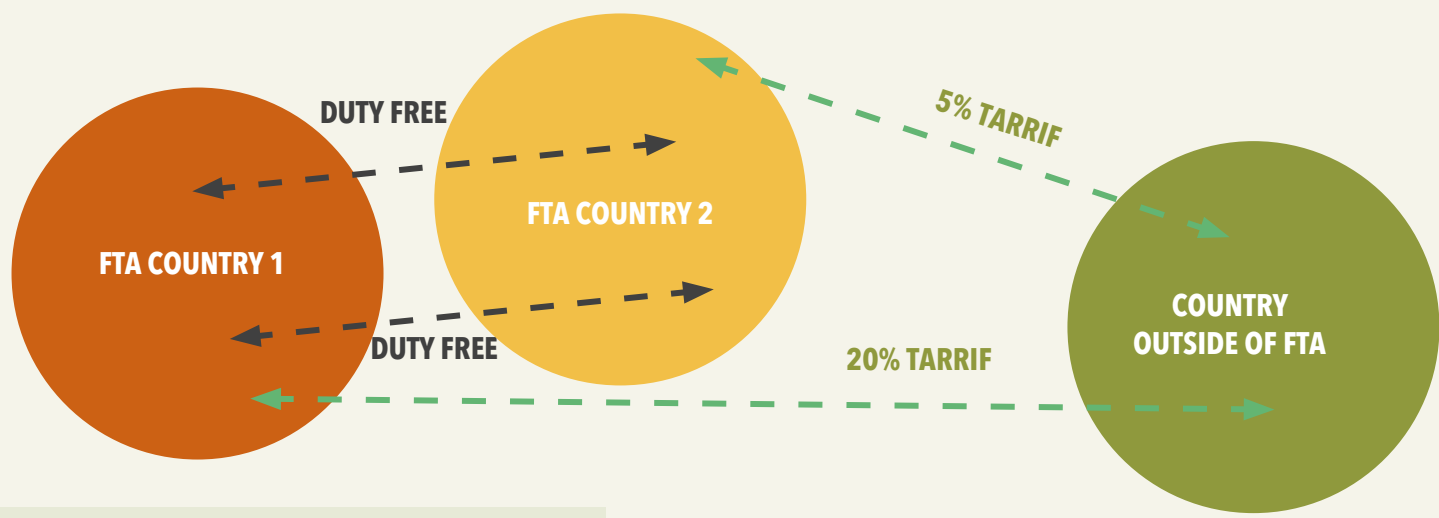




WHAT IS A FREE TRADE AGREEMENT (FTA)?

It is an agreement between two or more countries to reduce barriers to imports and exports or the movement of goods and services across borders.



Free Trade Agreement Pros and Cons

PROS

- Increased Economic growth
- Lower Government Spending
- Technology transfer

CONS

- Increased Jobs outsourcing
- Poor working conditions
- Degradation of natural resources

An FTA aims to facilitate trade and remove **TRADE BARRIERS**

- Tariffs:** Fees normally collected by a country's customs authorities
- Non-tariff barriers:** regulations, standards, quotas, subsidies, certification procedures etc.



Duty free flow of goods and services between FTA countries if it satisfies the RULES OF ORIGIN (RoO)

- RoO will determine if a product can be considered as originating within the FTA
- RoO is the passport allowing the free flow of a product

In an FTA, countries receive **MOST FAVOURED NATION (MFN) status**



- To ensure that all the countries that form part of the agreement receive the same treatment, all the relevant countries are given MFN status
- The same tariffs must be applied to all countries that form part of the AfCFTA

Pros and cons of Most-Favoured-Nations Status



PROS

- Access to a larger market
- Lowered cost of exports
- Products become more competitive
- More opportunities for growth

CONS

- No protections against cheaper goods produced by foreign countries
- Local agricultural industry still can't compare with subsidised U.S. and E.U. markets

