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**Economic Commission for Africa  
Committee on Private Sector Development,  
Regional Integration, Trade, Infrastructure,  
Industry and Technology**

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**Presentation of reports by the secretariat:**

**African Continental Free Trade Area: an update on the establishment  
of the agreement and the status of negotiations on phase II**

## **African Continental Free Trade Area: an update on the establishment of the agreement and the status of negotiations on phase II**

### **I. Introduction**

1. Since the tenth session of the Committee on Regional Cooperation and Integration, held in Addis Ababa on 1 and 2 November 2017, the Economic Commission for Africa (ECA) identified and implemented reforms that were shaped by the following five strategic directions: (a) advancing the position of ECA as a premier knowledge institution by strengthening the knowledge profile of staff; (b) developing macroeconomic and structural policy options to accelerate economic diversification and job creation; (c) designing and implementing innovative financing models for infrastructure, human, physical and social assets for Africa in transformation; (d) contributing solutions to regional and transboundary challenges, with a focus on peace, security and social inclusion as an important development nexus; and (e) advocating for Africa's position at the global level and developing regional responses as a contribution to global issues.

2. In the same period, pursuant to resolution 943 (XLIX) of 5 April 2016 and resolution 957 (LI) of 15 May 2018, the Committee on Regional Cooperation and Integration became the Committee on Private Sector Development, Regional Integration, Trade, Infrastructure, Industry and Technology. This change reflects the need to coordinate work on the interrelated goals of the Commission and to adopt a streamlined approach in order to produce results in line with the Commission's outline on the programmatic work, including bringing into focus the role of the private sector.

3. In keeping with the requirements described above and based on the recommendations of the tenth session of the Committee on Regional Cooperation and Integration, section II of this report focuses on the main accomplishments of the Commission relating to the goals and recommendations identified by the Committee. In section III, areas of future work are presented for the consideration of the Committee.

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4. The purpose of the present report is to provide an overview of the work undertaken under Subprogramme 2 on regional integration and trade, from the Commission's strategic framework for the biennium 2018–2019. In that regard, the main accomplishments in the period under review were:

(a) Further analysis of the effect of the Agreement Establishing the African Continental Free Trade Area, focusing on its expected impact and on how member States may be able to maximize its benefits;

(b) Issues relating to the elaboration of phase II negotiations relating to the African Continental Free Trade Area (investment, intellectual property rights and competition policy);

(c) The launch of a new work stream on digital trade and the digital economy;

(d) Collection and compilation of data on intra-African investments;

(e) The launch of the electronic investment guides (iGuides);

(f) Assessment of the linkages between double taxation agreements and bilateral investment treaties;

(g) Preparation of the second iteration of the African Regional Integration Index.

5. The overarching purpose of Subprogramme 2 is to enhance the capacity of member States and regional economic communities to develop, implement and monitor policies and programmes to deepen regional markets, accelerate industrialization, boost intra-African trade and attract foreign direct investment and African crossborder investments. As mentioned, the work described above is conducted in line with the strategic directions and core functions of ECA.

6. Building on the main accomplishments, areas of future work were identified and outlined for the consideration of the Committee; they include scaling up current data collection on informal cross-border trade to quantify its extent and to assess other qualitative aspects; research to identify a pathway for the establishment of an African Customs Union; research on the interaction between trade and climate change; and deeper analysis of e-commerce in free trade agreements.

## II. Main accomplishments

### A. Further analysis of the effect of the Agreement Establishing the African Continental Free Trade Area, focusing on its expected impact and on how member States may be able to maximize its benefits

7. The signing of the Agreement Establishing the African Continental Free Trade Area by 54 African Union member States was a historic moment for economic integration in Africa. By 1 April 2019, just over a year after the signing ceremony, the threshold of ratification by 22 countries required for the agreement's entry into force had been reached, with 27 ratifications by October 2019. The speed of this ratification process was unprecedented in the history of the African Union. The momentum behind this free trade initiative inspired the focus of the ninth edition of the ECA flagship report, *Assessing Regional Integration in Africa (ARIA IX)*, which asked what the next steps might be for the African Continental Free Trade Area.

