

GLOBAL AND REGIONAL ORDER

A WHOLE AGREEMENT APPROACH —

towards gender mainstreaming in the AfCFTA

Nadira Bayat
March 2022



The AfCFTA Agreement offers a major opportunity for empowering women in different economic roles; however, gains will not be automatic.



A whole agreement approach will not result from one specific, isolated intervention, but from a comprehensive and integrated approach that involves multiple areas, sectors and stakeholders.



The socio-cultural construct of gender means that women must navigate various other impediments, including limitations on time and mobility arising from unpaid domestic responsibilities. Limited skills and knowledge of product packaging, branding, and marketing can restrict women's participation to the lower nodes of value chains.

A WHOLE AGREEMENT APPROACH – towards gender mainstreaming in the AfCFTA



The AfCFTA will not deliver on the anticipated benefits of inclusive socioeconomic growth and sustainable development if women are left behind. To ensure fair and more beneficial outcomes for all, the AfCFTA Agreement must be designed and implemented in the most inclusive way possible. Prioritizing a whole agreement approach to mainstreaming gender in the AfCFTA can help operationalize gender equality considerations and drive women's economic empowerment for the realization of inclusive AfCFTA implementation.



Gender-responsive AfCFTA policy reforms, complementary measures, and other targeted interventions will need to address legal, social and cultural barriers to full gender equality. AfCFTA State Parties should create an enabling legal, regulatory, and institutional environment by enacting, strengthening, and enforcing laws and regulatory frameworks that ensure equality and prohibit discrimination against women, while ensuring that harmful sociocultural norms are addressed.



All Africans have a stake in empowering women in the AfCFTA. Prioritizing a whole agreement approach to mainstreaming gender in the AfCFTA drives women's economic empowerment and accelerates progress toward inclusive AfCFTA implementation, as an imperative for more resilient, just and equitable African economies of the future.

Further information on the topic can be found here:
<https://geneva.fes.de/topics/trade-and-development>

Contents

1.	INTRODUCTION	3
2	TOWARDS A WHOLE AGREEMENT APPROACH TO GENDER MAINSTREAMING IN THE AfCFTA	6
2.1	Mainstreaming gender in AfCFTA Phase I issues: A sectoral approach	7
2.1.1	Agriculture	7
2.1.2	Manufacturing	8
2.1.3	Services	9
2.2	Gender mainstreaming in AfCFTA Phase II negotiations	12
2.3	AfCFTA Protocol on Women in Trade	14
3.	TOWARDS THE DESIGN OF GENDER-RESPONSIVE AfCFTA POLICY REFORMS AND COMPLEMENTARY MEASURES	16
4.	RECOMMENDATIONS FOR A WHOLE AGREEMENT APPROACH TO GENDER MAINSTREAMING IN THE AfCFTA	18
	References	20
	Imprint	23

1

INTRODUCTION¹

The signing of the Agreement establishing the African Continental Free Trade Area (AfCFTA) by 44 African Union (AU) Member States on 21 March 2018, marked a historic milestone in Africa's economic integration agenda.² The AfCFTA Agreement entered into force on 30 May 2019 after reaching the required threshold of 22 ratifications, and on 1 January 2021, trading officially began under the Agreement.³ This milestone was reached in the midst of a pandemic that has exacted a heavy toll on African economies, reversing many of the hard-won gains of the past decade in poverty eradication, food security, and gender equality that lie at the heart of inclusive socioeconomic development. The AfCFTA aims to create a liberalized single market for goods and services, and lays the foundation for the establishment of a continental customs union. Once fully implemented, the AfCFTA has the potential to connect 1.3 billion people across 55 countries with an estimated combined gross domestic product (GDP) valued at 2.5 trillion US dollars (UNECA-AUC, 2018). A single market created under the AfCFTA Agreement is expected to bring considerable benefits to Africa. These will notably be brought by the substantial expansion of intra-African trade and increased investment, which should lead to export diversification, productivity gains, greater value addition, improved jobs, and higher incomes (ACET, 2021). At the same time, regional value chains that are important for driving women's and youth empowerment, as well as Africa's overall competitiveness, are anticipated to grow exponentially under the AfCFTA.

