



Ratification of the Agreement establishing the AfCFTA

Select Committee on
Trade and International Relations
07 November 2018



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA



Outline of Presentation

- 1) SA approach to Trade Negotiations
- 2) SA Trade Policy Strategy for Africa
- 3) Integration in Africa: Historical Context and Background
- 4) AfCFTA as an enabler of Intra-Africa Trade
- 5) Objectives and features of the AfCFTA
- 6) Legal Architecture of the AfCFTA
- 7) Signature and Entry into Force of the AfCFTA
- 8) Strategic Importance of the AfCFTA to SA
- 9) Benefits of the AfCFTA
- 10) Potential Threats to SA
- 11) Mitigation of Potential Threats to SA
- 12) Implementation of the Agreement
- 13) Stakeholders Consulted
- 14) Concluding Observations



SA approach to Trade Negotiations

- Informed by/supportive of development objectives set out in NDP, NGP and IPAP.
- Provide opportunities to increase exports of value added products.
- Should not unduly limit development policy space.
- National consultation at intra-governmental level and in NEDLAC.
- SACU consultations to protect common external tariff.
- Focus areas: exchange of tariff concessions and related rules of origin; related legal provisions.
- Should support regional integration.

SA Trade Policy Strategy for Africa

- Africa presents opportunity to explore alternative markets: pursuit of broader regional integration through the Southern African Customs Union (SACU), the Southern African Development Community (SADC) the Tripartite Free Trade Area (T-FTA) and the African Continental Free Trade Area (AfCFTA).
- SA's approach to continental and regional integration is to support a **development oriented integration process** (market integration, infrastructure development and industrialisation).

Integration in Africa: Historical context and background

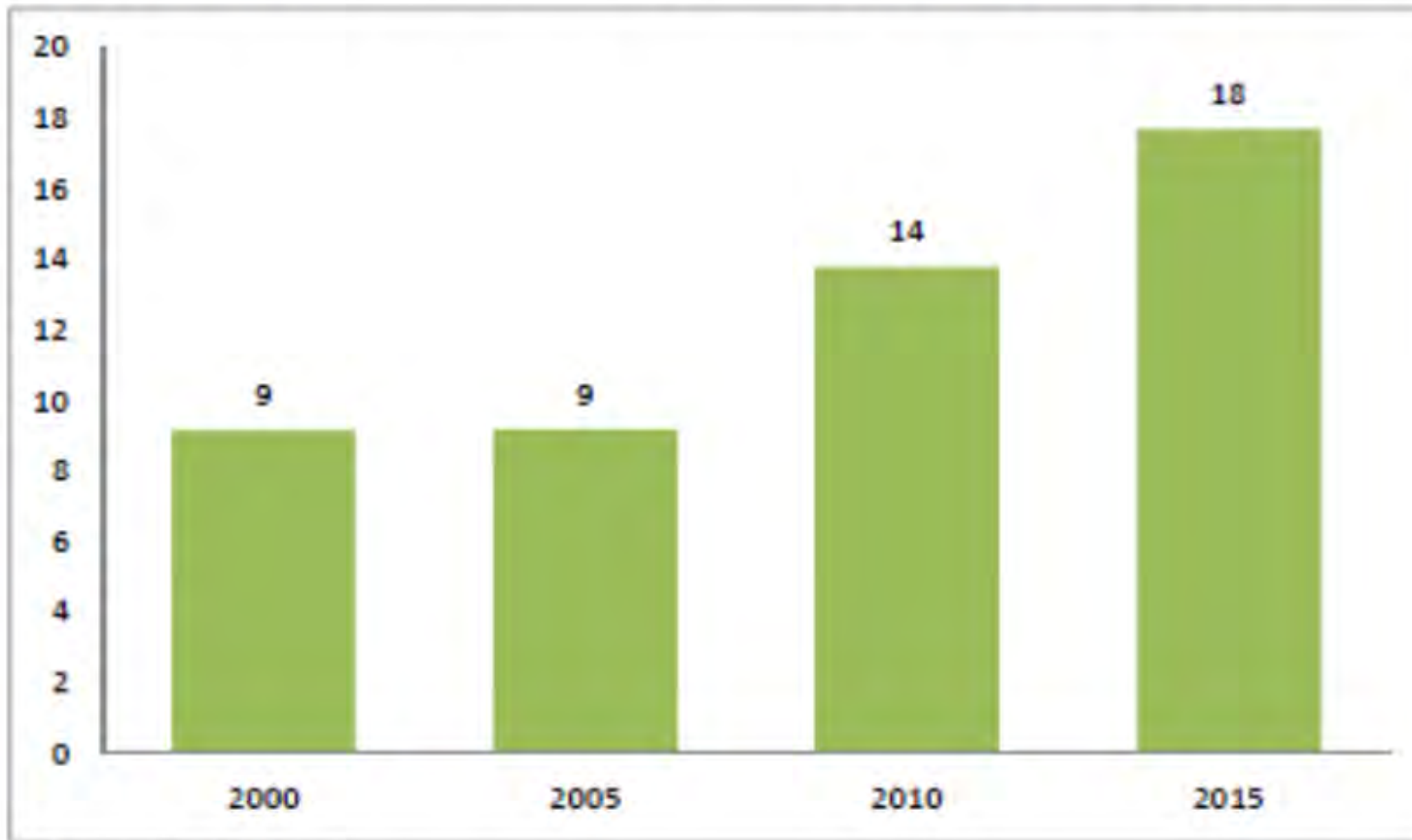
- Africa's commitment to economic integration as part of Pan Africanism vision.
- Lagos Plan of Action, 1980.
- Abuja Treaty Establishing African Economic Community, 1991.
- Boosting Intra-Africa Trade Action Plan, 2012.
- 8 RECs recognized by the African Union: COMESA, CENSAD, ECCAS, ECOWAS, EAC, IGAD, SADC and AMU
- AU Assembly launched AfCFTA negotiations at the 25th Ordinary Summit of Head of States and Governments on 15 June 2015 in Johannesburg, SA.

