

African Union, African Regional Bodies

Agreement Establishing the African Continental Free Trade Area

## Protocol to the Agreement Establishing the African Continental Free Trade Area on Women and Youth in Trade

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African Union

## Agreement Establishing the African Continental Free Trade Area

# Protocol to the Agreement Establishing the African Continental Free Trade Area on Women and Youth in Trade

Published

**Commencement date unknown**

*[This is the version of this document at 18 February 2024.]*

**We, Member States of the African Union,**

**CONSIDERING** Article 8 (3) of the Agreement Establishing the African Continental Free Trade Area (AfCFTA Agreement) which stipulates that any additional instruments, within the scope of the AfCFTA Agreement, deemed necessary, shall be concluded in furtherance of the objectives of the African Continental Free Trade Area (AfCFTA) and shall, upon adoption, form an integral part of the AfCFTA Agreement;

**RECALLING** the commitment in Declaration Ext/Assembly/AU/Decl.1(XIII) of the 13<sup>th</sup> Extraordinary Session of the Assembly of Heads of State and Government of the African Union (Assembly) held in December 2020 via videoconference to broaden inclusiveness in the operation of the AfCFTA through interventions that support youth, women and small and medium-sized enterprises and integrate informal cross border traders into the formal economy by implementing the simplified trade regime;

**FURTHER RECALLING** Decision Assembly/AU/Dec.831(XXXV) of the 35<sup>th</sup> Ordinary Session of the Assembly held in February 2022 in Addis Ababa, Ethiopia, to include the Protocol on Women and Youth in Trade within the scope of the AfCFTA Agreement;

**REAFFIRMING** our commitment to achieve the aspirations and goals of Agenda 2063 of the African Union, specifically Aspiration 6 which seeks to create a continent whose development is people-driven, relying on the potential of African people, especially its women and youth;

**DESIRING** to promote and attain the sustainable and inclusive socio-economic development of women and youth by harnessing trade opportunities presented by the AfCFTA pursuant to Article 3 (e) of the AfCFTA Agreement;

**BEARING IN MIND** Decision AfCFTA/COM/5/REPORT/FINAL/27(a) of the 5<sup>th</sup> Meeting of the Council of Ministers held in May 2021 in Accra, Ghana, to establish the Committee on Women and Youth in Trade in order to facilitate negotiations;

**MINDFUL** of the commitments made under the Treaty Establishing the African Economic Community; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; the African Youth Charter; the Convention on the Elimination of All Forms of Discrimination against Women; and other relevant international instruments pertaining to women and youth;

**BUILDING** on the achievements of regional economic communities and of national gender and youth mainstreaming policies and strategies, in particular the inclusion of clauses as well as the design of initiatives and programmes that seek to enhance the meaningful participation of Women and Youth in Trade;

**ACKNOWLEDGING** that women and youth face systemic, structural and financial challenges that hinder their meaningful participation in intra-African trade;

**RECOGNISING** the significant contribution of women and youth to the economic growth of African countries and the importance of the increasing youth population as critical to attaining accelerated growth and to deepening the economic integration of the continent;

**DETERMINED** to create an enabling trade environment that supports women and youth to seize opportunities presented by the AfCFTA;

**DETERMINED** to monitor the implementation of the AfCFTA Agreement, its protocols and annexes to ensure that issues relating to women and youth are prioritised.

**HAVE AGREED AS FOLLOWS:**

## **Part I – General provisions**

### **Article 1 – Definitions**

For the purposes of this Protocol:

