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UNIÓN AFRICANA

Addis Ababa, Ethiopia P. O. Box 3243 Telephone: +251 115 517 700 Fax: +251 115 517 844
Website: www.au.int

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Concept Note

11TH AUCIL FORUM

Theme:

***“International Law, WTO Reform and
Implementation of the AfCFTA”***

Venue:

African Union Headquarters, Addis Ababa, Ethiopia

Date: 22-23 May 2025

By

**Prof. Alain Didier Olinga (Chairperson of the Forum)
Prof. Samia Bourouba (Rapporteur of the Forum)**

I. INTRODUCTION

1. Established in 2009 pursuant to Article 5(2) of the Constitutive Act of the African Union, the African Union Commission on International Law (AUCIL) is an independent advisory body of the African Union (AU). Its main functions, as outlined in its Statute include the teaching, dissemination and promotion of International Law and AU Law across and outside of the African Continent.
2. To execute these functions, the AUCIL, beyond disseminating publications to Member States, researchers and the general public, also organizes an annual Forum on a pertinent and relevant issue within the realm of international law.
3. The AUCIL annual Forum, generally takes place in-person or in a hybrid format, during one of its two (2) annual statutory sessions. It serves as an interactive platform where specialists and experts in International Law, AU Law and related fields engage and exchange sights among themselves, as well as with representatives of Member States, AUCIL Members, researchers, scholars and other interested individuals, to discuss regional integration and other pertinent issues with legal implications for the AU, its Member States and the African peoples.
4. The Forum also provides an opportunity, through joint and critical reflection, to formulate ideas and outline distinctive African approach to International Law. It brings together diverse stakeholders to enhance knowledge and deepen the understanding of international law across the continent. Ultimately, the insights gained from these discussions provide the AU, its institutions, and its Member States with invaluable tools to advance regional in alignment with Agenda 2063, *"The African We Want"*.
5. In this context, since its inception in December 2012, the AUCIL Forum has explored a wide range of themes related to the continent's political and legal developments. The topics addressed so far include:
 - i. Codification in international law at the regional level;
 - ii. Law of Regional Integration in Africa;
 - iii. Challenges of ratification and implementation of treaties in Africa;
 - iv. Role of Africa in Developing International Law;
 - v. Legal, Political and Socio-Economic Consequences of Migration, Refugees and Internally Displaced Persons in Africa;
 - vi. Management of Natural Resources in Africa;
 - vii. Constitutional Democracy, Rule of Law and struggle against corruption;

- viii. International Law, Business Law, and Human Rights in Africa;
- ix. International Law, Alternative Justice, and Armed Conflicts in Africa.

II. THEME OF THE 11TH FORUM

6. As per the Decision of the AUCIL Plenary adopted during its 24th Ordinary Session, held from 6 to 17 May 2024 in Addis Ababa, Ethiopia, the theme selected for the 11th Forum is:

“International Law, WTO Reform and Implementation of the AfCFTA”.

III. BACKGROUND

7. While issues of sovereignty, peace and security, human rights protection in both peacetime and periods of conflict or emergency, the democratic governance, and regional integration remain pressing concerns, economic and commercial matters are equally critical to Africa’s development. The significance of trade extends beyond economic, it is deeply rooted in legal frameworks, a reality that African internationalists have recognized and prioritized since independence. From the adoption of United Nations General Assembly (UNGA) Resolution 1803 (1962) on the permanent sovereignty over natural resources to the 1970s call for a New International Economic Order (NIEO), the advocacy for a right to development for African states, the evolution of Economic European Community (EEC)- European Union (EU)- African, Caribbean, and Pacific Group of States (ACP) cooperation, and the transition from the General Agreement on Tariffs and Trade (GATT) to the World Trade Organization (WTO), African states have encountered significant challenges navigating international economic and trade law. These legal complexities have shaped Africa’s economic engagements on the global stage. The contributions of African international legal scholars, particularly through their lectures at The Hague Academy of International Law, stand as a testament to this ongoing struggle and commitment.¹
8. International trade law is undergoing significant transformation. Traditionally an instrument of regulating liberal trade, it is now evolving into a tool for achieving common objectives, such as environmental preservation and promotion human rights. In this context, the formulation, administration, and enforcement of trade laws have become pivotal in relations between States and blocs of States. International trade law now serves as a platform for external policies of states and groups of states, while also being at the center of intense disputes over

¹ For a historical perspective on international economic law and Africa’s engagement with trade governance, see *United Nations General Assembly Resolution 1803 (XVII)* on "Permanent Sovereignty over Natural Resources," adopted on 14 December 1962. Available at: <https://digitallibrary.un.org/record/204587?ln=en>. Accessed on 15 February 2025. Additionally, for insights into the New International Economic Order (NIEO) and its implications, refer to *"The New International Economic Order: A Reintroduction"* by Humanity Journal. Available at: <https://humanityjournal.org/issue6-1/the-new-international-economic-order-a-reintroduction/>. Accessed on 15 February 2025.