The AfCFTA: Boosting intra-Africa Trade (1)

- According to UNECA, AfCFTA promises to unlock intra-Africa trade to grow by 52% by 2022.
- In 2015 WTO provided a comparative analysis of intra-regional trade as follows:
 - ❑ intra-Africa trade at 18%;
 - ❑ intra-Asian trade at 52%;
 - ❑ intra-North American trade at 50%; and
 - ❑ intra-EU trade at 70%.
- Africa's share of world trade estimated to be at 3%. This proves that Africa needs to do more to expedite market integration.

The AfCFTA: Boosting intra-Africa Trade (2)

Figure 3: Share of intra-African merchandise in total African exports, 2000-2015 (in per cent)



Source: UNCTADstat



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

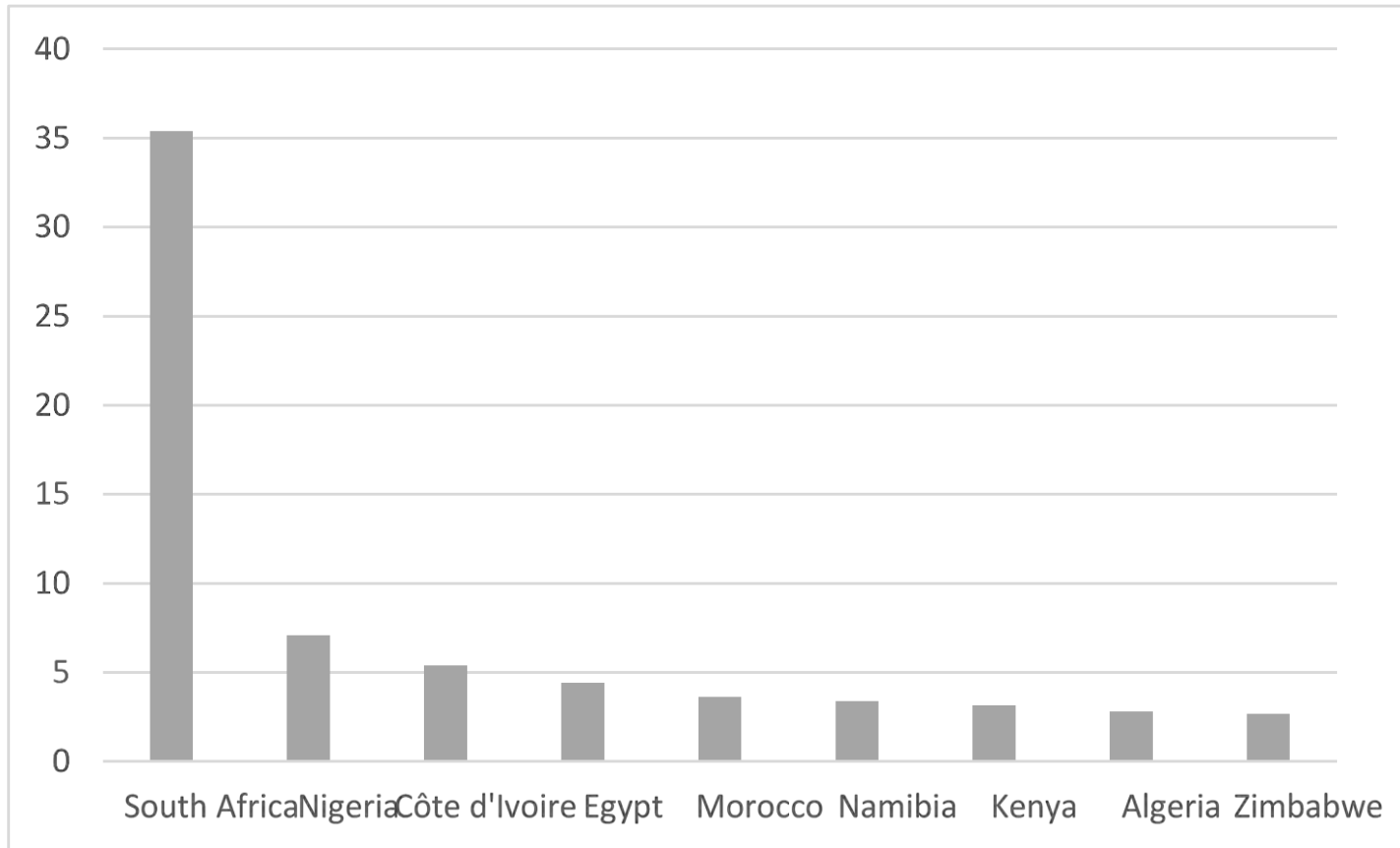


