination provisions, while (ii) preventing abuse, trade fraud, and revenue leakage by making sure that only compliant traders and AfCFTA-originating goods are granted the benefits of the agreement. This brings into focus the importance of having solid controls to ensure the validity of country-of-origin declarations. Clearly, removal of tariffs on “African” goods only in intra-continental trade does not diminish, but, to the contrary, strengthens the role and importance of African customs administrations.

Qualification of Origin and Proof of Origin to Secure AfCFTA Preferential Treatment

A good shall be deemed as originating in the AfCFTA if it has been wholly obtained or undergone a substantial transformation in an AfCFTA State Party.⁷ To secure the benefits of the agreement, the importation of such good into any of the State Parties must be supported by a proof of origin.⁸ AfCFTA origin is proven and its benefits are granted when the importation of a good is supported by any of the following documents (if recognized as valid by customs):

- A Certificate of Origin (CoO) issued by the exporting State Party’s Designated Competent Authority, based on the request and supporting documentation submitted by the exporter or its legal representative, or
- An OD issued by an Approved Exporter (approved by the exporting State Party’s Designated Competent Authority), or
- An OD issued by any exporter for any consignment containing originating goods whose total value does not exceed US\$5,000.00.⁹

In determining if a good qualifies as originating, both the exporter and the Designated Competent Authority must take into account the AfCFTA origin criteria and other key factors. The agreement provides criteria and definitions on what must be considered to determine if a good qualifies as a wholly obtained good¹⁰ or if it has undergone a substantial transformation.¹¹ Also, the agreement provides a detailed description of when work on a good, or processing, is not sufficient to confer origin.¹² Other elements that must be considered, as they may or may not confer origin, include (i) packing and packaging, (ii) separation of certain materials (through accounting methods), (iii) accessories, spare parts, and tools, (iv) what is deemed as a set and how it should be

⁷ AfCFTA, Protocol on Trade in Goods, Annex 2, Article 4.

⁸ AfCFTA, Protocol on Trade in Goods, Annex 2, Articles 17 and 18.

⁹ AfCFTA, Protocol on Trade in Goods, Annex 2, Articles 19 through 22.

¹⁰ AfCFTA, Protocol on Trade in Goods, Annex 2, Article 5.

¹¹ AfCFTA, Protocol on Trade in Goods, Annex 2, Article 6.

¹² AfCFTA, Protocol on Trade in Goods, Annex 2, Article 7.

treated, and (v) what are deemed neutral elements not conferring origin.¹³ In addition, the monitoring of Accumulation of Origin (goods undergoing different phases of their production at different State Parties),¹⁴ the Principle of Territoriality¹⁵ (originating goods leaving the AfCFTA territory but remaining under customs control), and Direct Transportation¹⁶ are key factors that must be observed. Management and control of preferential origin is clearly a complex task.¹⁷

The AfCFTA acknowledges the need of having a Designated Competent Authority in each AfCFTA country responsible for the certification of origin under the agreement. It also provides that “the Customs Authority or Designated Competent Authority shall have the right to call for any evidence and to carry out any inspection of the exporter’s accounts or any other verification considered appropriate.”¹⁸

The Main Administrative Issues to Be Addressed

As observed during the AfCFTA workshops hosted by the IMF in 2023 and 2024, there are a number of weaknesses with current administration of country-of-origin determinations:¹⁹

- **Most control is done by customs on the destination/import side, at the border, to protect trade revenue.** Although revenue protection is essential, this practice results in numerous transactional checks at the border, which (i) create an administrative burden and unpredictability for compliant traders, which, if replicated for the continental agreement, will discourage claims of AfCFTA preferential tariff treatment and therefore hinder trade growth and integration, and (ii) are an inefficient and ineffective use of limited customs administrations resources.
- **Conducting an origin verification on import requires involvement and assistance of an administration from the export side.** Although in some RECs customs administrations conduct origin verifications under such trade agreements, in many countries, customs is not involved or only partially involved in origin verification on the export side. In many cases, its intervention is limited to verifying the existence of a CoO. Therefore, the importing customs administration cannot easily obtain the required information and assistance from the export side, and certainly not at the time of importation.
- **When partially involved in the certification process, customs officers may sign proofs of origin without the necessary assurance that origin rules criteria have been actually met.** This is due mainly to the following: (i) an in-depth verification was not conducted before export, (ii) it is not practically possible to conduct such verifications at the time exports are cleared, and (iii) verifications are conducted by another entity and they are not properly reported or documented.
- **Paper-based proofs of origin and the TD, with authorized signatures and stamping by officials, entail several validation challenges and vulnerabilities:** (i) tampering, (ii) changing lists of authorized signatures (that is, because of reassignment of officials), and (iii) communications not supported by an infrastructure or done informally. To avoid these pitfalls, the AfCFTA CoO should be processed and issued electronically, and customs administrations should collect as much data as possible on ODs to support their validity, as explained further in this note. This should be easily accomplished because the agreement does not impede customs administrations from converting paper applications to electronic format for further practical uses.²⁰

¹³ AfCFTA, Protocol on Trade in Goods, Annex 2, Articles 11 through 15.

¹⁴ AfCFTA, Protocol on Trade in Goods, Annex 2, Article 8.

¹⁵ AfCFTA, Protocol on Trade in Goods, Annex 2, Article 16.

¹⁶ AfCFTA, Protocol on Trade in Goods, Annex 2, Article 30.

¹⁷ As of the time of preparation of this note the specific rules of origin for some products had not yet been finalized.

¹⁸ AfCFTA, Protocol on Trade in Goods, Annex 2, Article 21.

¹⁹ Observations are essentially made for existing regional preferential agreements since AfCFTA implementation has started only on a very small scale with the Guided Trade Initiative (cf. Section I).

²⁰ AfCFTA, Protocol on Trade in Goods, Annex 2, Articles 17 and 21.

To achieve the AfCFTA objectives, preferential origin will need to be managed efficiently and effectively on a large scale. The current practices for administering existing preferential agreements, as described here, will not be appropriate for AfCFTA and would leave the agreement highly vulnerable to abuse. As such, the certification and verification processes for administering AfCFTA must be modernized to enable any reasonable level of assurance that the agreement's rules are being followed by both traders and customs authorities. Customs administrations in Africa must strengthen their origin control capacities to be able to manage their origin certification and verification functions on both the import and export sides.

Customs on the Export Side of Origin Management—Verification and Certification of Origin Should Take Place before Export Clearance

There Is a Strong Case for Shifting the Center of Gravity of Origin Control to the Export Side

Producers and exporters (depending on each trading situation) are the ones obliged to maintain and provide supporting documentation proving compliance with the RoO when they request an AfCFTA CoO or issue an OD. On the other hand, importers require and demand certainty from such certifications and declarations because they are the ones claiming preferential treatment (tariff removal) upon importation and are subject to the detailed scrutiny of the importing customs administration.

In addition, the agreement provides that Customs or the Designated Competent Authority have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other verification considered appropriate. Therefore, serious verification of AfCFTA origin before the goods are exported will present the major advantage of providing guarantees to traders and customs, on both the export and import sides. It will thus derive maximum predictability and should reduce routine customs checks. In this scenario, the agreement actually provides an opportunity to implement effective control of origin on the export side of the AfCFTA transactions.

