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Creating One African Market

**Report submitted to the
13th Extraordinary Session of the Assembly on the African Continental
Free Trade Area (AfCFTA)
on 5th December 2020
by**

**His Excellency Mr. Issoufou Mahamadou,
President of the Republic of Niger, Leader and Champion of the African
Continental Free Trade Area (AfCFTA) Process**

INTRODUCTION

1. Your Excellencies will recall that during the 33rd Ordinary Session of the African Union Assembly of Heads of State and Government held in February 2020 at the African Union Headquarters in Addis Ababa, Ethiopia, I made a presentation on the status of negotiations of the African Continental Free Trade Area. During my presentation, I highlighted the outstanding work which needed to be done in preparation for the start of trading under the AfCFTA preferential regime. At the Session we agreed to hold an Extraordinary Summit on 30 May 2020 to approve all instruments required for the start of trading under the African Continental Free Trade Area on 1 July 2020. However, following the outbreak of the COVID-19 pandemic and the subsequent public health emergencies across Africa and the rest of the world the activities of the Union including implementation of some of our decisions were adversely affected.
2. On 17th June 2020, an Assembly decision, {**Assembly/AU/OSP/Dec.1 (06-20,II)**}, was adopted on line, through a Silent Procedure, where the Assembly decided that the start of trading under the African Continental Free Trade Area be postponed from 1st July 2020 to 1st January 2021.
3. It is my honour to present to you this report which covers the following aspects:
 - a) Background
 - b) Status of Signature and Ratification of the AfCFTA Agreement and Finalisation of Negotiations towards the Start of Trading;
 - c) Framework of Collaboration among AUC, AfCFTA Secretariat and Secretariats of Regional Economic Communities (RECs) ;
 - d) Online Mechanism for Reporting, Monitoring and Elimination of Non-Tariff Barriers;
 - e) Contributions to the AfCFTA process by stakeholders;
 - f) Operationalization of the Pan-African Payment and Settlement System (PAPSS);
 - g) Preparations for the implementation of the AfCFTA Agreement for the rollout of the AfCFTA market
 - h) The role of the Council of Ministers of Trade of the AfCFTA;
 - i) Phase II Negotiations and Beyond;
 - j) Building and Sustaining Momentum for Full, Timely And Effective Implementation Of The African Continental Free Trade Area Agreement; and
 - k) Conclusion and recommendations

A. BACKGROUND

4. Your Excellencies, just as we concluded the 33rd Ordinary Session in February 2020, we witnessed the coming in of the COVID -19 Pandemic. The effects of the pandemic spread globally threatening lives, affecting trade and normal businesses all over the world. Our continent was not an exception. Following
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Guidelines from the World Health Organisation and Africa Centre for Disease Control and Prevention, travelling both domestically and internationally was severely curtailed and some border posts and entry points were closed. Physical meetings were stopped and the situation called for the holding of meetings by virtual means. This had an impact on all official and commercial activities globally. Against this background the pace towards completion of negotiations stalled for some time as we strategized on how to respond to the new reality. Under the circumstances, the negotiations structures of the African Continental Free Trade Area, therefore temporarily stopped meetings from April 2020 till July 2020.

5. As regards completion of negotiations on Phase I issues, the African Union Commission undertook consultations with Member States which resulted in agreement to conduct negotiations using on line platforms.