An FTA is the opposite to **PROTECTIONISM**

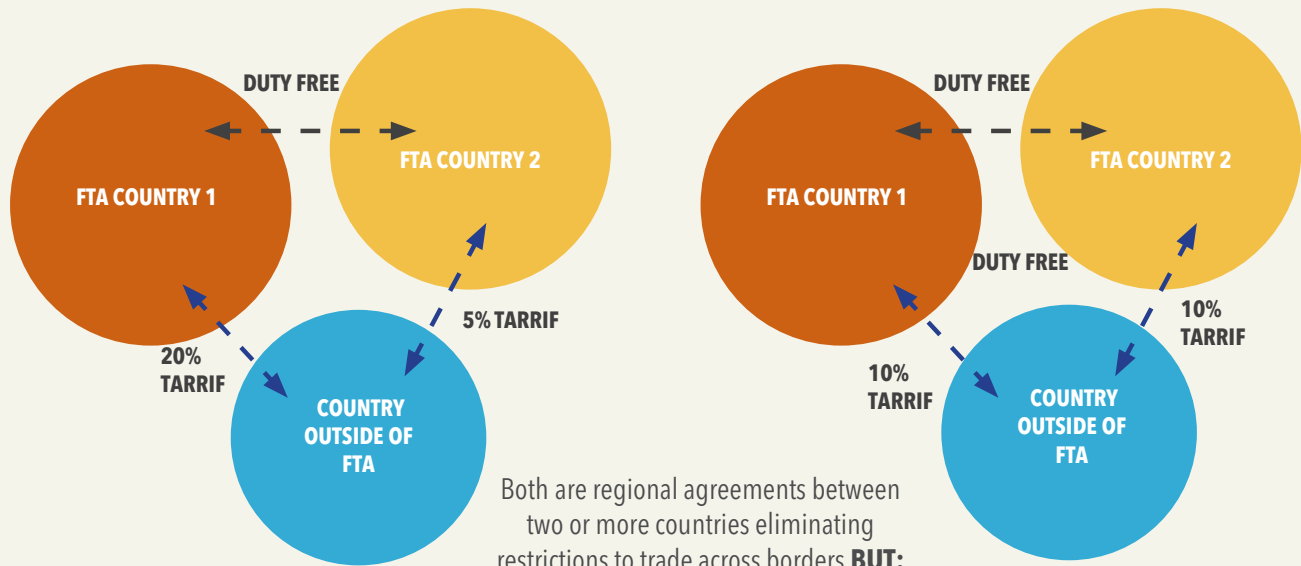
- An FTA aims to liberalize trade, allowing for the free flow of goods and services

But an FTA does not remove all forms of **PROTECTIONISM**

Trade unions have an opportunity to demand policies that will continue to protect communities and jobs as well as the creation of decent jobs.



WHAT IS THE DIFFERENCE BETWEEN A FREE TRADE AGREEMENT AND A CUSTOMS UNION?



In an FTA:

- Each member can negotiate tariffs individually with countries outside of the agreement.
- Each member will have different tariff arrangements with outside countries (for example, **5%** and **20%**).
- The free movement of goods are only allowed between member countries if it satisfies the RoO of the FTA.

In a customs union:

- Negotiations must be done as a customs union representing all members.
- All members apply the same common customs tariff (for example, **10%**) against a country outside of the agreement.
- The free movement of goods are allowed between member countries.

In the AfCFTA negotiation processes, trade unions need to take notice that there will be various overlaps with regional customs unions and existing regional FTAs.



WHY SHOULD TRADE UNIONS BE CONCERNED ABOUT AfCFTA?

The potential impact



THERE ARE SO MANY POSITIVE PREDICTIONS ABOUT WHAT AfCFTA COULD LEAD TO...

-  Income gains as high as **5% and US\$ 60 billion** could be added to export values
-  Intra-Africa trade could increase by **8% - 12% to the value of \$5.7 billion - \$8.7 billion**
-  AfCFTA can lift **30 million people from extreme poverty** and **68 million people** from moderate poverty
-  Lower trade costs will lower import prices and **increase the purchasing power of consumers**
-  As it becomes **cheaper for companies to export within Africa**, they will do so
-  **Better customs administration and trade facilitation** and improved domestic governance could decrease the cost of trading immensely

SURELY IT IS ALL GOOD?



UNFORTUNATELY, THE REALITY IS NOT...

-  Positive projections are **not guaranteed**
-  **Unfair competition:** SMEs cannot compete with large companies
-  **Supporting national policy and physical environment** should be in place for AfCFTA to be a success: Is this the case in Africa?
-  **Jobs, workers' protection, social security, and union rights** could be seriously hampered
-  Without assistance, **workers will not instantaneously transition to a new sector**
-  Higher female employment but **not decent jobs**
-  **Quality of jobs decreases** and demands for flexible workforces
-  **Increased power to large global MNCs**



WHAT ARE LABOUR PROVISIONS?

"...any standard which addresses labour relations or minimum working terms or conditions, mechanisms for monitoring or promoting compliance, and/or a framework for cooperation" (ILO, 2016: :11, cited in Engen, 2017)



AfCFTA DOES NOT INCLUDE ANY FORM OF LABOUR PROVISIONS



So, what can we do? Where do we start?



BUILD YOUR ARGUMENT

Get to know the arguments for and against the inclusion of labour provisions and always remember, without labour provisions in AfCFTA, stakeholders cannot be held accountable.