- (a) “**AfCFTA**” means the African Continental Free Trade Area;
- (b) “**AfCFTA Agreement**” means the Agreement Establishing the AfCFTA;
- (c) “**Affirmative Action**” means a policy programme or intervention that seeks to eliminate all forms of discrimination preventing women and youth from fully participating in trade and trade-related activities, and to prevent such discrimination in the future. This includes policy programmes or interventions that provide special measures, which may be of a temporary nature, to promote and increase opportunities for women and youth in economic development through capacity building, sensitisation programmes and other active measures to ensure equal benefits from trade opportunities;
- (d) “**Capacity**” means the ability to produce and supply goods and services to continental and international markets using available resources;
- (e) “**Committee**” means the Committee on Women and Youth in Trade as established in Article 19 of this Protocol;
- (f) “**Equality**” means the same enjoyment of privileges, rights, and access to opportunities and outcomes, including resources by Women and Youth in Trade, like men and other traders;
- (g) “**Harassment**” means the act of exerting verbal, physical, sexual, or moral pressure on or committing violence against Women and Youth in Trade with a view to obtaining personal satisfaction or favour for one’s benefit, or for that of a third party, as well as any physical or non-verbal action suffered by a woman or youth in trade, the purpose or effect of which is to violate the dignity of that woman or youth in trade and to create an intimidating, hostile, degrading, humiliating or offensive environment likely to jeopardize the professional, economic and social situation of that woman or youth in trade, whether or not such act arises out of unequal power relations;
- (h) “**Market**” means the AfCFTA market or a substantial part thereof, where exchange or substitution of goods or services takes place between suppliers and buyers of goods, services, and technologies;
- (i) “**Measure**” means any action by a State Party, be it in terms of a law, regulation, rule, procedure, decision, administrative action, or some other form;
- (j) “**Protocol**” means the Protocol to the AfCFTA Agreement on Women and Youth in Trade;
- (k) “**Small-scale Cross Border Trade**” means a form of trade of low value consignments of goods across borders;
- (l) “**State Party**” means a Member State that has ratified or acceded to the Protocol and for which the Protocol is in force;
- (m) “**Third Party**” means a State that is not a party to the Protocol except as otherwise defined in the Protocol;
- (n) “**Women and Youth in Trade**” means women and youth as defined in paragraphs (o) and (r) of this Article in areas of trade covered under the AfCFTA Agreement;

- (o) **“Women in Trade”** means women who are nationals of a State Party, and who participate in the import and export of goods and services;
- (p) **“Women or Youth-led Business”** means a business that is at least twenty-five (25) percent owned by shares and/or any other means of determining ownership as determined by national law by one or more women or youth, and whose management and control lie with one or more women or youth who make important strategic and operational decisions on behalf of the business;
- (q) **“Women or Youth-owned Business”** means a business that is more than fifty (50) percent owned by shares and/or any other means of determining ownership as determined by national law by one or more women or youth;
- (r) **“Youth in Trade”** means nationals of a State Party, who have attained the age of majority in accordance with the State Party’ legislation, but below the age of 35, and who participate in the import and export of goods and services.

## Article 2 – Objectives

1. The general objective of this Protocol is to support the implementation of the AfCFTA as set out in Article 3 (e) of the AfCFTA Agreement by promoting sustainable and inclusive socio-economic development, equality for women and youth and the structural transformation of State Parties.
2. The specific objectives of this Protocol are to:
  - (a) support and enhance the effective participation of Women and Youth in Trade in intra-Africa trade;
  - (b) improve the inclusion of Women and Youth in Trade in the implementation of the AfCFTA to achieve sustainable economic development at the national, regional, and continental levels;
  - (c) strengthen the capacity of Women and Youth in Trade;
  - (d) enhance access to opportunities for Women and Youth in Trade;
  - (e) promote value addition and innovation for increased imports and exports by Women and Youth in Trade;
  - (f) support the inclusion of women and youth into regional and continental value chains; and
  - (g) support measures that promote the formalisation of the trade activities of women and youth.

## Article 3 – Scope

This Protocol applies to all trade policies, activities, and interventions that support Women and Youth in Trade within the framework of the AfCFTA.

## Part II – Principles and general obligations

### Article 4 – Principles

1. The Protocol shall be governed by the principles stipulated in Article 5 of the AfCFTA Agreement in order to ensure its full implementation.
2. This Protocol shall be guided by the following principles:
  - a. Affirmative Action;
  - b. elimination of discrimination against women and youth in intra-African trade activities;
  - c. promotion and attainment of equality for Women and Youth in Trade; and

- d. inclusiveness.
3. State Parties shall pay particular attention to women and youth in intra-African trade, taking into account the special provisions of this Protocol in order to guarantee effective inclusion. In this regard, State Parties shall:
  - a. enforce special measures to provide technical assistance and capacity building to Women and Youth in Trade to facilitate compliance with international standards through continental, regional and national support programmes;
  - b. take into account the challenges that may be encountered by Women and Youth in Trade and grant preferential treatment; and
  - c. provide preferential access to trade related infrastructure for Women and Youth in Trade.
4. State Parties agree to develop a ministerial regulation on preferential market access for Women and Youth in Trade with the relevant enabling legal instruments.