The AfCFTA: Boosting intra-Africa Trade (3)

- South Africa is the largest contributor to intra-Africa trade, accounting for over 24.9% percent of intra-Africa trade, with its trade with the rest of the continent increasing by 8.6% to US\$31.92 billion (R478.8 billion) in 2017.
- South Africa recorded a large trade surplus with the rest of Africa in 2017, exporting mainly mineral products, machinery, chemicals and iron and steel products, which accounted for over 50% of its total exports to the rest of the continent.
- The top African destinations in 2017 were Botswana, Namibia, Mozambique, Zambia and Zimbabwe

The AfCFTA: Boosting intra-Africa Trade (4)

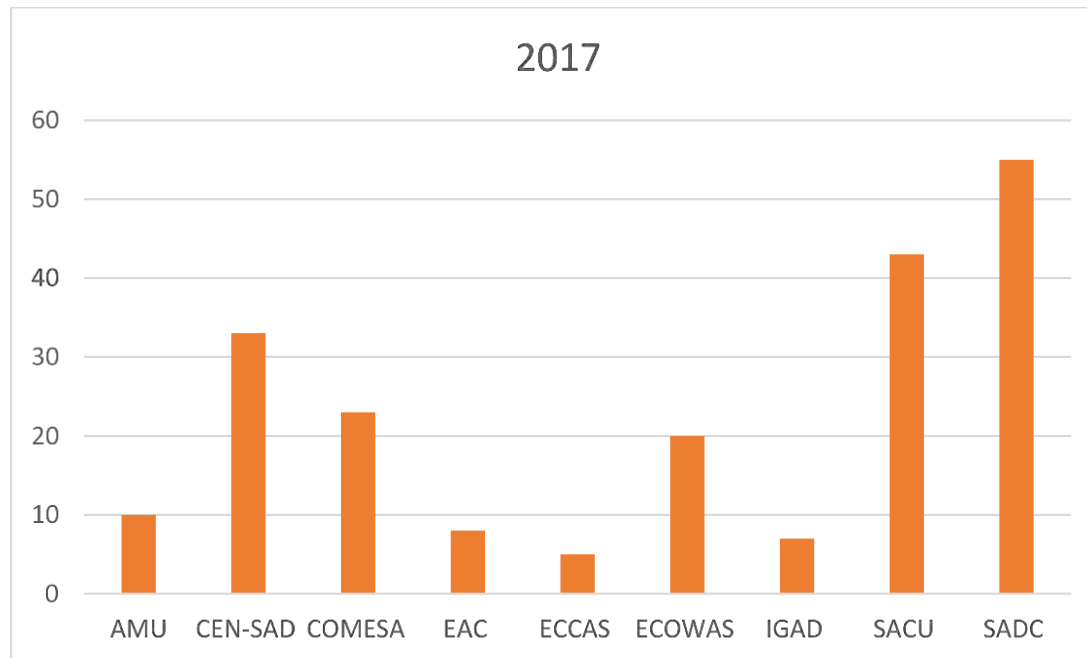
Country shares in total in \$ Millions and %