ODs Issued by Approved Exporters Should Be Facilitated and Encouraged to Become the Norm²¹

The agreement provides that the issuance of an OD by an exporter is subject to a preapproval process of such exporter, meaning that the Designated Competent Authority must verify that such exporter provides evidence proving that the goods intended for export under an OD fulfill the applicable AfCFTA RoO.²² Although ODs offer a great opportunity for improved control, segregation of risk, and trade facilitation, the preapproval process of exporters may become a very demanding effort for the Designated Competent Authority, both technically and operationally, as more and more exporters will request to be approved. This is a critical component of origin management under the agreement, which, if not effectively controlled, could lead to abuse of the agreement.

The main difference between a CoO and an OD is that the former is requested for the exportation of one good, one time, whereas the latter provides a “blanket certificate” for the AfCFTA-qualifying goods exported by the approved exporter, for as long as the condition and nature of such goods remain. Thus, the challenge for the Designated Competent Authority is to make sure that an approved exporter limits the issuance of ODs only to those qualifying goods for which it was approved and that such goods have not modified their nature or condition in a way that disqualifies them as originating. To tackle this challenge, customs administrations should:

- **Create an AfCFTA-exporter approval program, similar to an Authorized Economic Operator (AEO) program, but focused on AfCFTA origin and exporter verification, starting with the frequent exporters of goods whose origin is easily determined and progressively moving toward exporters of goods whose determination of compliance with the RoO is more complex.** If feasible and when appropriate, an AEO certification process may include the AfCFTA-exporter approval. Such a program would strengthen

²¹ This subsection refers only to Origin Declarations issued by Approved Exporters, that is, for shipments worth more than US\$5,000, as required by the AfCFTA. Origin Declarations for shipments worth US\$5,000 or less are addressed in subsection F.

²² AfCFTA, Protocol on Trade in Goods, Annex 2, Article 19.

management and control of origin on the export side and would provide greater certainty to all entities involved in these transactions.

- **Collect and maintain detailed data pertaining to these transactions for proper monitoring of ODs issued by approved exporters.**²³ The exporting customs administrations should collect data on their approved exporters, the goods for which they are approved to issue ODs, and the transactions involving them and such goods. The permanently updated list of approved exporters and their qualifying goods should be made available to the other African customs administrations for proper confirmation, as explained further in this note, and the importing customs administration should collect detailed data on every transaction supported with an OD, including parties and goods involved, for possible future origin verification, as appropriate.

The Use of Certificates of Origin Should Be Properly Controlled

As any exporter keeps the right to request a CoO, the Designated Competent Authority must have the capacity to collect and analyze each request and its supporting documentation and, if necessary, to review the accounting records and visit the exporter facilities to determine if the good for which the CoO is requested meets the applicable origin criteria. Except for extracted minerals and agriculture produce, which may be deemed as wholly obtained within the AfCFTA territory by known and compliant exporters, the origin verification of other goods is, understandably, a complicated technical task.

Certificates should be approved based on evidence produced and the necessary verifications prior to export clearance. Also, customs should not be put under pressure to sign a CoO at export clearance, whether or not another agency or association has indicated their validation.

There are solid arguments for customs administrations to be responsible for AfCFTA origin management and control. They are the best-positioned agencies to be appointed the sole “Designated Competent Authority.”

The agreement provides that the certification and verification of origin must be performed by each country's Designated Competent Authority, which must have the capacity to conduct such responsibilities and provide these services to all traders within its territory. Some countries have already appointed their customs administrations as their Designated Competent Authority. However, other countries have appointed either a trade association (or a group of trade associations), another ministry, or both their customs administration and a trade association and/or a ministry.

The agreement also provides that only customs authorities of the exporting country can conduct the verification of the origin of exported goods, following a request from the customs authorities of the importing country.²⁴

Certification and verification of AfCFTA origin, as well as the development, implementation, and enforcement of trade compliance and facilitation measures, initiatives, and programs, as mandated by the agreement, are functions that require both expertise and institutional capacities (legal and operational). In this context, customs administrations are the best-positioned entities to address such challenges (Box 2).

²³ AfCFTA, Protocol on Trade in Goods, Annex 2, Article 20.

²⁴ AfCFTA, Protocol on Trade in Goods, Annex 2, Article 36.

Box 2. Main Arguments Supporting the Selection of Customs as the "Designated Competent Authority" for Origin Matters under the AfCFTA Agreement

- Customs possess the knowledge and expertise in customs and international trade matters. Tariff classification, valuation of goods, criteria for origin determination (value added, non-originating material content, and change in tariff heading), and import, export, and transit procedures are all clearly customs administration matters;
- Customs has the legal power (granted by the customs act or customs code) to conduct audits, obtain evidence, and carry out necessary verifications and/or inspections, including on-site examinations at exporting or manufacturing facilities (that is, facilities of exporters requesting to be approved to issue ODs);
- Customs collects international trade data (confidential data), stores it, and uses it in accordance with their national legislation. This function is critical because determination of AfCFTA origin requires collection and analysis of trade data from verified customs declarations received and external sources that will be used for the identification of non-originating material content versus originating ones and detection of fraudulent claims of AfCFTA origin; these are standard functions of customs administrations;
- Customs is the only authority that has international mutual assistance agreements in place allowing them to exchange information for trade and customs enforcement purposes. As more integrated value chains are created among AfCFTA parties and origin accumulation practices extended throughout the continent, this cooperation will be indispensable; and
- Customs have personnel deployed at all ports of entry/exit and are already in charge of controlling origin on the import side. For them to control origin on the export side consists of an expansion of their regular responsibilities with obvious synergies between import and export tasks.

Source: Authors.

It is important to understand that the AfCFTA creates a free trade territory under specific and strict rules that traders must comply with to be entitled to its benefits, specifically for intra-African trade. Therefore, the AfCFTA provisions do not remove or diminish customs control of trade between African countries. On the contrary, their implementation requires better and stronger management and control of customs-related rules.

By being a competent authority with a threefold mission: (i) economic (trade facilitation in particular), (ii) fiscal (revenue collections), and (iii) border control (mainly security and safety),²⁵ customs administrations understand operations and procedures of importers, exporters, brokers, carriers, and other operators better, and are in the best position to balance trade facilitation and control requirements appropriately. It is interesting that they tend to be ahead of other government agencies in Africa in terms of technological capacities and digitalization of procedures.

In conclusion, there is a strong case for African countries to designate customs as their Competent Authority for AfCFTA origin management as they seek to achieve increased intra-African trade under the agreement without revenue leakage or unfair competition due to abuse of the benefits.

Customs on the Import Side of Origin Management

Optimal Use of Data—Data Analysis for Origin Management and Control

Historically, African customs administrations have focused their resources mainly on import controls, and most of them have automated many of their clearance procedures and collect significant amounts of data. However, generally speaking, customs verifications have followed a transactional approach to import control (starting from

²⁵ For an overview of the multiple functions of customs, see Azcárraga and others (2022).

declarations received and with high rates of documentary and physical inspections at the border—see subsection on risk management in Section III) instead of a more strategic approach.

For origin management and control, customs must be able to effectively collect and analyze data. This is best achieved through the automation of systems, enabling customs to trace international trade transactions and obtain data that can be used to determine the actual origin of materials and finished goods. Accurate analysis will enable intelligence to be developed, which can be used to better target clearance examinations and also build solid cases for post-clearance origin verification purposes.