B. STATUS OF SIGNATURE AND RATIFICATION OF THE AFCFTA AGREEMENT, AND FINALISATION OF NEGOTIATIONS FOR START OF TRADING

i. Status of Signature and Ratification of the AfCFTA Agreement

6. During the 33rd Session in February 2020, we directed the Commission to continue its efforts to persuade all the Member States of the African Union to sign and ratify the African Continental Free Trade Area Agreement.
 7. The number of countries that have signed the Agreement currently stands at fifty-four (54). Eritrea is the only country yet to sign. In view of this, I recommend to Your Excellencies that I continue to engage the Government of Eritrea at the highest level and report back to you in February 2021.
 8. The Commission has received positive indications of a number of countries taking measures to ratify the Agreement. As at 23rd November 2020, two additional countries had deposited their instruments of ratification with the Commission and these are Angola and Cape Verde. I invite Your Excellencies to congratulate the two countries for this positive step.
 9. The full list of countries who had ratified and deposited their instruments of ratification with the Commission as of 30 November 2020, is 33 and are listed as follows: Angola, Burkina Faso, Cape Verde, Chad, Congo, Cote D'Ivoire, Djibouti, Egypt, Equatorial Guinea, Eswatini, Ethiopia, Kenya, Gabon, The Gambia, Ghana, Guinea, Mali, Mauritania, Mauritius Namibia, Niger, Uganda, Rwanda, Saharawi Republic, Sao Tome and Principe, Senegal, Sierra Leone, South Africa, Togo, Zimbabwe , Lesotho, Tunisia and Nigeria. Your Excellencies, although this is a positive development that we have achieved such a number of ratifications within a period of about two years, our desire is to have a total of 55 ratifications and move together in unity and solidarity as well as demonstrate to the rest of the world that we have created a free trade area for the whole continent.
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10. The number of countries who have not yet deposited their instruments of ratification remains at 22. Within this category, there are strong indications that Algeria, Cameroon and Central African Republic are at very advanced stages of depositing their instruments of ratifications. **In this connection, I call upon these countries and others yet to ratify to deposit by 30th of June, 2021.**

ii. Rules of Origin

11. Although negotiations on Rules of Origin were slowed down at the start of COVID-19 Pandemic, I am informed that our negotiating institutions have made progress on this. I have been advised by the negotiating institutions that agreed rules have so far covered approximately 81% of total tariff lines. Some Member States and Customs Unions have observed that they will need the Rules of Origin completed before finalizing the tariff offers as there is a link between the Rules of Origin and the Tariff Offers. **In this regard, I recommend to Your Excellencies that we launch the start of trading on the basis of agreed Rules of Origin, and also direct the Council of Ministers Responsible for Trade to establish a work programme that will be implemented over a period of six months to conclude outstanding issues on the Rules of Origin and meet the requirements of modalities for Tariff Liberalization for Trade in Goods.**

iii. Tariff Offers

12. As part of the process to accelerate negotiations, the Commission came up with an online Password Protected Portal for Tariff Negotiations and undertook capacity building and training activities over the past year to assist Member States and Regional Economic Communities (RECs) to prepare for their tariff offers. Going forward, the task is for Member States to submit more tariff offers.
 13. As of 23rd November 2020, the following eighteen (18) countries had submitted their schedules of tariff concessions: Botswana; Cameroon; Chad; Central Africa Republic; Congo Republic; Democratic Republic of Congo; Egypt; Equatorial Guinea; Eswatini; Gabon; Lesotho; Madagascar; Malawi; Mauritius; Namibia; Sao Tome and Principe; Seychelles and South Africa.
 14. Ten (10) of the above countries have deposited their instruments of ratification. These are: Chad, Republic of Congo, Egypt, Equatorial Guinea, Eswatini, Gabon, Mauritius, Namibia, Sao Tome and Principe, and South Africa. It therefore means that these State Parties are ready to start trading in goods under the African Continental Free Trade Area upon ensuring that their respective national legislations are aligned to the Agreement and that the available documentations, especially on Rules of Origin is in place.
 15. I am also advised that the remaining countries are still working on their tariff offers and are at an advanced stage of submitting them. It is important to note
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that Members of East African Community (EAC) and Economic Community of West African States (ECOWAS) are expected to submit their tariff offers as Customs Unions. **I therefore recommend to Your Excellencies that we urge Member States and Customs Unions that have not done so to submit tariff offers identifying 90% of their tariff lines by June 2021.**

