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**REPORT OF H.E. MR. MAHAMADOU ISSOUFOU, PRESIDENT OF
THE REPUBLIC OF NIGER AND LEADER ON CONTINENTAL
FREE TRADE AREA (CFTA) ISSUES**

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Creating One African Market

**REPORT ON THE STATUS OF THE CONTINENTAL FREE TRADE AREA (CFTA)
NEGOTIATIONS SUBMITTED TO THE 30TH ORDINARY SESSION OF THE
AFRICAN UNION ASSEMBLY OF HEADS OF STATE AND GOVERNMENT**

**BY
HIS EXCELLENCY MR. ISSOUFOU MAHAMADOU, PRESIDENT OF THE REPUBLIC
OF NIGER AND CHAMPION OF THE CONTINENTAL FREE TRADE AREA (CFTA)
PROCESS**

JANUARY 2018

**REPORT ON THE STATUS OF THE CONTINENTAL FREE TRADE AREA (CFTA)
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CONTINENTAL FREE TRADE AREA (CFTA) PROCESS**

A. INTRODUCTION

1. The 29th Ordinary Session of the African Union Assembly of Heads of State and Government, held in Addis Ababa, Ethiopia in July 2017 received my first report on the Status of the Continental Free Trade Area Negotiations and mandated me to continue to champion the process of establishing the Continental Free Trade Area (CFTA). The assignment required that I report to this 30th Ordinary Session of the African Union Assembly of Heads of State and Government.

2. In my last report of July 2017, you recall that I provided a comprehensive report on the background of the CFTA process, achievements and deliverables made during the period of 2015 up to 2016, six month report from January 2017 up to June 2017, and on how to continue working on the CFTA activities.

3. I am here today, to present the six months progress report to this January Assembly. For this progress report, I will focus on two main areas as follows:

A. Developments during the past six months, starting from July 2017 up to December 2017; and

B. The way forward.

A. DEVELOPMENTS DURING THE PAST SIX MONTHS: JULY 2017 TO DECEMBER 2017

4. I am happy to report that there have been positive developments during the past six months. The following were the main activities:

a) Engagement with the Seven Countries who made reservation on the 90% level of ambition of liberalization on trade in goods;

b) The 7th and 8th Meeting of CFTA-Negotiating Forum, both of which had positive outcomes; and

c) The 4rd Meeting of the African Union Ministers for Trade.

a) *Engagement with the Seven Countries who made reservation on level of ambition of liberalization of Trade in Goods*

5. In response to reservations made by Seven African countries regarding the modalities for tariff liberalization in trade in goods, I made fruitful consultations through my delegates with representatives of the Heads of State and Government of the respective countries on the margins of the United Nations General Assembly Meeting in New York in September 2017.

6. The consultations resulted in the following:

- i) Without prejudice to the 90% level of ambition approved by the 29th Ordinary Summit of Heads of State and Government of the African Union (AU), on July 3rd and 4th 2017, a compromise accommodation is confirmed for the Group of Seven (7) to start implementation of tariff liberalization, exceptionally, at an 85% level of ambition at the coming into force of the CFTA; and,
- ii) Gradually eliminate tariffs to zero per cent for the covered products over a 15-year period (13 + 2 years), to achieve a 90% level of ambition, based on an "Implementation Matrix" to be determined by the 7 State Parties. This implementation matrix shall be annexed to their CFTA Schedule of Concessions for Trade in Goods. In this regard, there shall be no deviation from the negotiated and approved modalities for "Sensitive Products" and the Exclusion List".

7. Later on, in a spirit of transparency, an update report to Chief Negotiators was made on the outcome of these consultations. Some concerns were reflected on the substance of how the flexibilities accorded to the seven countries will affect the Sensitive and Exclusion products. It was explained and agreed that as all the 55 AU Member States have access to these two categories which will be implemented through negotiations. Clarity was given that Least Developed Countries (LDCs) have 13 years and 2 additional years have been given to them, bearing in-mind that at stake is building a single market for Africa. Agreement has been reached to implement the same on exceptional, on case-by-case basis, as well as in a transparent manner.