### **Article 5 – Right to regulate**

1. State Parties may regulate and introduce regulations on all trade activities related to women and youth within their territories in order to meet national policy objectives, in so far as such regulations do not in any way impair the rights and obligations arising under this Protocol.
2. State Parties shall ensure that all measures of general application affecting all trade activities related to Women and Youth in Trade within the scope of the AfCFTA Agreement are administered in an objective, transparent and impartial manner.

### **Article 6 – Elimination of Non-Tariff Barriers**

1. State Parties, pursuant to Article 12 of the Protocol on Trade in Goods and its Annex 5 on Non-Tariff Barriers, shall progressively eliminate non-tariff barriers affecting Women and Youth in Trade.
2. State Parties shall ensure and promote the participation of Women and Youth in Trade associations in national monitoring committees as established in Article 8 of Annex 5 to the Protocol on Trade in Goods to ensure their active role in the identification, resolution, monitoring, and elimination of non-tariff barriers.

## **Part III – Women and Youth in Trade**

### **Article 7 – Inclusive socio-economic development**

State Parties undertake, where appropriate, to:

- (a) promote and facilitate the empowerment and the effective integration of Women and Youth in Trade;
- (b) amend or repeal legislation; identify, and progressively eliminate discriminatory practices against Women and Youth in Trade;
- (c) promote quality education and information awareness programmes on trade;
- (d) enhance the productive capacity of Women and Youth in Trade;
- (e) strengthen and support associations of Women and Youth in Trade responsible for coordinating and advocating trade issues;
- (f) collect and share information on best practices relating to the inclusion of Women and Youth in Trade; and

- (g) take such other measures aimed at eliminating prejudices against and promote equality for Women and Youth in Trade.

### **Article 8 – Participation in policy formulation and national AfCFTA implementation**

1. State Parties shall take measures to promote and strengthen the full and active participation of Women and Youth in Trade in the formulation, implementation and review of policies and programmes related to this Protocol.
2. State Parties shall establish, maintain and strengthen continuous dialogue with Women and Youth in Trade, and with their associations at the national, regional, and continental levels to help create an improved business environment for the successful and inclusive implementation of the AfCFTA.
3. State Parties shall ensure the meaningful representation of Women and Youth in Trade in existing bodies including AfCFTA national implementation committees.

### **Article 9 – Harmonisation of programmes to support Women and Youth in Trade**

State Parties shall, to the extent possible, adapt their national policies and programmes to facilitate the effective implementation of regional and continental programmes on Women and Youth in Trade.

### **Article 10 – Access to finance**

State Parties shall, in accordance with their national legislation:

- (a) implement measures in collaboration with financial service providers that facilitate access to affordable financial instruments, services and guarantees adapted to trading activities by Women and Youth in Trade to enable them to import and export as well as protect them from trade related risks;
- (b) incentivize the creation of funding schemes in sectors with high potential for growth and in high-value sectors with low participation of Women and Youth in Trade;
- (c) establish and/or strengthen business development services to train Women and Youth in Trade in financial literacy and services; and
- (d) facilitate access to relevant knowledge and information on financial products and services and make it available to Women and Youth in Trade.

### **Article 11 – Development of productive and export capacity**

State Parties shall endeavour to:

- (a) provide appropriate educational and training programmes, in collaboration with any relevant institutions, to improve the technical capacity and compliance with regulatory requirements-and standards for Women and Youth in Trade;
- (b) develop and strengthen special programmes for Women and Youth in Trade to enhance their productive capacity and foster their integration into regional and continental value chains; and
- (c) promote the participation of Women and Youth in Trade in national, regional continental trade fairs, business fora, conferences, and any other platforms to increase the visibility of their products and services.

## **Article 12 – Access to trade information**

1. State Parties shall endeavour to:
  - (a) facilitate access to market intelligence and trade information for Women and Youth in Trade, including in remote geographical areas, to improve their ability to access AfCFTA market opportunities using the most modern and appropriate information communication technology;
  - (b) ensure that the development and dissemination of market intelligence and trade information include information on value chains and requirements to enter and expand market segments that provide high income opportunities for Women and Youth in Trade;
  - (c) decentralise information on trade related processes and procedures through collaboration with public and private institutions to enhance accessibility of information; and
  - (d) ensure that enquiry points established under Article 5 of Annex 4 on Trade Facilitation to the Protocol on Trade in Goods and any other trade related information points are responsive to the trade related information needs of Women and Youth in Trade;
2. The information as set out in this Article shall be provided in a manner that is simple and easily understandable.