iv. Trade in Services

16. Your Excellencies, the Commission undertook capacity building and training activities aimed at equipping Member States to make technically acceptable offers in Trade in Services. Your Excellencies will recall that the five priority sectors for trade in services are: Business services; Communications; Finance; Tourism and Transport. The negotiations on Trade in Services are ongoing and Member States are in the process of conducting national consultations in respect of their initial offers.
17. As of 23rd November 2020, twelve (12) countries had submitted their offers in respect of Trade in Services and these are: Comoros, Democratic Republic of Congo (DRC), Egypt, Eswatini, Lesotho, Madagascar, Mauritius, Namibia, São Tome and Principe, Seychelles, South Africa, and Zambia; six of which are State Parties and these are: Egypt; Eswatini; Mauritius; Namibia, Sao Tome and Principe and South Africa. As with Trade in Goods, it also follows that these would be the countries who would be able to trade in services.
18. I am advised that a number of Member States and Customs Unions are at various stages of preparing their offers for trade in services. We need to expedite the process and, in this respect, **I recommend that all Member States submit their Schedules of Specific commitments on the five (5) sectors by June 2021.**
19. Your Excellencies will recall that during our 32nd and 33rd Sessions of the Assembly, held in February 2019 and February 2020, we had urged Member States to submit their Schedules of Specific commitments on the remaining seven (7) Services Sectors and the Regulatory Cooperation Framework for trade in services by June 2020. Furthermore, in view of the COVID-19 Pandemic, it has become imperative to fast track liberalization of health and education service sectors. In this respect, **I recommend that we set a new deadline of 31st December 2021 for Member States to conclude submission of schedules of Specific Commitments on the Seven (7) services, giving priority to education and health services.**

C. FRAMEWORK OF COLLABORATION AMONG AUC, AfCFTA SECRETARIAT AND SECRETARIATS OF REGIONAL ECONOMIC COMMUNITIES (RECS)

20. Your Excellencies, in our previous Summits, we have mandated the AfCFTA Secretariat, the Commission, and the Secretariats of the Regional Economic Communities to develop a Framework of Collaboration to enhance

complementarity, synergies, and alignment of programme and activities and in the process, generate high impact results. I am advised that work is ongoing and, in this respect, **I recommend that we direct the parties to conclude this work by February 2021. I further recommend that upon its completion, the Framework of Collaboration will become an Appendix to the Protocol on the Relations between the African Union and the Regional Economic Communities.**

D. ONLINE MECHANISM FOR REPORTING, MONITORING AND ELIMINATION OF NON-TARIFF BARRIERS

21. Your Excellencies, I have been advised that the Online Mechanism for reporting, monitoring and elimination of non-tariff barriers which we launched in July 2019 in Niamey, Niger, is now fully operational. National focal points for Non-Tariff Barriers have been trained on the use of the online instrument and sensitization of the private sector has also been carried out, and will be continued. Furthermore, a social media campaign is being undertaken to deepen awareness. The online Mechanism can be accessed on www.tradebarriers.africa.
22. I am advised that the Chairperson of the Commission will formally handover the Instrument to the Secretary General of the AfCFTA Secretariat during this Extraordinary Session.

E. CONTRIBUTIONS TO THE AfCFTA PROCESS BY STAKEHOLDERS

23. Your Excellencies, as we roll out the AfCFTA market, and without wanting to be exhaustive I would like to recognize the contribution of our strategic partners who have contributed financially and technically to the development of key initiatives in support of the AfCFTA including AfCFTA operational instruments, private sector mobilization programs such as:
- The United Nations Economic Commission for Africa (UNECA) for assisting with the development of national AfCFTA implementation strategies;
 - The African Export and Import Bank (Afreximbank) which is providing budget support to the AfCFTA Secretariat, in addition to working on the AfCFTA Adjustment Facility, Pan-African Payments and Settlements System, African Trade Exchange (ATEX) in collaboration with UNECA, Continental Transit Guarantee Scheme, Intra-African Trade Fair editions, and general support to Member States at bilateral level;
 - The United Nations Conference on Trade and Development (UNCTAD) which is supporting the development of an online mechanism for the Reporting, Monitoring and Elimination of Non-Tariff Barriers;
 - The African Development Bank (AfDB) which is providing support for institutional strengthening of the AfCFTA and mobilisation of the private sector to contribute more effectively in the implementation of the
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- AfCFTA Agreement, in addition to general development finance support to Member States at bilateral levels;
- The International Trade Center (ITC) which is supporting in the development of the African Trade Observatory and online Tariff Negotiations Portal;
 - AfroChampions Initiative which is coming up with a Trillion Dollar Investment Framework, the Accelerating Virtual-Resilient Integration for a Vibrant Africa (AVRIVA), and other IT solutions and private sector led programmes for enhancing investment and trade, safe and smart travel as well as virtual diplomacy;
 - Africa eTrade Group on the Sokokuu Africa eCommerce platform which aims at registering 250 thousand Small and Medium Enterprises (SMEs) on their platform by the end of March 2021 and 6 million SMEs and 22 million jobs by the end of 2023;
 - The European Union, German Government through Gesellschaft fur Internationale Zusammenarbeit (GIZ) and Physikalisch-Technische Bundesanstalt (PTB), the Danish Government, the Canadian Government, the USA, the Australian Government, the UK Government through DFiD and ODI, French Government through Expertise France, the Commonwealth Secretariat, the Organization International de la Francophonie (OIF), the United Nations Development Program (UNDP), the World Bank Group, the Islamic International Trade Finance Cooperation, for their financial and technical support to the AfCFTA process.

