

Realizing Pan-African Economic Integration: Appraisal of Legal and Institutional Frameworks of The African Continental Free Trade Area (Afcfta)

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Abstract- This study carefully evaluates the legal and institutional frameworks of the African Continental Free Trade Area (AfCFTA) as vehicles for facilitating Pan-African economic integration. The AfCFTA is the first major project of the African Union (AU) aimed at establishing a continental market with unrestricted trade and investment opportunities and advancing industrialization by addressing trade barriers, investment enhancers and capacity for greater capacity utilization. The article begins with a discussion of the conceptual and theoretical history of regional integration and Pan-Africanism and provide a historical perspective by discussing earlier developments such as the Lagos Plan of Action and the Abuja Treaty. The author discusses the structure of the AfCFTA Agreement and its core legal instruments, which include the protocols on trade in goods and trade in services, as well as dispute settlement and the appendices on rules of origin and technical barriers. From there we analyse the AfCFTA, assess the roles and functions of four key institutions within the AfCFTA, namely AU Assembly, Council of Ministers, Secretariat and Dispute Settlement Body. While the legal architecture of the AfCFTA aligns with global engagement in terms of trade-and, the legal institutions and mechanisms provide for oversight and enforcement of the principles, the author identified several potential pitfalls that limit the true ambition and aspirations of the AfCFTA. These include concurrent participation in Regional Economic Communities (RECs), insufficient enforcement ability, infrastructure deficits, and insufficient political will. Comparing with the European Union (EU), a structural weakness in Africa's integration framework, particularly the lack of a supranational body. The study ends with a summary which identifies stronger institutional

capacity, legal harmonization and political will as necessary precursor to AfCFTA becoming an operating engine of continental integration and economic transformation.

Index Terms- Pan-African, AfCFTA, Economic Integration

I. INTRODUCTION

Economic integration has always been integral to Africa's post-colonial development strategy to move away from the fragmentation caused by colonialism and toward greater collective self-reliance. With over 1.3 billion people and a combined GDP of more than US\$3.4 trillion, Africa's 55 countries have immense potential if participants are able to develop and function under a cohesive trade and investment framework. However, to this point Africa has been among the least economically-integrated region globally. Intra-African trade represents less than 20% of the continent's total trade volume, whereas intra-regional trade accounts for over 60% of total trade in both Europe and Asia.¹ Therefore, the initiation of the African Continental Free Trade Area (AfCFTA) in March 2018 represents the beginning of a serious effort to reverse the trend of low levels of Intra-regional integration aims to establish a continental market that promotes the free movement of goods, services, capital, and people.²

The AfCFTA is more than a mere trade instrument, it is a milestone of both a legal and institutional nature. The AfCFTA intends to shift Africa's economic terrain by harmonizing regulatory environments and streamlining policy implementation. The AfCFTA represents not only a remarkable culmination of regional integration efforts, dating back to the Lagos Plan of Action (1980) and Abuja Treaty (1991) and

the work of the various Regional Economic Communities (RECs), but it is also distinctive in terms of its comprehensiveness: it has a legally binding foundational treaty, with protocols that cover trade, services, dispute settlement, investment and intellectual property, and has the institutional infrastructures in place to provide political oversight, coordination and legally designated enforcement. Because of this, the AfCFTA has the ability to actualize the vision of Pan-Africanism, to actively produce the vision and, albeit importantly, to progressively impact the narratives which surround trade rhetoric by engaging with critical issues of sovereignty, governance and development.³

While the AfCFTA was inaugurated with cautious optimism and holds significant promise for continental integration, its effective implementation faces substantial hurdles. Key among these are issues related to institutional capacity, legal harmonization, and sustained political commitment. Although the agreement's legal framework aligns with international standards and its political aspirations reflect Africa's broader development agenda, its success largely hinges on the efficiency of public institutions—namely the AfCFTA Secretariat, the Council of Ministers, and the Dispute Settlement Body. These institutions rely heavily on the ongoing engagement of member states, adequate financial resources, and strategic governance. However, the road ahead is complicated by persistent challenges such as the existence of overlapping Regional Economic Communities (RECs), poor infrastructure, limited enforcement capabilities, and reluctance by some governments to relinquish aspects of national sovereignty. Addressing these obstacles demands a critical evaluation of the AfCFTA's legal and institutional architecture, particularly in comparison with more advanced models like the European Union.⁴

