

APSEA/GIZ AfCFTA Sensitisation Programme

30th October 2023



Implemented by



AGENDA

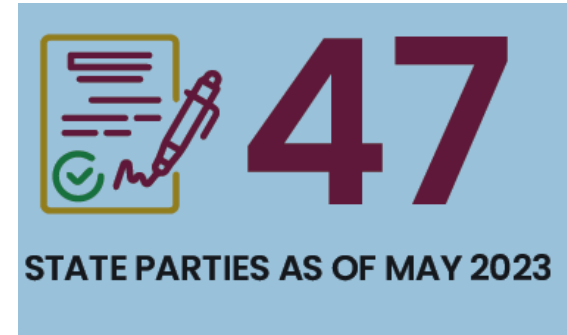
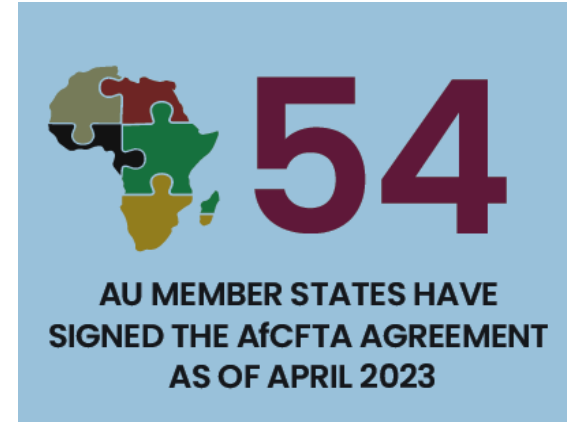
1. Introduction to the AfCFTA
2. Trade in Services in the Context of the AfCFTA
3. Overview of Commitments made by Kenya & by selected AfCFTA State Parties
4. Regulatory & Operational Issues around professional services, including MRAs
5. Key Takeaways



Introduction to AfCFTA

ABOUT THE AFCFTA

- AfCFTA - African Continental Free Trade Area is one of the 13 flagship projects of AU Agenda 2063: The Africa We Want.
- AfCFTA agreement **signed in March 2018 in Kigali, Rwanda.**
- Aims to bring together all the African countries. **54 have signed the Agreement.** (Eritrea not yet).
- Came into force in **May 2019 when 22 countries** ratified and deposited instruments of ratification
- As at 30th October 2023, **47 Member States have OFFICIALLY deposited instruments of ratification.**
- Member States – AU members Vs **State Parties – AU member states that have ratified the AfCFTA Agreement.** The Agreement is in force for only State Parties.



Source: AfCFTA Secretariat

ABOUT THE AFCFTA – GENERAL OBJECTIVES

- **Create a liberalised market for goods and services** through successive rounds of negotiations
- Contribute to the **movement of capital and natural persons and facilitate investments** by building on the initiatives and developments in the State Parties and the Regional Economic Communities (RECs)
- Lay the **foundation for a Continental Customs Union** at a later stage; to promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties
- **Enhance the competitiveness of the economies** of State Parties
- Resolve the challenges of multiple and **overlapping memberships** and expedite the regional and continental integration processes



Source: AU Website / Tralac

ABOUT THE AFCFTA – SPECIFIC OBJECTIVES

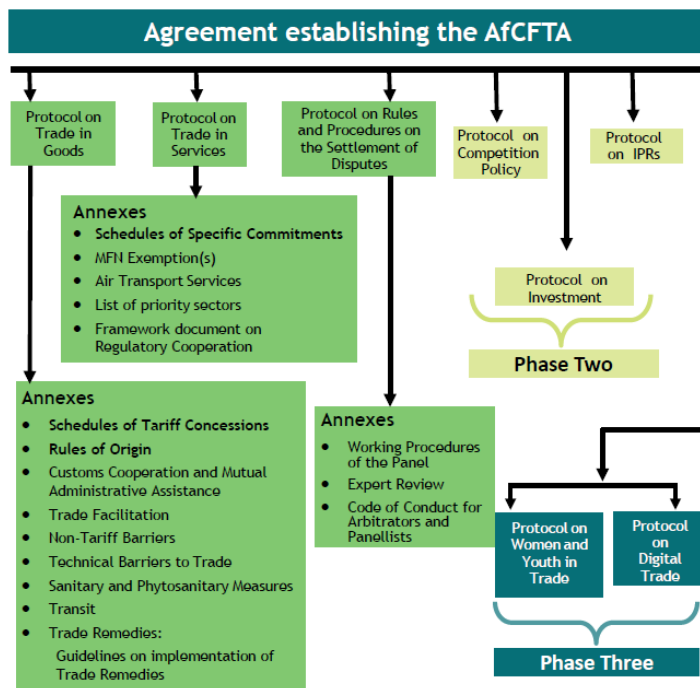
- Progressively **eliminate tariffs and non-tariff barriers to trade in goods**
- Progressively **liberalise trade in services; cooperate on investment, intellectual property rights and competition policy**
- **Cooperate on all trade-related areas; cooperate on customs matters and the implementation of trade facilitation measures**
- Establish a mechanism for the **settlement of disputes**
- Establish and maintain an institutional framework for the implementation and administration of the AfCFTA.



Source: AU Website / Tralac

ABOUT THE AfCFTA – ARCHITECTURE

- **AfCFTA Agreement** is the founding agreement of the AfCFTA.
- The Agreement provides **Protocols for Trade in Goods; Trade in Services; Investment; Intellectual Property Rights; Competition Policy and Dispute Settlement**
- The AfCFTA Agreement + above protocols **all entered into force on 30 May 2019. (BUT!)**
- **Phase II** – Protocols on Competition, IPR and Investment (Only co-operation foreseen in AfCFTA Agreement)
- **Phase IIb** - Protocol on Women & Youth in Trade; Protocol on Digital Trade. Both Phase II Protocols have been concluded and were approved by the 36th Ordinary Session of the Assembly of Heads of State and Government of the African Union.
- RECs – **8 recognized by AU**. Includes EAC, COMESA and IGAD, which Kenya is a member of.
- AfCFTA – **RECs to maintain own integration level**, including those higher than FTA.

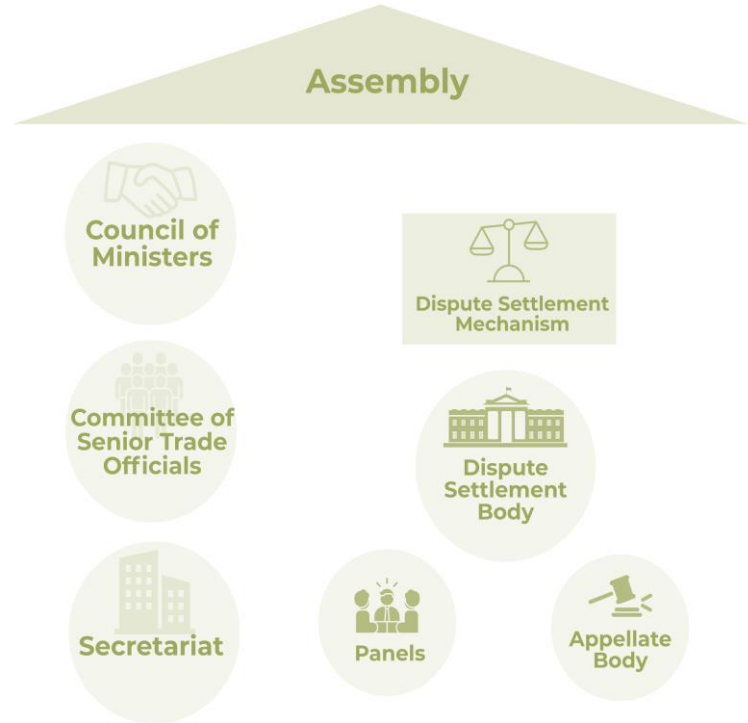


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Source: Tralac

ABOUT THE AFCFTA – INSTITUTIONS

- **The Assembly – of the AU Heads of States. Not just State parties.** The ultimate decision-making body for the AfCFTA.
- The **Council of Ministers** comprises Ministers for Trade or other nominees from State Parties. Can take decisions in accordance with the AfCFTA Agreement. Reports to the Assembly through the Executive Council of the AU and makes recommendations to the Assembly.
- The **Committee of Senior Trade Officials** consists of Permanent Secretaries / designates by State Parties. Responsible for the development of programmes and action plans for the implementation of the AfCFTA Agreement.
- **The AfCFTA Secretariat** - administrative organ to coordinate the implementation of the AfCFTA. It is based in Accra, Ghana..
- The Dispute Settlement Mechanism – aligns with WTO DSM. **Only State Parties can bring applications. Private party litigation is not possible.**



Source – Tralac

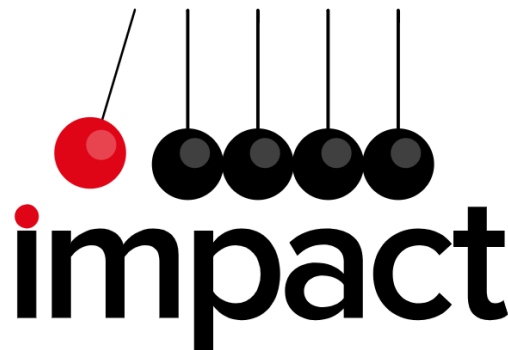
ABOUT THE AFCFTA – START OF TRADING

- The AfCFTA Agreement was to enter into force after 22 ratifications – achieved on 30th May 2019. Thus, Protocols on Goods; Services and Rules and Procedures on Settlement on Disputes came into force.
- However, **NOT all legal instruments were in place to enable preferential trading:**
 - Negotiations to finalise Rules of Origin and schedules of tariff concessions for Goods not yet concluded.
 - Negotiations for the Schedule of specific commitments for the 5 priority sectors in trade in services (business services; communications, finance, tourism and transport) are still on going (More).
- **BUT 13th Extra-Ordinary Session of the Assembly of the AU issued directive for Trade under the AfCFTA to commence on 1st JANUARY 2021**, for trade in goods for which RoO are finalised, under the tariff offers that have been tabled, if State parties ARE READY – tariff books have been updated, gazettment of customs legislations and all other documentary requirements such as certificates for RoO.
- Trading did not happen until the Guided Trade Initiative (GTI) in October 2022.
- **For Trade in Services, the GTI is yet to start, but it is under discussion.**
- We shall focus on services since APSEA members are in the service sector, in the main...

SIGNIFICANCE OF THE AfCFTA

GENERAL SIGNIFICANCE: (Based on AU / Other credible reports) - when fully implemented, the AfCFTA will result in:

- **Enhanced Market Size and Trade:** AfCFTA will create an economic region of 55 African countries, with **1.3 billion people (projected to rise to 1.7 billion in 2020)** and a **combined GDP of about USD3.4 trillion**. Middle class targeted to be 600 million people by 2030
- **Export Growth:** World Bank estimates that by 2035 the volume of **total exports would increase by almost 29%** relative to business as usual. Currently it is at 17%.
- **Shared Prosperity & Welfare Gains:** Africa is the world's poorest and most underdeveloped continent with a continental GDP that accounts for just 2.4% of global GDP and accounts for only about 2% of global trade. UNCTAD estimates that the AfCFTA will result in **total welfare gains of USD 16 Billion – 24 Billion** (+0.97% GDP and +1.17% employment).



AFCFTA – ESTIMATED BENEFITS FOR EASTERN AFRICA



Benefits will be larger due to:

Reduced NTBs

**Trade
Facilitation
Measures**

**Increased
Services Trade**

POTENTIAL BENEFITS FOR EASTERN AFRICA



1.6 – 4.5 million new jobs
in an integrated
East African Digital Market



A **continental labour market**
will help meet
skilled labour shortages



50,000 jobs
in Ethiopia, Kenya and Uganda
through **air service liberalization**



Regional power pools
e.g., through Ethiopian exports
of **hydroelectric power**



Lower fuel import bill
e.g., Ethiopia stands to save
15-20% of its annual US\$3.4 bill



More intra-regional food trade

WHAT IS DATA TELLING US?

SERVICES TRADE DATA – SOME CAVEATS

- Unlike data for trade in goods, services trade data presents long-standing challenges for analysis, not only in Africa, but globally.
- Current statistics rely on information compiled through the National Accounts System, which does not accurately differentiate services according to modes of supply and also uses highly aggregated classification of services sectors. **Most of the available statistics do not provide information about which partners African countries are trading with (except globally ‘trade with the world’) and they rely mainly on Balance of Payments Services (BOP), which is based on payments by residents to non-residents.**
- Also, difficulties remain in **how to capture modes 4 supply**, which is often through remittance transactions that do not usually separate persons employed in services sector from those employed in manufacturing sector and government services.
- Also as seen, **Mode 3 services are often not captured.**
- Thus, **the data is not an exhaustive reflection of the value of trade in services.** But it is what is commonly used across the globe.

SERVICES TRADE DATA – BOP CATEGORIES

1. **Transport** covers sea, air and other including land, internal waterway, space and pipeline transport services that are performed by residents of one economy for those of another and that involve the carriage of passengers, the movement of goods (freight), rentals (charters) of carriers with crew, and related supporting and auxiliary services, including postal and courier services.
2. **Travel** covers the goods and services acquired by a traveller while outside the territory of residence. Travel can be undertaken for personal or business reasons.
3. **Other Commercial Services** include the following sectors: Construction; Insurance and pension services; Financial services; Charges for the use of intellectual property, n.i.e.; Telecommunications, computer and information services; Other business services; Personal, cultural and recreational services.
4. **Goods-related Services** cover Manufacturing services on physical inputs owned by others and Maintenance and repair services

SERVICES TRADE DATA CATEGORIES

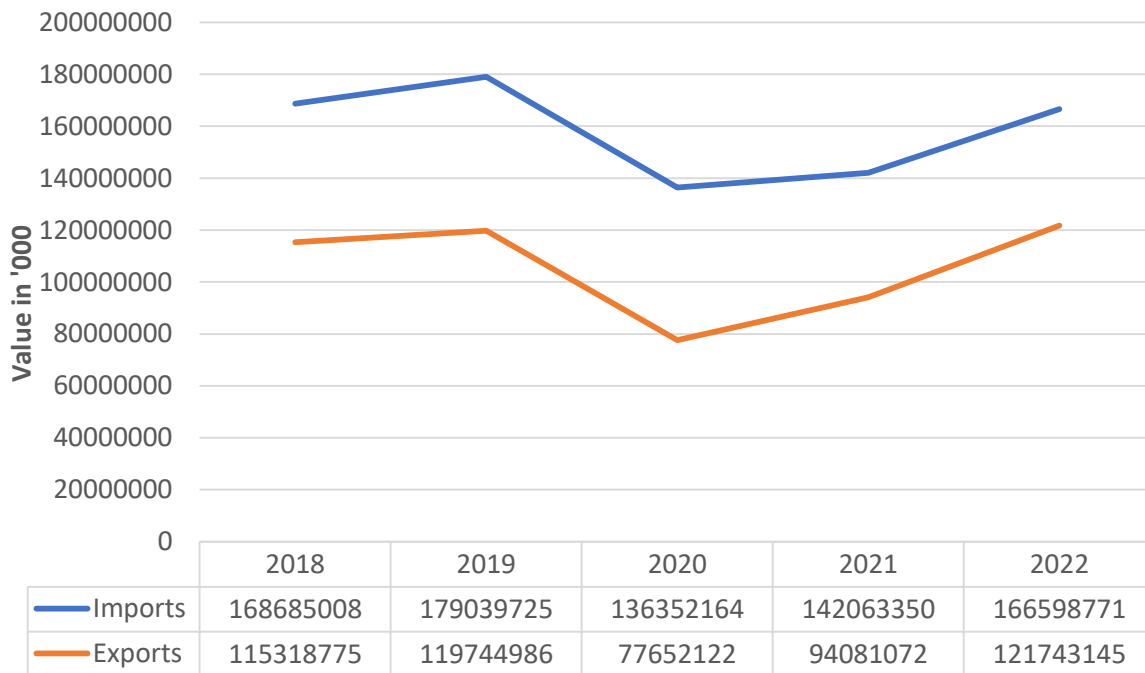
5. Other Business Services include three sub-components: Research and Development services, Professional and Management Consulting services and Technical, Trade-related and Other Business services.