I recommend that Your Excellencies recognise this commendable effort in the Johannesburg Declaration for the start of trading which we shall adopt at the close of this session. I further recommend that we encourage our strategic partners to continue work on ongoing programmes and initiatives in close collaboration with the relevant national, regional and continental organisations.

F. OPERATIONALIZATION OF THE PAN-AFRICAN PAYMENTS AND SETTLEMENT SYSTEM (PAPSS)

24. At the 12th Extraordinary Session of the Assembly of Heads of State that was held in Niamey in July 2019, the Pan-African Payments and Settlement System was launched and presented to the Assembly as one of the tools for supporting implementation of the AfCFTA. Since then, in the context of the trade in services negotiations, technical work for the development of a PAPSS regulatory framework has been underway. The COVID-19 pandemic delayed much of the work that was anticipated to be done by now, however the AfCFTA Secretariat and Afreximbank have held a number of engagements with a view to expedite the work on implementation of PAPSS in support of the AfCFTA.

Recalling the decision of the 12th Extraordinary Session of the Assembly of Heads of State which launched the Pan-African Payments and Settlement System as a continental payment and settlement

infrastructure, I recommend that the Assembly directs the Council of Ministers, the AfCFTA Secretariat and Afreximbank to lead the implementation of PAPSS in order to support the AfCFTA. We further direct that they should work in collaboration with other stakeholders such as Central Banks.

G. PREPARATIONS FOR THE IMPLEMENTATION OF THE AfCFTA AGREEMENT FOR THE ROLLOUT OF THE AfCFTA MARKET

25. The Council of Ministers convened in Accra, Ghana November 20th 2020, to operationalize its implementation structures. The meeting also fully considered options for commencement of trading which were presented to it by the Senior Trade Officials and the Directors-General of Customs Authorities. It considered the state of readiness to commence trading on 1 January 2021, each state party provided a report on progress it is making in establishing the mechanisms for the commencement of trading.
26. The Council of Ministers reiterated that state parties should start trading on the basis of agreed rules of origins and directed the AfCFTA Secretariat to monitor and work closely with state parties. The Council of Ministers took note of state parties request for capacity building of Customs Authorities, to improve capacity to enforce the AfCFTA, particularly the rules of origins.

I therefore recommend that we direct the Council of Ministers, with the support of Customs Authorities, to expedite all the technical work that is required in order to have commercially meaningful trading in January 2021. This Assembly should also direct the AfCFTA Secretariat to provide the requisite capacity building and technical assistance to ensure that that Customs Authorities are able to implement the Agreement.