Therefore, this article critically evaluates the legal and institutional structures of the AfCFTA by looking at its strengths, limitations, and capacity for meaningful economic integration in Africa. This article will begin by outlining the conceptual and theoretical foundations of regional integration and Pan-Africanism (the concept of solidarity on the continent), and then the history of integration in

Africa will be highlighted. Next, the legal instruments and institutional arrangements (legal relations) will be discussed and evaluated, concluding with a discussion of effectiveness that will be partially rooted in recent developments and comparisons to other international arrangements and models. Finally, this article hopes to add to the conversation regarding regionalism in Africa and the law that may be needed for the continent to reach its long-term aim of becoming an integrated economy.

II. CONCEPTUAL AND THEORETICAL FRAMEWORK

Economic integration is a process whereby sovereign nations co-operate on the government policies that impact the economy, establish common trading rules and lower, or eliminate, barriers to the movement of goods, services, capital and people. The classical model of economic integration conveyed by Béla Balassa in *The Theory of Economic Integration* (1961), describes five levels of economic integration, beginning with a preferential trade agreement. This integration extends to include a free trade area, a customs union, a common market, and ultimately an economic union. The five levels represent increasing levels of political and economic commitment to involve deeper levels of policy alignment. Balassa's framework established the original lens through which we can now examine modern economic integration arrangements such as the AfCFTA. The AfCFTA is envisaged to achieve the five levels of economic integration on a continental basis through its multiple protocols on goods, services, investment, competition policy and intellectual property rights⁵.

The AfCFTA draws upon the framework of new regionalism, which became a focus of regional studies scholars in the 1990s after the post-Cold War, nuanced idea that goes beyond just economic, considering states' interests across the spectrum of political, social, and security;⁶ it ascertains that regions are active agents pursuing new economic pathways in response to a globalizing order and dominant economy, rather passive subjects in it. As is the case of the AfCFTA, regional integration offers the same space for agency, allowing Africa to act as a self-determining economic bloc, perhaps seeking relatively better conditions in global trade

negotiations.⁷ The AfCFTA sees regional integration as the solution to carrying out negotiations the way smaller (linear) markets do by tapping into the respective Regional Economic Communities, but the AfCFTA aims to incorporate fragmented markets into a single market for over 1.3 billion people, which is an African Economic Community, build intra-African trade, expand industrial capacity, and gain leverage over more favorable conditions in the marketplace.⁸ In sum, Regionalism provides a compelling conceptual framework for the AfCFTA, that situates the agreement in a broader context of South-South cooperation and developmental regionalism

The ideological foundation of the AfCFTA is deeply tied to Pan-Africanism, a political and cultural movement advocating for the unity and solidarity of African peoples worldwide. Pan-Africanism emphasizes the need for African self-determination and collective development, as originally articulated by Kwame Nkrumah in *Africa Must Unite*. Nkrumah envisioned economic unity as essential to political sovereignty and liberation from neocolonial dependence.⁹ This vision resonates in the legal and institutional design of AfCFTA, which builds on earlier frameworks like the Lagos Plan of Action (1980) and the Abuja Treaty. By institutionalizing a continental market, AfCFTA operationalizes Pan-African ideals into legal commitments, reflecting a continuity of thought from decolonization-era aspirations to contemporary trade policy. It seeks not just economic efficiency, but the broader political goal of an integrated and self-reliant Africa.¹⁰

3. Evolution of Pan-African Economic Integration

The course of African economic integration stems from an early post-independence phase, especially marked by the foundation of the Organisation of African Unity (OAU) in 1963. The OAU was originally meant to promote solidarity, eliminate colonialism, and set the foundation for continental unity. However, its legal framework did not provide enforceable matters with respect to the economic integration of African countries, and so progress on economic integration remained aspirational. A significant turning point was the Lagos Plan of Action and the attendant advocacy for self-reliant development underpinned by regional cooperation.¹¹

The Lagos Plan of Action sought to reduce dependency on external actors, and emphasized intra-African trade and industrialization as key in this regard. This trajectory continued into the Abuja Treaty 1991 which established a six stage plan to establish an African Economic Community (AEC) by 2028, including establishing free trade areas, customs unions, a common market, and a monetary union.¹²