African customs administrations must invest in advanced data analysis tools to monitor trade flows on a permanent basis and detect anomalies. An initial step could be by implementing regular mirror data analyses using UN COMTRADE or similar databases (Geourjon, Laporte, and Montagnat-Rentier 2023) or by reaching data-sharing agreements with relevant trade partners' customs administrations. A second step could be to enhance risk management techniques through the use of predictive models to draw inferences that can guide targeting decisions.

In addition, intelligence and data gathering are necessary to enable customs analysts to identify what is produced in Africa and what is not, or abnormal excesses in production volumes. Much of this information can be found in open sources. Analysts should collect comprehensive and detailed information on African trade partners' productions, outputs, and productive capacities—and be able to detect potential origin fraud. Also, they should maintain an intelligence database to facilitate data extraction, comparison, and analysis.

Customs Must Monitor and Control the Use of ODs Issued to Claim Preferential Treatment on Shipments Worth US\$5,000 or Less

Article 19 of Annex 2 of the AfCFTA Protocol on Trade in Goods provides that an OD may be issued by any exporter for any consignment containing originating goods whose total value does not exceed US\$5,000. Although this is a facilitation measure intended to promote the use of the agreement and foster intra-African trade, particularly by small or nonfrequent exporters, it implies serious challenges for the African customs administrations. The US\$5,000 threshold provides an opportunity for larger, frequent exporters to split shipments to avoid the preapproval process required for shipments valued above US\$5,000. On the other hand, this provision clearly limits the use of these ODs to AfCFTA-originating goods. Therefore, exporters must possess evidence that the goods for which they issue an OD comply with the applicable AfCFTA RoO.

Gathering and providing evidence on exports of low-value shipments, say, agricultural products grown within their region, may not be a complicated task. But if an exporter wishes to export, say, certain brands of electronics or appliances, or even textiles, apparel, or footwear, obtaining the necessary evidence is a much more challenging task.

In this context, considering that the agreement does not establish any limitations on the splitting of goods into shipments with a value less than or equal to US\$5,000 and seeking to protect the intended facilitation under this provision, the importing customs administrations may conduct specific actions. Besides actions that are valid for origin control in general (that is, to initiate origin verification requests with the exporting customs administration or Designated Competent Authority; apply the corresponding penalties and sanctions, as appropriate; and build the necessary cooperation and collaboration channels with the main trade partners' customs administrations to detect, deter and combat treaty abuses by noncompliant exporters) customs should:

- Collect data on every transaction valued at US\$5,000 or less, where an OD has been issued to claim AfCFTA preferential treatment (detailed data on the parties, goods, quantities, and values involved).
- Analyze the data collected and identify (i) those exporters and importers (and their agents) who frequently trade under this provision, (ii) the goods, quantities, and values of such transactions to determine if their

shipments may be components of shipment splitting schemes, and (iii) the goods for which it is most likely that the exporter lacks the necessary origin supporting evidence.

Staff Specialization in Origin Matters Is Critical—Strengthening Customs’ Origin Units

Most African customs administrations have an origin unit within their organizational structure. Some are stand-alone units, whereas others are a part of their classification, valuation, and origin unit. However, many of these origin units (i) have limited resources, (ii) focus their efforts in reviewing documentation that is submitted to them under regional trade agreements, and (iii) lack the necessary knowledge and preparation to deal with AfCFTA origin issues. The African customs administrations’ origin units need to be strengthened (or created), and their focus and assignments reviewed and updated to be able to implement the AfCFTA properly.

Origin units operating in an AfCFTA environment should be capable of addressing and resolving all origin-related issues (AfCFTA and non-AfCFTA) on both the export and import sides. In other words, they should be provided with the necessary means:

- On the export side, to conduct certifications and verifications of origin that are reliable to protect and preserve the credibility of the agreement and gain the trust of their AfCFTA counterparts; and
- On the import side, to support risk management and verification (avoiding overlaps with other specialized units within the administration).

To fulfill their mission, origin units should (i) conduct trade data analyses and gather intelligence on origin; (ii) provide technical support to customs units responsible for verifications: field offices and post-clearance audit; (iii) work closely with information technology (IT) to maintain the many tariff-related customs processing codes and origin-related matters updated in the system and portal; and (iv) provide technical support to the legal unit, including on origin-related rulings and regulations, as appropriate.

Origin units should be the focal point for all origin management issues, both within the national governments and for any origin-related interaction with other customs administrations. This will facilitate the creation of a continental network of origin units. Also, origin units should be the channel through which AfCFTA customs administrations have access to restricted origin information stored in the AfCFTA Customs Portal, as explained in the following section.

An AfCFTA Customs Portal to Facilitate Its Implementation and Operation

AfCFTA-Specific Administrative Requirements

Appropriate application of the agreement, particularly the handling of claims of preferential origin and tariff dismantling, requires special customs measures:

- ✓ AfCFTA origin management (like other trade agreements based on preferential origin rules) necessitates efficient and formalized operational communications among customs administrations. It always involves at least two customs, which must exchange information and collaborate. To be efficient, communications between these administrations should be formalized and supported by a computerized system. This involves in particular (1) transmitting certificates of origin electronically to resolve the difficulties noted here; (2) enabling the customs of the importing country to have an idea of the actions taken by the exporting country authorities to ensure that the CoO has been duly issued for a good meeting the origin rules; (3) ensuring that the exporter issuing a declaration of origin has been properly audited and approved by the exporting country; and (4) implementing mutual administrative assistance in the event of a verification or post-clearance audit.
- ✓ An agreement as large and comprehensive as the AfCFTA requires optimal access by the trade community to information on the rules, tariffs, and procedures in force in each State Party. As mentioned here, the e-tariff book made available by the AfCFTA Secretariat is a very useful tool. However, to develop business plans, companies need to know all rules and procedures supporting the tariff elimination process. To enable compliance and predictability, those rules and procedures must be comprehensive, precise, and binding on

the administration. This implies that State Party authorities must provide technical information with legal force on an official portal.

- ✓ Easy-to-use procedures should be available to businesses to claim preferential treatment under the agreement (to promote and expand intra-African trade). Examples of existing regional trade agreements in Africa feature paper-based cumbersome procedures to obtain certification of preferential origin. A radically different approach should be followed for the AfCFTA.

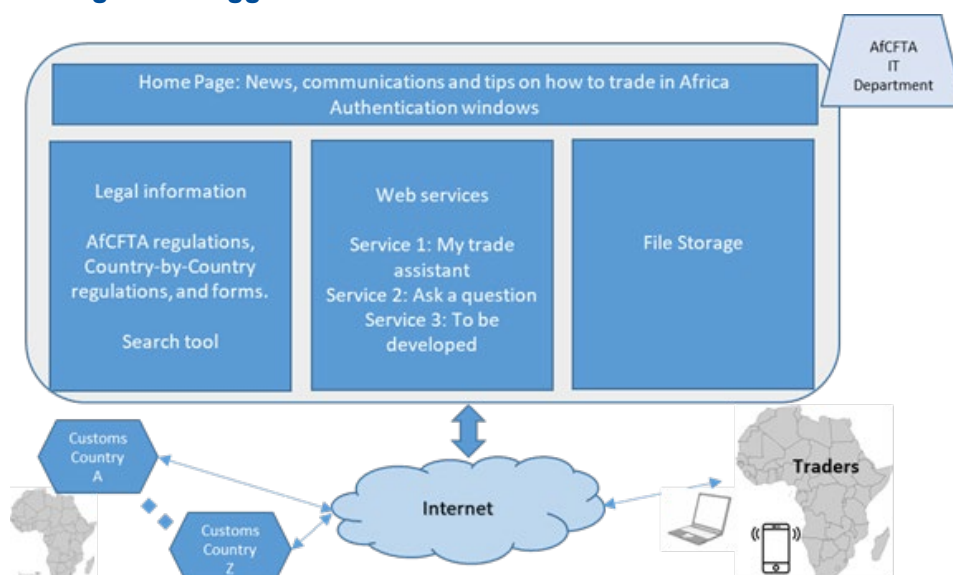
A Proposed Customs Portal Based on a Peer-to-Peer Solution