- *Research and development* - services that are associated with basic research, applied research and experimental development of new products and processes.
- *Professional and management consulting services* - legal, accounting, management consulting, and public relations services, advertising, market research and public opinion polling services.
- *Technical, trade-related and other business services* - architectural, engineering, scientific and other technical services; waste treatment and de-pollution, agricultural and mining services; operating leasing services; trade-related services; and other business services

NOTE: Data used is from ITC TradeMap, which uses UNCTAD & OECD data, based on national Bureau of Statistics Data. Where data is not confirmed, mirror data is used.

AFRICA'S COMMERCIAL SERVICES EXPORTS & IMPORTS

Africa's Commercial services trade (2018-2022), in '000USD



- Total trade worth **USD 288.4billion (excludes M3!)**
- Africa is a **Net importer** of commercial services (USD **166.6 billion** against 121.7billion of exports in 2022)
- **Significant drop** 2019/2020, driven primarily by COVID -19 pandemic
- **Signs of recovery**, for both imports and exports, **but yet to reach pre-covid values.**

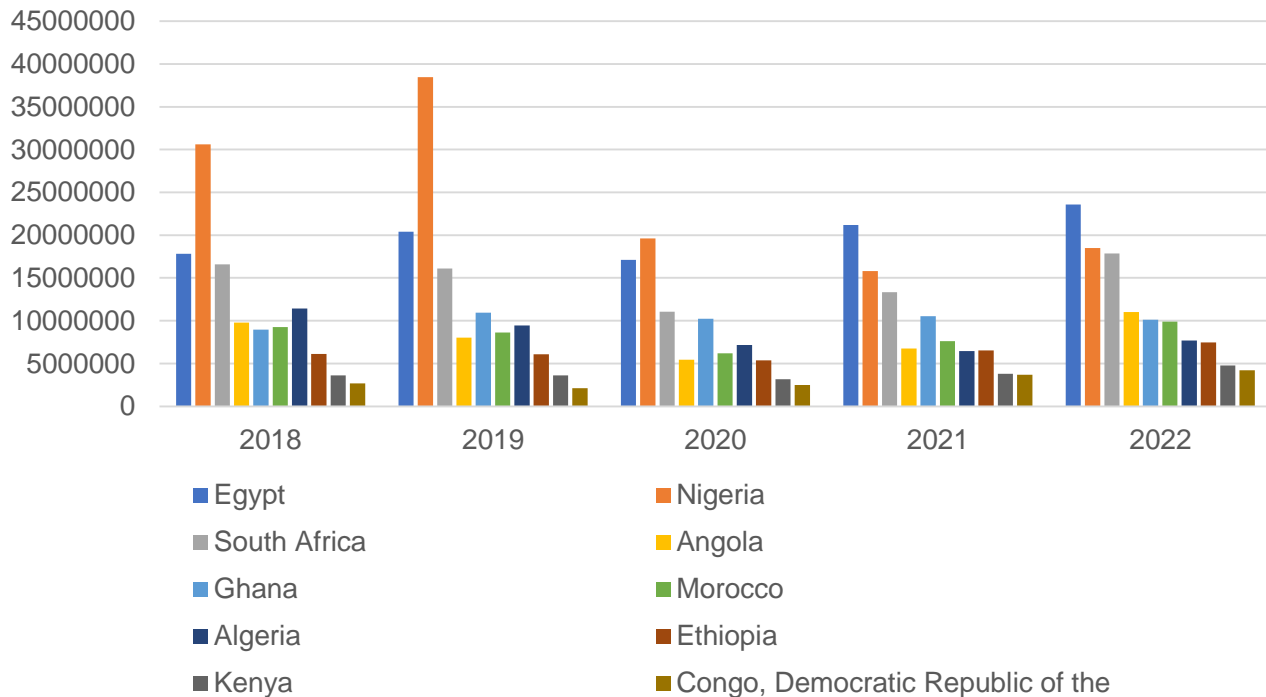
AFRICA COMMERCIAL SERVICE IMPORTS, in USD'000 – TOP 10 COUNTRIES

| Importers | Imported value in 2018 | Imported value in 2019 | Imported value in 2020 | Imported value in 2021 | Imported value in 2022 |
|-----------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Africa Aggregation | 168685008 | 179039725 | 136352164 | 142063350 | 166598771 |
| Egypt | 17829913 | 20414613 | 17126963 | 21190200 | 23,593,233 |
| Nigeria | 30625185 | 38451563 | 19597958 | 15791980 | 18,499,872 |
| South Africa | 16602994 | 16112515 | 11047208 | 13339733 | 17,854,198 |
| Angola | 9771707 | 8007891 | 5437222 | 6769480 | 11,023,274 |
| Ghana | 8960989 | 10948402 | 10244277 | 10546068 | 10,132,029 |
| Morocco | 9256597 | 8637627 | 6182577 | 7621615 | 9896427 |
| Algeria | 11429526 | 9432717 | 7149011 | 6467164 | 7677486 |
| Ethiopia | 6128800 | 6079324 | 5374653 | 6512390 | 7447008 |
| Kenya | 3613326 | 3594797 | 3180519 | 3799640 | 4752324 |
| Congo, Democratic Republic of the | 2665090 | 2132260 | 2496246 | 3684273 | 4192494 |

Top 5 countries account for more than **48.7%** of the **total commercial imports of Africa**

AFRICA COMMERCIAL SERVICE IMPORTS, in USD'000 – TOP 10 COUNTRIES

Africa's Commercial Services Imports, top 10 countries, trends



Egypt leading market, fairly stable growth. Nigeria a rather erratic market

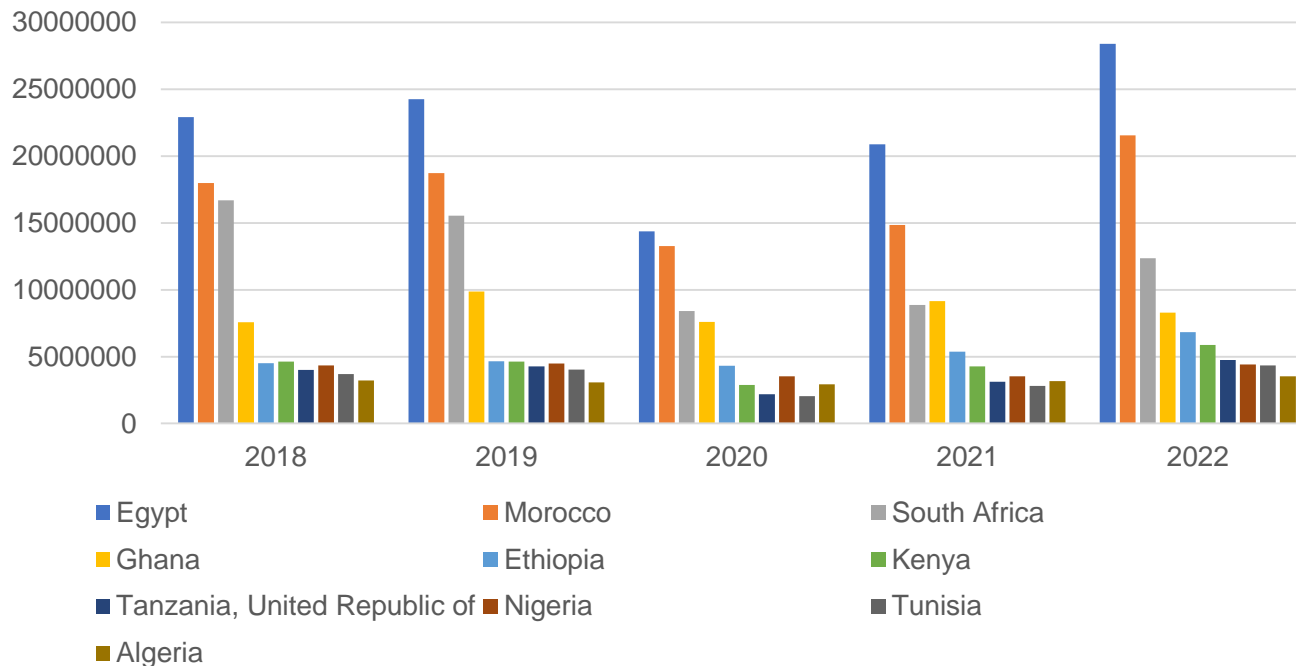
AFRICA COMMERCIAL SERVICE EXPORTS, in USD'000 – TOP 10 COUNTRIES

| Exporters | Exported value in 2018 | Exported value in 2019 | Exported value in 2020 | Exported value in 2021 | Exported value in 2022 |
|------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Africa Aggregation | 115318775 | 119744986 | 77652122 | 94081072 | 121743145 |
| Egypt | 22913000 | 24253200 | 14376300 | 20882995 | 28403239 |
| Morocco | 17992531 | 18727684 | 13280257 | 14847449 | 21561933 |
| South Africa | 16708229 | 15548863 | 8408674 | 8878987 | 12366242 |
| Ghana | 7563161 | 9869633 | 7588951 | 9154518 | 8284839 |
| Ethiopia | 4509286 | 4653753 | 4318052 | 5374601 | 6820740 |
| Kenya | 4625787 | 4628441 | 2871261 | 4272457 | 5874312 |
| Tanzania, United Republic of | 3999793 | 4276373 | 2179572 | 3111834 | 4752530 |
| Nigeria | 4351053 | 4486237 | 3532610 | 3532117 | 4408199 |
| Tunisia | 3697428 | 4036214 | 2051161 | 2799282 | 4342964 |
| Algeria | 3224543 | 3067329 | 2936842 | 3160047 | 3522517 |

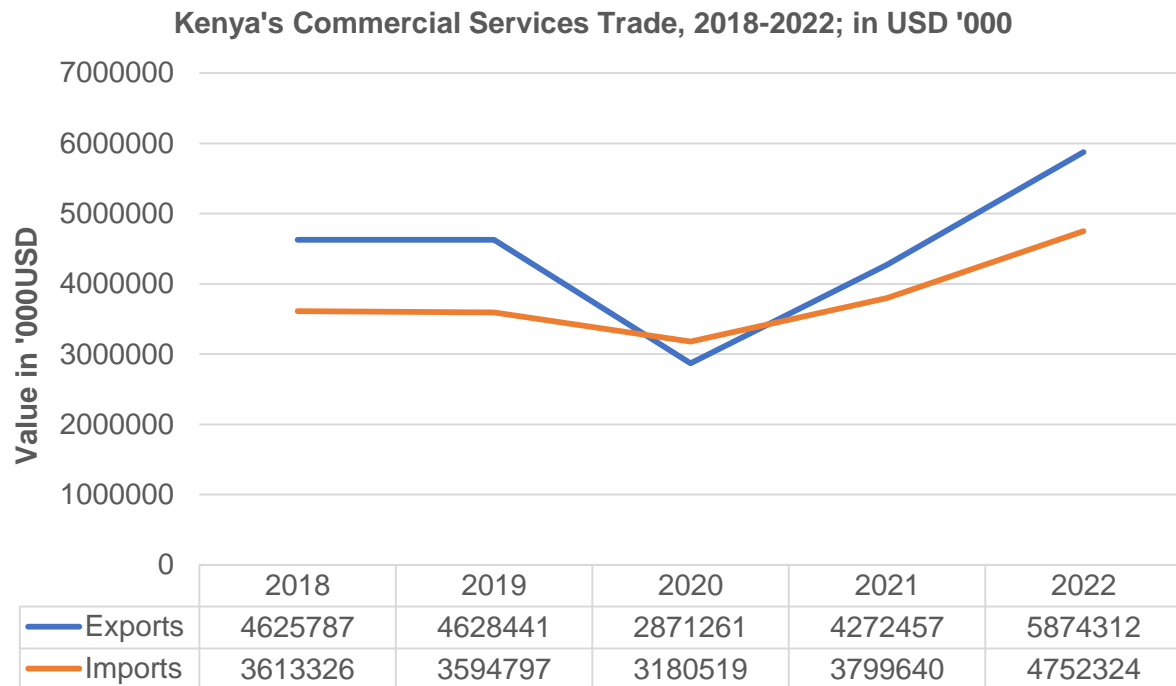
- Leading importers also leading exporters...
- Kenya 6th largest exporter in Africa, with USD 5.9 billion of exports in 2022

AFRICA COMMERCIAL SERVICE EXPORTS, in USD'000 – TOP 10 COUNTRIES

Africa Commercial Services Exports, Top 10 countries, trends



KENYA'S COMMERCIAL SERVICE EXPORTS



- Total trade worth **USD 10.6 billion**
- Kenya is a **net exporter**, with commercial exports worth USD 5.87 billion, against imports on USD 4.75 billion in 2022
- **Impressive recovery post COVID-19.** Values have surpassed the pre-covid figures

KENYA'S COMMERCIAL SERVICE EXPORTS, in USD'000 COMPOSITION

| Service label | Exported Value in 2018 | Exported Value in 2019 | Exported Value in 2020 | Exported Value in 2021 | Exported Value in 2022 |
|---|------------------------|------------------------|------------------------|------------------------|------------------------|
| All services | 5477483 | 5600508 | 3657649 | 5036089 | 6926487 |
| Memo item: Commercial services | 4625787 | 4628441 | 2871261 | 4272457 | 5874312 |
| Transport | 1958819 | 2180673 | 1078457 | 1645948 | 2279432 |
| Travel | 1072283 | 1007370 | 541253 | 843905 | 1108188 |
| Construction | | | | | |
| Insurance and pension services | 249874 | 164823 | 134312 | 113074 | |
| Financial services | 589703 | 478404 | 424666 | 550,689 | |
| Charges for the use of intellectual property n.i.e. | 71288 | 63052 | 43017 | 55479 | |
| Telecommunications, computer, and information services | 570246 | 628828 | 567130 | 973,329 | |
| Other business services | 85756 | 76907 | 50476 | 52,382 | |
| Personal, cultural, and recreational services | 8512 | 8612 | 7853 | 8030 | |
| Government goods and services n.i.e. | 851696 | 972067 | 786388 | 763,632 | |
| Manufacturing services on physical inputs owned by others | | | 7889 | 8818 | |
| Maintenance and repair services n.i.e. | 19285 | 19773 | 16208 | 20803 | |

KENYA'S COMMERCIAL SERVICE IMPORTS, IN USD '000 COMPOSITION

| Service label | Imported Value in 2018 | Imported Value in 2019 | Imported Value in 2020 | Imported Value in 2021 | Imported Value in 2022 |
|---|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| All services | 3881144 | 3854789 | 3327106 | 3999170 | 4999763 |
| Memo item: Commercial services | 3613326 | 3594797 | 3180519 | 3799640 | 4752324 |
| Transport | 1395874 | 1448689 | 1118220 | 1567951 | 2,310,816 |
| Travel | 228,625 | 196058 | 106759 | 132828 | 154,800 |
| Construction | | | | | |
| Insurance and pension services | 146685 | 127527 | 107730 | 156918 | |
| Financial services | 214810 | 217876 | 242072 | 268430 | |
| Charges for the use of intellectual property n.i.e. | 131726 | 121644 | 76192 | 42251 | |
| Telecommunications, computer, and information services | 53741 | 54972 | 61282 | 68168 | |
| Other business services | 970934 | 957162 | 1019249 | 1119815 | |
| Personal, cultural, and recreational services | 1043 | 1055 | 713 | 758 | |
| Government goods and services n.i.e. | 267819 | 259992 | 146587 | 199530 | |
| Manufacturing services on physical inputs owned by others | | | 5544 | 5437 | |
| Maintenance and repair services n.i.e. | 66418 | 67473 | 42428 | 106836 | |