Expansive in scope, the AfCFTA Agreement covers both traditional and new trade policy areas. It is being built and

implemented through various phases of negotiations. Phase I of the negotiations established the Protocols on Trade in Goods, Trade in Services, and Rules and Procedures on the Settlement of Disputes, with corresponding annexes and appendices on rules of origin, customs cooperation, trade facilitation, nontariff barriers, technical barriers to trade, sanitary and phytosanitary measures, transit and trade remedies. Phase I of the implementation of the AfCFTA Agreement seeks to liberalize trade in goods and services. For trade in goods, the Protocol sets out a path for the progressive elimination of tariffs on intra-African trade, while allowing different liberalization schedules for least developed countries. In terms of the AfCFTA Protocol on Trade in Services, each State Party must provide a schedule of specific commitments in five sectors that were prioritized for liberalization in Phase I, to include: financial services, transport, communications, business/professional services, and tourism. At the 8th Meeting of the AfCFTA Council of Ministers Responsible for Trade, that was convened in Accra, Ghana from 28-29 January 2022, the Council of Ministers agreed that trading under the AfCFTA regime should proceed on the basis of agreed rules of origin that cover 87.7 per cent of total tariff lines.⁴

Preparatory work for negotiations on Phase II Protocols to the AfCFTA Agreement on Intellectual Property Rights, Competition Policy, Investment and Digital Trade commenced in 2021 and will continue in earnest in 2022. At the Thirteenth Extraordinary Session on the AfCFTA on December 5, 2020, the Assembly of the African Union (AU) committed to make the operation of the AfCFTA more inclusive, including through interventions that support young Africans, women, and small and medium-sized enterprises (AU Decl.1. 2020). To advance this objective, the AfCFTA Secretariat commenced work to support negotiations on an AfCFTA Protocol on Women in Trade, that will also form part of AfCFTA Phase II negotiations.

1 Nadira has worked extensively on the gender dimension of the AfCFTA, both as Gender and Trade Expert with the United Nations Economic Commission for Africa (UNECA), where she led the approach to gender mainstreaming in AfCFTA National Strategies, and with UN Women. The author would like to thank Yvonne Bartmann, Senior Program Officer, Trade and Development from the Friedrich-Ebert-Stiftung (FES) Geneva office for her valuable contribution to this Policy Brief and long-standing collaboration on gender and AfCFTA-related work.

2 As at 14 February, 2022, 54 of the 55 Member States of the African Union had signed the AfCFTA Agreement, with the exception of Eritrea, while 41 countries had deposited their instruments of ratification by this date, <https://www.tralac.org/documents/resources/infographics/2605-status-of-afcfta-ratification/file.html>.

3 The consolidated text of the AfCFTA Agreement is available at: https://au.int/sites/default/files/treaties/36437-treaty-consolidated_text_on_cfta_-_en.pdf.

4 The Council of Ministers further noted that negotiations for trade in services are at advanced stage of competition, with 46 Member States having submitted their schedules of specific commitments. The deadline for the completion of negotiations for trade in services was set for 30 June 2022. See: AfCFTA Secretariat Statement on 29 January 2022; available at: <https://twitter.com/AfCFTA/status/1487806904881582085/photo/1>.

While negotiated at the continental level, implementation of the AfCFTA Agreement will take place at the national level. As AfCFTA State Parties turn to the hard work of implementing the Agreement, there is a need to ensure that inclusivity is placed at the core of implementation. A separate AfCFTA Protocol on Women in Trade holds considerable promise for advancing women's empowerment in the AfCFTA; but it is by no means the only tool for making the AfCFTA more inclusive. A whole agreement approach to mainstreaming gender in the AfCFTA⁵ will be required to operationalize gender equality considerations and drive women's economic empowerment for the realization of inclusive AfCFTA implementation. Prioritizing a whole agreement approach, as part of the COVID-19 response and recovery, marks a decisive step toward achieving inclusive socioeconomic development, as one of the general objectives of the AfCFTA Agreement.