A Dedicated African IT Infrastructure Is Required to Share Information

A peer-to-peer infrastructure and shared data storage (that is, a customs portal) could be the best and most practical solution to address the specific needs described here. Such an infrastructure can be developed through the Internet. To give access to the peer-to-peer network and to publish and share customs and tariff information, each customs administration must maintain a dedicated customs portal for AfCFTA purposes and install a separate data storage server connected to the Internet with a network data-sharing protocol called peer-to-peer. Thus, the infrastructure is made up of all of the customs administrations' AfCFTA dedicated servers connected to the Internet. This solution is inexpensive and allows each country to retain control over what information it wants to share and with which countries it wants to share it. Access to this network is controlled by each customs administration. It is, therefore, a solution built by each country, interconnected with the others. A dedicated African infrastructure will provide enough trust and reliability for customs administrations to build a customs portal to share information. Figure 1 summarizes what could be the main functions of the customs portal. Technological options for customs are also discussed in Section III.

- Function 1 "*File Storage*"—A record of information, documentation, and data by the exporter that have enabled the exporting country customs to certify AfCFTA origin, accessible to authorized customs officials on the import side. In an initial stage, customs of the exporting country could deposit scanned documents into its AfCFTA dedicated server for the importing customs administration to retrieve and process them. An improvement of this process would be to standardize the files used to share the CoO and its supporting documentation. Also, as these files become standardized, the importing customs administration system could recognize and process them.
- Function 2 "*Legal Information*"—A centralized source of official and up-to-date information (that is, AfCFTA RoO and customs procedures—including origin certification and verification procedures, e-tariff book, and schedule of tariffs removal by Harmonized System heading/sub-heading—as officially adopted by the State Party authorities, information to promote and encourage use of the agreement, frequently asked questions, and points of contact).
- Function 3 "*Web Services*"—Online services to make interaction with customs simple and transparent.

Figure 1. Suggested Functions of an AfCFTA Customs Portal



Source: Authors.

Each country's administration and each trader should be able to access on a "need to know" basis (when a nexus to the transactions exists). Only designated customs officials (through electronic signatures and personal identification numbers) should be allowed access for consultation of saved information for verification purposes. Traders are granted access for business and compliance purposes.

Some Selected Issues to Be Considered

At the regional level, a number of African countries have already implemented, or are in the process of implementing, an IT system to manage cargo transit operations (notably, SIGMAT in West and Central Africa). It is possible to adapt these interconnection systems to AfCFTA exchanges, including for origin management. SIGMAT or similar systems and a peer-to-peer network can coexist: the former to manage information exchange with those countries using it and the latter for the other countries.

Although many African customs administrations have in place websites that provide customs information to traders, almost all these solutions have neither been designed for an "easy-to-use" access nor been designed in a way to facilitate traders' compliance with the AfCFTA provisions. Therefore, it is necessary that AfCFTA customs administrations task themselves with two key efforts: (i) develop easy-to-use solutions for traders to access all the information they need to understand clearly the AfCFTA benefits at their disposal and how to comply with the AfCFTA applicable provisions for them to claim such benefits (for all the goods they trade) and (ii) work with other AfCFTA customs administrations (perhaps by starting with those within their REC) in standardizing, as much as possible, the information that is provided to traders.

In addition, as raised by many delegations during the workshops, most of the AfCFTA customs administrations are hesitant or reluctant to share customs data with other administrations, either because they lack the legal power to do so or because they consider that the other administrations do not have in place the appropriate legal framework or technological solutions to protect the data from being shared. Notwithstanding, most RECs and Annex 3 of the Protocol on Trade in Goods allow such an exchange. There is clearly a need for AfCFTA customs administrations to address and resolve these issues bilaterally or, better, at a regional level.

It is necessary to acknowledge that presently most customs administrations in Africa are facing capacity challenges to create and maintain a solid IT department with a common information system and infrastructure; most of the customs' Chief Information Officers have limited IT resources at their disposal. Moreover, customs

authorities want to be able to maintain control over the sharing of customs information and documents with third parties, so data sharing between countries, both case-specific and massive data sharing, must be carried out through systems that are well controlled by customs management. For these reasons, and considering feedback received during the workshops, the authors believe that following a progressive and incremental approach in the implementation of technological solutions can facilitate achieving the ultimate goal.

In the future, these difficulties may and should be overcome for IT resources to be available in all customs administrations to manage a new data exchange information system, customs authorities to trust automated information sharing, and possibly, an IT department to be established with the AfCFTA Secretariat with adequate financial resources. It would thus become possible, and certainly preferable, to build an automated information-sharing infrastructure based on a centralized solution and to introduce technical processes for the transfer of documents based, for example, on blockchain-type technologies to guarantee the security and the traceability of exchanges. The WCO has issued several documents providing information and illustrative examples of technological solutions that have been applied to facilitate the sharing of customs data.²⁶

Customs Aspects of Trade Facilitation and Removal of Administrative Obstacles to Circulation, Border Crossing, and Clearance of Goods in Africa

Although the elimination of customs duties will bring great benefits to AfCFTA traders, other core components of the agreement, specifically trade facilitation and the removal of nontariff barriers, may benefit them the most (as mentioned in Section I). The specific objective of the Protocol on Trade in Goods is to boost intra-African trade through, among other things, (i) the progressive elimination of nontariff barriers (including those derived from customs administration) and (ii) enhanced efficiency of customs procedures, trade facilitation, and transit of cargo.²⁷

Therefore, the challenge for the African customs administrations is to act decisively to put these ambitious commitments into practice while carrying out their enforcement and control mandates. It is indeed critical that customs mitigate trade abuse and fraud, which could damage revenue collections and the economic fabric of the AfCFTA destination countries, thus jeopardizing the State Parties' commitment to the agreement. This is a latent risk given the often-high duty rates that will be dismantled in an environment often characterized by noncompliance, high complexity of procedures, and limited administrative capacities.

In this context, African customs administrations are encouraged to adopt a strategy that integrates (i) introducing specific preventive measures to secure circulation and clearance of goods exchanged by AfCFTA State Parties; (ii) materializing visible significant customs administration improvements and benefits for legitimate and compliant operators; and (iii) digitalizing as much as possible, including by requiring electronic forms and automating clearance procedures wherever feasible, and implementing data validation processes and tracing all decisions. Convergent action by African customs, using WCO tools wherever possible, will help with progressive standardization.