DECIDE WHICH STANDARDS AND COMMITMENTS SHOULD BE INCLUDED

Reference to ILO norms, Decent Work Agenda, mutually agreed standards, domestic standards, clause not to weaken labour law to attract investment etc.



DEMAND THAT LABOUR SHOULD NOT ONLY BE INCLUDED AS AN ADDITIONAL SECTION BUT AS AN INTEGRAL PART OF AfCFTA

AfCFTA negotiations are still ongoing and unions must demand that labour is included and recognised in all sections in addition to a dedicated labour section.



MAKE CLEAR DEMANDS FOR THE INCLUSION OF GENDER IN LABOUR PROVISIONS



ENCOURAGE PROMOTIONAL COMPLIANCE MECHANISMS

- Promoting labour standards through knowledge sharing, dialogue, capacity building and technical assistance.
- Strengthening of domestic labour institutions.



TAKE CAUTION OF THE WORDING USED!

"shall strive to ensure that its laws provide for labour standards consistent with the internationally recognized labour rights"

VS

"shall not fail to effectively enforce its labour laws"



UNIONS AND CIVIL SOCIETY AS MONITORING AGENTS IS THE ONLY WAY TO ENSURE SUCCESS

Trade unions and civil society should take on the responsibility of monitoring agents. The inclusion of any form of labour provisions in AfCFTA will not necessarily translate to any positive impact on decent work creation in a country. It will need to be taken as a tool through which trade unions can demand accountability and monitor progress.



WHERE ARE WE NOW?

7 AfCFTA PROTOCOLS UNDER NEGOTIATION

PHASE I: THE PROTOCOLS CAME INTO LEGAL FORCE ON 30 MAY 2020 BUT TWO CRITICAL ELEMENTS STILL NOT CONCLUDED – AfCFTA cannot come into full force until these are concluded

1 **PROTOCOL ON TRADE IN GOODS**

ANNEXES

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

2 **PROTOCOL ON TRADE IN SERVICES**

ANNEXES

- Schedules on Tariff concessions (OUTSTANDING)
- Rules of Origin (OUTSTANDING)
- Customs Cooperation and Mutual Administrative Assistance
- Trade Facilitation
- Non-Tariff Barriers
- Technical Barriers to trade
- Sanitary and Phytosanitary Measures
- Transit
- Trade Remedies

3 **PROTOCOL ON THE SETTLEMENT OF DISPUTES**

ANNEXES

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

PHASE II: INITIAL DEADLINE: DECEMBER 2020

NEW DEADLINE: 31 DECEMBER – unlikely that this deadline will be met
completed concluded

4 **PROTOCOL ON COMPETITION POLICY**

5 **PROTOCOL ON INTELLECTUAL PROPERTY RIGHTS**

6

PHASE III: INTENDED TO START AS SOON AS PHASE II IS COMPLETED

7 **PROTOCOL ON E-COMMERCE**



WHAT IS NEXT?

2021?

ERITREA IS STILL TO SIGN THE AfCFTA AGREEMENT

Jun 2021

COMPLETION OF PHASE I NEGOTIATIONS

REALISTIC??? Complex negotiations that could take much longer to conclude.

31 Dec 2021 **COMPLETION OF PHASE II and PHASE III NEGOTIATIONS**

REALISTIC??? Complex negotiations that could take much longer to conclude.

Future **BILATERAL PRODUCT BY PRODUCT NEGOTIATIONS**

Will take time.

5 years from AfCFTA completion

NON LEAST DEVELOPED COUNTRIES (LDCs) HAVE 5 YEARS TO ACHIEVE 90% LIBERALIZATION

10 years from AfCFTA completion

LEAST DEVELOPED COUNTRIES (LDCs) HAVE 10 YEARS TO ACHIEVE 90% LIBERALIZATION

FAR FUTURE GOALS

AfCFTA to lead to an **AFRICAN SINGLE MARKET**
Establishment of a **CONTINENTAL CUSTOMS UNION**
Integrate RECs into a **SINGLE AFRICAN FREE TRADE AREA**
Creation of an **AFRICAN MONETARY UNION (AMU)**

Looking forward

Two to three years of ongoing negotiations before AfCFTA will be finalised

WHO WILL IMPLEMENT AFCFTA AND WHO WILL HAVE DECISION MAKING POWER?