8. The ninth edition of *Assessing Regional Integration in Africa* provides a detailed assessment of the risks ahead for the African Continental Free Trade Area and describes the steps to ensuring its success, as follows:

(a) operationalize the African Continental Free Trade Area; (b) enlarge the group of State parties to the agreement; (c) effectively implement the Agreement Establishing the African Continental Free Trade Area; (d) undertake complementary measures to take advantage of the agreement; (e) conclude phase II negotiations on investment, competition policy and intellectual property rights; and (f) ensure that the free trade area can be used as a vehicle for achieving an African single market.

9. The ninth edition of *Assessing Regional Integration in Africa* looks ahead to aspects of the phase II negotiations relating to investment, intellectual property rights and competition policy, providing a preparatory situational analysis of the policy environment in Africa for each of these issues, and options for negotiators to consider in these areas during their negotiations.

10. The most recent empirical assessment by ECA of the modalities of the agreement on the free trade area relating to goods indicated that the gross domestic product (GDP) and trade in Africa would increase following the liberalization of trade in goods. Indeed, the benefits were expected to centre on intra-African trade, which was expected to increase by between \$50 billion (or 15 per cent) and \$70 billion (or 25 per cent). About two thirds of the intra-African trade gains were expected to be in industry, thereby offering valuable opportunities for African economies to industrialize, as a positive impact of the African Continental Free Trade Area. The analysis further demonstrated that small countries need not fear the proposed continent-wide reform as least developed countries in Africa would in fact register the largest increases in intra-African exports of industrial products. Finally, despite the decrease in tariff revenues, African welfare gains were set to increase slightly with the African Continental Free Trade Area. Earlier ECA research showed that GDP, trade and welfare gains would be amplified for all African countries if non-tariff barriers were also addressed in parallel and as planned under the Agreement.

11. Harnessing the benefits of the African Continental Free Trade Area while mitigating potential risks needed to begin at the national level, including the prerequisite of ratification by member States. Over the period 2018–2019, collaborations took place between representatives of ECA Subprogramme 2 and the African Union Commission – and other institutions – concerning policy advocacy and consensus building by supporting member States in organizing consultations and sensitization forums on the topic of the free trade area. As of October 2019, such consultations took place in the following countries: Algeria, Benin, Cameroon, the Congo, Côte d'Ivoire, the Democratic Republic of the Congo, Egypt, Ethiopia, Gabon, the Gambia, Guinea, Mauritania, the Niger, Rwanda, Senegal, Sierra Leone, Togo, Tunisia, the United Republic of Tanzania and Zimbabwe. Two large regional forums were held in Ethiopia and in Senegal, with another scheduled to take place in Southern Africa.

12. Moreover, to ensure effective implementation of the Agreement, the Subprogramme provided support in the development of relevant national strategies and setting up national committees in the following 14 countries: Cameroon, Chad, Côte d'Ivoire, Djibouti, the Gambia, Guinea, Kenya, Mauritania, the Niger, Senegal, Sierra Leone, Togo, Zambia and Zimbabwe. The strategies are expected to complement the broader development framework, especially in relation to the trade policy environment of each country. It is expected that national strategies will facilitate the identification of both key opportunities for trade and value addition and constraints as well as assessments of the measures and capacities needed to take full advantage of national, regional and global markets within the context of the African Continental Free Trade Area.

13. Implementation of the Agreement Establishing the African Continental Free Trade Area also requires the existence of adequate infrastructure systems, including metrology, standardization, accreditation, quality management and conformity assessment. Compliance with standards and technical regulations is important for signalling and guaranteeing the quality of produced and traded goods. In that regard and following requests from member States, Subprogramme 2 has undertaken a research project to identify products and value chains to be prioritized for harmonization at the level of the regional economic community, in support of the coordination and advisory role on standards' harmonization under the Agreement Establishing the African Continental Free Trade Area of the African Organization for Standardization.