Regarding trade facilitation, Annex 4 of the protocol broadly reflects the WTO Trade Facilitation Agreement, which is an encouraging commitment as the African continent is the region recording the slowest pace in the implementation of such agreement.²⁸ Enhancing the efficiency of customs procedures cannot be isolated from the broader national and regional customs modernization programs. This note is intended not to review all

²⁶ For example, CADENA/LACChain is a blockchain solution developed by the Inter-American Development Bank and implemented by some Latin American customs administrations to exchange data on their AEO programs and participants: <https://mag.wcoomd.org/magazine/wco-news-94/improving-data-sharing-with-blockchain/>.

²⁷ AfCFTA, Protocol on Trade in Goods, Article 2.

²⁸ Progress on implementation commitments comparison tool | TFAD—Trade Facilitation Agreement Database (tfadatabase.org), <https://tfadatabase.org/implementation/comparisons>.

aspects of the WTO Trade Facilitation Agreement implementation and customs administration reforms but to highlight initiatives that would be most impactful to achieve the AfCFTA objectives.²⁹

Available Technological Options

Effective implementation of the AfCFTA requires that State Parties' customs administrations routinely exchange information not only to manage origin (cf. Section II) but also to apply modern transit and clearance procedures and controls (including proposals made in the present Section). This exchange should be automated to the maximum extent possible. Today, all customs administrations have a data center connected to the Internet.

In order to build the secured peer-to-peer network, each AfCFTA customs administration acquires a dedicated server on which data and documents to be shared with others will be stored. This server is connected to the Internet. To secure the connection to the Internet, each customs administration builds a secure tunnel, a Virtual Private Network (VPN), with every other AfCFTA customs administration. This way, each customs administration will offer the possibility to other administrations to connect to its server. Thus, customs administrations on the import side will be able to retrieve export data and documents issued and loaded by the exporting customs administrations through this server-sharing software, called a peer-to-peer network.

Once the customs administration on the import side has retrieved the documents, it can process them either manually or using the appropriate automated processes. Where the choice of automating the process is made, customs administrations must interconnect their information systems, not only to a network using VPNs but also to an application using the same software to be able to process the information. This is the mechanism used, for example, to control transit operations under the SIGMAT project led by the Economic Community of West African States, and under adoption by Economic Community of Central African States countries, to exchange transit documents.³⁰

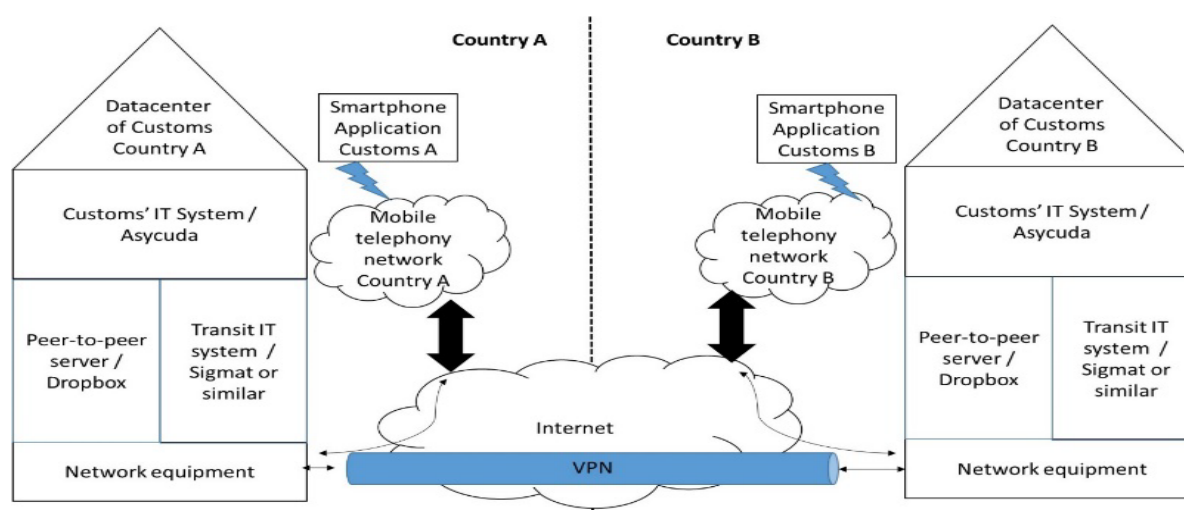
The exchange of information pertaining to AfCFTA preferential import-export processes could be automated in the same way.

As schematically represented in Figure 2, the scenario for AfCFTA customs administrations could be as follows: (1) they all install an Internet-connected data and document-sharing server to share information with the other AfCFTA customs administrations with which they make an agreement upon documentation and data sharing; (2) those who wish to automate the processing of information obtained could do so by using software such as SIGMAT or similar; (3) as an additional improvement (discussed further in this section), AfCFTA customs could leverage the technology to offer their trade operators the possibility to complete export and import declarations and transmit origin proofs by means of an application for smartphones. Documents submitted this way can be saved directly to the document-sharing server connected to the peer-to-peer network.

²⁹ The note also does not discuss the fight by customs against undeclared and illegal trade through their anti-smuggling and anti-trafficking interventions.

³⁰ Participating countries in the Economic Community of West African States-led project have installed SIGMAT in their systems and are interconnected via the Internet with a VPN. The transit document is sent by SIGMAT from one country to another one, which accesses the document through its own SIGMAT.

Figure 2. Suggested Technology to Support Exchange of Customs Information



Source: Authors.

Standardization across African Customs Administrations

The more similar (if not identical) customs procedures within the AfCFTA, the more traders will find it easy to do business across State Parties and customs administrations to enforce the provisions of the agreement. In addition to digitalization, automation, and staff specialization, standardization is indeed one of the most effective ways to facilitate trade and enhance compliance. In many cases, the agreement requires AfCFTA traders and customs administrations to fulfill the same administrative requirements (that is, for a transit transaction), and some data requirements (that is, the AfCFTA CoO and OD templates). Customs administrations in Africa have already taken many initiatives at national and regional levels, but they often are national/proprietary ones. For AfCFTA implementation, these initiatives should move toward harmonized ones and, ultimately and preferably, standardized ones.

WCO Tools Are Solid Bases for Standardization

The WCO has developed numerous tools related to all the activities and responsibilities assigned to customs administrations. The principles and guidelines contained in such instruments should be used by the AfCFTA customs administrations (including by non-WCO members) in their pursuit of deeper harmonization to begin with and, in the longer term, standardization.

WCO Data Model—One very good example of a practical WCO instrument is its Data Model. Rather than reinventing a data model to define advanced data requirements (including for initiatives proposed in this note), AfCFTA customs administrations should build upon this internationally agreed set of combined data requirements. It is consistent with other international standards, such as the United Nations Trade Data Elements Directory, and includes not only data sets for different customs procedures but also information needed by other border regulatory agencies. It helps improve data quality by using standard international codes and to build better-quality risk profiles. For further information, see <http://www.wcoomd.org/DataModel>.

Globally Networked Customs (GNC)—Another practical solution that the WCO has proposed to enhance customs cooperation through the sharing of trade/customs documents (including the AfCFTA proofs of origin) is its GNC. It consists of a common data model that normalizes the way data contained in such documents is presented and exchanged by customs administrations. Through a peer-to-peer network or an automated solution, as shown in Figure 2, customs administrations can exchange the normalized documents and data.³¹

³¹ For more information on the WCO's GNC, see https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/gnc/gnc_handbook.pdf?la=en&la=en.