H. THE ROLE OF COUNCIL OF MINISTERS OF TRADE

27. At the 18th Ordinary Session of the Assembly of Heads of States that convened in January 2012, with the aim of commencing the negotiations on the AfCFTA, the Assembly established AMOT. The Assembly established AMOT as a transitional structure that would oversee the negotiations until the agreement creating the Free Trade Area entered into force.
 28. The Agreement Establishing the AfCFTA has now entered into force and Article 9 creates the Council of Ministers and mandates the Council of Ministers to be the policy organ that is responsible for the AfCFTA negotiations and implementation.
 29. It would therefore appear that AMOT has fulfilled its mandate, we must commend AMOT for a job well deal in overseeing the negotiations thus far. We now have an agreement that has entered into force and the agreement foresees a continuation of negotiations in different phases of the AfCFTA
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implementation. In its first meeting, the Council of Ministers decided that non-state parties shall be invited to participate in all of its meetings and those of its subsidiary structures, in order to ensure inclusivity. It is my understanding that in its 3rd meeting, the Council of Ministers reiterated this point and the need to ensure inclusivity by inviting non-state parties to participate in all of its meetings and those of its subsidiary structures.

In order to avoid duplication and to enhance coherence of work relating to the AfCFTA, I recommend that the Assembly should dissolve AMOT and direct that all remaining negotiations and implementation related work should henceforth be undertaken by the Council of Ministers, to be consistent with Articles 9 and 11 of the Agreement Establishing the AfCFTA. All activities and functions relating to the AfCFTA, should be transferred to the AfCFTA Secretariat no later than 31st of March 2021, having taken into account any budget, legal and structural implications that may arise. You will recall Your Excellencies that in Assembly decision Assembly/AU/Dec.751(XXXIII), the Assembly directed that the Secretary-General of the AfCFTA Secretariat and the AfCFTA Council of Ministers and relevant Policy Organs of the AU should finalize consideration of the Draft Organizational Structure of the AfCFTA Secretariat, including the appropriate functions of the appointed directors and the adequate number of the Permanent Secretariat of the AfCFTA, and submit it for consideration by the next Ordinary Session of the Assembly, together with a supplementary budget and work programme.

I. PHASE II NEGOTIATIONS AND BEYOND

30. Your Excellencies will recall that at the Kigali, Rwanda, Extraordinary Assembly of March 2018, we requested the Commission to facilitate the conclusion of the outstanding issues (Built-In Agenda) in Phase I, and to continue to support Phase II of the negotiations. Furthermore, at our February Summit this year, we mandated the Commission to start work on Phase III Negotiations focused on conclusion of the AfCFTA Protocol on E-Commerce immediately after conclusion of Phase II Negotiations.
 31. Your Excellencies, the Commission has done the groundwork in respect of Phase II issues. The Technical Working Groups who will give key inputs in the negotiations have been established and some of them have already started working. Within the constraints beset by the COVID-19 Pandemic, the Commission has facilitated capacity building activities for Member States to prepare them for start of negotiations. As you will recall, negotiations on Phase II issues will focus on: the Protocol on Investment, Protocol on Competition Policy, and Protocol on Intellectual Property Rights.
 32. It should be recalled that in February this year, we decided that Phase III Negotiations focus on a Protocol on E-Commerce immediately after conclusion of Phase II Negotiations.
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33. I am advised work on these negotiations leading toward actual negotiations could not be undertaken as a result of the COVID-19 Pandemic and as well the priority need to complete Phase I negotiations.

34. Against this background, **I recommend Your Excellencies, that we merge Phase III negotiations on e-Commerce with Phase II negotiations, in light of the expansion and growth in e-Commerce across the continent during the COVID-19 Pandemic.**

J. BUILDING AND SUSTAINING MOMENTUM FOR FULL, TIMELY AND EFFECTIVE IMPLEMENTATION OF THE AFRICAN CONTINENTAL FREE TRADE AREA AGREEMENT

35. In order to build and maintain momentum for the African Continental Free Trade Area, I am advised Your Excellencies, that the African Union Ministers of Trade have been working tirelessly and strategically to provide oversight on the Negotiating Institutions in order to ensure completion of work that has facilitated holding of this Summit. I am therefore confident that we shall end up with a very successful Summit.

36. We need to build on this momentum by ensuring that all the commitments being made on completion of negotiations are upheld, otherwise our credibility in the eyes of our stakeholders, especially the African citizens, will be undermined.

37. In addition, we should start implementing the AfCFTA Agreement with zeal and strategies which generate substantive benefits to all the citizens of Africa.