KENYA'S BUSINESS SERVICE EXPORTS & EXPORTS, IN USD'000

| Service label | Exported Value in 2018 | Exported Value in 2019 | Exported Value in 2020 | Exported Value in 2021 | Exported Value in 2022 |
|---|------------------------|------------------------|------------------------|------------------------|------------------------|
| --- Professional and management consulting services | | | 3459 | | |
| --- Technical, trade-related, and other business services | 85756 | 76907 | 45632 | 47,196 | |

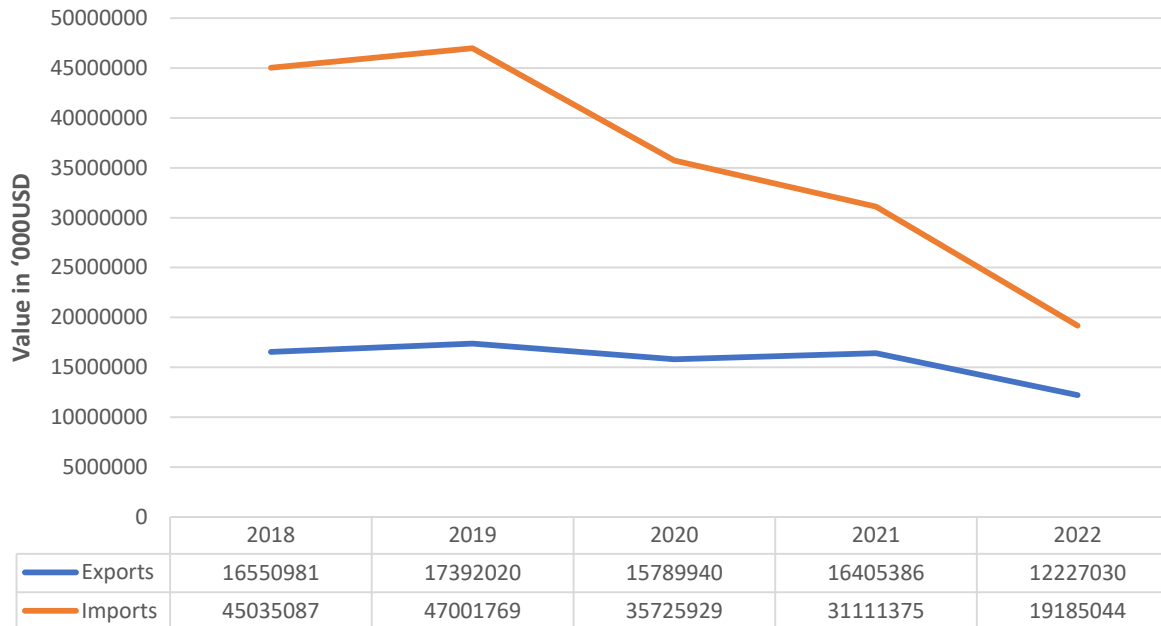
| Service label | Imported Value in 2018 | Imported Value in 2019 | Imported Value in 2020 | Imported Value in 2021 | Imported Value in 2022 |
|---|------------------------|------------------------|------------------------|------------------------|------------------------|
| --- Professional and management consulting services | | | 4524 | | |
| --- Technical, trade-related, and other business services | 970934 | 957162 | 1014725 | 1,119,815 | |

- Country net importer of business services, by a huge difference!
- Collection or disaggregation of data for professional services need updating.

Africa's Business Services Market

AFRICA, OTHER BUSINESS SERVICES MARKET

Africa, Other Business Services, in USD '000



Total trade worth **USD 31.4billion**. Several countries yet to report 2022 figure (so overall figure will be higher)

Africa is a **net importer of other business services**

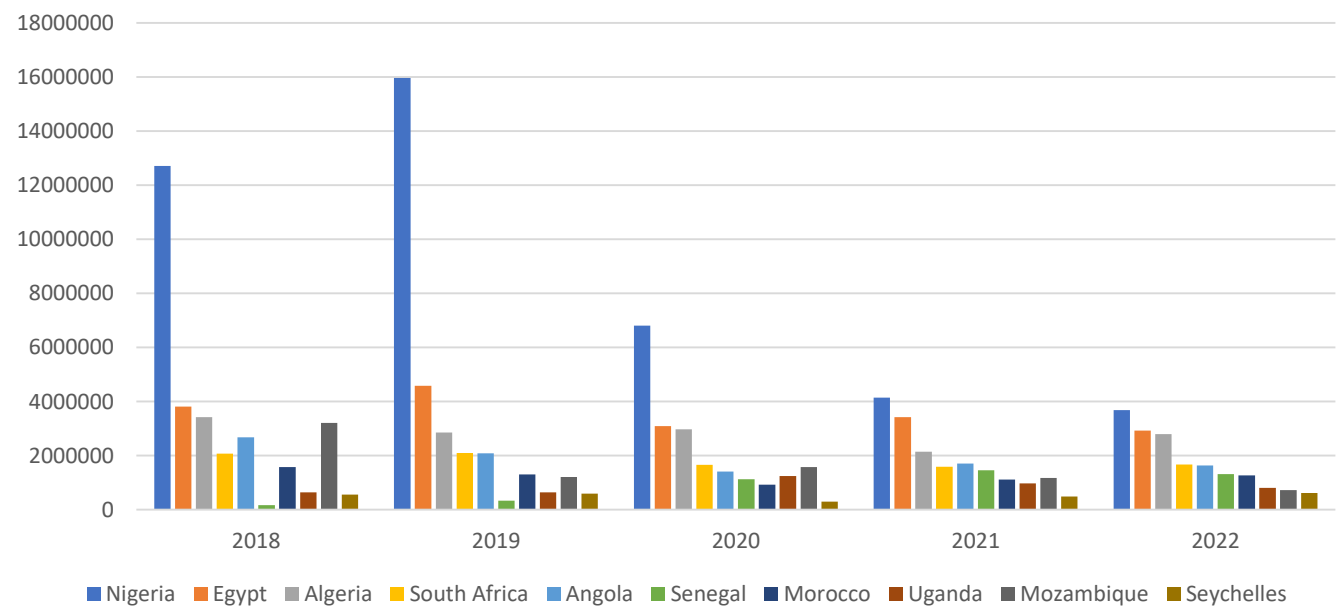
Trend for both imports and exports modestly appreciative before COVID, yet to pick up..

AFRICA, OTHER BUSINESS SERVICES MARKET – TOP 10 IMPORTING MARKETS

| Importers | Imported value in 2018 | Imported value in 2019 | Imported value in 2020 | Imported value in 2021 | Imported value in 2022 |
|--------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Africa Aggregation | 45035087 | 47001769 | 35725929 | 31111375 | 19185044 |
| Nigeria | 12708153 | 15965095 | 6802667 | 4141090 | 3683554 |
| Egypt | 3812000 | 4582400 | 3089700 | 3424900 | 2929445 |
| Algeria | 3418625 | 2854293 | 2977483 | 2142989 | 2795651 |
| South Africa | 2079662 | 2103822 | 1664725 | 1595402 | 1667302 |
| Angola | 2678843 | 2084282 | 1414182 | 1710223 | 1640198 |
| Senegal | 176826 | 336267 | 1127856 | 1460932 | 1314580 |
| Morocco | 1577518 | 1300909 | 932318 | 1114541 | 1266558 |
| Uganda | 639052 | 646501 | 1244638 | 978716 | 806125 |
| Mozambique | 3206445 | 1207633 | 1575272 | 1177953 | 730915 |
| Seychelles | 566292 | 593436 | 305554 | 484875 | 620781 |

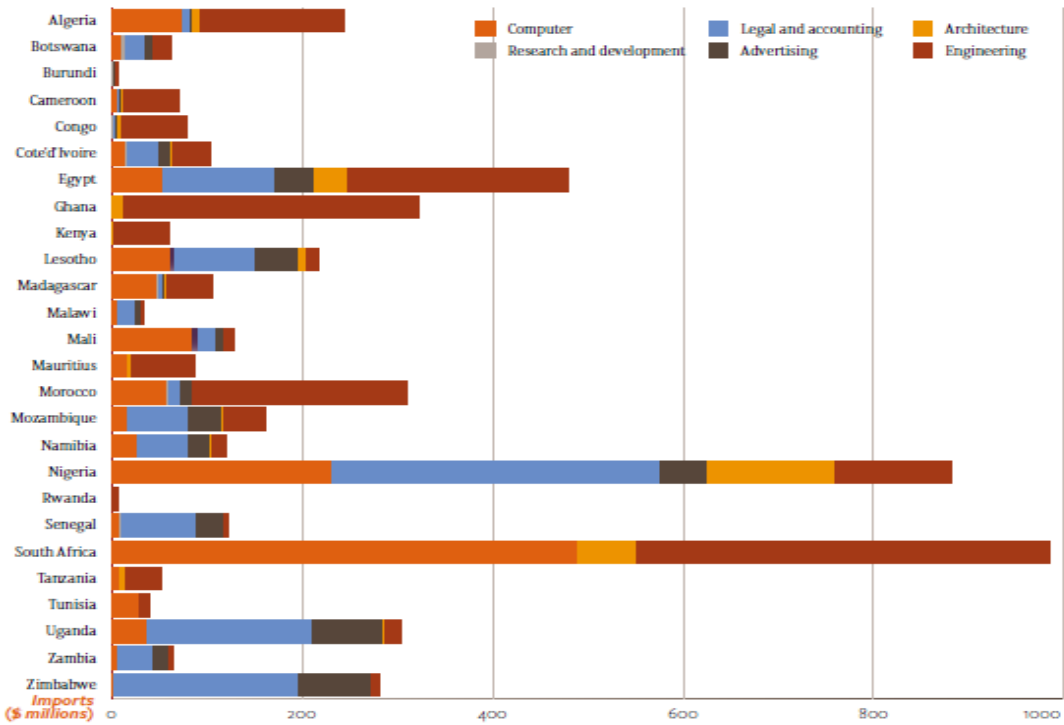
AFRICA, OTHER BUSINESS SERVICES MARKET – TOP 10 IMPORTING MARKETS

Africa, Other Business Services, Top 10 importing markets, in USD '000



AFRICA, OTHER BUSINESS SERVICES MARKET – TOP 10 IMPORTING MARKETS

FIGURE 8.5 STRUCTURE OF BUSINESS SERVICE IMPORTS FOR SELECTED COUNTRIES, 2005–19



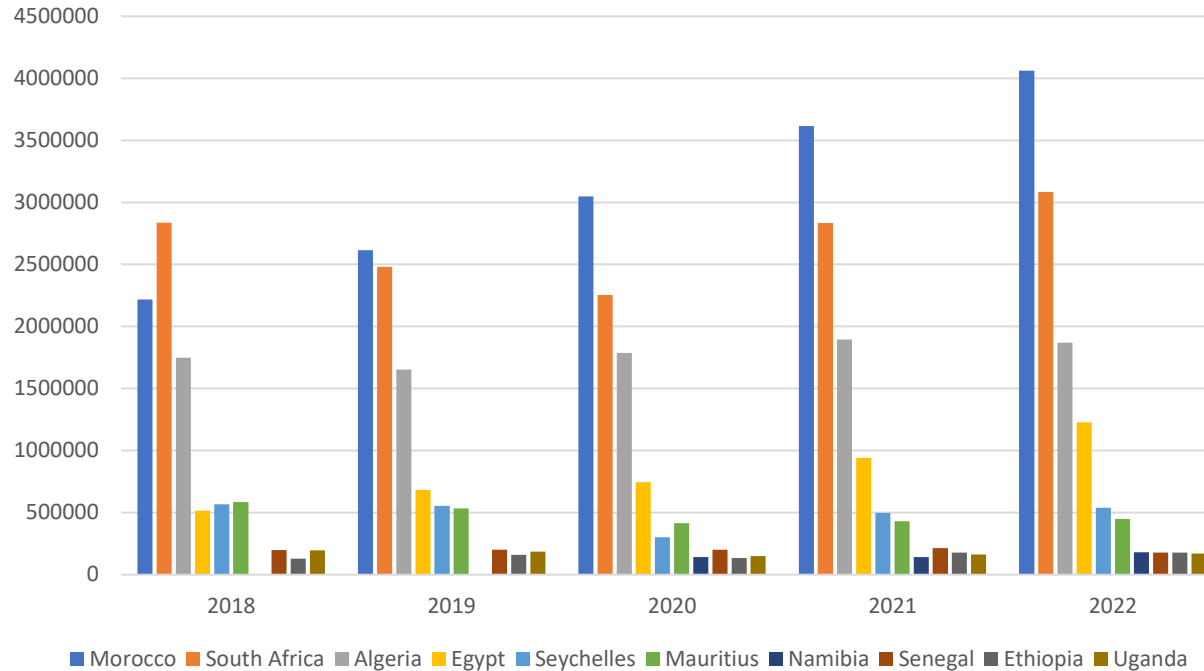
Source: Trade in services by sector and by mode of supply (TIMOS) database.

AFRICA, OTHER BUSINESS SERVICES MARKET – TOP 10 EXPORTING MARKETS

| Exporters | Exported value in 2018 | Exported value in 2019 | Exported value in 2020 | Exported value in 2021 | Exported value in 2022 |
|--------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Africa Aggregation | 16550981 | 17392020 | 15789940 | 16405386 | 12227030 |
| Morocco | 2216382 | 2614683 | 3047947 | 3616057 | 4062928 |
| South Africa | 2835621 | 2481582 | 2254853 | 2833222 | 3083225 |
| Algeria | 1748393 | 1653661 | 1786257 | 1896377 | 1870290 |
| Egypt | 515800 | 682900 | 743700 | 941367 | 1225800 |
| Seychelles | 567664 | 553710 | 300441 | 495992 | 538308 |
| Mauritius | 584524 | 534488 | 414190 | 430904 | 447082 |
| Namibia | 5476 | 4760 | 140917 | 141871 | 178989 |
| Senegal | 197289 | 201544 | 199289 | 213675 | 177143 |
| Ethiopia | 127945 | 158554 | 132656 | 176510 | 176409 |
| Uganda | 194630 | 183985 | 147682 | 162400 | 169729 |

AFRICA, OTHER BUSINESS SERVICES MARKET – TOP 10 EXPORTING MARKETS

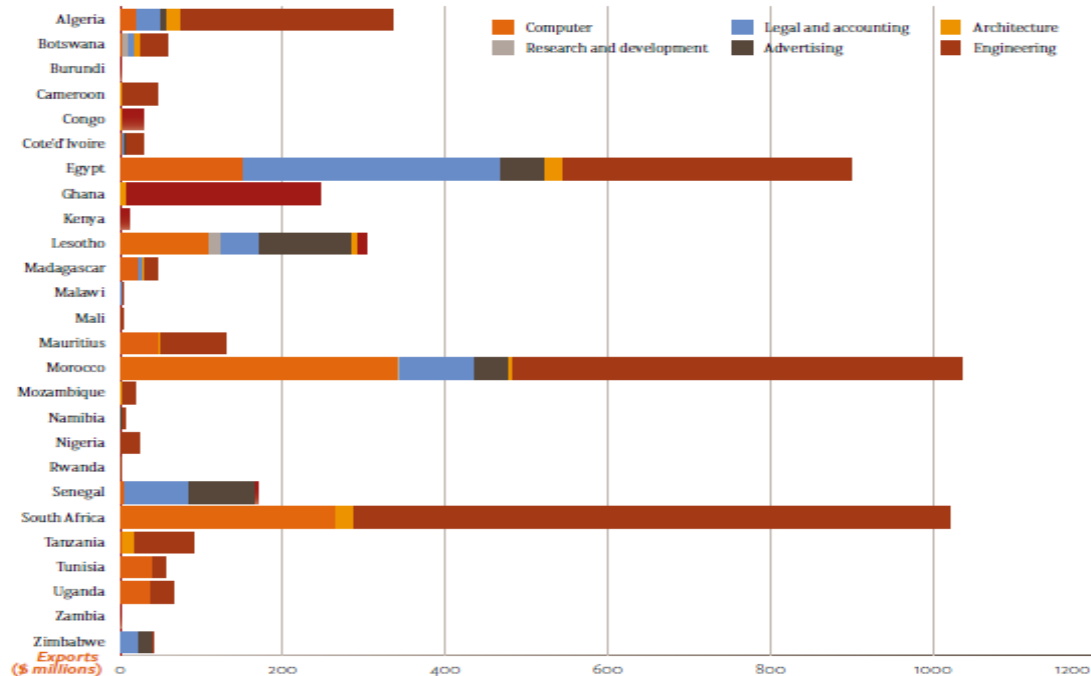
Africa, Other Business Services, Top 10 exporters



Morocco the dominant and consistently growing market.