Standardization of Requirements and Promotion of Compliance: A Common Set of Mandatory Core Data Elements to Clear a Shipment on Both the Export and Import Sides

A common set of core mandatory data elements would strengthen the customs administrations' capacities to enforce the AfCFTA provisions, improve compliance, and facilitate the intra-African trade, including trade in originating goods. The prerequisites would be (1) harmonization of the core data fields through harmonization of the specifications of the data fields and filing timeframes and (2) a Unique Consignment Reference (defined according to WCO recommendations) included in the common data set to link any transaction on both the export and import sides and to facilitate cargo traceability.

Such a data set would allow for the implementation of an agile and secure cross-border process. The data elements of the export declaration could be deposited by the exporter in the file storage (as in a drop box) of the customs portal described in Section II, and these data elements could then be used by the declarant on the import side to fill out the import declaration and file it in advance. Controls should prevent any possible manipulation of such data and bad practices, such as the filing of unmatching customs declarations in the exporting and importing countries. Also, a common data set would facilitate post-export/import data crosschecks and analyses, including mirror data analyses, by customs administrations, as explained in Section II.

Having a common set of core mandatory data elements does not impede any customs administration from requiring additional data elements. What is important is that each data element requirement is warranted, keeping in mind that (i) it must be available to traders prior to the filing timeframe required, (ii) it serves a specific and necessary purpose (that is, for risk management or operational purposes), (iii) the data elements and attachments contained in the set of core mandatory data elements may be linked to complementary and supporting data located in other systems or sources (that is, the single window system, other agency's system), and (iv) more data and information may be secured after the goods are released (that is, through a post-clearance audit or cargo traceability procedures).

Thirty-seven AfCFTA parties use various versions of the United Nations Conference on Trade and Development's Automated System for Customs Data (ASYCUDA) as their clearance processing system.³² Likewise, most of them use the WCO data model in their clearance processing systems. Therefore, the definition of a common set of core mandatory data elements should not be a highly complicated task for them. On the other hand, having a customs system different than ASYCUDA or one that does not use the WCO data model should not be an impediment to AfCFTA parties to join this effort.

As soon as the file storage from the customs portal is available, customs administrations can share with other State Parties the following basic core data elements: exporter, tariff code, criterion of origin, and term.

Predictability of Customs Administration

Predictability of operations, including the administrative aspects, is critical to businesses. Among the various measures customs should take in this area, the following programs with high potential effect on the AfCFTA implementation should be expanded and strengthened.

AEO—The creation or expansion of an AEO program may be focused on large exporters/importers with the goal of covering a significant percentage of imports and exports (for example, 50 percent of total imports/exports), and their shipments may be submitted to much lower inspection rates. Overlap and synergies are clear between a general AEO program and the program to verify and approve exporters who are authorized to issue AfCFTA ODs (cf. Section II). Customs could encourage compliant traders to apply to both.

Advance Binding Rulings—Use of binding rulings is encouraged as they provide legal certainty to both traders and customs and enable faster clearance of shipments. These rulings are especially relevant within a trade

³² <https://asyCUDA.org/en/user-countries/>

agreement context when issued on the tariff classification of goods or materials that may be entitled to preferential treatment or when such materials or goods are incorporated into another good (that is, a finished good) for which preferential treatment will be claimed. Advance binding rulings should be shared among the AfCFTA parties (that is, through the customs portal proposed in this note) masking confidential information, as appropriate, which would be made available in cases where an origin verification is initiated. Furthermore—and this would be a major improvement for traders—AfCFTA parties should seek an agreement to accept advance binding rulings issued by other AfCFTA parties as equally binding in their territories, as long as the ruling is not revoked through an AfCFTA verification process.

Key Performance Indicators (KPI)—AfCFTA customs administrations should enhance the quantity and quality of their KPIs, not only to collect key data to guide their strategic and operational decision-making processes but also to publish some of them to improve transparency and strengthen the traders' trust in the administration. Some KPIs allow for better planning among traders, thus for predictability (that is, border release times and release of goods in case of litigation). Last, some KPIs should be used for benchmarking and measuring improvement or deterioration of service.

An AfCFTA-Trader Electronic Verified Account to Help Secure the Clearance Process

Misuse of importers' and exporters' identities in Africa is common, especially by utilizing other traders' Taxpayer Identification Number (TIN), allowing for abuse and avoidance of customs requirements, notably preventing proper traceability, monitoring, and post-clearance audit. As a preventive measure and to address this bad practice, an AfCFTA-trader electronic verified account could be implemented.

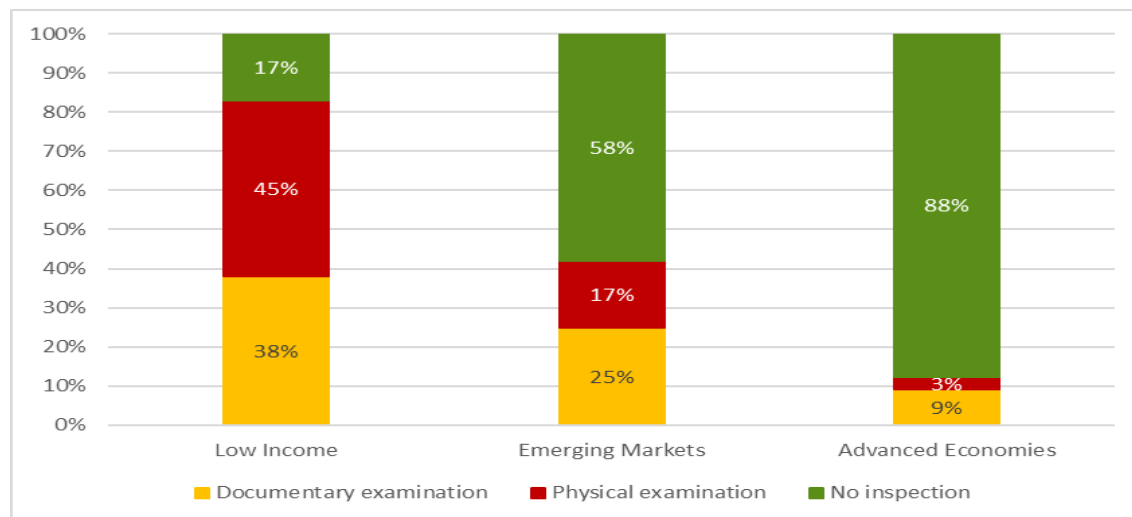
To create this account, the functional process needs to be simple. Customs could request new AfCFTA traders or their legal representatives to visit the customs office one time to present their identity documents and TIN. Customs will then provide them with an authenticator, allowing them to connect through the Internet to the customs information system. For every transaction, a two-factor trader's Internet authentication would be required (that is, password and SMS confirmation) in order to ensure the security of the procedure. This authenticator will allow the operator to carry out all of its customs procedures through the Internet and customs will be able to build its own reliable database of AfCFTA traders.

Reduce the Inspection Burden on Intra-African Trade Transactions

The Risk Management Approach

A solid and reliable risk management program is a key component for all customs administrations interested in fulfilling their mission, because it enhances their control and revenue collection capacities and allows them to reduce burdensome inspections and expedite clearance to compliant traders. The risk management approach currently followed by many African customs administrations will not deliver the results needed for administration of the AfCFTA. An absence of improvements may discourage many traders from using the AfCFTA.

