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Creating One African Market

**REPORT ON THE STATUS OF THE AFRICAN CONTINENTAL FREE
TRADE AREA (AfCFTA) NEGOTIATIONS SUBMITTED TO THE 31ST
ORDINARY SESSION OF THE AFRICAN UNION ASSEMBLY OF HEADS
OF STATE AND GOVERNMENT,
1 – 2 JULY 2018,
NOUAKCHOTT, MAURITANIA**

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

**Your Excellency Mr Paul Kagame, President of the Republic of Rwanda, Current
Chairperson of the Assembly of the African Union,
Excellency Mr Mohamed Ould Abdel Aziz, President of the Islamic Republic of
Mauritania,
Excellencies Heads of State and Government,
Excellency Mr Moussa Faki Mahamat, Chairperson of the African Union
Commission,
Ladies and Gentlemen,**

1. Pursuant to the mandate entrusted to me by our Assembly to lead the African Continental Free Trade Area (AfCFTA) negotiation process, I am to give an update at each of our sessions, on the status of implementation of decisions we have taken for the realization of this ambitious continental project.

2. Today, it gives me great pleasure to present to you my progress report, covering the second quarter of 2018 and the activities anticipated in the coming months.

3. In my previous reports, I provided an overview of the achievements made up to March 2018. At our Extraordinary Summit in Kigali, Rwanda on 21 March 2018, I gave Your Excellencies an update on the work and progress made leading to the signing of the AfCFTA Agreement. Today, my Report will therefore focus on the activities that have taken place since March 2018 following the historic Summit in Kigali in March 2018, where 44 of our Member States signed the AfCFTA Agreement. I will then review the activities scheduled up to the symbolic date of 21 March 2019, when we will commemorate the first anniversary of the AfCFTA.

Excellencies Heads of State and Government,

4. **The DEVELOPMENTS DURING THE PERIOD MARCH 2018 TO JUNE 2018** inevitably refer to the success of the AfCFTA process at global level. The number of signatures received demonstrated the determination of Africa to move forward in its integration. The positive comments in that regard from all sectors are the results of the joint efforts of African States to complete the AfCFTA negotiation process.

5. Since the Kigali Summit, and in conformity with the Roadmap that presented on that occasion, a ***Legal Scrubbing of the annexes and appendices*** to the Protocol on Trade in Goods, and the Protocol on Rules and Procedures for Dispute Settlement has been carried out.

6. Two meetings were held by the AfCFTA Negotiators assisted by Legal Experts, first in Addis Ababa from 30 May to 12 April 2018, and then in Dakar from 25 to 31 May

2018. At the end of the two meetings the following Annexes to the Protocol on Trade in Goods were legally scrubbed and are ready for adoption:

- Annex 2 on the Rules of Origin;
- Annex 3 on Customs Cooperation and Mutual Administrative Assistance;
- Annex 4 on Trade Facilitation;
- Annex 5 on Non-Tariff Barriers;
- Annex 6 on Technical Barriers to Trade;
- Annex 7 on Sanitary and Phytosanitary Measures;
- Annex 8 on Transit; and
- Annex 9 on Trade Remedies.

7. The legal scrubbing of the AfCFTA Guidelines for Trade Remedies has been added to the activities of the Built-In Agenda of the meeting which will be attended to by our experts by the end of the year. The following Annexes to the Protocol on Rules and Procedures for Dispute Settlement are also ready for adoption:

- Annex 1 on Working Procedures of the Panel;
- Annex 2 on Expert Review; and
- Annex 3 on the Code of Conduct for Arbitrators and Panelists.

8. Given that some Member States would like the Annexes to be revised and adopted before signing and ratifying the Agreement, I urge all Member States to carry out the formalities in order for our Assembly to officially adopt the documents as recommended by our Ministers of Trade and Justice.

9. **On the issue of Schedules of Tariff Concessions and Agreed Modalities**, States shall develop Annexe 1 on the Schedules of Tariff Concessions, in line with the approved modalities for Tariff Liberalization in order for Annex 1 to be ready for adoption at our January 2019 Assembly.

10. At their meeting in Dakar, Senegal, AU Ministers of Trade discussed the proposed percentages for Sensitive Products and Exclusion Lists. The exclusion lists concerns those product lines that will not be liberalised in the AfCFTA whilst sensitive list are the product lines subject to a longer timeline for liberalization. The Ministers focused on three main proposals, as follows:

- 3% for exclusion and 7% for sensitive products;
- 5% for exclusion and 5% for sensitive products; and
- 1% for exclusion and 9% for sensitive products.