⁵ Agreement for the purposes of this Brief refers to the Agreement Establishing the African Continental Free Trade Area (AfCFTA). In accordance with Article 8 of the AfCFTA Agreement, the Protocols on Trade in Goods, Trade in Services, Investment, Intellectual Property Rights, Competition Policy, Rules and Procedures on the Settlement of Disputes and their associated Annexes and Appendices shall, upon adoption, form an integral part of the AfCFTA Agreement.

2

TOWARDS A WHOLE AGREEMENT APPROACH TO GENDER MAINSTREAMING IN THE AfCFTA

A whole agreement approach to gender mainstreaming in the AfCFTA can support more inclusive outcomes. However, this approach cannot be achieved without empowering women, who constitute more than 50 per cent of Africa's combined population. Women play various roles in parallel in African economies, including as wage workers, producers, entrepreneurs (women-owned business/formal and informal), small-scale cross-border traders, unpaid workers, care givers, and consumers.⁶ They play an important role in trade, either through formal trade or through informal and small-scale activities, and are also impacted by trade in their different economic roles. In Africa, informal employment is a greater source of employment for women (89.7 per cent) than for men (82.7 per cent) (ILO, 2018). Although agriculture remains a critical source of employment and income for women in Africa – particularly in the rural areas of many countries – women are also actively engaged in manufacturing (textiles and wearing apparel) and services (tourism and business). Women dominate Africa's informal and small-scale cross-border trade landscape, while entrepreneurship remains a vital source of female employment, with the majority of micro or small women-owned enterprises being involved in small-scale manufacture and services trade.

Faced with various structural barriers, including discriminatory laws and policies, gender stereotypes, and harmful social norms, as well as prevailing gender inequalities in labor participation, health, education, and political representation, women in Africa remain disproportionately represented among those left behind. At the same time, women are a powerful force for growth and job creation, as evidenced in a 2019 study by McKinsey Global Institute, which estimates that Africa could add 316 billion US dollars or ten per cent to its GDP by 2025 if all countries matched the progress toward gender equality of their best-performing neighbor.

A single continent-wide market for goods and services can help shape the overall economic environment for the establishment of women's rights. By providing opportunities for increasing women's wages and closing the gender wage gap,⁷ and through the creation of better jobs in trade,

the AfCFTA plays a key role in fostering women's economic empowerment. Women are disproportionately employed in economic sectors that are expected to gain new trade opportunities through the AfCFTA. This includes agriculture, manufacturing – textile and wearing apparel – and services, or through small and medium-sized enterprises (SMEs) – both formal and informal. An empirical assessment conducted by the African Trade Policy Centre (ATPC) of the United Nations Economic Commission for Africa (UNECA) shows that the AfCFTA will help African countries to industrialize and diversify away from energy and mining, which are resource extractive and tend to have low value-added content, toward the expansion of trade in agri-food, services, and industry. At the subsectoral level, the most notable increases in intra-African trade in goods are expected in wood and paper, chemicals, rubber, plastic and pharmaceutical products, vehicles and transport equipment, metals and other manufactured products (for industry), as well as cereals and crops, milk and dairy products, sugar and processed food (for agriculture and food). Tourism and transport are expected to expand significantly for trade in services, with digitalization singled out for its potential to increase intra-African trade gains in services sectors.⁸

Research on the complex relationship between gender and trade demonstrates that women and men are affected by trade policies and trade liberalization in distinct ways (UNCTAD, 2008, 2016). In fact, trade and trade liberalization (as well as the international rules relating to trade) can have more adverse impacts on women than on men, such as when export-oriented agriculture displaces subsistence farming, on which women depend more than men (Dommen, 2021). Similarly, it is important to recognize the differential impact that AfCFTA market liberalization will have on men and women, taking into account characteristics such as education, experience, and role in the economy. Gains in economic empowerment for women will not be automatic and the overall process will see winners as well as losers. AfCFTA

6 UNCTAD (2014) literature on gender and trade tends to refer to women in the economy as workers and producers, traders, consumers (and users of public services), and taxpayers.