- AfCFTA is designed to be a **MEMBER-DRIVEN ARRANGEMENT**
- Decision making power will be in the hands of the various member states on a consensus basis

DECISION MAKING INFLUENCE WILL LARGELY BE LOCATED ON NATIONAL LEVELS

TOP-DOWN INFLUENCE



No decision-making power BUT unions must establish contact:

- Will be involved in all the processes and procedures of AfCFTA
- Will oversee that all member states remain exercised within future labour related objectives
- an important source of information
- Will be responsible for a transparent AfCFTA and should be held accountable for such

ASSEMBLY OF HEADS OF STATE

- Highest decision-making body
- Will make decisions on the recommendations of the Council of Ministers and by consensus

COUNCIL OF MINISTERS

- Hold the power to take decisions in accordance with AfCFTA
- Make recommendations to the Assembly of adoption of authoritative interpretation of AfCFTA
- Comprise of Ministers of Trade or other nominees from state parties.

COMMITTEE OF SENIOR TRADE OFFICIAL

- Overall implementation of the AfCFTA as well as monitoring and evaluation thereof

COMMITTEE ON TRADE IN GOODS

Sub-Committees on:

- Rules of Origin
- Trade, Facilitation, Customs Cooperation and Transit
- Non-Tariff barriers
- Technical Barriers to Trade
- Sanitary and Phytosanitary Measures
- Trade Remedies

COMMITTEE ON TRADE IN SERVICES

- Mutual recognition arrangements
- Services liberalization oversight arrangements

DISPUTE SETTLEMENT BODY

- Panels
- Appellate body
- Arbitration

AfCFTA Regional Coordination

AfCFTA National Coordination

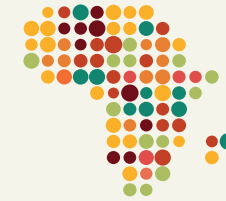
- National AfCFTA entities with broad membership represents an opportunity for trade unions to enter the AfCFTA institutional structure.
- AfCFTA is a member-driven agreement.: Decisions will be made based on consensus among member states.
- **Inclusion in national coordination initiatives will result in direct influence in AfCFTA**

BOTTOM-UP INFLUENCE



Looking Back

AfCFTA: WHERE DID IT START AND WHERE ARE WE NOW?



1991

ABUJA TREATY: Vision of an African Economic Community Progressive approach to regional integration in Africa, the establishment of Regional Economic Communities (RECs) and a plan for creating an African Economic Community by 2028 (Albert, 2019)

2012

DECISION TO ESTABLISH AfCFTA at the African Union's 18th Session in Addis Ababa AU adopts Action Plan to boost intra-African trade

2013

AGENDA 2063 LAUNCHED at the 50 TH Anniversary of the Organisation of African Unity

2017

2012 target for removal of trade barriers

Target missed

Jan 2018

Signing of the Protocol to the Treaty Establishing the African Economic Community relating to the Free Movement of Persons, Right to Residence and Right to Establishment.

2019

NIGERIA, ONLY COUNTRY RELUCTANT TO SIGN THE TREATY TO PROTECT ITS INDUSTRY FROM LOW-INCOME GOODS Nigeria has done much to encourage local manufacturing and expansion of agriculture in the country Concerned that low-priced goods will flood the market. Finally signed the agreement on 7 July 2019 – big boost for AfCFTA as they represent the biggest economy

7 July 2019

AfCFTA OPERATIONAL PHASE LAUNCHED during the 12th Extraordinary Session of the Assembly of the African Union in Niamey, Niger

2020

COVID-19 GLOBAL PANDEMIC

BORDER CLOSURES

30 May 2019

AfCFTA AGREEMENT ENTERED INTO FORCE

30 days after the 22-country ratification threshold

April 2019

The Gambia becomes the 22nd state to ratify AfCFTA Only one year and ten days after its signing, the threshold of 22 countries required for the entry into force of the agreement, was reached. The timelines of this ratification process are unprecedented in the AU history.

18 Mar 2018

ESTABLISHMENT OF AfCFTA In Kigali, Rwanda Signed by 44 heads of state and governments

February 2020

OPERATIONAL PHASE LAUNCH at the 33rd Ordinary African Union Assembly, supported by:

1. The agreed AfCFTA Rules of Origin.
2. Dashboard of the AU Trade Observatory.
3. AfCFTA Trade in Goods Password Protected Dashboard; iv) Pan-African Payments and Settlements System; and
4. Continental Online Mechanism for Monitoring, Reporting and Elimination of Non-Tariff Barriers.

19 March 2020

Mr. Wamkele Mene APPOINTED FIRST SECRETARY GENERAL AND SECRETARIAT TO BE HOSTED BY GHANA PHASE LAUNCH

1 Jan 2021

36 Countries have signed and deposited their instruments of AfCFTA ratification with the AUC Chairperson

1 Jan 2021

AfCFTA OFFICIAL STARTING DATE

Agreement comes into force before negotiations have been concluded!