The RECs, such as ECOWAS (West Africa), COMESA (Eastern and Southern Africa), SADC (Southern Africa), EAC (East Africa) and others, were designated as the main building blocks to realize this vision.¹³ The RECs would promote integration at sub-regional levels and should, over time, become a single continental bloc. While some RECs made progress in reducing tariffs and developing mobility protocols (e.g. ECOWAS' free movement regime), others encountered difficulties with overlapping memberships, conflicting trade rules, and a lack of harmonization of policies. For example, some countries are members of multiple RECs with differing external tariff regimes, creating a lack of coherence and predictability of trade governance. Poor institutional capacity, inadequate infrastructure, and a lack of political will to support deeper integration have also been persistent barriers.¹⁴

The establishment of the African Continental Free Trade Area (AfCFTA) in 2018 indicates a transformative movement from fragmented sub-regionalism into continentalism, a single legal order on the continent. The AfCFTA builds on previous efforts, bringing together and harmonizing trade regulations from the Rec's and creating a market, on the continent, of over 1.3 billion people.¹⁵ Unlike the previous projects, the AfCFTA has an elaborate architecture, in legal terms, as it has legally binding and enforceable protocols, a mechanism for resolving disputes, and a central Secretariat in Accra, which is meant to streamline compliance and institutional arrangements. The AfCFTA is not only an economic project, but reflects a renewed Pan-African aspiration that represents both legal practicality and developmental inclination. By resolving the leadership debility of the past and stimulating intra-African trade, the AfCFTA has the capacity to fortify

Africa's structural transformation and enhance its competitiveness in the world.¹⁶

IV. OVERVIEW OF THE AfCFTA

The AfCFTA Agreement was developed in Kigali, Rwanda on 21 March 2018, under the umbrella of the African Union (AU). The AfCFTA is one of the most ambitious trade liberalization endeavours in the history of the continent. It aims to establish a single continental market for goods and services, with free movement of people and investments, providing a platform for countries to deepen their economic integration.¹⁷ Article 3 of the Agreement establishes the key objectives of the Agreement, including eliminating tariffs on at least 90% of goods, progressively liberalizing trade in services while promoting investment and industrial development, and supporting sustainable and inclusive economic growth.¹⁸ The AfCFTA is expected to respond to barriers to intra-African trade, which historically accounts for only about 17% of trade volumes as opposed to 69% in Europe.¹⁹

The AfCFTA's legal framework takes the form of a framework agreement consisting of a main treaty and protocols related to that treaty; i.e., the Protocol on Trade in Goods; the Protocol on Trade in Services; and the Protocol on Rules and Procedures on the Settlement of Disputes. The protocols have a wealth of additional legal instruments characterized as Annexes and Appendices further regulating key obligations, including rules of origin; customs cooperation; technical barriers to trade; non-tariff barriers; trade facilitation measures; and regulatory measures. The envisioned instrument represents some understanding of delays related to the Regional Economic Communities (RECs), and even other international instruments (e.g. World Trade Organization (WTO) instruments). The implementation of the AfCFTA Agreement is also phased, with Phase 1 being confinement to goods, services and dispute settlement, and Phase 2 being investment, competition policy and intellectual property rights.²⁰

In 2025, 54 of 55 AU member states signed the AfCFTA Agreement; 47 states ratified the Agreement, symbolizing an unprecedented level of

continental consensus and political commitment to African free trade and economic integration.²¹ The AfCFTA Secretariat is in operation in Accra, Ghana, serving as the institutional framework for implementation of the agreement. While broad ratification signifies strong intent from African leaders to advance regional integration, implementation at the national level has been more sporadic. The AfCFTA Agreement incorporates provisions for flexibility, provisions for special and differential treatment for Least Developed Countries (LDCs), and a framework for resolving trade disputes, all of which capture some of the economic diversity among African states.²² Nonetheless, the challenge is to turn legal commitments into domestic policies, customs reforms, and private sector participation. Despite these implementation challenges, the AfCFTA is a historic inflection point in African economic diplomacy, and a unified legal and institutional framework from which Africa can re-shape its development agenda.²³