14. Activities focused on the important trade and industrialization nexus and regional value chain development were undertaken during the period in review, with the following specific contributions:

(a) Partnership with the Organization for Economic Cooperation and Development (OECD) and the Government of Egypt to use the product transformation policy review tool centred on regional value chain development in the context of the African Continental Free Trade Area;

(b) An analytical article, *The African Continental Free Trade Area: Opportunities for Industrialization in the Digital Age*, published in the journal of the African Export-Import Bank, *Contemporary Issues in African Trade and Trade Finance*;<sup>1</sup>

(c) Preparation of a report on identifying priority products and value chains for standards harmonization in Africa, in the context of the African Continental Free Trade Area Technical Barriers to Trade, and Sanitary and Phytosanitary annexes.

15. In efforts to promote regional value chains across Africa, the Subprogramme collaborated with the United Nations Conference on Trade and Development (UNCTAD) to improve the capacity of cotton value chain stakeholders, including government officials, the private sector and farmers associations, in Uganda, Zambia and Zimbabwe, to assess the potential value, market situation and prospects for cotton by-products, including in the regional context.

16. On the services front, the Subprogramme strengthened capacities of national and regional services trade policymakers to measure value chains and design services policies aimed at increasing integration and penetration into regional and global value chains. In that regard, in the period 2018–2019, six countries benefited from ECA support, in close collaboration with UNCTAD, namely: Ethiopia, the Gambia, Kenya, Mali, Nigeria and Togo.

17. In 2019, ECA and the African Export Import Bank launched a new pilot project on the enhanced quality of informal cross-border trade in the Economic Community of West African States (ECOWAS) region. The pilot project is focusing on data collection, since this was identified as an essential first step to justify the importance of informal cross-border trade to policymakers and investors in the region. The specific objective of the pilot is to develop and execute a comprehensive survey methodology to collect data on such trade along the Abidjan–Lagos Corridor, which can subsequently be rolled out elsewhere on the continent. The data collection exercise, successfully launched in September 2019, will continue for a period of four months. Its findings are expected to shed light on the volume, value and variety of products traded along the corridor and on the constraints to formalization. The data collected will also be gender-disaggregated, which will help to provide a better picture on the

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<sup>1</sup> David Luke and Lily Sommer. *The AfCFTA: Opportunities for Industrialization in the Digital Age*, *Contemporary Issues in African Trade and Trade Finance*, vol. 4, No. 1.

gendered dimensions of informal cross-border trade, which is typically female-dominated.

18. Work on trade and gender was extended in order to identify and enhance the links between trade and women's economic empowerment. Specific contributions included:

(a) Organizing the 2018 Continental Trade and Gender Workshop on the margins of the Intra-African Trade Fair of the African Export-Import Bank;

(b) Carrying out a comparative study of mainstreaming gender in trade policy at the regional economic community level;

(c) Preparing policy briefs on options for mainstreaming gender in the implementation of the Agreement Establishing the African Continental Free Trade Area;

(d) Developing and delivering trade, gender and development training to senior public officials at the African Institute for Economic Development and Planning (IDEP), which is the training arm of ECA;

(e) Mainstreaming gender in national implementation strategies relevant to the African Continental Free Trade Area, supported by ECA;

(f) Gender-disaggregated data collected as part of the informal cross-border trading data collection exercise mentioned previously.

## **B. Issues relating to the elaboration of phase II negotiations on the African Continental Free Trade Area (investment, intellectual property rights and competition policy)**

19. The negotiators of the agreement relating to the free trade area are tasked with reviewing the draft protocols on investment, intellectual property rights and competition policy, and setting the stage for the phase II negotiations to take effect along with the previously ratified agreement. In 2019, ECA and the African Union, together with the regional economic communities and experts in the above fields, drafted the base text of the protocols after lengthy consultations and exchange of best-practice information.

20. The negotiating team will consider the options provided by the draft protocols, including the possible establishment of new African Union entities to lead the competition policy initiatives; addressing continental innovation protection through intellectual property rights; and working towards the overall goal of intra-African investments through a comprehensive and effective investment protocol.

21. To assist the continent to achieve its regional integration goals, Subprogramme 2 is currently drafting a report for publication on policy options towards levelling the playing field for intra-African investment through the establishment of a common investment area in the Continental Free Trade Area.