- For political reasons - creates momentum and may sustain momentum

Opportunity for trade unions to influence negotiations

5 Dec 2020

VIRTUAL AU SUMMIT: Approved the start of AfCFTA

16 Nov 2020

Preparatory Meetings for Commencement of Trading under the AfCFTA AU Head of State and Government urged Member States to prepare national strategies for utilizing and benefiting from the AfCFTA

30 May 2020

PHASE 1 NEGOTIATIONS: TRADE IN GOODS, SERVICES AND DISPUTE SETTLEMENT - LEGAL INSTRUMENTS CAME INTO FORCE BUT NOT CONCLUDED

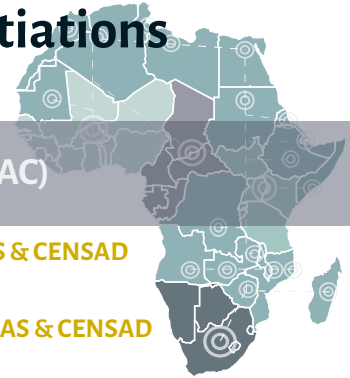
2020

COVID-19 GLOBAL PANDEMIC

INTERNATIONAL TRADE DISRUPTED

WHO WILL CEMAC BE NEGOTIATING WITH?

African continental free trade area negotiations WHO is negotiating with WHOM?



Economic and Monetary Community of Central Africa (CEMAC)

CEMAC has six member states - Cameroon, Central African Republic (CAR), Chad, Congo, Equatorial Guinea and Gabon with the free movement of goods intra-CEMAC and a common external tariff (CET) levied on imports from outside the common customs area irrespective of the destination market.

All six CEMAC countries are also members of the Economic Community of Central African States (ECCAS). The other ECCAS countries are Angola, Burundi, DRC, Rwanda and São Tomé and Príncipe. A preferential tariff for intra-ECCAS trade has been negotiated, but is not yet being implemented. Accordingly, any imports from other ECCAS countries into CEMAC are still levied the CEMAC CET.

Apart from ECCAS, CAR and Chad are also members of CENSAD. However, there are currently no trade arrangements in place among CENSAD countries.

As a Customs Union with a CET the CEMAC countries will be negotiating together, but Cameroon and CAR have not yet ratified the AfCFTA. Also, CAR, Chad and Equatorial Guinea are beneficiaries of the unilateral preferential market access granted by Morocco.

Chad CEMAC, ECCAS & CENSAD

CAR CEMAC, ECCAS & CENSAD

Cameroon CEMAC & ECCAS

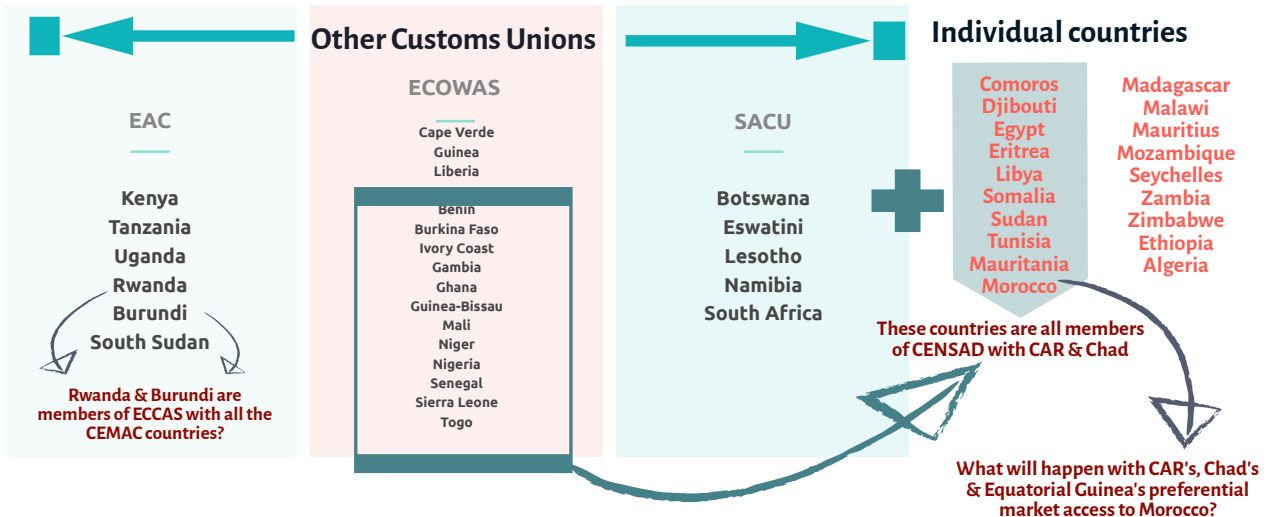
Equatorial Guinea CEMAC & ECCAS

Gabon CEMAC & ECCAS

Congo CEMAC & ECCAS

Although there is overlapping membership with other African RECs all intra-Africa imports from outside CEMAC are levied the MFN applied tariff (CEMAC CET) since there is no trade arrangement among the CENSAD countries and the intra-ECCAS preferential tariff is not yet implemented.