7 See analysis from the World Bank (2020) study on the economic and

distributional effects of the AfCFTA, which estimates that the AfCFTA could contribute to closing the gender wage gap; thanks to larger increases in wages for women (10.5 per cent) than for men (9.9 per cent) in 2035.

8 ATPC-UNECA, Takeaways from the expected impact of AfCFTA's implementation; available at: https://www.uneca.org/sites/default/files/keymessageanddocuments/en_afcfta-infographics-11.pdf.

market liberalization could create better jobs, but it could also pose additional risks, including through the potential disruption of markets in which women operate and the resulting changes in the sectoral composition of economic activity.

Women face a range of structural barriers and inequalities as well as societal, educational, and business-related constraints that undermine their economic activities in general, and Africa's trade potential, in particular. This aspect has become profoundly important in the context of COVID-19, which has exacerbated existing vulnerabilities and gender disparities, especially for women in African least developed countries.⁹ Structural inequalities and prevailing disparities not only place women at a considerable disadvantage, but will impede their ability to seize new opportunities created through continental trade integration. A whole agreement approach to mainstreaming gender in the AfCFTA is therefore essential for operationalizing gender equality considerations and driving women's economic empowerment and well-being. This will ultimately accelerate progress towards the goal of inclusiveness in AfCFTA implementation.

2.1. MAINSTREAMING GENDER IN AfCFTA PHASE I ISSUES: A SECTORAL APPROACH

A whole agreement approach may be best achieved by mainstreaming gender across all the AfCFTA protocols and their associated annexes and appendices that form an integral part of the AfCFTA Agreement. In the context of Phase I implementation of the AfCFTA Agreement on Trade in Goods and Trade in Services, this requires a comprehensive understanding at the national level of the strategic sectors in which women work, trade, and own businesses. It will be important to identify the structural barriers to women's economic empowerment and inequalities that impact women in their multiple economic roles, including when accessing markets and engaging in export trade in goods and services. This section will consider the opportunities for as well as the challenges to women's economic empowerment in the sectors affected most by trade in goods, including agriculture and manufacturing, as well as trade in services. It will also expand on the challenges and opportunities in the AfCFTA for women-owned and women-led businesses — both informal and formal — and for small-scale cross-border traders. As part of the subsection on promoting women's economic empowerment in inclusive AfCFTA implementation, particular attention will be paid to the complementary policies and measures required for operationalizing gender equality and driving women's economic empowerment for a more inclusive AfCFTA.

2.1.1. AGRICULTURE

Around 60 per cent of Africa's population live in rural areas, with agriculture driving economic and employment growth and serving as the basis for food security. In most subregions,

⁹ For a more detailed overview of the gendered effects of COVID-19 on African least developed countries (LDCs), see Gondwe and Mpagalille (2022).

more women are employed in agriculture than men, with the exception of West Africa (FAO-AU, 2020). Women are typically, though not exclusively, engaged in subsistence agriculture. They engage in different roles, including in production, processing, and distribution, as well at various nodes of agricultural value chains (FAO, 2022). Research conducted by the United Nations Conference on Trade and Development (UNCTAD) points out that women producers can benefit from agricultural trade liberalization if they have the capacity to participate in export sectors, but they may also be disadvantaged if they produce in import-competing sectors (UNCTAD, 2019). The AfCFTA could promote women's economic empowerment in agriculture in several ways. In providing women producers and entrepreneurs with better access to continental food markets, the AfCFTA directly supports increased agricultural productivity in a sector dominated by women. Women small-scale producers and exporters could benefit from opportunities to participate in regional agricultural value chains as well as in crops with higher returns or with forward linkages to value-added sectors. Regional value chain development in soya, for example, has been identified as an opportunity for women smallholder farmers, who carry out a large part of the production of soya.¹⁰ Women can also benefit from value-added agro-processing activities and linkages with higher-value domestic and export markets. This might be directly, as producers, by supplying raw agricultural products, or indirectly, through employment opportunities (UNDP-AfCFTA Secretariat, 2021; UNECA-FES-OHCHR, 2017).