AFRICA, OTHER BUSINESS SERVICES MARKET – TOP 10 EXPORTING MARKETS

FIGURE 8.4 STRUCTURE OF BUSINESS SERVICE EXPORTS FOR SELECTED COUNTRIES, 2005–19



Source: Trade in services by sector and by mode of supply (TIMOS) database.



Trade in Services in the Context of AfCFTA

SERVICES UNDER AfCFTA

- The African Union (AU) member states, determined to create a single liberalised services market to boost intra-Africa trade, included a **Protocol on Trade in Services in the AfCFTA Agreement** (2018).
- The **Protocol is the first endeavour to liberalise intra-African trade in services.**
- Protocol **entered into force in May 2019 with the overall AfCFTA agreement.**
- The Protocol takes a hybrid approach to liberalization, with State Parties obliged to **make commitments in all service sectors through Schedules of Specific Commitments** on the one hand, and **broad / cross cutting sectoral regulatory frameworks for cooperation on the other.**



Graphic courtesy of AfCFTA Secretariat

SERVICES UNDER AfCFTA

- At the 31st Ordinary Session in Mauritania in July 2018, the African Union Summit adopted **five (5) priority services sectors**
 - ✓ **Business Services;**
 - ✓ **Communication Services;**
 - ✓ **Financial Services;**
 - ✓ **Transport Services,**
 - ✓ **Tourism and Travel-related Services, including their subsectors**
- This is the first round of liberalization under the AfCFTA.
- Expectation is that all services will be negotiated in the near future, as part of liberalizing trade in services under the AfCFTA
- Basis of Negotiations is that offers have to be GATS+



STRUCTURE OF THE PROTOCOL ON TiS

Preamble

Part I

1. Definitions

Part II

2. Scope of Application

Part III: Objectives

3. Objectives

Part IV: General Obligations & Disciplines

4. **Most-favoured nation treatment**
5. **Transparency**
6. Disclosure of confidential information
7. Special & differential treatment
8. **Right to regulate**
9. **Domestic regulation**
10. Mutual recognition
11. Monopolies & exclusive service suppliers



STRUCTURE OF THE PROTOCOL ON TIS

- 12. Anti-competitive Business Practices
- 13. Payments & transfers
- 14. Restrictions to Safeguard the Balance of Payments
- 15. General Exceptions
- 16. Security Exceptions
- 17. Subsidies

Part V: Progressive Liberalisation

- 18. Progressive Liberalisation**
- 19. Market Access**
- 20. National Treatment**
- 21. Additional Commitments
- 22. Schedules of Specific Commitments**
- 23. Modification of Schedules
- 24. Denial of benefits



STRUCTURE OF THE PROTOCOL ON TIS

- 12. Anti-competitive Business Practices
- 13. Payments & transfers
- 14. Restrictions to Safeguard the Balance of Payments
- 15. General Exceptions
- 16. Security Exceptions
- 17. Subsidies

Part V: Progressive Liberalisation

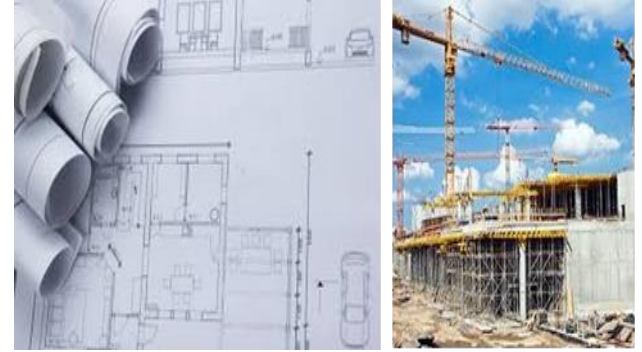
- 18. Progressive Liberalisation**
- 19. Market Access**
- 20. National Treatment**
- 21. Additional Commitments
- 22. Schedules of Specific Commitments**
- 23. Modification of Schedules**
- 24. Denial of benefits



STRUCTURE OF THE PROTOCOL ON TiS

Part VI: Institutional Provisions

25. Consultation and Dispute Settlement
26. Implementation, Monitoring and Evaluation
27. Technical Assistance, Capacity Building and Cooperation
28. Annexes to this Protocol
29. Amendment



OBJECTIVES OF THE PROTOCOL

Principal objective – ‘to support the objectives of the AfCFTA, as set out in Article 3 of the Agreement particularly to create a single liberalised market for trade in services’.

Some of the **Specific Objectives**

(a) enhance competitiveness of services through: economies of scale, reduced business costs, enhanced continental market access, and an improved allocation of resources including the development of trade-related infrastructure;

(e) progressively liberalise trade in services across the African continent on the basis of equity, balance and mutual benefit, by eliminating barriers to trade in services;

(g) pursue services trade liberalisation in line with Article V of the GATS by expanding the depth and scope of liberalisation and increasing, improving and developing the export of services, while fully preserving the right to regulate and to introduce new regulations;

promote and enhance common understanding and cooperation in trade in services amongst State Parties in order to improve the capacity, efficiency and competitiveness of their services markets

SCOPE OF THE PROTOCOL

1. **"Services"** includes any service in any sector except services supplied in the exercise of governmental authority; and
2. **"A service supplied in the exercise of governmental authority"** means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.
3. ** AfCFTA excludes government procurement from services liberalization
4. ** Also excludes air traffic rights from Protocol

SCOPE OF THE PROTOCOL

Defined within the understanding of the 4 modes of supply:

Trade in services” means the supply of service:

1. from the territory of one State Party into the territory of any other State Party;
2. in the territory of one State Party to the service consumer of any other State Party;
3. by a service supplier of one State Party, through commercial presence in the territory of any other State Party;
4. by a service supplier of one State Party, through presence of natural persons of a State Party in the territory of any other State Party.

Part V – Progressive Liberalisation Key provisions

PROGRESSIVE LIBERALISATION (ART 18)

1. State Parties shall undertake successive rounds of negotiations based on the principle of progressive liberalisation accompanied by the development of regulatory cooperation, and sectoral disciplines....
2. State Parties shall negotiate sector specific obligations through the development of regulatory frameworks for each of the sectors, as necessary, taking account of the best practices and acquis from the RECs, as well as the negotiated agreement on sectors for regulatory cooperation..
3. The liberalisation process shall focus on the **progressive elimination of the adverse effects of measures on trade in services as a means of providing effective market access** with a view to boosting intra-African trade in services.

Meaning that liberalization entails regulatory reforms to roll-back / eliminate discriminatory measures that may be embedded in laws and regulations.

"Measure" defined in the Protocol as 'any measure by a State Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form.

MARKET ACCESS (ART. 19)

With respect to market access, each State Party shall accord services and service suppliers of any other State Party treatment **no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule.**

The expectation that in sectors where a SP grants market access, it cannot use the following restrictions unless it includes them as conditions in its schedule

- 2. In sectors where market-access commitments are undertaken, the measures which a State Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule, are defined as:
 - (a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
 - (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - (c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;⁹
 - (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;
 - (e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and
 - (f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

NATIONAL TREATMENT (ART 20)

Equal or “same” treatment among foreign and domestic “like” services and suppliers

- *Avoids discrimination based on origin of the services or suppliers*
- *No defined list but comprised of any measure likely to disadvantage foreign services and suppliers*

Examples:

- *Discriminatory subsidies and other fiscal measures*
- *Nationality and residency requirements (→ mode 3)*
- *Discriminatory licensing, registration, qualification and / or training requirements*
- *Knowledge transfer requirements*
- *Prohibitions on foreign land/property ownership*
- *Local content requirements*
- The schedule sets out the conditions and qualifications for national treatment commitments, under each sector, for each of the four modes of supply.

Article 20 of AfCFTA Protocol on TiS

1. In all sectors inscribed in the schedule, and subject to any conditions and qualifications set out therein, each State Party **shall accord to services and service suppliers of any other State Party treatment no less favourable than that it accords to its own like services and service suppliers**, subject to the conditions and qualifications agreed and specified in its Schedule of Specific Commitments.
2. A State Party may meet the requirement of paragraph 1 of this Article, by according to services and service suppliers of any other State Party **either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers**.
3. Formally identical or formally different treatment shall be considered to be less favourable **if it modifies the conditions of competition in favour of services or service suppliers of the State Party compared to like services or service suppliers of any other State Party**.

SCHEDULES OF SPECIFIC COMMITMENTS

Article 22 Schedules of Specific Commitments

1. Each State Party shall set out in a schedule, the specific commitments that it undertakes under Articles 19, 20 and 21 of this Protocol.
2. With respect to sectors where such commitments are undertaken, each Schedule of Specific Commitments shall specify:
 - (a) terms, limitations and conditions on market access;
 - (b) conditions and qualifications on national treatment;
 - (c) undertakings relating to additional commitments; and
 - (d) where appropriate the time-frame for implementation of such commitments, including their date of entry into force.
3. Measures inconsistent with both Articles 19 and 20 of this Protocol shall be inscribed in the column relating to Article 19 of this Protocol. In this case the inscription will be considered to provide a condition or qualification to Article 20 of this Protocol as well.
4. The Schedules of Specific Commitments, the Modalities for Trade in Services and the list of Priority Sectors shall, upon adoption, form an integral part of this Protocol.

Positive list approach, with offers and requests.

The State Party's schedule of commitments specifies the **scope and depth of market opening that will be provided (market access)**, as well as the **requirements regarding the treatment of service providers from other State Parties and nationals (national treatment)**.

MODIFICATION OF SCHEDULES OF SPECIFIC COMMITMENTS (ART 23)

1. A State Party may modify or withdraw any commitment in its schedule, at any time **after three years have elapsed from the date on which that commitment entered into force**, in accordance with the provisions of this Article.
2. A modifying State Party shall **notify its intent to modify or withdraw a commitment pursuant to this Article to the Secretariat no later than three (3) months before the intended date of implementation of the modification or withdrawal**. The Secretariat shall promptly circulate this information to State Parties.
3. At the request of any State Party the benefits of which under this Protocol may be affected (affected party) by a proposed modification or withdrawal, the modifying State Party shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment. In such negotiations and agreement, the State Parties concerned shall endeavour to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in commitments prior to such negotiations.

MODIFICATION OF SCHEDULES OF SPECIFIC COMMITMENTS (ART 23)

4. Compensatory adjustments shall be made on a most-favoured-nation basis.
5. If agreement is not reached between the modifying State Party and any affected State Party before the end of the period provided for negotiations, such affected State Party may refer the matter to dispute settlement. Any affected State Party that wishes to enforce a right that it may have to compensation must participate in the dispute process.
6. If no affected State Party has requested dispute settlement, the modifying State Party shall be free to implement the proposed modification or withdrawal, within a reasonable period of time.
7. The modifying State Party may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the dispute settlement.

Part IV - General Obligations & Disciplines

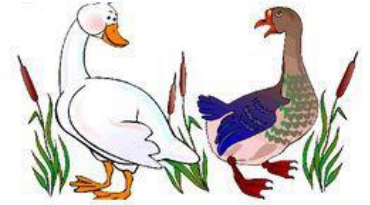
Key Provisions

MOST FAVOURED NATION TREATMENT (MFN)

Requires that State Parties **DO NOT** discriminate between their trading partners. Thus, if you grant one trading partner a special favour, and you have to do the same for other state parties.

Art 4 of the Protocol contains provisions regarding MFN.

1.each State Party shall, upon entry into force, **accord immediately and unconditionally to services and service suppliers of any other State Party treatment no less favourable than that it accords to like services and service suppliers of any Third Party.**
2. State Parties can enter new preferential agreement with third parties, provided such agreements do not impede or frustrate the objectives of this Protocol. Such preferential treatment shall be **extended to all State Parties on a reciprocal and non-discriminatory basis.**
3. Notwithstanding paragraph 1, **two (2) or more State Parties may conduct negotiations and agree to liberalise trade in services for specific sectors or sub-sectors in accordance with the objectives in this Protocol. Other State Parties shall be afforded opportunity to negotiate the preferences granted therein on a reciprocal basis.**



What's good for
the goose is good
for the gander.

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MOST FAVOURED NATION TREATMENT (MFN)

4. No obligation to extend preferences agreed with any Third Party prior to the entry into force of the Protocol. So EAC Preferences do not automatically extend to other AfCFTA State Parties. **A State Party may afford opportunity to the other State Parties to negotiate the preferences granted therein on a reciprocal basis.**

5. State Party **may confer or accord advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.**



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the goose is good
for the gander.

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TRANSPARENCY (Art 5)

Publish promptly ...
What shall be published?

- **All relevant measures of general application** which pertain to or affect the operation of this Protocol.
- **International and regional agreements pertaining to or affecting trade in services** to which a State Party is a signatory shall also be published.
- SPs shall **notify the Secretariat of any international and regional agreements pertaining to or affecting trade in services with Third Parties** to which they are signatory prior to or after entry into force of this Protocol.
- SPs shall **promptly and at least annually notify the Secretariat of the introduction of any new, or any changes to, existing laws, regulations or administrative guidelines which significantly affect trade in services under this Protocol.** (AfCFTA Secretariat expected to share with other SPs)
- Each SP to **designate enquiry point to provide other SPs with requested information**, or what is subject to notification.... (where are we as KE?)

RIGHT TO REGULATE (Art 8) & DOMESTIC REGULATION (ART 9)

Liberalisation is NOT the same as de-regulation and governments can maintain full regulatory control and yet fully liberalise restrictions to trade. This is provided for under Art 8 and 9.

Art. 8: Each State Party **may regulate, and introduce new regulations**, on services and service suppliers in its territory in order to meet national policy objectives, insofar as regulations do not impair any rights and obligations arising under this Protocol.”

Some measures affecting trade in services do not limit market access or national treatment, in that they are non-discriminatory. Protocol in Art 9 (in line with GATS) seeks to ensure that regulations do not create unnecessary barriers to trade. 3 key issues to look out for:

- Measures are administered in a reasonable, objective, transparent and impartial manner
- Procedures are in place for the review of administrative decisions
- Applicants are informed of decisions within reasonable timeframes

STATUS OF TIS NEGOTIATIONS, AS AT 30th OCTOBER 2023

- **47 African countries** have submitted their initial Services Offers
- **Technical verification** to ensure that offers are in line with the adopted modalities and Guidelines for Negotiating Trade in services under the AfCFTA and regulatory audits for some Member States
- **21 Schedules of Specific Commitment** has been approved by Council of Ministers
- **5 Sub-Committees of the Committee on Trade in Services** established in May 2021
- **Guiding Principles for Negotiating Regulatory Frameworks underway**, to now start negotiating sectoral and cross-cutting regulatory frameworks
- Discussions of regulatory frameworks for financial services & communication services commenced. Draft texts available.
- Outstanding Issues: Negotiations to commence on the remainder of 7 Services Sectors and other regulatory frameworks



GTI ON TRADE IN SERVICES UNDER AFCFTA

The Guided Trade Initiative on Trade in Services (GTIS) – developed in line with 10th Meeting of Council of Ministers recommendation.