Who will CEMAC be negotiating with?



What about ECCAS?

What about the intra-ECCAS preferential tariff already negotiated, but not yet in force?

Burundi & Rwanda
Members of EAC



Angola
DRC
São Tomé and Príncipe

Not members of any other REC or REC FTA with the CEMAC countries

Cameroon, CAR, Chad
Congo, Equatorial Guinea
Gabon



Members of CEMAC

ECOWAS

Economic Community of West African States (ECOWAS)

1 Members and the Common External Tariff

ECOWAS has 15 member states all of which are part of the ECOWAS FTA with duty-free access for unprocessed goods, traditional handicrafts and certain industrial products of ECOWAS origin. ECOWAS also has a common external tariff (CET) which is levied on imports from outside the ECOWAS region (Cape Verde is currently still in the process of bringing its tariffs in line with the ECOWAS CET).

2 Other RECs and trade agreements

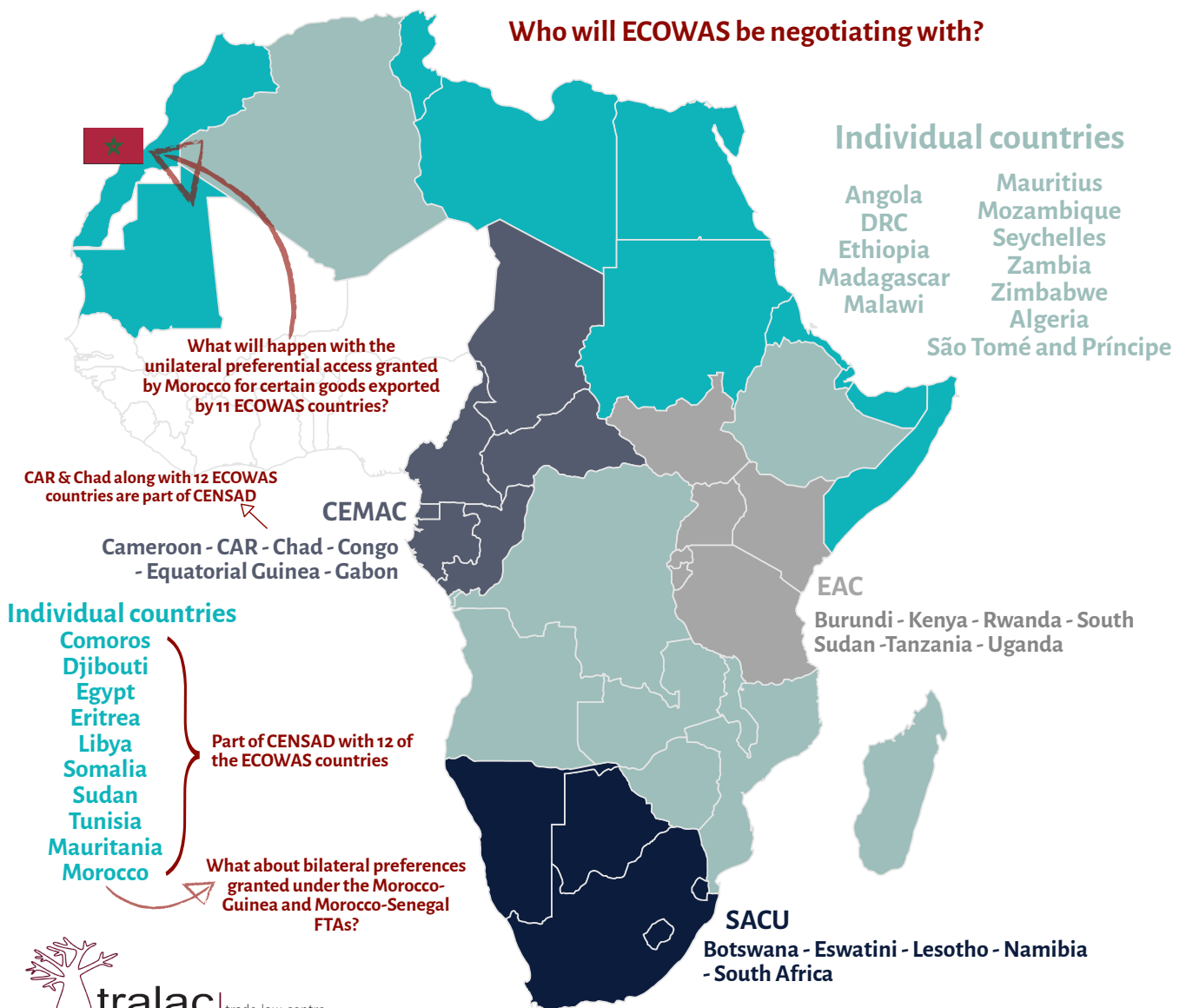
Of the 15 ECOWAS FTA members, all but Cape Verde, Guinea and Liberia are also members of CENSAD, but there is no trade agreement in place among the CENSAD countries. Morocco has FTAs in place with Guinea and Senegal while 11 of the ECOWAS member states are LDCs granted unilateral preferential access for certain goods to the Moroccan market.