V. LEGAL AND INSTITUTIONAL FRAMEWORK OF AfCFTA

The legal architecture of the African Continental Free Trade Area (AfCFTA) is characterized by its multi-layered structure that incorporates global best practices in trade governance while also taking into consideration Africa's development reality. The Agreement Establishing the AfCFTA sets out the general principles, purpose and institutional framework for continental trade liberalisation; however, this framework is complemented by a number of Protocols, Annexes and Appendices, which set out the substantive and procedural rule required to achieve the aims of the AfCFTA. The structure, therefore, affords flexibility and specificity, enabling the Agreement to respond to the continent's varied economic landscape while providing a consistent approach among member states.²⁴

Among the key legal instruments are the Protocol on Trade in Goods, Protocol on Trade in Services, and the Protocol on Rules and Procedures on the Settlement of Disputes, all of which were adopted during the first phase of AfCFTA negotiations.²⁵ These protocols are not merely declaratory; they establish binding obligations for state parties

concerning tariff liberalization, trade in services, and dispute resolution. The Protocol on Trade in Goods, for instance, commits parties to progressively eliminate tariffs on at least 90% of goods and addresses non-tariff barriers, customs cooperation, trade facilitation, and product standards. The Protocol on Trade in Services liberalizes five priority sectors: business, communication, finance, tourism, and transport services, while allowing states to maintain a schedule of specific commitments.²⁶

The AfCFTA also includes Annexes that operationalize these protocols. These annexes provide detailed provisions on crucial technical areas such as rules of origin, customs procedures, technical barriers to trade (TBT), and sanitary and phytosanitary measures (SPS). For example, the Annex on Rules of Origin defines the criteria used to determine the national source of a product, which is critical in granting preferential treatment under the free trade regime. Similarly, the Annex on TBT seeks to ensure that product regulations, standards, and conformity assessments do not create unnecessary obstacles to trade. These instruments are necessary to harmonize trade practices across diverse jurisdictions and reduce regulatory fragmentation, which has historically hampered intra-African commerce.²⁷

An important part of the legal architecture is the Dispute Settlement Mechanism (DSM) which is similar to the World Trade Organization (WTO) dispute resolution but adapted to the African context. The Protocol on Dispute Settlement provides for a formal and legally binding process to settle trade disputes between the Member States. It sets up a Dispute Settlement Body (DSB) and panels, as well as the establishment of an Appellate Body, and the DSM ensures fairness and impartiality and certainty in legally interpreting and enforcing selected AfCFTA provisions. The DSM is an important development in African trade law, as disputes were often not considered or enforceable in many RECs where there was no effective dispute system. The DSM will reinforce rule of law in AfCFTA and should provide both greater certainty for investors and compliance by Member states.²⁸

Furthermore, as the AfCFTA process advances and Phase II and III negotiations are underway and

additional protocols are being developed addressing investment, intellectual property rights, competition policy, digital trade, and women and youth in trade, these legal instruments are expected to facilitate greater integration by expanding the legal obligations beyond core trade in goods and services. AfCFTA's legal framework has cross-cutting issues such as industrialization, innovation and inclusion which are construed to align and complement Africa's other developmental frameworks including the AU Agenda 2063 and the UN Sustainable Development Goals (SDGs). In this regard, its layered, forward-looking legal framework paints AfCFTA not as a trade agreement, but as an economic governance blueprint that may alter Africa's standing in the global economy.²⁹

5.2 Institutional Structure

The Agreement Establishing the African Continental Free Trade Area (AfCFTA) provides a full institutional framework including five main organs which provide political oversight, policy direction, technical implementation, coordination and the resolution of disputes. The institutions will be essential for the success of AfCFTA and their functionality will depend on the level of political will, financial and administrative capacity committed by member states, and the African Union (AU). Each organ has a distinct, complementary role in facilitating the translation of the treaty's legal commitments into tangible realities.