Notwithstanding the opportunities, agricultural trade liberalization is accompanied by potential risks. In this regard, analysis conducted by Women Watch (2011) points out that trade liberalization has often had the effect of increasing the production of export (cash) crops, while at the same time increasing imports of food crops that compete with and reduce the price of locally produced crops. These realities will need to be considered in the context of the AfCFTA, as the shift to export cash crop production could favor commercially oriented male farmers over small-scale subsistence women farmers. Increased competition brought about by AfCFTA market liberalization could further reduce the domestic price of subsistence crops, with direct implications for women's empowerment in agriculture. Alongside these potential risks, it is important to consider other constraints limiting the full potential of export-led growth for women farmers, with negative implications for women's overall agricultural productivity.

As small-scale producers in most regions, women face various gender gaps in access to finance, market information, technology, agricultural inputs and extension services. Moreover, women often experience discriminatory access,

¹⁰ For a comprehensive overview of the value chains that present increased opportunities for women and youth, see AfCFTA Secretariat-UNDP (2021). AfCFTA Futures Report – Which Value Chains for a Made in Africa Revolution?; available at: <https://www.africa.undp.org/content/rba/en/home/presscenter/pressreleases/2021/afcfta-secretariat-and-undp-release-futures-report-tackling-valu.html>.

acquisition, ownership, inheritance, and control of land and housing branding, and marketing can restrict women's participation to the lower nodes of value chains and to lower value-added activities. In fact, the FAO (2022) states that gender gaps are apparent within all nodes of agricultural value chains, affecting how women engage in formal trade and how they will operate in new markets established by the AfCFTA. Poor access to transport services and market infrastructure contributes to the vulnerability of small-scale farmers who typically trade in perishable goods, while women remain at risk of being further disadvantaged by burdensome sanitary and phytosanitary measures, product standards, and licensing requirements (FAO, 2022; FAO-AUC, 2020; UNECA-FES-OHCHR, 2017; IFC, 2020).

Promoting women's economic empowerment in inclusive AfCFTA implementation

The AfCFTA has the potential to foster new economic empowerment opportunities for women in agriculture, but it could also exacerbate existing gender gaps. Ensuring that women benefit from AfCFTA agricultural liberalization requires a new generation of gender-responsive agricultural trade policies and complementary measures that better target the causes of women's disadvantage in agriculture and seek to strengthen their economic participation in this critical sector. Complementary measures and policy areas for operationalizing gender equality and driving women's economic empowerment for a more inclusive AfCFTA could include strengthening and enforcing laws, policies, and programs that prohibit discrimination against women in relation to access, use, and control over land and other productive resources relevant to agriculture.

Complementary capacity-building policies can support women small-scale producers to competitively produce crops with forward linkages to value-added sectors, while targeted complementary measures can assist small-scale farmers in the production of agri-food products with the potential for boosting value, as well as in high-value agricultural commodities for niche export markets. Deliberate efforts will be required to advance women's participation in the higher value-added segments of regional agricultural value chains created through the AfCFTA. This should include targeted measures to connect groups of women farmers to agricultural value chains. To fully understand the terms of involvement for women, a sectoral gender value chain analysis should be carried out to accurately determine the roles and positions of women and men in various segments of the value chain. Complementary education, training, and capacity-building policies for training in product packaging, branding, and marketing will help build the productive capacity of women farmers. Likewise, complementary measures that provide support for infrastructure, such as storage, refrigeration, and cooling facilities, extension services, credit, capital, and access to technology, could enable small-scale farmers to effectively participate in the local agro-manufacturing sector and expanded export market (FAO, 2022; UNECA-FES-OHCHR, 2017).

