

African Continental Free Trade Agreement (AfCFTA)

A meeting was held with the Department of Trade, Industry and Competition's Chief Negotiator on the AfCFTA, Mr Wamkele Mene. At the session, an update on the AfCFTA negotiations was provided, including on the tariff schedule. The AfCFTA was officially launched into its implementation phase after 54 African countries signed the agreement and 27 countries ratified it and is intended to come into effect on 1 July 2020. The agreement will materially impact on terms of trade and investment across the continent and holds significant opportunities for South African firms.

Objective to ensure market open for SA service and goods.

To be rolled out in 3 phases:

Phase 1:

Close to concluding. Focus on protocol trading services and trading goods

Phase 2:

International property rights

Reduce tariffs up to 0 over 97% of goods

90% reduced over shorter period

7% sensitive products are longer period of time – 13 years

3% excluded products

Consultations in Nedlac to determine what to put in each % category

End of September 2019 decided on 90% offer to trading parties

End of December – final offer of 97%

Another layer of bilateral negotiations with on the 7% complete by end of 2019

Phase 3:

August 2019 start negotiating

1. Investment protection

E.g. MTN in Nigeria issues experienced

No legal framework for legal recourse for SA for MTN, limited options except diplomatic intervention.

Legal framework developed for investment protection

2. IP Rights – Trademark and copy

Enforcement not possible as no legal instrument for this. Rely on WTO protection – not very successful. Offers new avenue for protection

3. Competition policy

Less legal protection outside of East Africa and southern Africa don't have

enforcement capacity and authority. Set up framework cooperation – after time set

up enforcement authority for whole of Africa. Need enabling legislation for this (e.g. Europe has treaty)

Benefits for SA

1. New markets to enter
2. Predictability and certainty
3. Recourse for investment and trade
4. Exporters- dispute settlement agreement separate from countries courts
New approach arbitration panel – International experts in trade law (modeled into WTO) can appeal ruling, take review. Give confidence. Can have legal recourse
5. Goods don't sit on border – aim efficient, technical expertise of arbitrators

Challenges

1. Enforcement- How to enforce agreement. How to ensure better of instruments implemented. Some countries have history of not adhering to agreements
2. Trade remedies
Only SA and Egypt have framework and authority (ITAC) for trade remedies
Now have trade defense mechanisms in the agreement but only two countries have the authority to enforce. Have to establish trade authority may be continental. Assist countries on trade defense mechanisms
3. Rules of origin enforcement
Customs authorities be very vigilant. Consultation with National Treasury – devising a plan for improving enforcement capacity because scale is bigger. Take active measures to protect jobs in SA