The AfCFTA: Boosting intra-Africa Trade (5)

- SADC share of intra-Africa trade – 55%
- SACU share of intra-Africa trade – 43%

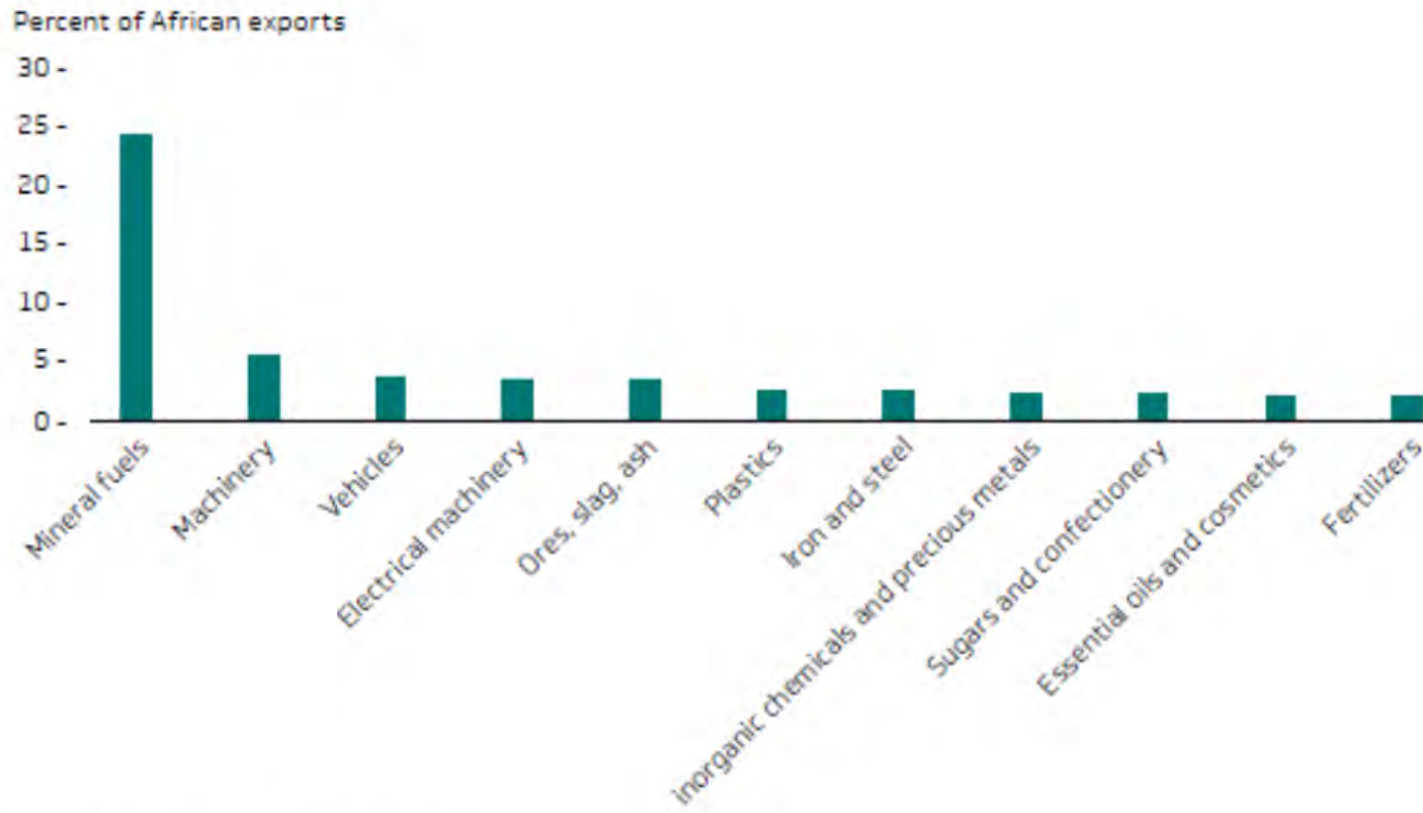
Figure 1: RECs' shares in total intra-Africa exports of goods in % 2017 in %