2.1.2. MANUFACTURING

The AfCFTA will significantly boost intra-African exports, with notable increases expected in wood and paper, chemicals, rubber, plastic and pharmaceutical products, vehicles and transport equipment, metals, and other manufactured products.¹¹ An expansion of output in female labor-intensive industries, such as textiles and apparel, is also projected. A World Bank (2020) study on the economic and distributional effects of the AfCFTA estimates that the AfCFTA could contribute to closing the gender wage gap as output expands in key female labor-intensive industries (10.5 per cent) compared to men (9.9 per cent) by 2035. However, the study draws attention to the need for complementary policy reforms to support labor mobility and foster equality of opportunity in the labor market (World Bank Group, 2020). Increased intra-continental exports promote access to decent employment opportunities in traditionally female sectors as well as in more lucrative, male-dominated, capital-intensive ones. At the same time, this presents tremendous opportunities for value addition, including in the textile and clothing industry, and in other labor-intensive creative industries, such as fashion, film and food (AfDB, 2018).

While AfCFTA-driven manufacturing can play a crucial role in creating new jobs for women, the quality of manufacturing-related employment remains an important issue. Generally, men dominate in high-productivity manufacturing, while women are concentrated in low-wage and semi-skilled positions, especially in the labor-intensive sectors of global value chains, such as textile, apparel, leather and footwear, and horticulture (WEF, 2020). Manufacturing tends to be associated with various forms of gender inequalities, with reports on export-oriented production in agriculture and in manufacturing, where workers are predominantly women, repeatedly identifying labor rights violations (Dommen, 2021). Analysis conducted by UNCTAD confirms the existence of a nearly universal gender wage gap that has made the female workforce attractive for enterprises that want to keep labor costs low, particularly in labor-intensive, export-oriented production where price competition is intense. Gender inequalities and women's cheaper labor tend to position women as sources of competitive advantage rather than achievers of competitive advantage (UNCTAD, 2015). There is also extensive literature on persistent gender stereotyping, cultural norms, and assumptions that often lock women into the less technical jobs in manufacturing. Educational disparities further limit women's prospects for promotion to higher-skilled positions, including in more capital-intensive manufacturing subsectors (UNIDO, 2019; UNDP, 2018).

¹¹ ATPC-UNECA, Takeaways from the expected impact of AfCFTA's implementation; available at: https://www.uneca.org/sites/default/files/keymessageanddocuments/en_afcfta-infographics-11.pdf.

Promoting women's economic empowerment in inclusive AfCFTA implementation

The expansion of export-oriented manufacturing through the AfCFTA brings the promise of formal employment opportunities, especially for women who work in sectors that provide inputs for export goods. At the same time, structural inequalities and constraints could affect women's ability to access higher-skilled and higher value-added manufacturing jobs. The implementation of the AfCFTA presents a unique opportunity for stakeholders in the manufacturing sector to come together and promote a holistic approach to industrial policy that fosters equality of opportunity, treatment, and equal remuneration for men and women workers. To this end, deliberate efforts should be made to promote wage employment for women in traditional manufacturing sectors that offer better value addition and export-generating opportunities, as well as in nontraditional export sectors that are proving to be high growth drivers. Special attention will need to be paid to concerns that automation could increase gender inequalities if women's jobs are disproportionately displaced, especially with the textile, clothing, and footwear sector considered to be at particular risk (UNIDO, 2019, WEF, 2020).