11. The Ministers agreed that Member States should hold consultations on the three available options at national level and in some Regional Economic Communities (RECs) by the end of September 2018, in order to take a final decision.

12. I therefore invite the Assembly to provide political guidance on the issue so as not to further delay the AfCFTA process. In that regard, give a favourable response to the recent Meeting of Ministers of Trade, who **«invited the Assembly to consider whether an exclusion and a sensitive list advances the continental objectives of boosting intra-Africa trade, industrialization and market integration»**.

13. In my opinion, the exclusion list will frustrate the growth of intra- Africa trade and we should in this regard discourage it. We may however accommodate the sensitive list so that there is gradual process of liberalization over 10 years or so in order to allow Member States to institute appropriate adjustments. Furthermore, this approach is consistent with the existing practice in our Regional Economic Communities.

14. I would also like to point out that research by our strategic partners, the United Nations Conference on Trade and Development (UNCTAD), and the United Nations Economic Community for Africa (UNECA), has demonstrated that our trade is concentrated in about 30 tariff lines. Therefore, a 1%exclusion amounts to blocking trade in about 53 tariff lines. This has the effect of even reducing the existing levels of inter-Africa trade when our desire is to increase this trade. This will obviously undermine the objectives of the AfCFTA. If Assembly endorses my recommendations, the process will gain precious time towards its operationalization.

15. In Dakar, Ministers of Trade also considered the proposals for the priority sectors for Trade in Services liberalization. The following sectors, which the Ministers felt would facilitate our integration, were agreed on as priority sectors for liberalization:

- i) Financial Services;
- ii) Telecommunication services;
- iii) Transport services;
- iv) Tourism services; and
- v) Business Services.

16. The selection of these five priority service sectors will now pave the way for the preparation and submission of schedules of specific commitments in earnest. Based on the principles of variable geometry and reciprocity, Ministers recommended that Member States that wish to liberalize more sectors than the five priority sectors are free to do so.

Excellencies Heads of State and Government,

17. **Phase 2 Negotiations and Domestication of the AfCFTA and action plan on Boosting Intra-African Trade (BIAT)** have advanced, in conformity with the recommendations of the Kigali Summit.

18. Our Ministers of Trade agreed on all the issues to be included in the Built-In Agenda and approved the amended Transitional Implementation Work Programme including the development of schedules of Specific Commitments on Services, Schedules of Tariff Concessions, Rules of Origin, Criteria and Guidelines on Treatment

of Goods Originating from Special Economic Zones. The AfCFTA Guidelines on Trade Remedies were also included in the Built-In Agenda and they are expected to be approved by our next session of the Assembly in January 2019, together with the rest of the above-mentioned issues.

19. Furthermore, as you recommended, I continued consultations with the seven Member States that expressed concerns, in order to broaden the consensus. In that context, the recent Dakar Meeting of Ministers of Trade recommended that I hold a special meeting on the margins of this Summit with the Heads of State and Government of the seven (7) States concerned. Invitations were sent to the Heads of State and Government through their missions in Addis Ababa. Appropriate arrangements will be made for the meeting and I will report on progress made in that area in January 2019.

20. I wish to add that the Commission has started work to launch the Phase 2 negotiations on Competition Policy, Investment and Intellectual Property Rights before the end of this year, with the aim to submit the draft legal texts to the January 2020 Session of the Assembly for adoption.

Excellencies Heads of State and Government,

21. In order to ensure full participation of all stakeholders including the private sector, civil society, academia, the youth, women, Parliamentarians, labour, cross-border traders and others in the AfCFTA process. It is essential to domesticate the AfCFTA in national legislations.

22. This is being done at two levels:

- Establishment of national committees, or other appropriate structures, and
- Formulation of national AfCFTA and Boosting Inter-Africa Trade (BIAT) strategies.

23. The last meeting of AU Ministers of Trade agreed to establish national AfCFTA committees or use of existing and appropriate structures. These committees would draw representation from Parliamentarians, the private sector, civil society, academia, the youth, women, labour, cross-border traders; among others. They would be meeting regularly to monitor how each country is implementing the AfCFTA at the national level. I would like to add that we develop a common template for use by our Commission to get regular progress reports from each one of us on how we are facilitating stakeholder engagement at the national level. If this Assembly accepts this, we can request our Commission to develop a draft template for our consideration at the January 2019 Summit.