22. As the draft protocols are being negotiated at the continental level, negotiators are in the process of considering the remaining challenges, including the highly volatile prices of export commodities, political instability in some countries, weak infrastructure (together with the absence of national competition authorities, for example), continuing governance issues in some areas and macroeconomic uncertainty.

### C. The launch of a new work stream on digital trade and the digital economy

23. Cognizant of the transformations associated with digitization and proliferation of technologies, this cross-cutting work stream considers the interplay of digitization and trade diversification and industrialization, e-commerce for boosting intra-African trade and inclusion in the digital age. It covers the following topics:

(a) Digital industrialization: research on the potential effect of technological advances associated with the fourth industrial revolution on industrial development aspirations in Africa. This also seeks to identify strategies and approaches by which countries may benefit from the digital economy to enhance industrialization efforts and diversification of trade. In 2019, a joint research report was published by UNCTAD in collaboration with the African Export-Import Bank on digital transformation for intraregional trade and industrialization in Africa, as well as an analysis relating to the African Continental Free Trade Area and industrialization opportunities in the digital age, referred to earlier in this report;

(b) African Continental Free Trade Area: research to cover a variety of issues such as positioning the digital economy, particularly e-commerce as the driver of increased levels of intra-African trade, mapping current policy and regulatory frameworks at national and regional levels, identifying the reciprocal impacts of the African Continental Free Trade Area and the continental digital economy, and integrating the digital economy into relevant national strategies. The ninth edition of *Assessing Regional Integration in Africa* includes a dedicated chapter on e-commerce, proposing policy options for regulatory cooperation and coherence for e-commerce in the context of the African Continental Free Trade Area;

(c) Trade facilitation: research on strategies for the adoption of e-commerce tools to ease the completion of trade formalities, such as single windows and blockchain technology in rules of origin;

(d) Inclusion: conduct analyses of the potential impact of digital trade on human rights, economic empowerment for women and young people, and digital trade and informality. A conference on digital trade in Africa was held in Addis Ababa from 31 May to 1 June 2018, which examined the implications for inclusion and human rights. It formed the basis for a joint study by ECA, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Friedrich-Ebert-Stiftung, *Digital Trade in Africa: Implications for Inclusion and Human Rights*, which was published in 2019;

(e) E-commerce policy: propose policy positions through analyses of e-commerce strategies of regional economic communities and the relationship between e-commerce and competition policy;

(f) E-commerce in the World Trade Organization (WTO): analysis to support the Africa Group at WTO in response to the topic of WTO e-commerce negotiations, including an assessment of the e-commerce rules being proposed and their implications for Africa.

24. Digital identity: the Chairperson of the Executive Council of the African Union requested the Specialized Technical Committee on Trade, Industry and Minerals to discuss the issue of digital identity and the African Continental Free Trade Area during its Ordinary Session, which took place in Addis Ababa from 7 to 11 January 2019. In a gesture of support, ECA prepared an issues paper on the same topic, which was presented to the Ministers. The report discussed themes such as the digital identity initiative and principles for good digital identity. The ministers recommended that the principles should be endorsed and the need for a comprehensive digital strategy should be further

considered at summit level. The Specialized Technical Committee recommendations were adopted during the African Union Summit in February 2019, which gave a concrete mandate to the African Union Commission, in cooperation with African Union member States, ECA and all relevant stakeholders, to develop a comprehensive African Union Digital Trade and Digital Economy Development Strategy, to be presented for adoption during the summit scheduled for January 2020. It is expected that this strategy and the popularization of good framework principles for digital identity, digital trade and digital economy in Africa will more effectively support member States with policies assisting them to bridge the digital divide and unlock the opportunities that the digital era promises.

25. In October 2018, together with its strategic partners, ECA launched its Centre of Excellence on Digital Identity, Trade and Economy. The Subprogramme is represented in, and actively participates in the Centre whose work is overseen by a high-level advisory board. The Centre serves as an on-demand source of technical advice for countries in respect of digital identity, trade and digital economy initiatives, and will undertake research on the multifarious dimensions of the digital economy. It will also seek to coordinate the work of various ECA programmes towards supporting the creation of a single digital market under the African Continental Free Trade Area.