The Assembly of the African Union, composed of the Heads of State and Government of AU member countries, is the highest decision-making body of the AfCFTA. As stipulated in Article 11 of the Agreement, the Assembly provides strategic guidance and political oversight over the implementation of the AfCFTA and the broader continental integration agenda.³⁰ It is responsible for adopting major policy frameworks, approving new protocols, and resolving high-level political or diplomatic issues. The Assembly's involvement ensures that trade policy is aligned with Africa's broader development and peace-building goals. However, its decisions are largely dependent on national-level implementation, and the Assembly's effectiveness has been historically hampered by

inconsistent participation and limited follow-through by member states.³¹

The Council of Ministers Responsible for Trade is the main policy makers for the AfCFTA. The Council consists of ministers of trade/commerce in each state party to the Agreement and is responsible for the implementation and administration of the Agreement. The Council meets at least twice a year, and makes decisions on tariff concessions, commitments to services, and the negotiations of certain new areas of trading, which include investment and competition policy. The Council also considers reports from technical institutions and inter-institutional coordination of the implementation of AfCFTA through AU Commission and RECs (regional economic communities). While the Council on Ministers is a significant decision-making body, its work takes place in a context where trade ministers can be conflicted by national interests and have very limited domestic mandates for implementing regional decisions.³²

The Committee of Senior Trade Officials functions as a technical advisory and oversight body that supports the Council of Ministers. This Committee, composed of senior civil servants or directors from trade ministries, is responsible for reviewing implementation reports, monitoring compliance, and addressing procedural and technical challenges that arise during implementation. It plays a crucial role in shaping the policy proposals presented to the Council of Ministers. According to UNCTAD (2019), the effectiveness of this Committee is vital, particularly in resolving technical bottlenecks and facilitating the harmonization of national laws with AfCFTA obligations.³³ However, challenges such as bureaucratic inefficiencies and capacity constraints among member states can affect its ability to consistently deliver on its mandate.³⁴

The AfCFTA Secretariat is located in Accra, Ghana and is the operational and administrative body of the Agreement. It was created as an independent legal entity under the AU legal system. The AfCFTA Secretariat's main functions are to coordinate the implementation of the AfCFTA provisions and provide Technical support to state parties in their implementation of the AfCFTA Agreement as conditions permit. The AfCFTA Secretariat also acts

as the depository of legal instruments and official documents, organizes meetings, keeps records on compliance, and communicates with stakeholders. The AfCFTA Secretariat represents a significant institutional innovation, as it is intended to provide technical leadership on a permanent and central level. Its status as a legal entity independent of state parties combined with support from the host country presents important opportunities. However, its long-term sustainability will depend on consistent financing, sufficient staffing, and the degree to which state parties are prepared to confer authority.³⁵

The Dispute Settlement Body (DSB), established under the Protocol on Rules and Procedures on the Settlement of Disputes, handles trade disputes arising between AfCFTA state parties. Drawing from WTO jurisprudence, the DSB establishes panels, oversees compliance, and interprets provisions of the AfCFTA Agreement. The DSB aims to provide a binding, rules-based mechanism to ensure legal certainty, protect the rights of parties, and promote peaceful resolution of conflicts. It includes both a panel and appellate system, thereby enhancing procedural fairness.³⁶ According to Milej, the DSB represents a significant leap forward compared to weaker or non-existent dispute systems within many RECs. However, its success will depend on member states' willingness to submit to binding arbitration and respect rulings, as well as the quality and neutrality of its appointed adjudicators.³⁷

The AfCFTA's institutional framework is solid in structure and legal terms, but its functional effectiveness will be determined by the degree of political commitment, national coordination and institutional resources provided to it by African Society. It is crucial to establish synergy between these organs and their cooperation with national governments, RECs and the private sector, to enable AfCFTA to fulfill its objective of promoting sustainable, inclusive economic integration across the continent.³⁸

VI. APPRAISAL OF THE LEGAL AND INSTITUTIONAL FRAMEWORKS

One of the major strengths of the AfCFTA lies in the comprehensiveness and sophistication of its legal

instruments, which are largely consistent with international trade norms. The AfCFTA protocols, annexes, and appendices collectively establish a coherent legal regime that addresses both tariff and non-tariff barriers, while also making provision for dispute resolution, investment, and competition. This alignment with international legal frameworks such as those of the World Trade Organization (WTO) ensures legal predictability and compatibility, which is essential for attracting foreign investment and encouraging cross-border trade.³⁹ At the same time, these instruments are tailored to accommodate Africa's development needs, with provisions on special and differential treatment for Least Developed Countries (LDCs) and a focus on inclusive growth. The balance between liberalization and development priorities marks a significant departure from earlier regional agreements in Africa, which often lacked enforceability or technical depth.⁴⁰