24. Stakeholder engagement on the AfCFTA have started. In early May the Chairperson of the African Union Commission, the Commissioner for Political Affairs and the Commissioner for Trade and Industry engaged the Pan African Parliament on the AfCFTA and the Protocol on Free Movement of People, Right of Residence and Right of

Establishment. The Parliamentarians welcomed this engagement and suggested that it be a regular feature in the work of collaboration between the Commission and the Pan African Parliament. They also called for their involvement in AfCFTA meetings. In response the Commission agreed to accommodate the Parliamentarians and further requested the Parliamentarians to advocate for buy-in of the AfCFTA in their respective national Parliaments as well as their constituencies.

25. With respect to mobilizing private sector buy-in of the African Continental Free Trade Area, the African Union Commission has teamed up with the Afro-Champions Club to promote continent-wide sensitization of the African private sector. Missions have so far been undertaken to the capitals of Cote d'Ivoire, Ghana and Senegal to meet and engage with private sector representatives and plans are in place to roll out the sensitization programme to the other African countries over time. There is tangible African private sector interest in the African Continental Free Trade Area. There is, however, lack of information to the private sector on the full range of business opportunities that this emerging market offers them. In addition to this, on 20th March, 2018, we instituted the African Continental Free Trade Area Business Forum as a regular platform for dialogue between the African private sector on one hand and African policy makers on the other hand, with the added function of facilitating business to business networking. I am sure that Member States and the Commission are complementing efforts to facilitate effective participation of the African private sector in the African Continental Free Trade Area.

26. In September this year the African Union Commission will collaborate with the International Trade Centre to have a Youth Forum on the AfCFTA in Lusaka, Zambia as a way of broadening stakeholder engagement on the AfCFTA. There is also a programme to engage with the Civil Society. To this end, the Commission and the United Nations Economic and Social Council (ECOSOC) will have a session on the AfCFTA with the wider membership of the Civil Society during the course of this year.

27. At the same time, the Meeting of Ministers of Finance, Development Planning and Integration organized by the United Nations Economic Commission for Africa, held in May 2018 this year, recommended that African Union Member States consider coming up with national AfCFTA strategies as part of its domestication. In this connection the United Nations Economic Commission for Africa is mobilizing financial resources to assist African Union Member States to formulate national AfCFTA strategies.

28. Also worth noting and commending is the initiative of the Commission aimed at coming up with an AfCFTA Business Guide, which will be published in December this year and roll out to the African private sector in 2019 and 2020. The Business Guide will be a business friendly summary of the key provisions of the African Continental Free Trade Area Agreement and Protocols as well as explanatory notes on some of those provisions. It will further address the key concerns of the private sector; concerns to be gleaned from the questions that we are receiving from them through the sensitization and survey that we are conducting.

29. For my part, I feel that we should also include the need to for national strategies on boosting intra-Africa trade.

Excellencies Heads of State and Government,

30. We took a historic step in March 2018 this year to establish the AfCFTA. The first anniversary will be equally historic. In this regard, in view of the symbol embodied by the AfCFTA in Africa's commitment to jointly take charge of its destiny, I suggest the following activities to mark the occasion:

- convening of an Extraordinary Summit on 21 March 2019 to commemorate the historic achievement. To make it more significant, I suggest that all of us should go to that Summit having signed and ratified the AfCFTA legal instruments. We can also use the occasion to make the formal decision on the location of the permanent Secretariat of the AfCFTA if this decision is not taken earlier;
- organizing the 2nd AfCFTA Business Forum a day before as was done during the inaugural meeting since our business people requested us to institutionalize the Forum as a platform to engage with them as well as facilitate business to business networking;
- organizing another Forum bringing together our Parliamentarians, the civil society, academia, the youth, women, labour, cross-border traders and others so that they can also make their contributions in the work of the AfCFTA;
- inviting and ensuring the effective participation of all stakeholders and partners of the AfCFTA; and
- furthermore, the development of the criteria on the Establishment of the Interim Secretariat should be speeded up. The African Union Commission will present a report thereon in January 2019.

31. While awaiting the said report I invite the Assembly to decide on issues relating to the establishment, location, structure and budget of the Secretariat. We should also agree on the deadline for submission of offers by those of our Member States who are interested to host it. We also need to give directives to the Commission to come up with an assessment report showing the best placed country, which will be carried out immediately after the deadline for making offers has passed. The assessment will be based on existing criteria on hosting of AU Institutions and Organs.

32. Certain events should also be used to better entrench the AfCFTA principles, such as the First Intra-African Trade Fair, which will be organized by the African Export-Import Bank (Afrexim), in collaboration with the Government of the Arab Republic of Egypt and the African Union Commission, in Cairo in December 2018.