26. The Subprogramme co-organized the second African Union e-commerce conference in October 2019, which yielded the base policy briefs informing the African Union Digital Trade and Digital Economy Strategy to be considered by the African Union Summit in 2020.

#### **D. Collection and compilation of data on intra-African investments**

27. The publication, *Compendium on Investment*, was issued in the context of the biennial programme (2016–2017). During the tenth session of the Committee on Regional Cooperation and Integration, ECA member States recommended that further work be done to develop a database on investment in the coming biennium (2018–2019).

28. The *Compendium on Investment* was updated in 2019 to include recent figures on the flow of global foreign direct investment (FDI) to the continent and intra-African investment disaggregated by country of origin and economic sector. Subject to data availability, the accompanied database is being used to produce an investment profile highlighting the major trends and patterns of global FDI flows and intra-African investment in each member State. The information contained in the compendium is intended to build an empirical foundation for policy-oriented research on FDI in Africa and to inform decision makers in the area of investment policies in the continent including on FDI data gaps.

29. The work on the *Compendium* benefited from the support of UNCTAD in providing updated bilateral FDI data in Africa. It also informed the World Investment Forum 2018 of existing data gaps in Africa needing to be filled to enable more exhaustive and comprehensive analysis of FDI drivers and policies in the continent. There appears to be a noticeable sectoral shift away from the services sector in favour of manufacturing, while sectors such as agriculture and natural resources continue to attract FDI in Africa. Energy and manufacturing also reflect significant investment potential in Africa, which is consistent with African aspirations to structurally transform the continent's economy and achieve sustainable development. Interestingly, Africa as an investor proves more inclined to invest in the primary and manufacturing sectors.

## **E. Launch of the electronic investment guide (iGuide) project**

30. The iGuide is an easy-to-use online tool providing potential investors with useful information concerning investment opportunities, costs and applicable laws and procedures. It is developed and maintained by the national investment promotion agencies in collaboration with UNCTAD and ECA.

31. The iGuide is a demand-driven project that offers technical assistance and capacity-building free of charge to member States and is intended to help them attract more investments, which may be conducive to their development and structural transformation. The iGuide was made available to 14 countries in Africa, Asia and Latin America and the Caribbean. During the period 2018–2019, iGuides were launched in seven African countries, namely: the Congo, Ethiopia, Madagascar, Malawi, Mauritania, Nigeria and Zambia. The Subprogramme continues to work with these member States on the “after care” services and support.

## **F. Assessment of the linkages between double taxation agreements and bilateral investment treaties**

32. At a time when Africa was at an important crossroads of investment regulation, ECA was mandated by the Ministers of Trade of the African Union to conduct a study on the linkages between double taxation treaties and bilateral investment treaties in 2018. As a whole, the continent tends towards a reactive, rather than proactive, approach in this field, with little participation in forums in which investment and related taxation matters are or have been discussed.

33. Bilateral investment treaties are signed primarily to protect foreign investors against domestic political risks that might adversely affect their investment in the host country, whereas double taxation treaties are designed primarily to prevent instances of double taxation, which, studies have shown, often distorted investment inflows and helped to combat tax evasion.

34. The policy credibility of Subprogramme 2 was enhanced by sharing evidence-based recommendations in two of its research reports: *Drivers for Boosting Intra-African Investment Flows towards Africa's transformation and Linkages between Double Taxation Treaties and Bilateral Investment Treaties*, which were presented during the World Investment Forum 2018. These reports built on the knowledge generated in the previous biennium and played a key role in shaping policies in African member States. The work done in the Subprogramme proved influential in providing guidance to the continuing debate on the reform of international investment agreements, as well as for phase II negotiations of the African Continental Free Trade Area. Representatives of ECA attended and provided a presentation at the twelfth Annual Forum of Developing Country Investment Negotiators held in Cartagena, Colombia from 27 February to 1 March 2019.

35. In the spirit of advancing the continuing dialogue, these outputs served as analytical elements to show how the relationship between bilateral investment treaties and double taxation treaties could affect investment and what impact that might have on the continent's ability to harness and retain investment and, at the same time, avoid illicit financial flows that derived from the investment activities of multinationals through double taxation treaties.