Aim – to fast-track implementation of commitments under AfCFTA for the 22 approved schedules – is Rwanda looking to participate?

22 schedules

- CEMAC Region – Gabon, Cameroon, Central African Republic, Chad, Congo and Equatorial Guinea
- EAC – including DRC, excluding RSS
- Others: Djibouti, Egypt, Eswatini, Lesotho, Malawi, Mauritius, Namibia, Seychelles, Zambia and Zimbabwe



Overview of Commitments by Kenya & Selected AfCFTA Countries

KENYA's AFCFTA SCHEDULE

KENYA's COMMITMENTS UNDER GATS

Horizontal Commitments

- M3: Limitation that foreign providers are required to incorporate or establish their business locally.
- M4: UNBOUND, except for entry and temporary stay of natural persons employed in management and expert jobs for implementation of foreign investment. The employment of foreign natural persons must be agreed upon by the contracting parties and approved by the Government.

Sector Specific Section

Communication Services:

Telecommunications: most of the sub-sectors (and before liberalization)

Audio visual services:

- Motion picture and video tape production and distribution - None on all, except M3, which is Unbound under both MA & NT
- Motion picture projection services. None on all modes under MA & NT, except M1, which is unbound* due to feasibility.

KENYA's COMMITMENTS UNDER GATS

Financial services:

- Insurance services – most sub-sectors
- Banking Services – most sub-sectors
-

Tourism and travel-related services – all sub-sectors

Transport services (road and air); and

Other services (meteorological data information).

KENYA's COMMITMENTS UNDER AfCFTA

Horizontal Commitments (M3)

MA:

- Limitation that foreign providers are required to incorporate or establish their business locally.
- Limitation that Local content requirement applies to non- Kenyan services and service suppliers

NT:

- Resident firms are taxed at a lower rate than non-resident firms.
- A foreign service supplier is not allowed to own a free hold title. They may only acquire land on a leasehold basis

SUMMARY OF KENYA's AFCFTA SCHEDULE

Horizontal Commitments:

Under Mode 4: UNBOUND, expect for temporary entry and stay for the following:

- Contractual Service Suppliers - an entry permit is issuable for a period between 2 years
- Independent Service Suppliers –an entry permit is issuable for a maximum of 2 years, depending on nature of contract
- Intra-corporate transferees – a maximum of 2 years, depending on nature of contract
- Trainee – Maximum of 1 year.
- Business Visitors - Entry for BVs for sale of services/sales agreements; setting up commercial presence or attending business meeting, or installing machinery / after sales service. For all, stay shall be for a period of not more than 90 days in a Calendar Year. A special pass for three (3) months and above is required for installers of machinery.

BUSINESS SERVICES COMMITMENTS

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>A: Professional Services</u></p> <p>a) Financial auditing services (CPC ver.2.1 8221)</p> <p>b) Accounting & Bookkeeping (CPC 862)</p> <p>c) Taxation Services (CPC 863)</p> | <p>For financial Auditing Services, modes 1 & 2 are not liberalised for both MA & NT. For mode 3, MA has a requirement for joint venture with maximum foreign shareholding of 51%, while NT has a requirement for 51% employment of technical positions for nationals</p> <p>For accounting and bookkeeping, mode 1- 3 are liberalised with no limitations on both MA & NT.</p> <p>For taxation services, mode 1 & 2 are liberalised with no limitations for both MA & NT. Mode 3 has a limitation for both MA & NT: Subject to issuance of licence by Institute of Certified Public Accountants of Kenya (ICPAK)</p> |

BUSINESS SERVICES COMMITMENTS

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|--|
| <p><u>A: Professional Services</u></p> <p>d) Architectural services (CPC 8671)</p> <p>e) Engineering services (CPC 8672)</p> <p>f) Integrated engineering services (CPC 8673)</p> <p>g) Medical and dental services (CPC 9312)</p> | <p>For sub sub-sectors d-g, Mode 1 is not liberalised; Mode 2 is liberalised with no limitations on MA & NT. Mode 3 has limitations on both MA & NT:</p> <p><u>MA Limitation:</u> Requirement for joint venture, locally incorporated with maximum foreign shareholding of 49%</p> <p><u>NT Limitations:</u></p> <ul style="list-style-type: none"> • Requirement for transfer of know-how and technology. (Engineering and Medical & Dental Services has this mode 3 limitation only) • Requirement for 51% employment of technical positions for nationals. <p><u>NT Limitation for Integrated Engineering Services:</u></p> <p>Requirement for transfer of know-how and technology</p> <ul style="list-style-type: none"> • Foreign firms to engage in providing services whose total value is above KES Five Hundred (500) Million. |

BUSINESS SERVICES COMMITMENTS

| Sub-Sector / Sub-Sub-Sector | Commitments |
|--|--|
| <p><u>B: Computer & Related Services</u></p> <p>a) Consultancy services related to the installation of hardware (CPC 841)</p> <p>b) Software installation services (CPC 842)</p> <p>c) Data processing services (CPC 843)</p> <p>d) Database services (CPC 844)</p> | <p>For sub sub sectors a-d, Modes 1 & 2 are liberalized with no limitations for MA & NT. Mode 3 has limitations as follows:</p> <p><u>MA Limitation:</u> Requirement for joint venture with maximum foreign shareholding of 51%.</p> <p><u>NT Limitation:</u> Requirement for transfer of know-how and technology</p> |
| <p><u>C: Research and development services (CPC 851-853)</u></p> | <p>For sub sector C, modes 1 & 2 are liberalized with no limitations for MA & NT. Mode 3 has limitations as follows:</p> <p><u>MA Limitation:</u></p> <ul style="list-style-type: none"> • Requirement for joint venture with maximum foreign shareholding of 51%. • Requirement to incorporate locally as a limited liability company. <p><u>NT Limitation:</u> Requirement for transfer of know-how and technology</p> |

BUSINESS SERVICES COMMITMENTS

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <u>D: Real estate services (CPC 821+822)</u> | <p>For Sub sector D, Modes 1 & 2 are liberalized with no limitations for MA & NT.</p> <p>Mode 3 has limitations as follows:</p> <p><u>MA Limitations:</u></p> <ul style="list-style-type: none">• Requirement for joint venture with maximum foreign shareholding of 51%.• Requirement to incorporate locally as a limited liability company. <p><u>NT Limitation:</u> Requirement for transfer of know-how and technology</p> |

BUSINESS SERVICES COMMITMENTS

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>E: Rental/leasing services without operator.</u></p> <ul style="list-style-type: none"> a) Relating to ships (CPC 83103) b) Relating to aircraft (CPC 83104) c) Relating to other transport equipment (CPC 83101+83102) d) Relating to other machinery and equipment (CPC 83106-83109) <p><u>F: Other Business Services</u></p> <ul style="list-style-type: none"> e) Technical testing and analysis services (CPC 8675) | <p>For Sub sector E, Modes 1 & 2 are liberalized with no limitations for MA & NT. Mode 3 has limitations as follows: <u>MA Limitations:</u> Requirement for joint venture with maximum foreign shareholding of 51%. <u>NT Limitation:</u> Requirement for transfer of know-how and technology</p> <p>For sub sub-sector , mode 1 is not liberalised for both MA & NT. Mode 2 is liberalised with no limitations for MA & NT. Mode 3 has the following limitations: <u>MA Limitation:</u> Requirement for joint venture, locally incorporated with maximum shareholding of 49%. <u>NT Limitation:</u> Requirement for transfer of know-how and technology.</p> |

FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>A: All insurance and insurance-related services</u></p> <p>a) Life insurance services (CPC version 2.1 71311)</p> <p>b) Non-life insurance services (CPC version 2.1 7132)</p> | <p>For Life Insurance services, modes 1 & 2 are not liberalised. Mode 3 is liberalised with no limitation on NT but MA has a limitation: At least a third of the controlling interest, whether in terms of shares, paid up capital or voting rights must be held by citizens of Kenya.</p> <p>For Non-Life Insurance, mode 1 MA is not liberalised except for aviation, marine and engineering; while NT is not liberalized. Mode 2 MA is not liberalized except for aviation, marine and engineering; while NT is not liberalized. Mode 3 is liberalized with no limitation on MA, but NT has a limitation: Requirement for transfer of know-how and technology.</p> |

FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|--|
| <p><u>A: All insurance and insurance-related services</u> c) Reinsurance and retrocession (CPC 81299*)</p> <p><u>Services Auxiliary to Insurance (Including broking and agency services)</u> - Broking</p> | <p>For Reinsurance & retrocession, modes 1-3 are liberalised with no NT limitations. MA however has the following limitations: <u>Mode 1, 2 & 3 MA Limitation:</u> Mandatory cessions must be placed with Kenya Re: 25%; Zep Re: 10% and Africa Re: 5%.</p> <p>For Broking, mode 1 is not liberalised for both MA & NT. Modes 2 & 3 are liberalised with no NT limitations, but MA has limitations: <u>Mode 2:</u> Prior approval of the Commissioner of Insurance is required to place Kenyan business with an insurer not registered under the Kenya Insurance Act. <u>Mode 3:</u> 60% of the paid-up capital must be owned by EAC nationals</p> |

FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|--|
| <p><u>A: All insurance and insurance-related services:</u></p> <p>Services Auxiliary to Insurance (Including broking and agency services)</p> <ul style="list-style-type: none">- Insurance agency services <p>Other auxiliary services (including assessors, intermediaries and loss adjusters)</p> | <p>For insurance agency services, mode 1 MA is not liberalised except for reinsurance. NT is liberalised with no limitations. Mode 2 MA is not liberalised, NT is liberalised with no limitations. Mode 3 is liberalised with no limitations on MA & NT.</p> <p>For other auxiliary services, modes 1-3 are all liberalised with no MA & NT limitations.</p> |

FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|--|---|
| <u>B: Banking and other financial services (excluding insurance)</u> a) Acceptance of deposits and other repayable funds from the public (CPC 81115-81119) | <p>For sub sub-sector a, mode 1 is liberalised with no limitations for MA, NT is not liberalised. Mode 2 is liberalised with no limitations for MA & NT. Mode 3 is liberalised with the following limitations:</p> <p><u>MA Limitation:</u> Requirement to incorporate locally as a limited liability company.</p> <ul style="list-style-type: none">- Joint venture requirement with maximum foreign shareholding of 51%. <p><u>NT Limitation:</u> Requirement for transfer of know-how and technology</p> |

FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|--|--|
| <p><u>B: Banking and other financial services (excluding insurance)</u></p> <p>b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction (CPC 8113)</p> <p>d) All payment and money transmission services (CPC 81339*)</p> <p>e) Guarantees and commitments (CPC 81139*)</p> | <p>For b & d sectors, modes 1 & 2 are liberalised with no limitations on MA & NT. Mode 3 is liberalised with no MA limitation but NT has a limitation: Requirement for transfer of know-how and technology.</p> <p>For e sector, mode 1 is liberalized with no limitation on MA. NT is not liberalized. Mode 2 & 3 are liberalized with no limitations on MA & NT, except mode 3 NT which has a limitation: Requirement for transfer of know-how and technology.</p> |

FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>B: Banking and other financial services (excluding insurance)</u></p> <p>g) Participation in issues of all kinds of securities and provision of services related to such issues except underwriting (CPC 8132*)</p> <p>i) Asset management except pension fund management (CPC 8119* + 81323*)</p> | <p><u>For sub sub-sector g:</u></p> <ul style="list-style-type: none"> ○ <u>Mode 1</u> is liberalised with no NT limitation. MA has a limitation: Securities issued in a foreign jurisdiction cannot be offered or traded in the Kenyan market. ○ Mode 2 is liberalised with no MA & NT limitations. ○ Mode 3 is liberalised with a MA limitation: Foreign portfolio investors can hold up to 40% of the shareholding of a locally listed company. They can also take up to 40% of any additional public offering by a foreign convened listed company. Mode 3 NT is not liberalised. <p><u>For i) sub sub-sector,</u> mode 1 is liberalised with no limitation on MA, while NT is not liberalised. Mode 2 is liberalised with no limitations on MA & NT. Mode 3 is liberalised with the following MA limitation: 30% of paid up capital must be held by Kenyan nationals. NT is not liberalised for mode 3.</p> |

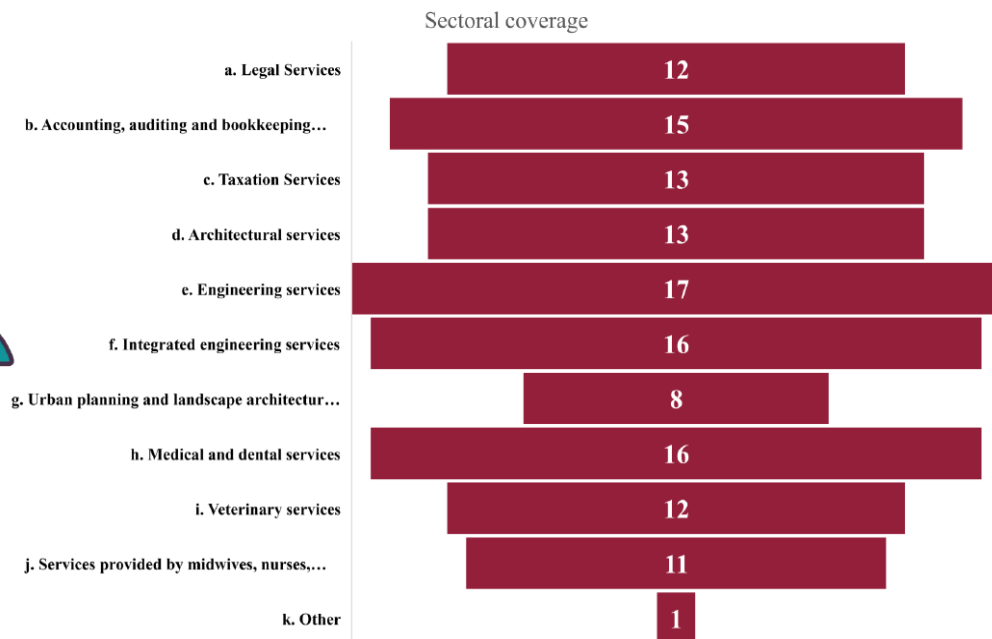
FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>B: Banking and other financial services (excluding insurance)</u></p> <p>k) Advisory and other auxiliary financial services (CPC 8131 or 8133)</p> | <p>For sub sub-sector k) mode 1 -3 are liberalised with no limitations on MA & NT, except mode 3 which is not liberalised for NT.</p> |

Overview of Overall Commitments under Business Services (based on AfCFTA Secretariat Analysis)