8. My Minister responsible for Trade has received communication from his counterpart from the Federal Democratic republic of Ethiopia stating the position of the group of seven on the outcome of the New York consultations. He has, through the African Union Commissioner for Trade and Industry, conveyed that communication to the Chairperson of the Negotiating Forum to provide appropriate feedback. The final consensus on this issue will be part of the built-in agenda. In this connection, Your Excellencies may wish to simply take note of the ongoing consultations.

b) Outcome from the 7th and 8th CFTA Negotiating Forum

9. In the last two critical meetings of the CFTA Negotiating Forum, held from 2nd to 7th October, 2017 in Addis Ababa and 20th to 25th November, 2017 in Abuja respectively, there have been tremendous developments and a move towards convergence regarding the legal texts and its annexes. The major developments are as follows:

- i) The title of the legal text was recommended to read as “**Agreement Establishing the African Continental Free Trade Area**”;
- ii) Special and Differential Treatment as well as Variable Geometry have been key principles of the Agreement and agreement has been reached that given that almost all African countries face challenges of various nature the issue will be treated on a case-by-case basis in the specific protocols and annexes so that commitments under CFTA are not undermined and compromised;
- iii) There are Rendezvous Clause/Built in Agenda in both trade in goods and services to be completed following the signing of the Agreement;
- iv) The Agreement and its Annexes are to be adopted by the Assembly and submitted for signature and ratification or accession by the Member States in accordance with their national laws; and
- v) It is also technically agreed that the Agreement and the Protocols on Trade in Goods, Trade in Services, and Dispute Settlement Rules and Procedures shall enter into force thirty (30) days after the deposit of the fifteenth (15th) instrument of ratification;
- vi) It was further agreed that only State Parties to the Agreement (those that have signed and ratified) shall participate in the governance of the African Continental Free Trade Area.

c) The 4th Meeting of the African Union Ministers for Trade

10. Following my prior invitation, I hosted the Ministers meeting in Niamey, Niger, from December 1- 2, 2017. I was able to address and reconfirm to the Ministers in both plenary and closed sessions where I emphasized the importance of meeting the deadline to establish the Continental Free Trade Area. I also assured my full support to the Ministers in their critical and important negotiations. The Ministers provided a critical and strategic decision on issues of concern for negotiators.

11. The Niamey meeting held in December 2017 concluded the Agreement Establishing the African Continental Free Trade Area together with the Protocol on Trade in Services which are ready for approval by Heads of State and Government.

Once these instruments are approved, built-in-agenda areas particularly for the Protocol on Trade in Services on the specific commitments and regulatory framework can proceed.

12. The Agreement Establishing the African CFTA provides for oversight and administrative structures among its several legal provisions. I will highlight a few:

- i) At the helm, the African CFTA is to be governed by the Assembly of Heads of State and Government that shall provide overall oversight and strategic policy guidance;
- ii) The Council of Ministers (composed of African Ministers responsible for Trade) shall take decisions on all matters under the CFTA and scale them up to the Assembly as and when deemed necessary;
- iii) Under the Council of Ministers, there will also be Committee of Senior Trade Officials that will comprise of Permanent or Principal Secretaries or Directors-Generals responsible for trade who will implement the decisions of the Council;
- iv) There shall also be the African CFTA Secretariat that will coordinate the implementation of the African CFTA Agreement and decisions of oversight institutions. The Secretariat will have an autonomous institutional body within the AU System with an independent legal personality. The structure, roles and responsibilities of the Secretariat shall be determined by the Council of Ministers. The Secretariat will be headed by either a “Director General” or “Secretary General”. Consultations are still continuing on the consensus title of the chief executive officer of the African CFTA whose rank is proposed to be equivalent to the Deputy Chairperson of the African Union Commission;
- v) Since these arrangements will have financial implications, the African Union Commission has been mandated to prepare a technical note on the proposed institutional arrangement, which will highlight, among others, the relationship with the African Union structures and the financial implications;
- vi) Some final work is needed to complete the Protocol on Trade in Goods and its Annexes, as well as Protocol on Rules and Procedures for Settlement of Disputes within the African CFTA. For that reason the roadmap has been modified and a calendar of meetings that run from January – March 2018 has been developed and agreed upon by our Ministers responsible for Trade.

13. As I mentioned earlier, the final draft documents that will be presented to Your Excellencies for your consideration and approval are: ***The Agreement Establishing the African Continental Free Trade Area and the Protocol on Trade in Services.***

14. Following the completion of the additional work on the other two Protocols on Trade in Goods and Dispute Settlement Mechanism, the Agreement Establishing the CFTA and the three Protocols will be ready for approval and signing by March 2018.

B. WAY FORWARD

15. I would like to reiterate my conviction that the African CFTA and economic integration agenda should not compete with other topics on our already overloaded Agenda for this Summit. In this connection, I am recommending to this Assembly that we hold an Extraordinary Summit towards the end of March 2018, by which time the Agreement Establishing the CFTA and the three Protocols will be ready for approval and signing. In accordance with the established procedures, Your Excellencies are invited to agree on the venue and the date of the Extra-Ordinary Summit.