Complementary measures and policy areas for operationalizing gender equality and driving women's economic empowerment for a more inclusive AfCFTA should address issues of occupational segregation, wage gaps, insecure employment, and poor working conditions, as well as poor access to maternity rights and childcare, discrimination, and sexual harassment (WEF, 2020). Improving girls' and women's participation in science, technology, engineering and mathematics (STEM) education and ensuring their exposure to digital technologies at all levels of the education system, including vocational education and training would help to reduce gender gaps in technology use. This is particularly important in the context of ensuring that women are not left behind in learning skills that are critical for the future of work. Retraining and upskilling workers and the extent to which these interventions eliminate gender barriers and foster the participation of women workers in non-traditional sectors, take on a new sense of urgency in the AfCFTA. Targeted retraining strategies would enable women to adapt to the changing skill sets required by expanding industries and more technical sectors, such as mining, vehicles and transport equipment, energy and other emerging sectors, while facilitating their economic upgrading and participation in regional value chains.

2.1.3. SERVICES

Rates of female participation in services employment have shown steady growth over the years. While cross-border trade is mostly in agricultural goods, the economic activities across Africa that tend to employ more women are in services. This applies to both high-skilled (recreational, insurance, real estate, trade, and financial) and small-scale informal services (hairdressing, house cleaning, and washing). Women tend to be employed the least in construction, mining, and road and

rail transport services (World Bank, 2020; UNECA, 2017). As in other sectors, gender wage gaps in the services sector relegates women to lower-paid and lower value-added roles. A study on the liberalization of tourism and information and communication technology (ICT) services in the Common Market for Eastern and Southern Africa (COMESA) region found that while tourism offered significant opportunities to advance women's economic empowerment, women working in tourism in the region were often concentrated in lower-skilled and lower-paid jobs. The extent to which all women would benefit from the liberalization of ICT services was also in question, given the likelihood of ICT-enabled trade in services only opening up new opportunities for educated and highly skilled women (UNCTAD, 2017).

The kinds of services women provide matters. The AfCFTA can drive the African services sector as a critical source of jobs, including for women who are disproportionately concentrated in small-scale services. AfCFTA liberalization of trade in services offers economic empowerment opportunities for women by opening up new employment and value chain opportunities in medium-/high-skilled services and creating a framework for a conducive regulatory and policy environment. Services trade, especially through Modes 1 and 3, will be the most important targets for liberalization, allowing companies to sell services across borders and to establish a local commercial presence (UNDP, 2021). Mode 4 liberalization could be particularly advantageous to women, for example by facilitating their ability to travel across borders to where opportunities and demand exist. The benefits of services liberalization, however, will not automatically lead to improved outcomes for women. To anticipate the potential effect of services commitments on national economies, African governments require a comprehensive understanding of the services sector, in general, including the formal and informal sector. Particular attention should be paid to gender-based constraints women face in accessing employment and business opportunities in the five priority sectors covered in the AfCFTA Protocol on Trade in Services, as well as the wider services sector.

Promoting women's economic empowerment in inclusive AfCFTA implementation

There are several complementary measures and policy areas that arise in the context of AfCFTA liberalization of trade in services for operationalizing gender equality and driving women's economic empowerment. First, women should be involved in the preparation of schedules of specific commitments. Doumbouya (2020) points to the importance of ensuring that specific requests are put forward by women working in services sectors that are of export interest to them and where they are most active, including tourism. Women entrepreneurs may also be interested in sector commitments where they have import interests, such as the liberalization of bank loans and payment methods services (bank cards, virtual currency, etc.). On the other hand, Zhuawu and Enos-Edu note that AfCFTA State Parties could decide against making commitments in specific sectors that would negatively affect women traders (Zhuawu & Enos-Edu, 2021). In all cases,

stakeholder consultations and an informed understanding of the services sector is important for advancing women's equitable participation in new opportunities created by AfCFTA liberalization of trade in services. In parallel, complementary measures that place ongoing learning, technical training, and skills development at the front and center of countries' AfCFTA trade in services strategy will ensure that women can benefit from higher-skilled services jobs.