Source: Unctadstat

The AfCFTA: Boosting intra-Africa Trade (6)

Figure 6.5 Key Products Exported within Africa



Source: International Trade Centre, 2018.



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA



Objectives and features of the AfCFTA

- Creation of a single market for goods and services in Africa.
- Expedite continental integration and enhance intra-Africa trade and investment.
- Harmonisation of trade regimes: progressive liberalisation of tariffs and reducing barriers to services trade.
- Industrial development in the AfCFTA.
- Recognition of different levels of development, i.e. need for Special & Differential Treatment, Flexibilities.
- Preservation of the *acquis* – RECs and TFTA as building blocs. Negotiations will be amongst Member States/Regions that currently do not have preferential arrangements amongst themselves.
- Reciprocity.
- Variable geometry regarding pace of liberalisation.
- Establishing a single rule book for trade and investment in Africa.

Legal Architecture of AfCFTA (1)

- **Agreement Establishing the AfCFTA** – This is the overall Framework Agreement to which the Protocols, Annexes and Appendices form an integral part.
- **Protocol on Trade in Goods** – The Protocol gives effect to the following Annexes:
 - Annex 1 on the Schedule of Tariff Concessions
 - Annex 2 on Rules of Origin, which will include an Appendix of the type of Rules to be applied.
 - Annex 3 on Customs Cooperation and Mutual Assistance
 - Annex 4 on Trade Facilitation
 - Annex 5 on Non-Tariff Barriers
 - Annex 6 on Technical Barriers to Trade
 - Annex 7 on Sanitary and Phytosanitary Measures
 - Annex 8 on Transit
 - Annex 9 on Trade Remedies



Legal Architecture of AfCFTA (2)

- **Protocol on Trade in Services** – The Protocol includes provisions on general obligations and disciplines and progressive liberalisation.
- **Protocol on Rules and Procedures for the Settlement of Disputes** – This Protocol establishes a Dispute Settlement Mechanism, which is aligned to the WTO Dispute Settlement Body. It includes the following Annexes:
 - Schedule and Working Procedures of the Panel
 - Expert Review
 - Code of Conduct for Arbitrators and Panelists
- **Phase II** negotiations include Competition, Intellectual Property and Investment.
- **Agreement** envisages establishment of a secretariat.
- **Decisions** of the AU Assembly of HoS and Governments have legal force.

Signature and Entry into Force of the AfCFTA

- 49 members of the AU have signed the agreement.
- SA signed on 1 July 2018 on the margins of the 38th Session of the Ordinary Session of AU Assembly of HoS and Governments.
- Entry into force requires 22 member states to deposit instruments of ratification.
- 7 countries have ratified the AfCFTA: Kenya, Rwanda, Ghana, Niger, Chad, eSwatini and Guinea Conakry.
- AU Assembly of HoS and Government directed that the agreement must enter into force by Jan 2019.