## **Article 13 – Intellectual property rights**

1. State Parties shall, in accordance with the relevant provisions of the Protocol on the Intellectual Property Rights:
  - (a) establish mechanisms to assist Women and Youth in Trade in the registration and use of intellectual property rights; and
  - (b) provide capacity building to Women and Youth in Trade in various sectors to effectively utilise and protect their intellectual property rights.
2. State Parties shall facilitate affordable access to resources and knowledge relating to intellectual property rights for Women and Youth in Trade.

## **Article 14 – Competition Policy**

State Parties shall, in accordance with relevant provisions of the Protocol on Competition Policy and through appropriate measures, promote fair and equitable competition to support the entry and effective participation of Women or Youth-owned and Women or Youth-led Businesses in the Market.

## **Article 15 – Participation in formal trade activities**

State Parties shall, in accordance with their national legislation:

- (a) take measures to promote the participation of Women and Youth in Trade in formal cross-border trade;
- (b) simplify documentation, procedures, and processes for small-scale cross border trade;
- (c) agree on and implement guidelines to simplify documentation, procedures and processes to be developed by the Committee on Trade in Goods upon the adoption of this Protocol taking into account national, regional and continental specific context;
- (d) put in place and strengthen mechanisms to assist small scale cross border traders to comply with the simplified requirements;

- (e) enforce trade facilitation instruments and other related international instruments to support women and youth engaged in small scale cross-border trade; and
- (f) collect and reciprocally share statistical data disaggregated by sex and age on small scale cross border trade, in accordance with existing national, regional, continental, and international data privacy regulations, to facilitate evidence-based policy design in order to improve the economic, social, and cultural status of Women and Youth in Trade and increase their participation in trade activities.

### **Article 16 – Protection against harassment and related practices**

State Parties shall:

- (a) establish and strengthen, in accordance with their national laws and regulations, grievance redress mechanisms on issues of harassment, and related practices that affect Women and Youth in Trade; and
- (b) implement and monitor mechanisms to prevent, discourage, address, and eliminate all forms of harassment and related practices that compromise the security and safety of Women and Youth in Trade.

### **Article 17 – Digital trade**

States Parties shall, in accordance with the AfCFTA Agreement and the provisions of the Protocol on Digital Trade:

- (a) ensure that digital regulatory and institutional frameworks support Women and Youth in Trade to facilitate access to digital trade platforms, tools and solutions to trade;
- (b) identify and eliminate barriers that affect the entry and participation of Women and Youth in Trade in digital trade and provide information on the procedures adopted and the tools deployed in the field of digital trade;
- (c) design and implement capacity building programmes to equip Women and Youth in Trade with the necessary knowledge and information required to participate in digital trade;
- (d) encourage the participation of Women and Youth in Trade in digital platforms that enable them to engage with international suppliers, buyers, and other potential business partners; and
- (e) promote safe and inclusive digital trade policies that consider the specific needs and challenges faced by Women and Youth in Trade.

### **Article 18 – Women or youth-owned or led micro, small and medium-sized enterprises**

State Parties shall, in accordance with their national legislations:

- (a) take appropriate measures to facilitate and support business associations and business clusters of Women and Youth in Trade, and women-owned or led and youth-owned or led micro, small and medium-sized enterprises in order to facilitate their participation in trade within the framework of the AfCFTA Agreement; and
- (b) facilitate the integration of women-owned or led and youth-owned or led micro, small and medium-sized enterprises into innovation ecosystems including incubators and technology hubs.

## **Part IV – Institutional arrangements**

### **Article 19 – Committee on Women and Youth in Trade**

1. The Committee, established in accordance with Article 11 of the AfCFTA Agreement, shall carry out such functions as assigned to it by the Council of Ministers to facilitate the implementation of this Protocol and to further its objectives.
2. The Committee may, with the approval of the Council of Ministers, establish such subsidiary bodies as it considers appropriate for the effective discharge of its functions.
3. The Committee shall collaborate with other AfCFTA Committees established in the AfCFTA Agreement, including in the areas of Intellectual Property Rights, Competition Policy, Digital Trade, or any other relevant bodies with a view to better implement this Protocol.

### **Article 20 – Implementation, monitoring and evaluation**

1. The Committee shall be responsible for the monitoring and evaluation of this Protocol and report to the Council of Ministers, through the Committee of Senior Trade Officials.
2. The Secretariat shall assist and support the Committee in the monitoring, and evaluation of the implementation of this Protocol.
3. The Secretariat shall, in consultation with State Parties, prepare annual factual reports to facilitate the process of implementation, monitoring and evaluation of this Protocol.
4. These reports shall be considered and adopted by the Council of Ministers.