Excellencies Heads of State and Government,

33. The AfCFTA ratification process is moving in the right direction. Kenya and Ghana were the first to simultaneously deposit their instruments of ratification on 10 May 2018. Rwanda deposited their instruments of ratification on 27 May and was also the first one to deposit the instruments of ratification on the Protocol on Free Movement of People. Niger deposited their instruments of ratification on 8 June 2018. I urge all of us to sign and ratify the AfCFTA Agreement.

34. For Africa to speak with one voice, we must all be State Parties to the AfCFTA. Furthermore, I strongly urge you all of us to submit our contributions so that the commemorative book is launched in January 2019.

35. It should be noted that since the launch of the AfCFTA, Rwanda, some international trading partners have been seeking to enter into bilateral trade agreements with some of our countries. Although it is the sovereign right of each AU Member State to enter into such arrangements, it is my considered view that these arrangements should not undermine the grand project of establishing and operating the AfCFTA. We have committed ourselves to speaking with one voice and working together. We should work together and not enter into a bilateral trading agreements before the entry into force of the Agreement establishing the AfCFTA. We should commit ourselves to engaging with external partners as one block, speaking with one voice to ensure that our interests are defended adequately and to give us more leverage in such discussions.

36. The African Export-Import Bank, as the African institution primarily dedicated to mobilizing trade finance for Africa will play a pivotal role in our long journey of ensuring that the AfCFTA works and generates tangible results for ordinary Africans. Against this background I recommend that we recognize them as a regular attendant in our meetings, as is the case for the African Development Bank and the United Nations Economic Commission for Africa.

Excellencies, Heads of State and Government,

37. I would like to present a few **PERPECTIVES**, as a **CONCLUSION** to my Report, as well as **RECOMMENDATIONS**.

38. Let me first remind you that we should never become complacent. We should not let the now historic date of 21 March 2018 fade away with time. Next year, the anniversary of the signing of the AfCFTA should be the date of a reunion to celebrate the entry into force of the AfCFTA, ideally with all of our Member States that have signed and ratified the Agreement.

39. I recommend the following:

- We adopt the legally scrubbed annexes to the AfCFTA Agreement Protocol on Trade in Goods and the Protocol on the Rules and Procedures on the Settlement of Disputes;
- We totally remove the exclusion list but retain the sensitive list in our trade liberalization regime;
- The continuation of discussions with colleagues who prefer the 85% level of ambition in our trade liberalization programme;
- The development, by January 2019, of a template on the operation of national AfCFTA committees;
- The elaboration of national AfCFTA strategies to promote intra-African trade;
- The apparent interest of the African private sector, parliamentarians, labour, women, youth and cross border traders amongst other stakeholders, to contribute in the work of the AfCFTA should be encouraged;
- The publishing the AfCFTA Business Guide to be implemented by the African Private Sector in 2019 and beyond;
- The signing and ratification of the AfCFTA Agreement before the first anniversary and the commemoration of the First AfCFTA Anniversary on 21 March 2019, with all the actors concerned, and in conformity with the format for the establishment of the AfCFTA;
- The establishment and choice of the headquarters of the AfCFTA Secretariat;
- Our genuine commitment;
- Member States should not to enter into bilateral trade agreements with external partners until after the entry into force of the AfCFTA legal instruments, and in greater partnership with Afrexim.

40. I remain convinced that the AfCFTA has great potential to accelerate Africa's structural transformation through industrialization. This will enable exploitation of value chains leading to reduced exportation of commodities with no value addition and increased job creation. The success of the AfCFTA and creation of more job opportunities for our youth in particular, will have a direct bearing on the restoration of lasting peace and security on our Continent. The success of the AfCFTA success will also strengthen our position in relations with external bodies.

41. In conclusion, **Excellencies Heads of State and Government**, I am gratified to observe that we reached "the point of no return" in this great African dream on 21 March

2018. The task ahead is to move with speed and substance. I have every confidence that our journey forward will be progressively better.

42. Therefore, let us soldier on with confidence, not afraid to take risks if necessary, and building momentum that will enable us to increase intra-Africa trade, industrialization, create more employment prospects for our people, especially the youth, and establish lasting peace and security, anchored on continent-wide prosperity.

I thank you.

2018-07-02

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Negotiations Submitted to the 31ST
Ordinary Session of the African
Union assembly of Heads of State and
Government, 1 – 2 July 2018,
Nouakchott, Mauritania by HIS
Excellency Mr. Issoufou Mahamadou,
President of the Republic of Niger and
Leader of the African Continental Free
Trade Area (AfCFTA) Process

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