AfCFTA MARKET – OVERVIEW OF COMMITMENTS

Business services- Professional services

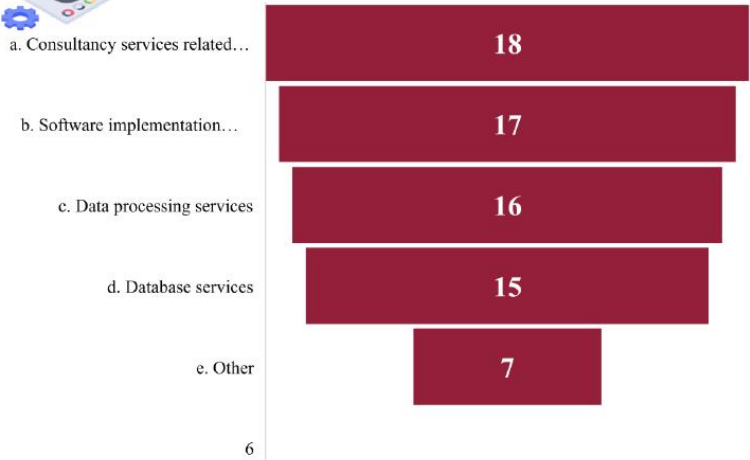


AFCFTA MARKET – OVERVIEW OF COMMITMENTS

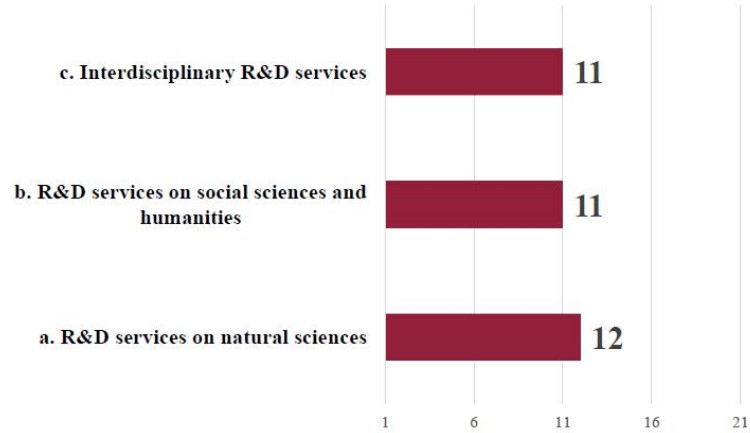
Business services



B. Computer and Related Services



R&D

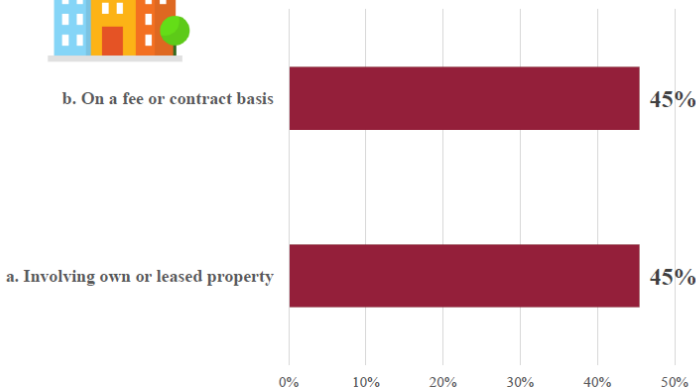


AfCFTA MARKET – OVERVIEW OF COMMITMENTS

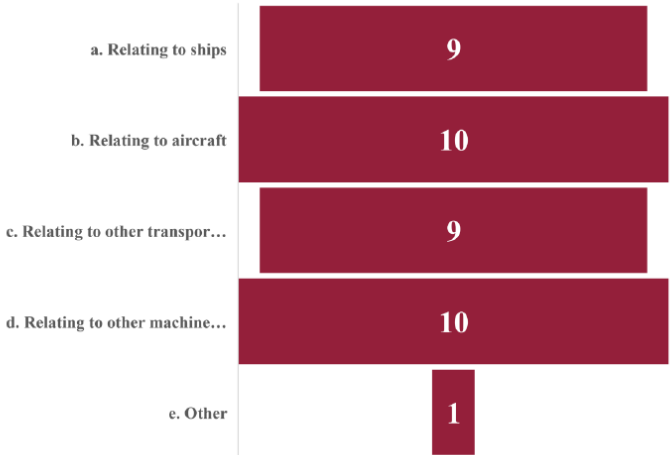
Business services



D. Real Estate Services



E. Rental/Leasing Services without Operators



Financial services- Insurance



Sectoral Coverage

a. Life, accident and health insurance services

18

2

b. Non-life insurance services

16

4

c. Reinsurance and retrocession

15

6

d. Services auxiliary to insurance (including...

12

8

Other

2

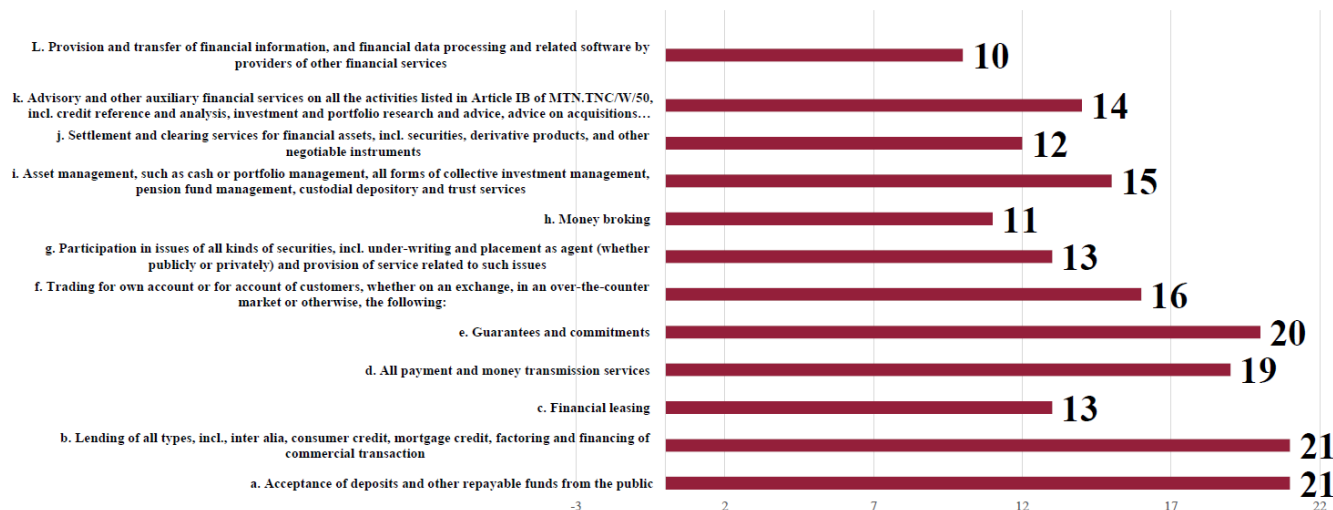


AFCFTA MARKET – OVERVIEW OF COMMITMENTS

Financial services- Banking



Sectoral Coverage



26

SELECTED COUNTRY - LESOTHO

LESOTHO OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|---|--|
| A. Professional Services | |
| (a) i) Legal Services (advisory services in foreign and international law only) (CPC861+) | Mode 1 is not liberalized at all; Mode 2 & 3 liberalized with no limitations on MA & NT |
| ii) Legal Services (domestic law only) (CPC 861+) | <p>Mode 1 & 2 have not been liberalized at all; Mode 3 is liberalized with no limitations on NT; but with limitations on MA as follows:</p> <ul style="list-style-type: none"> Foreign-owned enterprises including joint venture enterprises must be registered or incorporated in Lesotho Wholly foreign-owned companies require a minimum equity capital outlay of US\$ 200,000. Joint-venture companies should have a minimum foreign equity capital outlay of US\$ 50,000 |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|---|--|
| Professional Services | |
| b) Auditing (CPC862+) | Mode 1 is not liberalized at all; Mode 2&3 are fully liberalized with no limitation on MA & NT |
| c) Taxation Services (excluding legal services) (CPC863) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| d) Architectural Services (CPC8671) | Mode 1 is liberalized with no limitation on NT; but with a limitation on MA as follows: For building plans of 500 square meters and over, the services of a local registered architect have to be utilized. Mode 2 is liberalized with no limitation on NT; but with a limitation on MA as follows: For building plans of 500 square feet and over, the services of a locally registered architect have to be utilized. Mode 3 is fully liberalized with no limitation on NT & MA. |
| e) Engineering Services (CPC8672) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|--|--|
| A. Professional Services | |
| (f) Integrated Engineering Services (CPC8673) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (g) i) Urban planning services (CPC8674) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| ii) Landscape architectural Services (CPC8674) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (h) Medical and dental services (CPC9312) | Mode 1 is not liberalized at all; Mode 2&3 are fully liberalized with no limitation on MA & NT |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|--|--|
| (i) Veterinary services (CPC932) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (j) Services provided by: i) Midwives and nurses (CPC93191) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| ii)Physiotherapists and Paramedical Personnel (CPC93191) | Mode 1 & 2 not liberalized due to impracticality of the mode of supply; Mode 3 fully liberalized with no limitation on MA & NT |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|---|---|
| B. Computer and Related Services | |
| (a) Consultancy services related to the installation of computer hardware (CPC841) | Mode 1&3 are fully liberalized with no limitations on MA & NT; Mode 2 is not liberalized due to the impracticality of the mode of supply. |
| (b) Software implementation services (CPC842) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (c) Data processing services (CPC843) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (d) Data base services (CPC844) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (e) Maintenance and repair services of office machinery and equipment including computers (CPC8450) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|---|--|
| D. Real Estate Services | |
| (a) Involving own or leased property (CPC821) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (b) On a fee or contracting basis (CPC822) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|---|--|
| E. Rental/Leasing Services without Operators | |
| (b) Relating to aircraft (CPC 83104) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (c) Relating to other transport equipment (CPC83101+) (CPC83102+) (CPC83105) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (d) Relating to other machinery and equipment (CPC83106) (CPC83107) (CPC83108) (CPC83109) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|---|--|
| F. Other Business Services | |
| (b) Market research and public opinion polling services (CPC864) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (c) Management consulting services (CPC865) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (d) Services related to management consulting (CPC866) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (e) Technical testing and analysis services (CPC8676) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (f) Services incidental to agriculture, hunting and forestry (CPC881) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|--|--|
| F. Other Business Services | |
| (j) Services incidental to manufacturing (CPC 884) (CPC 885) | Mode 1,2 & 3 not liberalized at all. |
| (k) Placement and supply of services of personnel (CPC872) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (l) Investigation and security (CPC873) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (m) Maintenance and repair of equipment (CPC633) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|--|---|
| F. Other Business Services | |
| (n) Building/cleaning services(CPC874) | Mode 1 is not liberalized due to the impracticality of the service delivery; mode 2 & 3 are fully liberalized with no limitation on MA & NT |
| (o) Photographic services (CPC875) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |
| (s) Convention services (CPC87909) | Mode 1,2 & 3 fully liberalized with no limitation on MA & NT |

OFFER UNDER FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|---|---|
| A. All Insurance and Insurance Related Services | |
| <div>a. Direct Life Insurance (CPC 8121+)</div> <div>b. Non-life insurance Services (CPC 8129+)</div> <div>c. Reinsurance and Retrocession (CPC 81299+)</div> | <p>Mode 1 is not liberalized at all; Mode 2 is fully liberalized; Mode 3 is liberalized with regards to NT; but has a limitation on MA as local incorporation is required. <u>Under GATS, the limitation reads as follows:</u> <i>To transact business in Lesotho, insurers (foreign and domestically controlled) must be incorporated as a public company in terms of the Companies Act</i></p> <p><i>To ensure that competition is not impaired, the acquisition of shares or any other interest (by a resident or non-resident) in a registered insurer resulting in the holding of 25 per cent or more of the value of all the shares or other interest in that business, required the written approval of the Registrar of Companies</i></p> |

OFFER UNDER FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|--|--|
| B. Banking and other Financial Services (excluding insurance) | |
| <p>a. Acceptance of deposits and repayable funds from the public (CPC 81115 to 81119)</p> <p>b. Lending of all types, including, inter alia, consumer credit, mortgage credit and financing of commercial transactions (CPC 8113)</p> <p>d. All payments and money transmission services, including credit, charge and debit cards, travelers' cheques and bank drafts (CPC 81339+)</p> <p>e. Guarantees and Commitments (CPC 81199+)</p> <p>f. Trading for own account or for account of customers whether on an exchange in an over-the-counter market or otherwise, the following: (i) Money market instruments, cheques, bills, certificates of deposit etc., (CPC 81339)</p> | <p>Modes 1 & 2 are not liberalized at all;</p> <p>Mode 3 is liberalized with regards to NT; but has a limitation on MA because local incorporation is required.</p> <p>Under GATS Schedule, limitation reads as follows: <i>No bank or controlling company (domestically or foreign controlled) may allot or issue any of its shares to a person to the extent that the total nominal value of such shares exceeds in total nominal value of all the issued vote-bearing shares in the bank or the controlling company. More than 49% may be granted by Minister of Finance....</i></p> |

OFFER UNDER FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Remarks on Commitments |
|---|---|
| B. Banking and other Financial Services (excluding insurance) | |
| (ii) Foreign exchange (CPC 81333) (iii) derivative products including but not limited to futures and options (CPC 81339) (iv) exchange rate and interest rate instruments (CPC 81339) | |
| h. Money broking (CPC 81339 +) | Mode 1 and 2 are not liberalized at all; Mode 3 is fully liberalized on MA & NT |

SELECTED COUNTRY - SEYCHELLES

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|--|
| <p>A: Professional Services</p> <ul style="list-style-type: none"> a) Legal services (CPC 861) M3 GATS Plus. Under GATS sole proprietor/Partnership b) Accounting & Bookkeeping (CPC 862) + Auditing services (CPC 86211) c) Taxation Services (CPC 86303) – M1 – requirement for membership to Institute of taxation removed. <ul style="list-style-type: none"> ▪ Business Tax Review and preparation (M3 ltd to sole proprietorship / partnership under GATS) ▪ Individual tax preparation & review (M1 and M3) ▪ Other tax related services (CPC 86309) d) Architectural Services (CPC 8671) (M1, M2 & M3) e) Engineering Services (CPC 8672) (M3 – under GATS 49% equity, licensing of 1 member) f) Integrated Engineering Services (CPC 8673) (M3) and NT) g) Urban Planning & Landscape Architectural services (CPC 8674) h) Medical (CPC 93122) & Dental Services (CPC 93123) i) Veterinary Services (CPC 932) j) Services provided by midwives, nurses, physiotherapists and para-medical personnel (CPC 93191) | <p>All liberalized for Mode 1, 2 and 3, with no limitation on MA & NT.</p> |
| <p>B: Computer & Related Services (CPC 84) (M3 –under GATS, 49% or less equity limitation)</p> | <p>All liberalized for Mode 1, 2 and 3, with no limitation on MA & NT.</p> |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>C: Research & Development Services</u></p> <ul style="list-style-type: none"> a) Research & experimental development services on agriculture sciences for fisheries only. (CPC 85104) b) Research & development for crude oil, natural gas and condensate. c) Research & experimental development services on cultural sciences, sociology and psychology. (CPC 85201) d) Research & experimental development services on medical sciences and pharmacy. (CPC 85105) | <p>All sub sectors liberalized for Mode 1, 2 and 3, with no limitation on MA & NT, except for (c) which has a limitation on MA – foreign equity is limited to 49% and/or approval from respective ministry.</p> |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|--|---|
| <p><u>D: Rental/Leasing Services Without Operators</u></p> <p>a) Relating to ships (CPC 83103) excluding less than 3 yachts.</p> <p>b) Leasing or rental services concerning aircraft without operator (CPC 83104)</p> <p>c) Leasing and rental of household goods (CPC 8320)</p> | <p>For sub-sector (a), mode 1 is not liberalized for both MA & NT. Mode 2 is liberalized with no limitations for both MA & NT. For mode 3, there is a limitation on MA – for 4-5 yachts, foreign equity is limited to 49%.</p> <p>Sub sectors b & c are liberalized with no limitations on MA & NT.</p> |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|--|
| <p><u>E: Other Business services</u></p> <ul style="list-style-type: none"> a) Advertising services. (CPC 871) b) Management consulting services related to energy and mining sector only. (CPC 865) c) Services related to management consulting related to energy sector only. (CPC 866) d) Technical testing & analysis services only for gas, mining & oil industry. CPC (8676) e) Services incidental to mining. (CPC 883) f) Related scientific & technical consulting services only for gas, mining & oil industry. (CPC 8675) g) Maintenance & repair of equipment. (CPC 8861-8866) h) Packaging services. (CPC 876) | <p>All liberalized for Mode 1, 2 and 3, with no limitation on MA & NT.</p> |