Figure 3. Average Selectivity Channel for Customs Inspection by Economic Groups



Source: International Survey on Customs Administration (ISOCA) 2019–20, published in 2021.

Similar to other low-income economies and emerging markets, African customs administrations, on average, have significantly high inspection rates (Figure 3), both documentary and physical, but their effectiveness has not improved, which shows that their risk management approach is failing and contributing to increased transactional costs. The current semi-automated risk management approach relies on a risk management team or committee assigned to maintaining selectivity criteria in the customs system. Pursuing this approach is likely to continue producing the same results. Furthermore, this approach allows for excessive discretionary decisions, which in some cases may result in the introduction and acceptance of corrupt practices. An additional issue, reported by many African customs administrations, is the numerous examinations conducted by other government agencies (which in some cases may be reflected in the inspection rates shown in Figure 3), so far without adequate coordination.

In this context, with a view to implement the AfCFTA properly, enforce its provisions effectively, and achieve its trade facilitation goals, African customs administrations are advised to make radical changes with regard to risk management.

- Segment AfCFTA and non-AfCFTA traders according to their cost, insurance, and freight values and the goods they trade, associated with a basic and simple risk evaluation scale;³³
- Develop and implement fully automated and dynamic risk management systems (supported with advanced analytical tools), comprising a module that automatically updates selectivity criteria in “real time” based on inspection feedback recorded and with very limited human intervention;
- Initiate the implementation of an integrated risk management approach. This implies addressing risks holistically, by identifying their root causes at the institutional level (that is, legal framework, processes, IT systems, human resources, infrastructure) that allow for the materialization of risks at the operational level (that is, undervaluation, misclassification, falsification of origin, and contraband), and implementing the most appropriate short-, medium-, and long-term treatment measures. This approach requires an optimal use of data and strong cooperation with the tax administration.³⁴

³³ Beginning with a rudimentary categorization of traders and their representatives, for example, (1) confirmed high risk, (2) suspected high risk, (3) not evaluated yet, (4) suspected low risk, or (5) confirmed low risk.

³⁴ For detailed advice on how to implement an Integrated Risk Management approach, consult IMF 2022, chapter 5.

Complementary (but Essential) Measures

The following measures may bring considerable improvement for trade. Customs should do as explained here:

- Initiate an assessment of customs processes, identifying vulnerabilities derived from paper-based procedures and automating them as much as possible to improve control, convert their administrations into data-driven organizations, and reduce discretionary decision-making.
- Conduct a necessity test on documentation required to export and import with the view to reducing the number of documentary inspections.
- Implement a coordinated border management (CBM) approach, along with the country's other competent agencies. The WCO has published a compendium on CBM, which provides useful guidance.³⁵ The IMF recommends that customs lead CBM and, therefore, exert coordinating authority over other agencies, which requires governments to formally approve this mandate. A similar compendium of best practices with trade facilitation focus was published by the UNECE.³⁶ Moreover, the United Nations International Convention on the Harmonization of Frontier Control of Goods (1982) requires contracting parties to organize controls of goods at borders by all government agencies in a collaborative way centered around customs checks.³⁷

Circulation of Goods and Means of Transport across Africa: The Issue of a Streamlined and Secured Transit Procedure

Easy, fast, and low-cost circulation of cargo between African countries is a key benefit expected from the intended increase of intra-African trade under the AfCFTA. Unfortunately, transit of goods within the continent continues to face serious challenges, including administrative ones: on the one hand, cumbersome nonuniform procedures that penalize economic operators; on the other hand, prevalence of noncompliance and fraud that customs controls struggle to curb.

Annex 8 to the Protocol on Trade in Goods provides for the use of a TD in all land transit transactions within the AfCFTA territory (for AfCFTA-originating- and non-originating-goods) and establishes specific procedures and requirements for the management of these transactions and the authorization of carriers and drivers by the ministries of transportation or equivalent competent authorities. There is little clarity yet as to how Annex 8 is going to be implemented. Notwithstanding, it should be seen as an opportunity to achieve, for the first time, a secure, reliable, and modern transit control system in Africa.

Virtually all transits in Africa are nationally fragmented despite international agreements on regional transit procedures. The AfCFTA TD supports the principle of one single transit, regardless of the number of countries crossed. Customs administrations in Africa should therefore:

- replace their existing transit documents and often cumbersome declarations by the TD,
- make the TD electronic (which is not explicitly provided for in the Agreement) and supported by their IT systems, and
- routinely reconcile departure, intra-Africa border crossing, and final destination data for control purposes.

More broadly, from the discussions at regional workshops organized by the IMF, it appeared that a sound strategy to modernize transit should start by distinguishing those issues that customs are responsible for and those that are out of their control.

- *Customs administrations* in Africa should:
 - Invest much more than presently in technology that would allow them to monitor and better control transit operations, in particular electronic seals and geo-tracking devices, for end-to-end traceability, scanning as

³⁵ <https://www.wcoomd.org/en/topics/facilitation/activities-and-programmes/coordinated-border-management.aspx>

³⁶ <https://unece.org/transport/publications/handbook-best-practices-border-crossing-trade-and-transport-facilitation>

³⁷ <https://treaties.un.org/doc/Publication/UNTS/Volume%201409/v1409.pdf>

a substitute for physical inspection, and scanning image sharing among departure and final destination offices for control;

- Strengthen their current sanctioning frameworks, including by imposing higher fines, higher penalties (that is, confiscation of means of transport), and removal of fraudulent operators from the AfCFTA customs transit registry; and
 - Build a stronger cooperation with the ministries of transportation or the competent authorities licensing carriers and drivers, with a view to maintaining a pool of only compliant operators.
- *Governments* have a critical role in upgrading infrastructure and resolving governance issues, including corruption and harassment of carriers and drivers by public officers on transit corridors.
 - *RECs* may significantly help with standardizing IT solutions, eliminating transit disruptions at internal borders, and introducing a regional guarantee program.

Removal of Nontariff Barriers Generated by Customs

Many, if not the majority of, nontariff measures do not come from customs, even if an administration is mandated to implement them on imports and exports. However, the protocol enunciates specific customs-related functions where nontariff barriers are commonly found, including customs valuation, tariff classification, and customs formalities, which the State Parties have committed to address.³⁸

Among these barriers, traders operating in Africa have identified customs valuation as one of the most burdensome, indicating that in many cases, values are determined arbitrarily, and compliant traders are thus unfairly penalized. Although many customs administrations in Africa report that they are already following the WTO Valuation Agreement provisions, including WTO Decision 6.1, applicable to cases where customs administrations have reasons to doubt the truthfulness or accuracy of the declared value, the practice on the ground may be misaligned with the adopted legislation. The IMF has delivered substantial technical assistance on customs valuation. Box 3 summarizes the IMF's key recommendations to further align valuation procedures and practices to WTO requirements while ensuring effectiveness in addressing noncompliance.

Box 3. Recommended Principles to Strengthen Customs Valuation in Low-Income Countries

- Clearly separate the following two phases: risk analysis and determination of the value.
- For risk analysis: use objective indicative price data collected from external sources to detect potential anomalies in declared values (use internal data only when it comes from thoroughly verified previous customs declarations).
- Regarding the value determination phase: rigorously follow the WTO Valuation Agreement provisions, including Ministerial Declaration 6.1, which prescribes formal interaction with the importer to receive justification of the declared value and the conditions set for the application of each authorized valuation method.
- Expand customs control to cases where links between provider and importer may have influenced the price of the goods. This should be done in connection with the tax implications of transfer pricing, regardless of whether trade revenue is to be collected or not.
- Apply a well-designed sanction framework that is a deterrent to repetition of fraudulent behavior, notably presentation of false or falsified commercial documentation to customs.