The institutional design of the AfCFTA further reinforces its implementation potential. It integrates both political oversight and technical administration through a hierarchy of organs, ranging from the Assembly of the African Union and the Council of Ministers to the AfCFTA Secretariat and the Committee of Senior Trade Officials. This multilevel governance model enables effective coordination between AU-level policy and state-level execution.⁴¹

Moreover, the Dispute Settlement Body (DSB), established under the AfCFTA Protocol on Dispute Settlement, enhances the Agreement's credibility by offering a rules-based mechanism for resolving trade conflicts. Modeled after the WTO's dispute resolution system, the DSB contributes to legal certainty, fosters trust among state parties, and mitigates the risk of unilateral trade retaliations. These elements collectively position the AfCFTA as a robust legal framework capable of managing the complexity of continental integration.⁴²

Nevertheless, the Agreement faces significant challenges that could undermine its effectiveness. One persistent issue is the overlapping membership of Regional Economic Communities (RECs), which often results in contradictory trade obligations and institutional redundancies. Countries belonging to

multiple RECs with varying tariff structures and legal commitments face difficulties harmonizing their policies with AfCFTA obligations, leading to confusion and implementation delays.⁴³ Additionally, many African states remain reluctant to cede sovereignty over trade policy, which weakens the enforcement of AfCFTA provisions. Political commitment at the continental level does not always translate into domestic legal reform, particularly where national interests are perceived to be at odds with regional obligations. These institutional and political asymmetries make uniform implementation difficult, especially in the absence of effective sanctions or punitive mechanisms for non-compliance.⁴⁴

A comparative perspective with the European Union (EU) underscores some of these structural limitations. The EU's legal and institutional framework includes supranational institutions like the European Court of Justice (ECJ), which ensures the direct applicability and enforceability of EU law in member states.⁴⁵ In contrast, AfCFTA institutions are intergovernmental, relying heavily on the goodwill and cooperation of sovereign states. This limits their ability to impose binding decisions or penalize violations. Furthermore, while the EU provides extensive funding, legal aid, and infrastructural support for implementation, AfCFTA is constrained by resource limitations and capacity gaps, particularly in low-income states. Thus, while the AfCFTA provides a promising legal and institutional foundation, its long-term success will depend on enhanced state capacity, stronger compliance mechanisms, and deeper political integration among member countries.⁴⁶

CONCLUSION AND RECOMMENDATION

The commencement of the African Continental Free Trade Area (AfCFTA) marks a powerful moment in the long history of aspirations for economic integration across the African continent. The establishment of a legally binding treaty and accompanying institutional framework represents a conscious departure from a fragmented regionalism, and a shift towards a more high-potential, continent-wide approach to trade, investment and sustainable development. All of the legal instruments — in trade in goods, trade in services, dispute settlement, and

emerging issues such as competition policy and intellectual property— are well-organized and broadly consistent with international norms while addressing Africa's unique development challenges. However, the AfCFTA's chances of success depend not only on the legal text, but on its operationalization, political ownership, and institutional resilience to chart a path toward a harmonized African market. Structural challenges such as overlapping membership in RECs, limited enforcement/action mechanisms, infrastructure shortcomings, and lack of coordinated political will threaten to undermine the potential of a common African market.

To strengthen the AfCFTA's implementation and long-term effectiveness, several strategic recommendations are essential. First, African states must commit to deeper harmonization of trade policies and gradually cede limited sovereignty in specific areas to supranational bodies to ensure enforceability. Second, the capacity of the AfCFTA Secretariat and supporting institutions must be bolstered through adequate funding, technical staffing, and legal training. Third, the dispute settlement mechanism should be empowered with greater independence and authority to ensure timely resolution and compliance. Fourth, efforts should be intensified to align REC legal frameworks with AfCFTA provisions to avoid duplication and policy contradictions. Finally, political leaders must champion the Agreement not only as a trade tool but as a driver of inclusive growth, industrialization, and continental self-reliance. If effectively implemented, the AfCFTA can become a transformative instrument, propelling Africa toward greater economic sovereignty, competitiveness, and unity in the global economy.

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