commercial and geo-economic interests. In the *Beijing Declaration on Jointly Building an All-Weather China-Africa Community with a Shared Future for the New Era*, adopted at the conclusion of the Forum on China-Africa Cooperation on September 6, 2024, both parties affirmed their commitment to "participate in the reform of the WTO" and emphasized that such reform should lead to "an inclusive, transparent, open, non-discriminatory and equitable multilateral trading system" by strengthening the development dimension, ensuring a functional dispute settlement mechanism, and upholding the fundamental principles of the WTO.²

9. Similarly, on September 20, 2024, during its 79th Ordinary Session, the UNGA adopted the Pact for the Future, wherein Member States declared their commitment to "**a rules-based, non-discriminatory, open, equitable, inclusive, and transparent multilateral trading system, with the WTO at its center,**" and expressed their intention to pursue "**the much-needed reform of the WTO.**" Given these developments, a critical question arises: *How can African international legal expertise contribute to formulating an African legal policy in the ongoing and forthcoming discussions on WTO reform to ensure that reforms do not undermine Africa's interests or perpetuate its marginalization in the international trade system?*
10. The reform of the WTO is engaging key stakeholders involved in real trade and economic activity. However, it is often overlooked that the WTO's primary function is to generate and manage rules, conventions, procedures, and mechanisms—essentially, to regulate international trade. Legal professionals play a crucial role in this process. For African lawyers, as for their counterparts in other regions who work to advance their national interests, WTO reform must be approached with a clear understanding of the realities, needs, and strategic objectives of African states in international trade. These priorities are particularly shaped by ongoing continental initiatives, foremost among them the African Continental Free Trade Area (AfCFTA).³ Against this backdrop, a critical question arises: ***What is the African approach to revitalizing the WTO's three core functions—negotiating trade agreements, administering existing agreements, and resolving disputes—which are currently facing significant challenges?***

IV. OBJECTIVES

11. The 11th Forum aims to serve as a platform for strategic discussions and collaborative planning. It convenes at a pivotal moment when the AfCFTA is transitioning from its establishment phase to operational status, signaling a new era for intra-African trade in the context of global commerce. While the WTO

² Beijing Declaration on Jointly Building an All-Weather China-Africa Community with a Shared Future for the New Era, Forum on China-Africa Cooperation, September 6, 2024. Available at: https://www.mfa.gov.cn/eng/xw/zyxw/202409/t20240905_11485993.html. Accessed on February 15, 2025.

³ Agreement Establishing the African Continental Free Trade Area (AfCFTA). Available at: <https://au.int/en/treaties/agreement-establishing-african-continental-free-trade-area>. Accessed on February 15, 2025.

undergoes reforms, the AfCFTA continues to develop its regulatory framework, notably with the adoption of second-phase instruments such as the Protocol on Women and Youth in Trade.⁴ These concurrent developments, which directly impact African states and their future roles in international trade, warrant a unified and comprehensive analysis, particularly concerning the legal implications of WTO reforms and the initial implementation stages of the AfCFTA. The primary challenge is to ensure that progress within the AfCFTA framework informs and strengthens African positions in WTO reform negotiations, safeguarding against any developments that might hinder the continent's trade advancement. In this regard, the AUCIL is committed to ensuring that emerging proposals and legal structures protect the interests of African states, prevent further marginalization in the global trading system, and support the continent's ambition, through the AfCFTA, to establish a robust presence in international trade originating from Africa. As the AfCFTA Secretary-General, H.E Wamkele Mene, has articulated, *"The launch and operationalization of the AfCFTA signals Africa's preference for a rules-based multilateralism, which aligns with the WTO's ideals. The successful and effective implementation of the AfCFTA, thus, strengthens the WTO as it adds a very significant portion of market opening to the WTO based on rules"*⁵ Echoing this sentiment, the late Chiedu Osakwe emphasized that *"the relevance of a reformed and refitted WTO, with a claim to universality, for the 21st century would depend substantially on its engagement with and acceptance of the AfCFTA."*⁶ Thus, African international trade law, particularly as shaped by the AfCFTA, could serve as a guiding framework for African positions in the ongoing WTO reform process.

12. The 11th Forum aims to foster legal reflection on economic issues and contribute to defining and articulating African expectations and proposals in the broader debate on WTO reform. This discussion takes place in the context of the AfCFTA's establishment and its initial implementation, which marks a significant shift in Africa's trade landscape. By bringing together academics, trade policy experts, and international negotiators, the Forum seeks to analyze the legal dimensions and strategies that African states can employ in WTO reform discussions. Positioned between the 13th WTO Ministerial Conference, held in Abu Dhabi (United Arab Emirates) from 26 February to 2 March 2024⁷, and the 14th Ministerial Conference scheduled for 2026 in Yaoundé

⁴ Protocol on Women and Youth in Trade, African Continental Free Trade Area (AfCFTA). Available at: <https://www.uneca.org/stories/%5Bblog%5D-the-afcfta-protocol-on-women-and-youth-in-trade-an-anchor-of-inclusive-trade-and>. Accessed on February 15, 2025.