36. The knowledge shared and generated enabled member States to become informed and position themselves to: review, negotiate, renegotiate or terminate investment agreements with careful consideration of the legal, policy, economic and social implications of such agreements to ensure that a balance was struck between protecting investment and preserving sufficient policy space to achieve their development objectives; and contemplate the



opportunities that existed for expanding intra-African investment, especially in the context of the African Continental Free Trade Area.

### **G. Preparation of the second iteration of the African Regional Integration Index**

37. Work on the African Regional Integration Index (ARII) is led by Subprogramme 2, along with the African Union Commission and the African Development Bank (AfDB) as partner institutions. In this context, ECA organized (in partnership with AfDB and the African Union Commission) an Expert Group Meeting in Addis Ababa on 14 and 15 January 2019 to review the methodology and discuss the main findings of the advance draft of the ARII Report 2019 and the policy recommendations that emanated from it, with a view to supporting member States with a knowledge product that could inform their understanding of the elements and the status of regional integration.

38. ARII also supports the decisions of the African Union to advance regional integration. The main objective of ARII is to monitor and evaluate the status of regional integration of African countries to encourage sharing of best practices. ARII also aims to provide the required incentive for member States to enhance their regional integration performance. The meeting was attended by five of the eight African Union regional economic communities, and by international and regional experts in the areas of trade and regional integration. Following this meeting, the ARII is undergoing a final review prior to being submitted for editing and translation.

## **III. Recommendations and conclusion**

39. Further analysis is required for a more comprehensive evaluation of the expected economic impacts of the negotiations under way in respect of the African Continental Free Trade Area. For instance, the modalities of the African Continental Free Trade Area process relating to services need to be analysed in greater depth. Other important complementary initiatives that warrant attention include the free movement of persons or investment in the continental market. Beyond trade-related impacts, the employment and poverty implications of the Agreement Establishing the African Continental Free Trade Area should also be considered. In that context, ECA is committed to helping to fill data gaps to then be able to undertake more comprehensive assessments of the impact of the African Continental Free Trade Area negotiations, starting with the issues of services and employment.

40. Looking ahead, the Subprogramme will continue to provide technical support to member States to ensure effective implementation of the Agreement Establishing the African Continental Free Trade Area with a view to fully maximizing achieved gains while promoting the scaling up of regional value chains as a way to better integrate global value chains.

41. In 2020, it is planned that the Subprogramme will scale up its pilot project on informal cross-border trade and apply the methodology to other corridors and regions on the continent, with the ultimate goal of developing a single continental framework for informal cross-border trade data collection in the context of implementation and monitoring of the Agreement Establishing the African Continental Free Trade Area. This data collection is expected to inform recommendations on how to more effectively extend the benefits of free trade to informal cross-border traders, and how to create systems for more structured informal cross-border trade in the transition to formalization.

42. In 2020, Subprogramme 2 proposes to explore the possibility of a research project on the structural and policy underpinnings required to facilitate the emergence of an African Customs Union to support the implementation of the Agreement Establishing the African Continental Free Trade Area.

43. A new work programme that is focused on assessing the human rights and inclusivity implications of the trade and climate change nexus will be launched in the context of the partnership of ECA with OHCHR and the Friedrich-Ebert-Stiftung. It will explore the essential role that trade can play in adjusting to shifts in agricultural and food production patterns resulting from climate change, an issue which has been largely overlooked in existing literature. In the context of the African Continental Free Trade Area, this work stream will further focus on strategies for green industrialization and technological leapfrogging to ensure a low carbon and sustainable growth trajectory for member States. The findings are expected to provide cutting-edge and innovative contributions to the climate change policy debate and the United Nations Climate Change Conference – 26<sup>th</sup> Conference of the Parties in 2020.

44. The digital trade and digital economy work stream will engage more deeply in the themes of e-commerce in free trade agreements and support the implementation of the African Union Digital Trade and Digital Economy Strategy. The work stream will also support preparations across the continent for multilateral and plurilateral e-commerce negotiations through a study on the practical issues of e-commerce entrepreneurship to identify African interests and possible negotiating positions.

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