Strategic Importance of AfCFTA to SA

- AfCFTA advances SA's regional integration aspirations and Agenda 2063.
- African market provides SA with alternative market for export of value added goods and services.
- SA's total trade with Africa amounted to R421 billion in 2017 (exports: R311 billion, imports: R109 billion).
- SA had a trade surplus of R202 billion.
- Manufactured goods amounted to 64% of SA exports to the Continent.
- SA's export destination is East and Southern African region, primarily SADC.
- AfCFTA presents an opportunity for expansion to new markets in West and North Africa.

Benefits of the AfCFTA (1)

- Achieving larger economies of scale, a bigger market and improved prospects for the African continent to attract investment.
- Potential to boost intra-Africa trade and build an integrated market in Africa, that will see a market of over 1 billion people with a combined GDP of approximately US\$3.3 trillion.
- New export opportunities for South African products in West Africa and North Africa.
- The AfCFTA includes trade in services. Trade in services important for global trade, provides a backbone for industrial development.
- In SA, contribution of services trade to the GDP is in excess of 60%.

Benefits of the AfCFTA (2)

- Provides legal certainty and predictability of markets.
- Encourages a rules based multilateral trading system.
- Establishes a fair and impartial dispute resolution mechanism.
- Boosts intra-Africa trade through:
 - progressive elimination of tariffs;
 - elimination of non-tariff barriers;
 - facilitating cooperation on customs matters, trade facilitation and transit;
 - enhanced cooperation in the areas of technical barriers to trade and sanitary and phytosanitary measures;
- Stimulates Africa's industrial development and employment creation.
- Contributing to positive investor climate in Africa.

Potential Threats to SA

- Possibility of transshipment (third party imports gaining access through neighbouring countries).
- Influx of substandard goods.
- Non-implementation of commitments by regional partners with implications for preferential access for SA exports.
- Loss of customs revenue.
- Possibility of politicisation of a trade agreement.



Mitigation of Potential Threats to SA

- Trade Remedies (Subsidies & Countervailing Measures, Anti-dumping and Preferential Safeguard Action) *Protocol on Trade in Goods: Articles 17-19 and Annex 9 on Trade Remedies: Articles 2-5).
- Stringent Rules of Origin *Protocol on Trade in Goods: Article 13 and Annex 2 on Rules of Origin
 - preventing transshipment;
 - fostering industrialisation.
- Effective border management: SARS has experience in monitoring and properly classifying goods crossing border. *Protocol on Trade in Goods: Articles 14-16 and Annexes 3,4 and 8 on Customs Cooperation and Mutual Assistance, Trade Facilitation and Transit.
- Dispute settlement mechanism, reducing risk of politicisation.* Protocol on the Rules and Procedures for the Settlement of Disputes
- Capacity building and sharing of expertise among institutions.
- Establishing secretariat comprising of professionals and not political appointees.* Agreement establishing the AfCFTA: Article 13.

Implementation of the Agreement

- After entry into force of the Agreement, SARS shall introduce legislation to implement the agreed preferential treatment.
- Customs and Excise Act amended to:
 - Include new tariff structure
 - Rules of Origin and attendant certificates
 - Import permits
 - Tariff Rate Quotas
- All state parties of the AfCFTA shall introduce similar measures to afford South African exports preferential treatment.
- Collaboration with TISA and TIA, publicity campaigns such as roadshows to create awareness to private sector about a concluded FTA.

Stakeholders Consulted

- The AfCFTA negotiations are led by **the dti** with the support of the Department of Agriculture, Forestry and Fisheries; the South African Revenue Service; the Department of International Relations and Cooperation; as well as the Department of Justice and Constitutional Development. Where relevant, other line function Depts are consulted.
- Continuous engagements with NEDLAC are also undertaken in preparation and during South Africa's participation in the negotiations.
- Legal opinions from DIRCO and DoJ&CD approved SA's signature of the Agreement.

Concluding Observations

- **Ratification of the Agreement** - Being the most industrialised economy and the largest exporter in Africa, South Africa should avoid being an acceding member. Accession to the FTA will pose serious legal risks for SA.
- **Market integration** – the AfCFTA brings us a step closer to realising the vision of an integrated market in Africa.
- **Possibility to complement and consolidate** AU work programme on infrastructure and industrial development pillars.
- **Defending** the values and principles of the multilateral trading system.
- **Africa** can achieve 52% intra-Africa by 2022.