OFFER UNDER FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|--|
| <p><u>A: Insurance and Insurance Related Services.</u></p> <p>Direct insurance (including co-insurance)</p> <ul style="list-style-type: none">a) Life insurance services (CPC 8121, for M1)b) Non-Life insurance services (CPC 8129*) ALL modesc) Reinsurance and retrocession (CPC 81299) ALL Modesd) Services auxiliary to insurance (including broking and agency services) (CPC 8140) All modes | <p>All liberalized for Mode 1, 2 and 3, with no limitation on MA & NT.</p> |

OFFER UNDER FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>B: Banking & Other Financial Services</u> (Excluding insurance</p> <ul style="list-style-type: none"> a) Acceptance of deposits and other repayable funds from the public. (CPC 8111 – 81119) b) Lending of all types. (CPC 8113) c) Financial leasing (CPC 8112) d) All payment & money transmission services CPC 81339**) e) Guarantees & commitments. (CPC 81199**) f) Trading for own account or for account of customers g) Participation in issues of all kinds of securities, including underwriting and placement as agent.(CPC 8132) h) Money broking (CPC 81339**) | <p><u>For sub sub-sectors a-j,</u> mode 1 is not liberalized re MA & NT. Modes 2 and 3 are liberalized with no limitation on MA & NT.</p> |

OFFER UNDER FINANCIAL SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|--|
| <p><u>B: Banking & Other Financial Services</u> (Excluding insurance)</p> <p>i) Asset management (CPC 8119** - 81323*)</p> <p>j) Settlement and clearing services of financial assets. (CPC 81339** + 81319**)</p> <p>k) Advisory and other auxiliary financial services and all activities listed in Article 1B of MTN.TNC/W/50. (CPC 8131 or CPC 8133)</p> <p>l) Provision and transfer of financial information, and financial data processing related software by providers of other financial services (CPC 8131)</p> <ul style="list-style-type: none"> • Private Pension Funds (CPC 8119**) | <p>For sub sub-sector (k), Mode 1 is liberalized with no limitation on MA, but NT is not liberalized.</p> <p>Sub sub-sector (l), modes 1-3 are liberalized with no limitations on MA & NT.</p> |

SELECTED COUNTRY – ZAMBIA

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|--|--|
| A. Professional Services | |
| b. Accountancy services (CPC 862) | Mode 1, 2 & 3 fully liberalized with no limitations on MA & NT |
| h. Medical and Dental Services (CPC9312) | Mode 1, 2 & 3 fully liberalized with no limitations on MA & NT |
| j. Services provided by midwives, nurses, physiotherapists and paramedical personnel (CPC 93191) | Mode 1, 2 & 3 fully liberalized with no limitations on MA & NT |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| F. Other Business Services | |
| e. Technical testing and analysis services (CPC 8676) | Mode 1, 2 & 3 fully liberalized with no limitations on MA & NT |
| Services incidental to manufacturing (CPC 884+885) except 88442) | Mode 1, 2 & 3 fully liberalized with no limitations on MA & NT |
| h. Services incidental to mining (CPC 883 + 5115) | Mode 1, 2 & 3 fully liberalized with no limitations on MA & NT |

SELECTED COUNTRY - GABON

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|--|
| <p><u>A: Professional Services</u></p> <p>a) Legal services (CPC 861)</p> <p>b) Accounting & Bookkeeping (CPC 862)</p> <p>c) Taxation Services (CPC 863)</p> | <p><u>Legal services</u>: All liberalised for mode 1 & 2 with no limitations for MA & NT. Mode 3 is not liberalised.</p> <p><u>Accounting & Taxation</u>: Mode 1 and 2 are not liberalised. Mode 3 has limitations on both MA & NT.</p> <ul style="list-style-type: none"> ○ Business presence is allowed only in the form of an accountancy joint venture with specified nationals, subject to the particular limitation – latter must have two thirds majority in number and capital. ○ NT has an additional residence & registration requirement. ○ Taxation has an additional NT limitation: Proof of establishment in the first country of establishment in the community. |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>A: Professional Services</u></p> <p>d) Architectural Services (CPC 8671)</p> | <p><u>Architectural services:</u></p> <p>All liberalised for mode 1 & 2 with no limitations for MA & NT.</p> <p>Mode 3 has limitations on MA & NT:</p> <ul style="list-style-type: none"> ○ MA: Business presence is allowed for foreign architects already registered in their home country & in the form of joint venture with local registered architects. ○ NT: Residency requirement, proof of establishment & registration in the national register of architects for foreigners, who must also be registered and practising architects in their home country. |
| <p>Contract Administration services (CPC 86713)</p> | <p>Modes 1 & 2 are NOT liberalised.</p> <p>Mode 3 has limitations on MA & NT:</p> <ul style="list-style-type: none"> ○ MA: Business presence is allowed in the form of a company with Gabonese engineers holding at least 51% of the capital. ○ NT: Foreign service providers must be architects/firms already registered in their home country & registered in the national register of architects. |
| <p>Combined architectural design (CPC 86714)</p> | |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <u>A: Professional Services</u> | |
| e) Engineering Services (CPC 8672) Engineering consulting services (CPC 86721) | <p><u>Engineering services:</u></p> <p>Mode 1 & 2 are liberalised with no limitations for MA & NT. Mode 3 has a limitation for both MA & NT.</p> <ul style="list-style-type: none"> ○ MA: Business presence is allowed in the form of a company with Gabonese engineers holding at least 51% of the capital. ○ NT: Requirement of residence and proof of effective establishment for foreign service providers who must be engineers, or companies offering engineering services in their home country, & registered with the national engineering association. <p>Mode 1 & 2 are not liberalised. Mode 3 has limitations:</p> <ul style="list-style-type: none"> ○ MA: Business presence is allowed for foreign engineers already registered in their home country & as a joint venture with local registered engineers. ○ NT: Requirement is the same as above. |
| Engineering design services (CPC 86722 – 26) | |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>A: Professional Services</u></p> <p>f) Integrated Engineering Services (CPC 8673)</p> <p>g) Urban Planning & Landscape Architectural services (CPC 8674)</p> <p>h) Medical (CPC 93122) & Dental Services (CPC 93123)</p> | <p>For sub sub-sector (f), modes 1-3 are liberalised with no limitations.</p> <p>For (g), modes 1-2 are liberalised with no limitations. Mode 3 has limitations as follows:</p> <ul style="list-style-type: none"> ○ MA: Business presence takes the form of a licensed joint venture after relevant ministry authorization. ○ NT: Registration with the national order of architects required for foreign landscape architects. <p>Modes 1 & 2 are liberalised with no limitations on MA & NT. Mode 3 has limitations:</p> <ul style="list-style-type: none"> ○ MA: Business presence is open for speialists not available on national territory, to professionals having resided in Gabon for 10 years. ○ NT: Requirement to renew licence every 2 years. |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|--|--|
| <p><u>A: Professional Services</u></p> <p>i) Veterinary Services (CPC 932)</p> <p>j) Services provided by midwives, nurses, physiotherapists and para-medical personnel (CPC 93191)</p> | <p>For sub sub-sector (i), Modes 1-3 are liberalised with no limitations except mode 3 which has a limitation on MA: The approval of relevant ministry is required.</p> <p>For sub sub-sector (j), Modes 1 & 2 are liberalised with no limitations. Mode 3 has limitations on both MA & NT:</p> <ul style="list-style-type: none"> ○ MA: Business presence is open to midwives & physiotherapists who have obtained authorization from MoH & have been Gabon residents for 10 years. ○ NT: Registration in the Order of Midwives is required, as well as renewal of the authorization every 2 years. |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|--|---|
| <p><u>B: Computer & Related Services (CPC 84)</u></p> <p>a) Consultancy services for the installation of computer equipment (CPC 841)</p> <p>b) Software development services (CPC 842)</p> <p>c) Data processing services (CPC 843)</p> <p>d) Database services (CPC 844)</p> <p>e) Another: Maintenance & repairs (CPC 845)</p> | <p>For sub sub-sectors a & b, Modes 1 – 3 are liberalised with no limitations except mode 3 which is not liberalised for MA, except as indicated in the horizontal section</p> <p>For c, d & e, modes 1, 2 & 3 NT are liberalised with no limitations.</p> <p>For mode 3, c&d are not liberalised except as indicated in the horizontal section (above). Authorization is also required for MA.</p> <p>For e, mode 3, authorization is required for MA.</p> |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|--|
| <p><u>C: Research & Development Services</u></p> <p>a) Research & experimental development services in natural sciences (CPC 851)</p> <p>b) Research & development in social sciences and humanities (CPC 852)</p> <p>c) Services provided to interdisciplinary R&D(CPC 853)</p> | <p>All sub sub-sectors liberalized for Mode 1, 2 and 3, with no limitation on MA & NT, except for MA for mode 3, which requires authorization.</p> |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|--|---|
| <p><u>D: Real Estate Services</u></p> <p>a) Real estate services relating to owned or leased property (CPC 821)</p> <p>b) Real estate services on a fixed price or contract basis (CPC 822)</p> | <p>For sub sub-sectors a & b, modes 1 & 2 are liberalised with no limitations on MA & NT.</p> <p>For mode 3, authorization is required for MA, while for NT is not liberalised except as indicated in the horizontal section:</p> <p><i>Services that are considered public services at the national or local level may be subject to public monopolies or exclusive rights reserved for private providers.</i></p> |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>E: Rental/Leasing Services Without Operators</u></p> <ul style="list-style-type: none"> a) Rental or leasing of vessels. (CPC 83103) b) Rental or leasing of aircraft (CPC 83104) c) Rental or leasing services of other transport equipment. (CPC 83101, 102, 105) d) Leasing or rental services of other machinery and equipment CPC 83106-109 | <p>For sub sub-sectors a-d, modes 1 & 2 are liberalised with no limitations on MA & NT. Mode 3 is not liberalised except as indicated in the horizontal section: <i>Services that are considered public services at the national or local level may be subject to public monopolies or exclusive rights reserved for private providers.</i></p> |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|--|
| <p><u>E: Other services provided to companies.</u></p> <p>a) Advertising services. (CPC 871)</p> <p>e) Technical testing & analysis services only for gas, mining & oil industry. CPC (8676)</p> <p>f) Services incidental to agriculture, hunting and forestry CPC-881</p> <p>Forest management services</p> <ul style="list-style-type: none"> - Related forestry services | <p><u>For sub sub-sectors a-f,</u> modes 1-3 are liberalised with no limitations for MA & NT, except mode 3 for advertising services which is not liberalised except as indicated in the horizontal section: <i>Services that are considered public services at the national or local level may be subject to public monopolies or exclusive rights reserved for private providers.</i></p> <p>For Forest management services, modes 1&2 are not liberalised. Mode 3 is liberalised with no limitations on MA & NT.</p> |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|---|---|
| <p><u>E: Other services provided to companies.</u></p> <p>g) Fisheries-related services CPC-882</p> <p>h) Services incidental to extractive industries CPC 883+5115.</p> | <p><u>For sub sub-sector g</u>, modes 1-3 are liberalised with no limitations on MA & NT.</p> <p><u>For sub sub-sector h</u>, modes 1 & 2 are not liberalised. Mode 3 has the following limitations:</p> <p><u>MA:</u></p> <ul style="list-style-type: none"> • Permanent quarrying permits are granted to any legal entity whose capital is majority owned by Gabonese; • Small-scale mining permits are strictly reserved for nationals, be they natural persons or legal persons; • The holders of mining conventions and mining subcontractors must employ, as a priority, nationals, with equivalent qualifications and experience. <p><u>NT:</u></p> <ul style="list-style-type: none"> • The holder of a mining title must give priority to local SMEs/SMIs. |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|--|---|
| <p><u>E: Other services provided to companies.</u></p> <p>i) Services incidental to manufacturing industries - Manufacturing services of agro-industrial products (part of CPC 884)</p> <p>j) Services related to energy distribution CPC 887</p> | <p><u>For sub sub-sector i</u>, modes 1-3 are liberalised with no limitations on MA & NT, except mode 3 which has a limitation on MA: Authorization is required.</p> <p><u>For sub sub sector j</u>, mode 1 & 2 are liberalised with no limitations on MA & NT. Mode 3 is liberalised with no limitations on NT, but MA is not liberalised except as indicated in the horizontal section: <i>Services that are considered public services at the national or local level may be subject to public monopolies or exclusive rights reserved for private providers.</i></p> |

OFFER UNDER BUSINESS SERVICES

| Sub-Sector / Sub-Sub-Sector | Commitments |
|--|--|
| <p><u>E: Other services provided to companies.</u></p> <p>n) Maintenance and repair services for equipment excluding transport equipment</p> <p>o) Building cleaning services (CPC 874)</p> <p>q) Packaging Services CPC-876</p> <p>r) Printing and publishing services CPC-88442</p> <p>s) Conference Services CPC 87909</p> | <p><u>For sub sub-sector n,</u> mode 1 is not liberalised. Mode 2 and 3 are liberalised, with no limitation on MA & NT.</p> <p><u>For (o),</u> mode 1 is not liberalised, mode 2 is liberalised with no limitations on MA & NT. Mode 3 is liberalised with no limitation on NT. MA has a limitation: Prior authorization is required.</p> <p><u>For (q),</u> modes 1 & 2 are not liberalised. Mode 3 is liberalised with no limitations on MA & NT.</p> <p><u>For r&s,</u> modes 1-3 are liberalised with no limitations on MA & NT, except mode 3 for conference services which is not liberalised except as indicated in the horizontal section: <i>Services that are considered public services at the national or local level may be subject to public monopolies or exclusive rights reserved for private providers.</i></p> |



Regulatory & Operational Issues around Professional Services

REGULATING PROFESSIONAL SERVICES

- Unlike liberalization of goods that involves removal of tariffs, for services, liberalization is through removal of restrictions on foreign supply across the 4 modes of supply
- Removal of restriction is not the same as Deregulation – Countries retain the right to regulate to protect consumers, standards etc
- But although necessary, service regulation can also act as a barrier to trade in services.
- The most restrictive regulations are usually related to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services.
- In recognition of this, WTO Joint Statement on Services Domestic Regulation (SDR) was adopted in 2022.
- The SDR is meant to enhance best practices in regulating services

REGULATING PROFESSIONAL SERVICES

The SDR addresses three main areas on regulation (Based on WTO Briefing paper)

- a. **Disciplines on transparency:** measures aimed at ensuring the prompt publication and availability of information to persons seeking to supply a service (e.g. enquiry points; in advance publication of proposed laws and regulations; opportunity to comment; etc.).
- b. **Disciplines on legal certainty and predictability:** measures aimed at establishing regulatory and procedural benchmarks to be followed by competent authorities when dealing with applications for authorization to supply services. Such measures seek to ensure that applications will be dealt with following certain parameters (e.g. indicative timeframes for processing of applications; information on status and decision on applications; reasonable time between publication of laws and regulations and their entry into force).
- c. **Disciplines on regulatory quality and facilitation:** measures aimed at the adoption and dissemination of good regulatory practices to facilitate services suppliers' ability to trade (e.g. acceptance of electronic applications and authenticated copies of documents; independence of competent authorities' decision-making process from services suppliers; reasonableness of fees; etc.).