⁵ Mene, Wamkele. Speaking Notes at the WTO Accession Forum. September 28, 2021. Available at: https://www.wto.org/english/news_e/news21_e/acc_28sep21_e.pdf. Accessed on February 15, 2025.

⁶ Available at: https://www.wto.org/english/news_e/archive_e/acc_arc_e.htm. Accessed on February 15, 2025.

⁷ Thirteenth WTO Ministerial Conference, World Trade Organization, 26 February – 2 March 2024, Abu Dhabi, United Arab Emirates. Available at: https://www.wto.org/english/thewto_e/minist_e/mc13_e/mc13_e.htm. Accessed on 15 February 2025.

(Cameroon), the Forum provides a timely opportunity to shape Africa's role in these critical negotiations. Through its deliberations, the AUCIL aims to position Africa as a hub for innovative legal ideas in WTO reform. This is particularly significant given that the WTO agreements were originally adopted in Marrakech, Morocco—on African soil. Ensuring that African voices and perspectives are central to these discussions is essential to promoting an inclusive and equitable multilateral trading system that aligns with Africa's development goals.

V. SCOPE AND FOCUS

13. The 11th Forum is designed as a platform for in-depth discussions among a diverse group of stakeholders, including academics and researchers in international trade law, national trade policy negotiators, AfCFTA representatives, trade policy officials from Africa's Regional Economic Communities (RECs), and legal and trade experts from the AU. The Forum will provide a space for critical analysis and strategic dialogue on key trade-related legal issues shaping Africa's engagement in global trade governance. Participants are invited to submit presentation proposals on a range of topics, including but not limited to:
 - i. AfCFTA, RECs and WTO trade regimes– Coherence, and potential conflicts;
 - ii. Intellectual property and traditional knowledge – Protecting African heritage in global trade;
 - iii. WTO Decision-making reform – Legitimacy, efficiency, and structural changes;
 - iv. Sustainability and trade – Balancing liberalization with environmental goals;
 - v. Special and Differential Treatment – Assessing its relevance for developing countries;
 - vi. WTO reform and Africa's development – Aligning reforms with Africa's economic priorities;
 - vii. Illicit trade and dangerous trade – Crimes, security, and international trade;
 - viii. Food trade, Right to food and food safety;
 - ix. International trade and energy security in Africa;
 - x. Health and trade Post-COVID-19;
 - xi. Safeguard Measures under the WTO and the AfCFTA;
 - xii. WTO, AfCFTA, protection of human rights and inclusion of women and young people in trade;
 - xiii. Labour protection and international trade;
 - xiv. Fairness and effectiveness of Trade Dispute Settlement in the WTO and the AfCFTA;
 - xv. E-Commerce Regulation in Africa;
 - xvi. Other Emerging Trade Issues – New trends and legal considerations.

14. The Forum will commence with a keynote speech entitled: “***Africa and the future of international trade law: Strategies for an Inclusive and Equitable Global Trade Order Amid WTO Reform and AfCFTA Implementation.***” This address will be delivered by either a distinguished international legal expert or high-level representative from a key international trade institution, offering critical insights into Africa’s positioning in the evolving global trade landscape.
15. The Forum will feature presentations from experts selected through a call for papers, alongside invited specialists recognized for their expertise in international trade law. This blended approach ensures high-quality discussions while maintaining openness to diverse perspectives from across Africa and beyond.

VI. PARTICIPANTS

16. Open to all researchers and practitioners of international law and related fields, the 11th forum is particularly aimed at:
 - i. Senior officials of the AU and its organs, including the AfCFTA;
 - ii. Senior Officials of AU Member States in charge of national trade policy and negotiations, representing the Ministries in charge of trade, development, planning and Foreign Affairs;
 - iii. Senior Officials of Regional Economic Communities;
 - iv. National and international lawyers and judges interested in issues relating to trade and free-trade;
 - v. Researchers, academics and students from universities and research centers based on the Continent or in the diaspora working on themes related to the Forum's theme.

VII. KEY DATES AND FORMAT

17. Key dates and format of the 11th Forum are as follows:

- i. Forum Dates: **22 - 23 May 2025**
- ii. Venue: **African Union Headquarters, Addis Ababa, Ethiopia**
- iii. Paper proposal submission deadline: **15 March 2025**
- iv. Notification of selected proposals : **25 March 2025**
- v. Final paper submission deadline: **1 May 2025**

18. To accommodate unforeseen circumstances, the Forum will provide an option for speakers and participants to join virtually, ensuring inclusive and uninterrupted engagement.