16. The African CFTA is not like any other agreements that we have signed or that we will sign. It will be transformative for Africa and her people. It is an agreement that will bring tremendously positive economic impacts on our people and the continent at large. Through it, we are creating a single market that will spur industrialization, economic diversification and trade. It will also be an instrument which will bring us together to formulate common agenda for Africa to speak with one voice and act in unison, thereby leveraging our strengths in our commercial and diplomatic engagements with the rest of the world. For Africa to be strong abroad, we must be strong at home. Our domestic economic achievements is one of the ingredients that will generate that desired strength. In this regard, signature, ratification and then implementation of the Agreement by all of us are highly recommended. In this connection, I would like to implore Your Excellencies to start to develop national level strategies for signing and ratification of the African CFTA Agreement and its Protocols. It will be a historic and significant achievement if all of us become founding members of the African CFTA.

17. I also humbly and earnestly request Your Excellencies to urge your respective Ministers responsible for trade to take the African CFTA as their top most priority. They should in this respect attend all meetings of the African Union Ministers of Trade.

18. The coming three months are dedicated to direct your respective Ministers of Trade to undertake nationwide stakeholder sensitization activities so that all the nationals of African countries are fully aware of the efforts being made to establish the Continental Free Trade Area. This will again facilitate faster ratification of the CFTA legal instrument once it has been signed.

19. As Champion, I would like to re-assure Your Excellencies that I will play my full part in conjunction with the Chairman of the African Union Commission and the Commissioner for Trade and Industry in championing the cause to establish and ensure effective implementation of the African Continental Free Trade Area Agreement.

CONCLUSION

20. Given little progress being made in the multilateral trade negotiations, we have to put more focus on deepening our economic integration and the African Continental Free Trade Area is the only institution that will lead us in this direction. The clear failure to reach consensus on many issues at the 11th Ministerial Conference of the WTO held in Argentina last month is a clear signal that we must scout for more trading opportunities beyond the multilateral trading system. For this, we have to exert concerted efforts to make African CFTA a reality. Let me emphasize:

- a) What Africans are not securing in the multilateral trading system can be achieved through the African CFTA because it is a platform with enormous opportunities;
- b) The CFTA will also give us an opportunity to formulate and reinforce our pan-African positions when Africa negotiates with the rest of the world;
- c) The economic transformation of African economies through industrialization will spur competitiveness and thereby placing our integrated economy in a stronger position to increase its share in global trade flows;
- d) The expansion of production and trade under the African CFTA will in turn expand employment opportunities for our Youth and this will consequently stem the tide of their migration as well as their exposure to the dangers of human trafficking and modern day slavery.

21. We set an ambitious goal for ourselves and we are at the conclusion of the first round of CFTA negotiations. We should all be proud of ourselves. We are delivering to our people and the continent at large and this is the beginning that more can be done. Let us re-dedicate ourselves to delivering on all the projects of the African Union Agenda 2063.

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DECISION ON THE AFRICAN CONTINENTAL FREE TRADE AREA
Doc. Assembly/AU/4(XXX)

The Assembly,

1. **TAKES NOTE** of the Report on the status of the Continental Free Trade Area (CFTA) negotiations submitted by His Excellency Issoufou Mahamadou, President of the Republic of Niger and Champion of the Continental Free Trade Area (CFTA) Process;
2. **ALSO TAKES NOTE** of the achievement made in concluding the negotiations on Agreement Establishing the African Continental free Trade Area and the Protocol on Trade in Services of the Continental Free Trade Area by the agreed date of December 2017;
3. **REQUESTS** the Ministers responsible for Trade to conclude outstanding negotiations on the Protocol on Trade in Goods and its Annexes by March 2018;
4. **ENCOURAGES** Member States to be represented by Ministers at the African Union Ministers of Trade;
5. **DECIDES** to hold an Extra-Ordinary Summit on 26th to 28th March 2018 in city, country_____ (tbc) to consider the CFTA Legal instruments and Sign the Agreement Establishing the African Continental Free Trade Area and **REQUESTS** the Commission to convene an Extraordinary session of the STC on Justice and Legal Affairs to consider the said instruments prior to the Summit;
6. **REQUESTS** His Excellency Issoufou Mahamadou, to provide leadership to the CFTA Eminent Persons appointed by the Commission, and **ENCOURAGES** him to continue the good work, both in the implementation of the CFTA Agreement and in the negotiations of phase 2 issues regarding competition, investment and intellectual property rights;
7. **CALLS UPON** AU Member States to start second phase negotiations and continue nationwide stakeholder sensitization activities so that all citizens of African countries are fully aware and own the process of establishing the Continental Free Trade Area.

2018-01-29

Report of H.E. Mr. Mahamadou Issoufou, President of the Republic of Niger and Leader on Continental Free Trade Area (CFTA) Issues

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