### **Article 21 – Transparency and notification**

1. Each State Party shall publish and notify the Secretariat promptly, except in emergency situations, in a medium that is accessible, at the latest by the time of entry into force, all relevant measures of general application which affect the operation of this Protocol.
2. Each State Party shall designate National Women and Youth in Trade Focal Point(s) and submit the details to the Secretariat.
3. Each State Party shall notify the Secretariat of any international, regional, and bilateral agreements pertaining to or affecting Women and Youth in Trade with other State Parties and third parties to which they are signatory prior to or promptly after the entry into force of this Protocol.
4. The Secretariat shall be responsible for all notifications to and from the Committee and State Parties.
5. The Secretariat shall promptly circulate the information received under paragraph 3 above to all State Parties for their comments and/or feedback.
6. The Secretariat shall promptly transmit the feedback and/or comments received from the State Parties to the State Party concerned.
7. The Committee shall develop procedures for notification and comments.
8. Each State Party shall notify the Secretariat, promptly, of the introduction of any new laws or amendments to existing laws or regulations which pertain to this Protocol.

## **Article 22 – Technical assistance and capacity building**

1. State Parties recognise the importance of technical assistance and capacity building to promote Women and Youth in Trade under this Protocol.
2. The Secretariat shall work with State Parties, Regional Economic Communities, and relevant stakeholders to coordinate and provide technical assistance and capacity building to facilitate the implementation of this Protocol.

## **Article 23 – Cooperation**

1. State Parties shall promote cooperation to support and enhance the effective participation of women and youth in intra-African trade and their inclusion in regional and continental value chains.
2. State Parties agree, where possible, to mobilise resources, in collaboration with development partners, international organisations and experts to implement measures in support of the domestic efforts of State Parties with a view to, *inter alia*:
  - (a) cooperate in the creation of enabling legal, administrative, institutional, technical, fiscal and financial frameworks for the establishment and expansion of women or youth-owned and women or youth-led businesses;
  - (b) provide assistance required by Women and Youth in Trade, in areas such as financial services, skills development, technology and marketing;
  - (c) include provisions in trade related infrastructure development that are conducive for Women and Youth in Trade;
  - (d) facilitate the development of programmes to assist women or youth-owned and women or youth-led businesses to participate in and integrate effectively into regional markets, regional value chains; and
  - (e) foster close cooperation on digital trade between Women and Youth in Trade.
3. State Parties may seek to collaborate with appropriate experts and international organisations in carrying out any programme or activity to implement this Protocol.

## **Part V – Final provisions**

### **Article 24 – Entry into force**

1. This Protocol shall be open for signature and ratification by the State Parties to the AfCFTA Agreement, in accordance with their respective constitutional procedures.
2. This Protocol shall enter into force in accordance with the provisions of paragraphs 2 and 4 of Article 23 of the AfCFTA Agreement.

### **Article 25 – Application**

1. State Parties shall apply appropriate measures to bring effect to the rules and procedures set out in the provisions of this Protocol.
2. State Parties shall cooperate with each other in ensuring compliance with the provisions of this Protocol.
3. State Parties shall not take any measure inconsistent with the provisions and objectives of this Protocol.

4. State Parties shall endeavour to harmonise their national laws, regulations and policies to ensure consistency with this Protocol.

### **Article 26 – Conflict and inconsistency with other Agreements**

Any conflict and inconsistency between the provisions of this Protocol and regional instruments related to Women and Youth in Trade shall be resolved in accordance with Article 19 of the AfCFTA Agreement.

### **Article 27 – Dispute settlement**

Any dispute arising from this Protocol shall be settled in accordance with the Protocol to the AfCFTA Agreement on Rules and Procedures on the Settlement of Disputes.

### **Article 28 – Review**

This Protocol shall be subject to review by State Parties in accordance with Article 28 of the AfCFTA Agreement.

### **Article 29 – Amendments**

Any amendment to this Protocol shall be undertaken in accordance with Article 29 of the AfCFTA Agreement.

### **Article 30 – Negotiation of annexes**

State Parties shall, as and when deemed necessary, negotiate annexes to this Protocol upon its adoption.

### **Article 31 – Authentic text**

This Protocol is drawn up in six (6) original texts in Arabic, English, French, Portuguese, Spanish and Kiswahili, all of which are equally authentic.