K. CONCLUSION AND RECOMMENDATIONS

38. Your Excellencies, as I conclude, what is emerging from my report is that we are opening a new chapter in the development of Africa. The establishment of the African Continental Free Trade Area has raised the possibility of embarking on a journey of inclusive and sustainable development across all the four corners of Africa. It is a journey that requires all segments of the African society and we must mobilise them at the community, national, regional and continental levels. Working together we should be able to quickly generate results that will help us create the Africa We Want as envisaged under the African Union Agenda 2063.

39. It is against this background that I make the following recommendations:

- (i) we call upon those Member States who have not yet ratified the Agreement to do so as soon as possible and qualify as State Parties, in order to increase the size of the market and the volume of trade under the AfCFTA;
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- (ii) we call upon Member States who have ratified but not deposited their instruments of ratification to do so by 31st December 2020.
 - (iii) we launch the start of trading on the basis of agreed Rules of Origin, and also direct the Council of Ministers to establish a work programme that will be implemented over a period of six months to conclude outstanding issues on the Rules of Origin and meet the requirements of modalities for Tariff Liberalization for Trade in Goods.
 - (iv) we urge Member States and Customs Unions that have not done so to submit tariff offers identifying 90% of their tariff lines by June 2021.
 - (v) all Member States submit their Schedules of Specific commitments on the five (5) sectors by June 2021.
 - (vi) we set a new deadline of 31st December 2021 for Member States to conclude submission of schedules of Specific Commitments on the Seven (7) services, giving priority to education and health services.
 - (vii) we direct the parties to conclude the work on the Framework of Collaboration by February 2021 which will become an Appendix to the Protocol on the Relations between the African Union and the Regional Economic Communities.
 - (viii) we recognise the commendable efforts of our Cooperating Partners in the Johannesburg Declaration for the start of trading which we shall adopt at the close of this session.
 - (ix) we encourage our strategic partners to continue work on ongoing programmes and initiatives in close collaboration with the relevant national, regional and continental organisations.
 - (x) we merge Phase III negotiations on e-Commerce with Phase II negotiations, in light of the expansion and growth in e-Commerce across the continent during the COVID-19 Pandemic,
 - (xi) we direct the Secretary-General of the African Continental Free Trade Area to submit a comprehensive report on the operation of the African Continental Free Trade Area market in its first year and submit it to our February 2022,
 - (xii) we further direct the Commission to undertake a comprehensive review on the implementation of the Action Plan on Boosting Intra-Africa Trade at national regional and continental levels and provide a report at our February 2022 Summit.
 - (xiii) we direct the Council of Ministers, the AfCFTA Secretariat and Afreximbank to lead the implementation of PAPSS in order to support the AfCFTA. We further direct that the Council of Ministers, the AfCFTA Secretariat and Afreximbank should work in collaboration with other stakeholders such as Central Banks.
 - (xiv) we direct the AfCFTA Secretariat to provide the requisite capacity building and technical assistance to ensure that Custom Authorities are able to fully implement the AfCFTA.
 - (xv) we direct that all activities and functions related to the AfCFTA shall be transferred to the AfCFTA Secretariat no later than 31st March 2021, taking into account budget, legal and structural implications that may arise.
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- (xvi) we recognise the commendable efforts of AMOT and direct AMOT to transfer its mandate of overseeing the AfCFTA negotiations to the Council of Ministers, in accordance with Articles 9 and 11 of the Agreement Establishing the AfCFTA, no later than 31 March 2021.
- (xvii) we direct the AfCFTA Secretariat, in collaboration with Ministers responsible for Trade, to enhance awareness about the potential benefits of the AfCFTA. In this regard, the Assembly directs the AfCFTA Secretariat, in collaboration with Ministers responsible for Trade to provide regular information sessions at national and regional levels on the AfCFTA.
- (xviii) We approve Phase I structure of the AfCFTA Secretariat as adopted by the Executive Council during its Thirty-Seventh Ordinary Session that convened on 14 October 2020 (annexed hereto) and direct the AfCFTA Secretariat to present Phase II Structure to the Thirty-Fourth Ordinary Session of the Assembly.

I THANK YOU FOR YOUR ATTENTION