REGULATING PROFESSIONAL SERVICES

The Disciplines on Services Domestic Regulation - In Brief

TRANSPARENCY

- Publish and make available information required to comply with requirements and procedures for authorization, including through electronic means;
- Establish appropriate mechanisms for responding to enquiries from service suppliers;
- Engage stakeholders by publishing proposed laws and regulations, providing opportunity for comments from interested persons, and considering comments received.

LEGAL CERTAINTY AND PREDICTABILITY

- Establish indicative timeframes for processing applications;
- Process applications in a timely manner;
- Provide information on the status of applications;
- Allow applicants to correct minor deficiencies in incomplete applications and identify additional information required;
- Inform applicants of reasons for rejection of applications and allow resubmission;
- Allow authorization once granted to enter into effect without undue delay;
- Allow reasonable time between publication of laws and regulations and date of required compliance by service suppliers;
- Hold examinations at reasonably frequent intervals.

REGULATING PROFESSIONAL SERVICES

REGULATORY QUALITY AND FACILITATION

- Require applicants to approach only one competent authority to obtain authorization;
- Permit submission of applications at any time throughout the year, or at least, allow reasonable periods of time for submission;
- Accept electronic applications and authenticated copies of documents;
- Ensure that authorization fees are reasonable, transparent, and do not in themselves restrict the supply of service;
- Support professional bodies wishing to establish dialogues on issues relating to recognition of professional qualifications;
- Ensure that competent authorities reach their decisions in a manner independent from services suppliers;
- Consolidate relevant information on a single online dedicated portal;
- Develop technical standards through open and transparent processes;
- Base measures relating to authorization on objective and transparent criteria;
- Ensure that procedures are impartial, adequate and do not unjustifiably prevent fulfilment of authorization requirements;
- Ensure that authorization measures do not discriminate between men and women.

REGULATING PROFESSIONAL SERVICES

KEY REQUIREMENTS:

- Independent Regulator
- Mutual recognition agreements (MRAs) – formal arrangements between two or more countries' standards, professional regulatory or licensing bodies, to recognise the equivalence of another country's conformity assessment procedures or technical regulations and academic or professional qualifications in the case of natural persons.

REGULATING PROFESSIONAL SERVICES

Experience from EAC (from GIZ Funded study of 2018) showed:

- Not all Partner States are party to signed MRA. For some like Burundi, the lack of regulatory bodies for engineering & architectural services is the key hinderance
- The signed MRA provides for a committee to oversee implementation but funding of MRA meetings and implementation activities has been a challenge.
- MRA were not comprehensive – mainly covered Mode 4 (temporary movement of professionals and Mode 1, Cross border supply. Only Architects MRA provide Mode 3 specific provisions
- The level of regulatory compliance and implementation differs across professions; fairly good progress is observed for the Accountants' MRA but relatively limited progress for Veterinary MRA.
- Limited regulatory reforms put in place to support implementation.
- Generally, there is limited movement of professionals partly due to limited awareness and reluctance to re-establish in another Partner States. However, the differences in data capture and registration requirement affected the level analysis. For example, the requirement for registration in most profession applies only to public practice thus excluding those seeking employment and where their registration is not mandatory.

REGULATION OF SERVICES UNDER AfCFTA

This section summarises the findings of the Regulatory Audits undertaken across 54 economies to guide AfCFTA Negotiations:

- Restrictiveness of policies that govern the provision of services by foreign providers, across 54 African economies, **is overall relatively high**, albeit with substantial dispersion across economies in every sector, and across sectors.
- On a scale from zero (no restrictions) to 100 (completely closed), **the median STRI oscillates around 50 across all sectors covered by the survey**, indicating the presence of some major restrictions in many economies.
- Although the foreign supply of services in African economies is rarely completely prohibited, **the cross-border provision of services ('mode 1') is by far the most restricted among the four modes of supply, with about a quarter (24%) of subsector-mode combinations closed entirely**. This is one contributing factor to the overall high level of restrictiveness. with nearly a quarter of all entries (24%) closed.
- Mode 3 is not possible in 7.8% of all cases. The movement of natural persons as service suppliers, or Mode 4, is rarely closed off entirely (4.2%); however, whilst being in principle open, this mode is frequently subject to a plethora of restrictions such as labor market tests or other quantitative limitations.

AfCFTA IMPLEMENTATION ISSUES

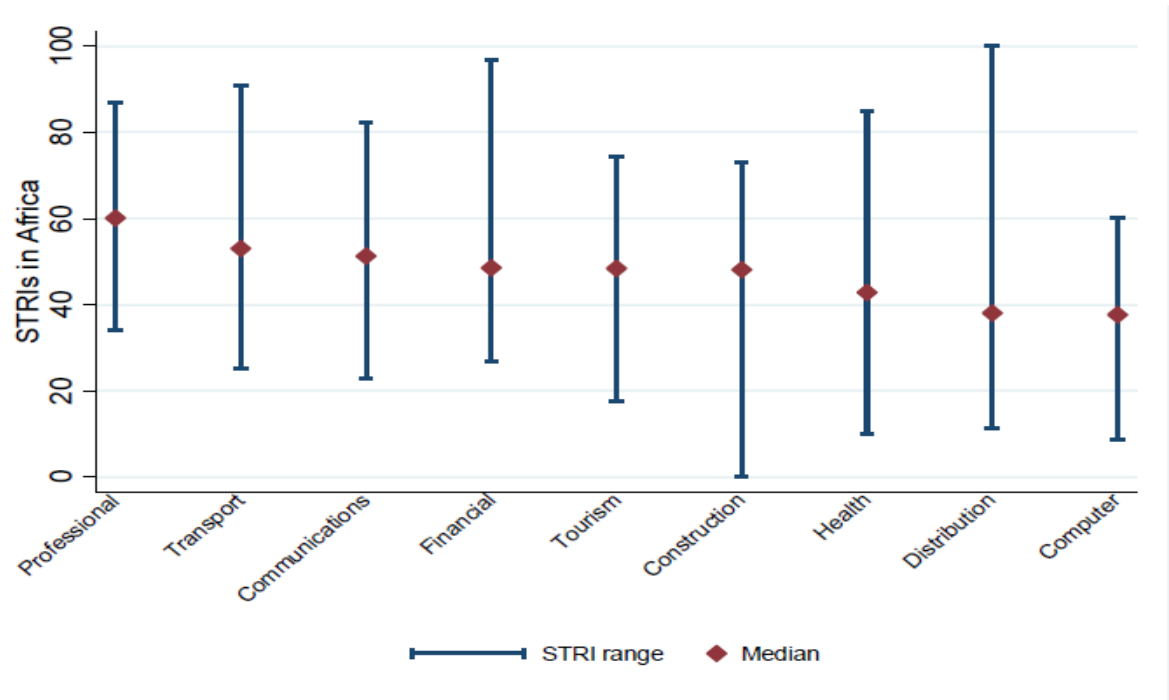
- **By the count of subsector-modes that are completely closed, 11% of all possible subsector-mode combinations are closed off. Ethiopia and Libya appear as the most restricted economies** as they have the largest number of subsector-mode combinations that are entirely closed to foreign competition (39 and 33, respectively).
- In both countries the large number of subsector-mode closures can partly be explained by restrictions arising from general policies. For instance, in Ethiopia payments in foreign currency are restricted, except in a few selected subsectors, making it impossible for entities in Ethiopia to buy services from abroad. In Libya, foreign companies must establish a branch to be able to sell their services in the country, which in turn is only possible for a small number of services subsectors, prohibiting the provision of services directly from headquarters abroad.
- **The Gambia, Mauritius and Sierra Leone are the most open ones.** However, there exists substantial variation of policies and restrictiveness across African economies in every sector.

AfCFTA IMPLEMENTATION ISSUES

- There are also considerable differences in restrictiveness across sectors. **The professional services sector is the most restricted**, with a median STRI of 60, indicating that half of the 54 economies exhibit values in excess of 60 whereas the other half fall below this value.
- Other restrictive sectors are **transport, communications and financial services**.
- The **least restricted sectors are computer services and distribution services**, with median STRI values of 40, although the distribution sector exhibits a very wide range of policy regimes including complete sector closures.
- **Larger economies in terms of market size tend to be more restrictive towards services trade** whereas economies with better institutions, especially higher regulatory quality and political stability, tend to be more open.

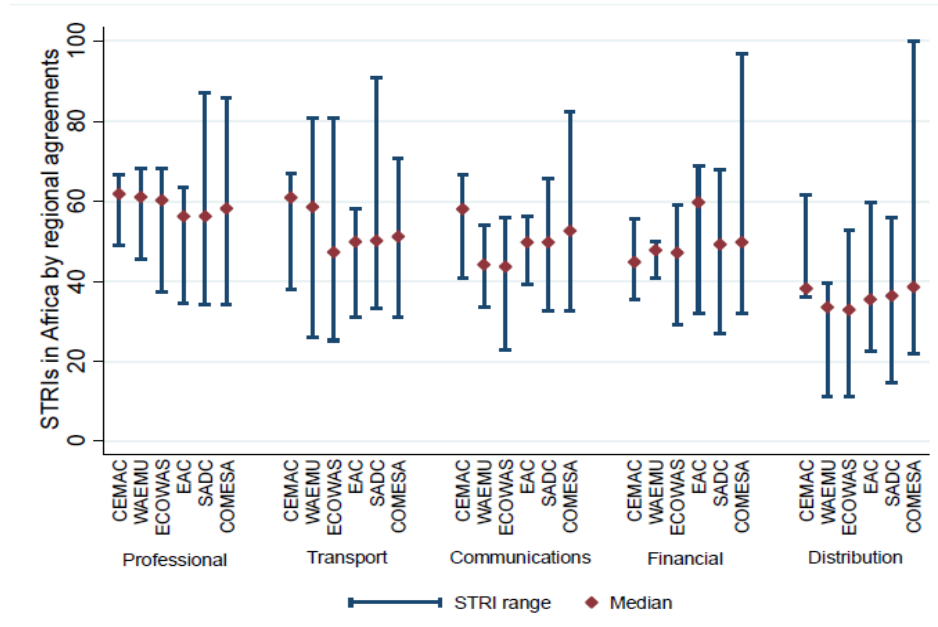
AFCFTA - POLICY RESTRICTIVENESS OF BROAD SECTORS

Figure 3.1. Median, minimum and maximum STRI across 54 African economies, by broad service sector



AFCFTA - POLICY RESTRICTIVENESS OF BROAD SECTORS

Figure 3.2. STRI by African regional groupings and selected broad sectors



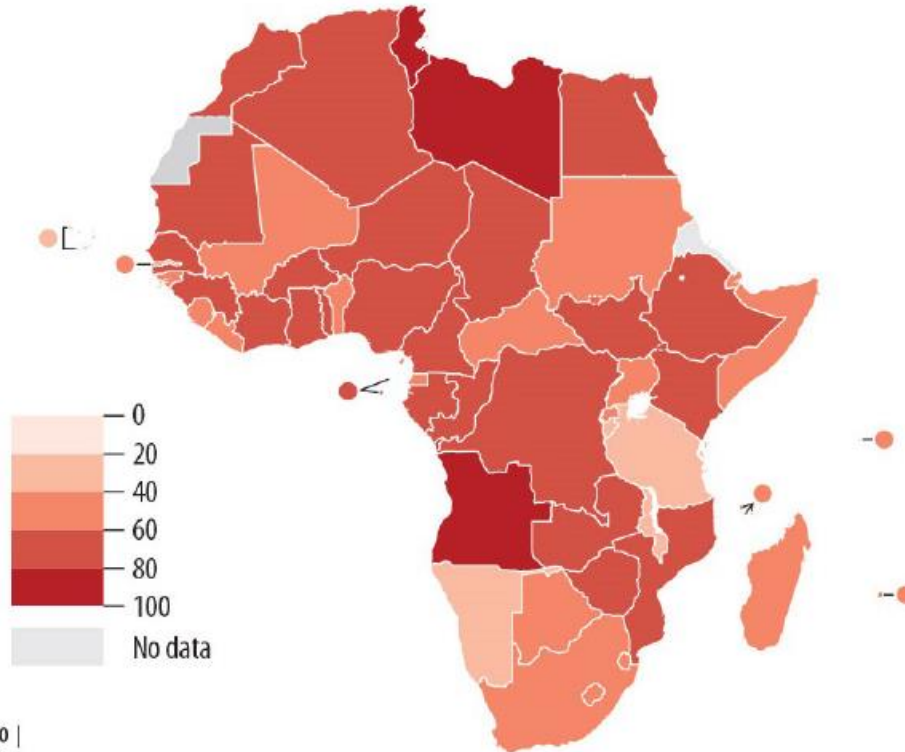
- Significant disparity across the RECs in terms of restrictiveness
- STRIs values for economies that belong to large regional groupings eg SADC or COMESA show a relatively larger dispersion due to more heterogeneous legislation across the parties

STRI AT SELECTED SECTOR LEVEL

- Based on WTO data, not all service sectors are equally important in terms of the observed value of services trade flows.
- Majority of all services imports of African economies consist of **financial and transportation services, as well as Information, Computer and Telecommunication (ICT including audiovisual) and distribution services**,
 - Between them, these four categories account for about three-quarters of all services imports in Africa. (based on average values over 3 years to 2019)
- These service categories are followed by the group of **‘other business services’ (including professional services), construction, and tourism and business-related travel**.

STRI - PROFESSIONAL SERVICES

Figure 3.9. STRI across 54 African economies – Professional services

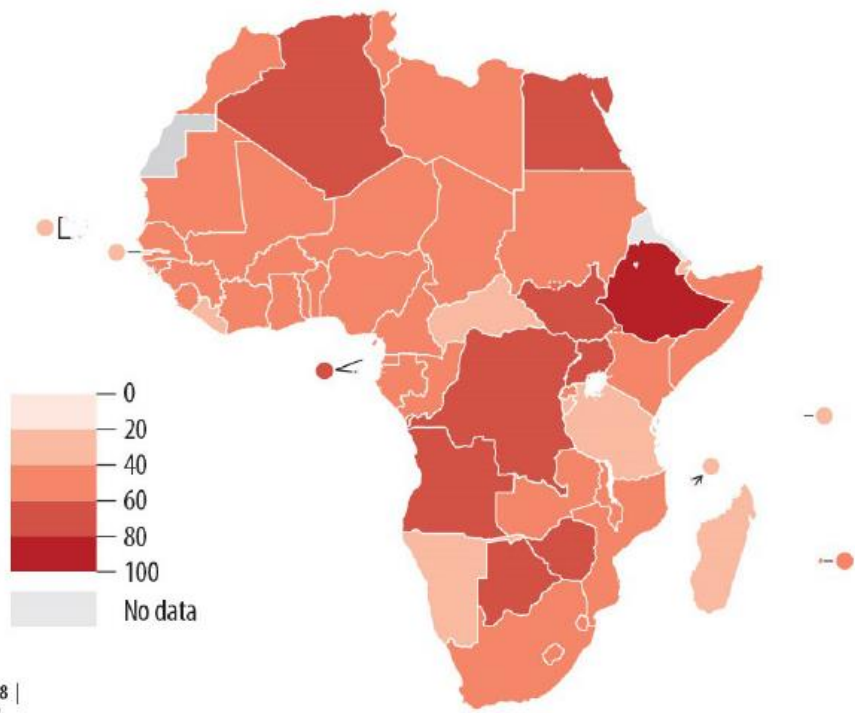


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STRI- FINANCIAL SERVICES

Figure 3.7. STRI across 54 African economies - Financial services

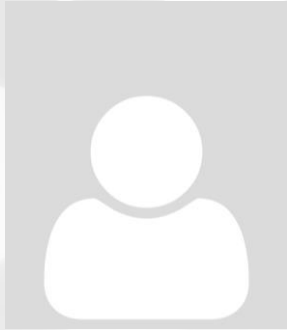


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