3 ECOWAS & the AfCFTA

Since ECOWAS has a CET its member states will be negotiating together. However, Benin, Cape Verde, Guinea-Bissau, Liberia and Nigeria have not yet ratified the AfCFTA. What will happen with the unilateral market access Morocco grants to the majority of the ECOWAS countries? There are also the Guinea-Morocco and Senegal-Morocco bilateral trade agreements.

Benin, Burkina Faso, Gambia, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Senegal, Sierra Leone & Togo

Who will ECOWAS be negotiating with?



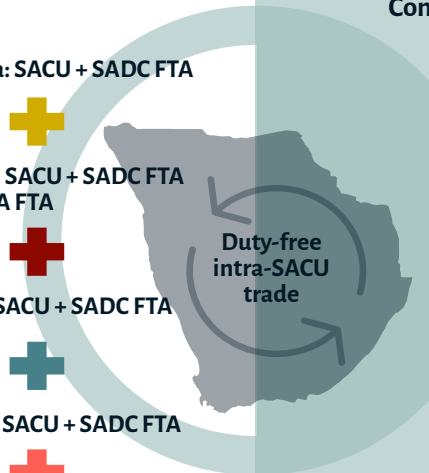
SOUTHERN AFRICAN CUSTOMS UNION (SACU) & THE EAST AFRICAN COMMUNITY (EAC)

African continental free trade area negotiations WHO is negotiating with WHOM?

Southern African Customs Union (SACU) & the East African Community (EAC)

Southern African Customs Union

- Botswana: SACU + SADC FTA
- Eswatini: SACU + SADC FTA + COMESA FTA
- Lesotho: SACU + SADC FTA
- Namibia: SACU + SADC FTA
- South Africa: SACU + SADC FTA