Source: Authors.

³⁸ COMESA, EAC, and SADC have created a portal for traders to file non-tariff barriers complaints: https://www.tradebarriers.org/active_complaints/page:1/sort:unique_number/direction:desc.

Regarding tariff classification, almost all AfCFTA parties have implemented, or are in the process of implementing, the 2022 version of the Harmonized System (HS 2022).³⁹ However, discrepancies in classification of commodities in the HS nomenclature remain common in practice. It is recommended that a tariff classification committee with participation of experts from the national customs administrations should be operational at the regional economic community level to resolve any inconsistent tariff classification of the same good among member countries. A similar arrangement could be considered at the continental level too.

Tailoring Procedures to Trader Segments with Specific Needs

Facilitate Compliance by SMEs

There are 44 million SMEs in Africa,⁴⁰ many having the potential to engage in international trade. These SMEs must be able to benefit from the AfCFTA to expand their activities. The development of mobile telephony in Africa can facilitate access to all traders. Currently, 23 percent of Africans access the Internet through their smartphones, and this rate is expected to rise to 30 percent by 2030.⁴¹ By developing specific smartphone applications, customs could allow SMEs to access up-to-date regulatory information and file simplified self-prepared customs declarations, which could be shared with customs on both sides for the same shipment. It is acknowledged, however, that the use of such simplified declarations with direct interaction with customs would be much easier for the categories of goods that are not subject to particular authorization or certification by agencies other than customs.

These mobile applications could be developed at a supra-national level, by the RECs, to pool development costs and ensure coherence of the technological offer at the continental level. Common mobile applications would also promote compatibility among applications from different countries. Figure 2 illustrates how the simplified mobile application could work.

Attract Informal Trade to Formality

Informal trade in Africa is significant, as acknowledged by many delegations during the AfCFTA workshops. The AfCFTA parties should introduce public policies designed to attract informal traders to formality by making compliance simpler and less expensive and informality riskier and more costly. AfCFTA is a good opportunity to reduce informal trade, and mobile telephony is an excellent way to reach out to these traders. Customs administrations could develop and make available a mobile application for informal trade, accessible through smartphones, which goes even further in simplification than for SMEs. A reduced flat-tax rate on low-value shipments for particular tariff lines under a low-value threshold and exemption from certain nontariff regulations should be considered. These measures should be implemented in coordination with the tax administration to improve trader/taxpayer registration. However, it is important to emphasize that targeted traders deemed part of the informal sector should be precisely defined to prevent abuse.

Conclusion

Given the complex and demanding AfCFTA procedures and processes, it is clear that African customs administrations are key players for the successful implementation of the agreement and for securing its intended benefits. They have an obligation to the trade community to address and process, promptly and efficiently, their legitimate claims for preferential treatment under the agreement; in turn, these efforts will sustain a virtuous cycle that will stimulate further use of the preferential agreement, trade growth, and positive economic effect. Customs administrations must also protect much-needed revenue collections by making sure that only

³⁹ HS 2022 is the seventh edition of the Harmonized System (HS) nomenclature, which is used worldwide for the uniform classification of goods traded internationally and has been accepted by all Contracting Parties to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System Convention). HS 2022 entered into force on January 1, 2022.

⁴⁰ <https://www.csis.org/analysis/supporting-small-and-medium-enterprises-sub-saharan-africa-through-blended-finance>

⁴¹ GSMA report: <https://www.gsma.com/mobileeconomy/sub-saharan-africa/>.

compliant traders obtain the benefits granted by the agreement (tariff elimination). Resources and tools, including modern technologies, proper training, structural adaptations, and strong support by their governments, will be needed to fulfill this broad mandate.

Implementing the AfCFTA in such a way as to ensure that the agreement's trade and economic objectives are achieved will not be an easy task. However, the challenges it poses for national governments and customs administrations can be overcome through well-thought-out policies and administrative processes. These authorities are invited to take into consideration the direction and recommendations presented in this note, with a view to the much-needed revamping of border policies and procedures across the continent.

Critical on the list of tasks ahead is for each State Party to appoint a capable Designated Competent Authority to handle the technical and operational complexities of African origin determinations to eliminate tariffs. The customs administration is the best-positioned government agency to carry out this task as explained in this note. Customs also has a central and leading role to play in boosting intra-African trade through the systematic implementation of appropriate trade facilitation measures relying on simplification, digitalization, and risk assessment; and removal of administrative nontariff barriers, as mandated by the agreement. The steps taken must be concrete, producing a visible significant improvement in the business environment.

All these efforts can and should be launched immediately. The authors estimate that most of the key actions could be completed within one year. The other key recommendations presented in this note can be built upon these basic but essential efforts.

Appendix 1. Brief Description of, and Observations on, Annexes to the AfCFTA Protocol on Trade in Goods

- **Annex 1 on Schedules of Tariff Concessions:** Fifty-four State Parties means 54 different tariff reduction/elimination schedules. Customs administrations and traders must have access to and full understanding of the countries' schedules with whom they intend to trade and secure the benefits of the agreement.
- **Annex 2 on RoO:** This annex is a core component of the AfCFTA as it defines, mainly (i) the criteria to grant preferential treatment to any good, (ii) which are the admissible proofs of origin, (iii) how, when, and by whom proofs of origin are issued, (iv) how the Designated Competent Authority can verify origin and deny it, and (v) the administrative and appeal resources traders have at their disposal. This annex has in Appendix IV information on the specific RoO applicable to goods produced with non-originating materials.
- **Annex 3 on Customs Cooperation and Mutual Administrative Assistance:** The main purpose of this annex is to encourage cooperation among the African customs administrations, including through the exchange of information to facilitate the enforcement of AfCFTA provisions, particularly those on origin certification and verification, as well as to cooperate in the implementation of efficient and effective procedures for import, export, and transit.
- **Annex 4 on Trade Facilitation:** This annex incorporates into the AfCFTA the principles and elements of the WTO's Trade Facilitation Agreement. Customs administrations are key for the African governments to fulfill this commitment.
- **Annex 5 on Nontariff Barriers:** The purpose of this annex is to commit the AfCFTA parties to the reduction/elimination of these barriers, including those deriving from customs inefficiencies.
- **Annex 6 on Technical Barriers to Trade (TBT):** As in any modern trade agreement, the AfCFTA identifies nonadmissible TBT and the mechanisms for their elimination.
- **Annex 7 on Sanitary and Phytosanitary Measures:** The procedures imposed by the competent agencies on the importation and exportation of certain goods affect customs operations. Customs administrations will have to coordinate better with such other government agencies for an efficient clearance of subject goods.
- **Annex 8 on Transit:** In Africa, the efficient processing and control over goods in transit is of utmost importance, particularly for landlocked countries. This annex addresses this critical issue and offers a comprehensive framework for such purpose.
- **Annex 9 on Trade Remedies:** Establishes provisions on the application of trade remedy measures related to trade in goods under the AfCFTA. These measures, when applied, are enforced by customs.

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