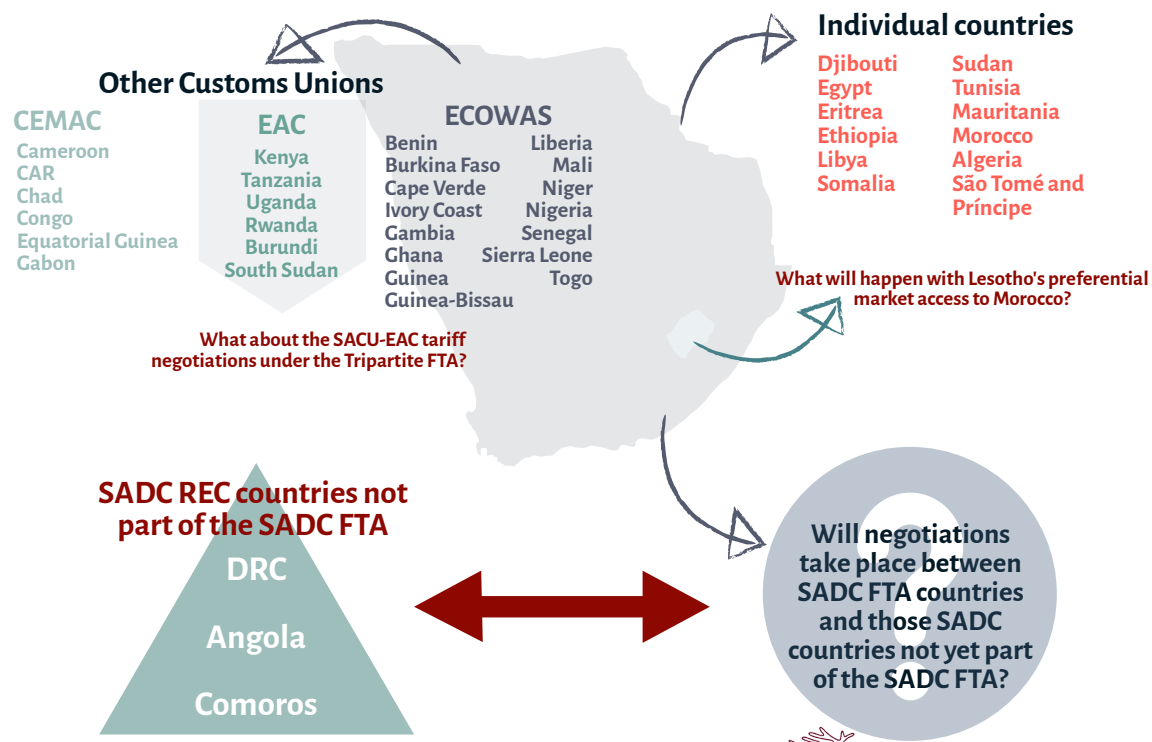


Common External Tariff

- SACU is a customs union with a common external tariff applicable to imports from outside the common customs area irrespective of the destination market.
- All SACU countries are also members of the SADC FTA; accordingly there is a distinction between the CET tariff rates - preferential tariff rates levied on imports from countries with whom SACU has negotiated a trade arrangement (SADC, EU, MERCOSUR & EFTA) and the general rate of duty (the MFN applied tariff on imports from all other sources).
- The SADC REC has 16 countries of which Angola (has recently made an offer), DRC & Comoros are yet to join the SADC FTA. Eswatini is also a member of the COMESA FTA in terms of which goods from Eswatini have preferential access to the other COMESA FTA countries. However, goods imported into Eswatini from COMESA FTA countries are not levied a preferential duty as Eswatini is exempt from reciprocating preferential access due to being a member of SACU. Lesotho is also one of the LDCs which benefits from unilateral preferential market access granted by Morocco.
- SACU has a common negotiating mechanism in place which requires all the SACU countries to negotiate any trade agreements together as a customs union. However, Botswana and Lesotho have not yet ratified the AfCFTA.



Who will SACU be negotiating with?



THE EAST AFRICAN COMMUNITY (EAC)

South Sudan

A member of IGAD and a beneficiary of Morocco's unilateral preferential market access. No publicly available tariff data

Burundi, Rwanda & Uganda

All three are also members of the COMESA FTA; Uganda is also a member of IGAD and Burundi & Rwanda are members of ECCAS

Tariffs applied to intra-Africa imports:

- Imports from outside EAC & COMESA FTA: EAC CET (MFN) with exceptions for products including gum base, sugar & second-hand clothes
- Duty-free imports from other EAC countries
- Preferential tariff applicable to imports from other COMESA FTA countries
- Imports from non-COMESA FTA countries: preferential tariff of 20% of the general tariff for imports from Eritrea and 90% of the general tariff for imports from Ethiopia

Tanzania

Also a member of the SADC FTA

Tariffs applied to intra-Africa imports:

- Imports from outside EAC & SADC FTA: EAC CET (MFN) with exceptions for products including crude sunflower and palm oil, second-hand clothes, safety matches & beef products
- Duty-free imports from other EAC countries
- Preferential tariff applicable to imports from SADC FTA members (Tanzania is a member of SADC and the SADC FTA)

The EAC is also a customs union with a common external tariff; however, the rate of duty of the EAC CET levied on goods imported from outside the common customs area does differ depending on the exporting country and the destination market.

The EAC countries can apply to the EAC Council of Ministers for an exception to the CET for a period of one year (1 July-30 June). These products are normally sensitive goods, like sugar, second-hand clothing, vehicles and steel products. These exceptions are to the MFN (general tariff) applied tariff - the different EAC members can apply different rates of duties which are higher or lower than the CET.

Four of the EAC members (Kenya, Uganda, Burundi & Rwanda) are also members of the COMESA FTA. Tanzania is a member of the SADC FTA. South Sudan is neither part of COMESA nor SADC. There are different preferential tariff rates applicable to imports into the different EAC countries depending on the source (COMESA FTA, COMESA non-FTA or SADC FTA) country and the destination market.

As a Customs Union with a CET the EAC countries will be negotiating together, but there are some practical challenges. Burundi, Tanzania and South Sudan have not yet ratified the AfCFTA; South Sudan & Uganda benefit from unilateral preferential market access granted by Morocco and how will negotiations take place given the extent of the overlapping memberships with other African FTAs?

Kenya

Also a member of the COMESA FTA and IGAD

Tariffs applied to intra-Africa imports:

- Imports from outside EAC and COMESA FTA: EAC CET (MFN) with exceptions including vehicles, flat-rolled steel products, second-hand clothing & laminated wood products
- Duty-free imports from other EAC countries
- Preferential tariff applicable to imports from other COMESA FTA countries
- Imports from non-COMESA FTA countries: preferential tariff of 10% of the general tariff

Who will the EAC be negotiating with?