Women entrepreneurs and business owners

Entrepreneurship is a crucial engine of job creation, providing greater opportunities for women's financial independence and economic empowerment. Sub-Saharan African countries have the highest share of women's entrepreneurship, with one in four women starting or managing a business (ITC, 2021; World Bank, 2019). While entrepreneurship remains a critical source of female employment and livelihood opportunities, the majority of women-owned enterprises are micro or small, involving small-scale manufacture and services trade. The AfCFTA presents tremendous opportunities for export growth and business expansion for women in cross-border trade (formal and informal). Women-owned businesses benefit from economies of scale and increased access to continental export markets through preferential trade regimes and the progressive elimination of tariffs on intra-African trade. Through tariff reductions, women-led enterprises can access cheaper raw materials, making it easier for them to leverage new opportunities for value addition and diversification (UNDP, 2020). Boosting the demand for manufactured goods stimulates the creation of SMEs in the manufacturing sector, including women-owned SMEs, while creating new opportunities for larger export-oriented industries to source inputs from smaller women-led businesses across borders. In parallel, opening the borders increases opportunities for women to participate in trade through reconfigured regional value chains that meet the standards of continental markets (UNECA-AUC, 2018; Mene, 2020).¹²

Various operational instruments of the AfCFTA could also serve as powerful tools for fostering women's entrepreneurship and empowering women economically. Women small-scale traders and entrepreneurs face several payment-related challenges when engaging in cross-border trade. This includes having to resort to the use of middlemen, which results in less control over transactions related to women's trading operations (FAO, 2022). The recently launched Pan-African Payment and Settlement System (PAPSS)¹³

provides simple and low-cost payment, clearing, and settlement to facilitate cross-border payments in local currencies between African countries. In so doing, the PAPSS helps to address some of the aforementioned challenges, enabling the majority of women traders and entrepreneurs to engage in more cross-border trade. The AfCFTA Non-tariff Barriers Reporting, Monitoring and Elimination Mechanism¹⁴ also has considerable potential to advance women's economic empowerment objectives for micro-entrepreneurs, who tend to be confronted by particularly acute nontariff barrier-related challenges. Finally, through the provision of timely information on market opportunities and market access conditions, the African Trade Observatory¹⁵ can address the more significant obstacles that women face in relation to access to trade information.

The liberalization of trade in goods and services through the AfCFTA will create new business and export opportunities for women entrepreneurs. However, it will also increase the competition they face — with negative implications for women's livelihoods and earnings. Alongside these risks, women-led businesses in Africa are disproportionately affected by a range of trade-related barriers and other structural inequalities. Research by the International Trade Centre (ITC) shows that businesses owned by female entrepreneurs in Africa are less likely to export (ITC, 2015). Among the many obstacles to market access which make exporting goods more difficult, especially for women, are costly and complex customs and border processes, such as the completion of sanitary and phytosanitary certificates, certificates of origin, and other trade documentation. Access to trade-related information and business networks remain critical for business success; yet many women entrepreneurs lack access to information on export requirements and opportunities as well as to diverse professional networks (UNECA-FES-OHCHR, 2017).

Women are also disproportionately impacted by nontariff barriers and high trading costs in the form of inefficient customs and border management, poor trade infrastructure, and transport services (World Bank-WTO, 2020; ITC, 2015). These challenges for women entrepreneurs and exporters are accompanied by other »beyond the border« constraints. Evidence from a World Bank study on women's businesses in Africa identified various factors that render women-owned businesses in many African countries less productive than those owned by men. These include: legal discrimination, limited access to networks and information, education and skills gaps, social norms, time constraints, and unpaid care work (World Bank, 2019). Lack of access to finance and affordable credit is a binding constraint for women entrepreneurs in Africa, with implications for business competitiveness and integration in regional value chains. According to the

¹² For a comprehensive overview of the value chains that present increased opportunities for women and youth, see AfCFTA Secretariat-UNDP (2021). AfCFTA Futures Report—Which Value Chains for a Made in Africa Revolution?; available at: <https://www.africa.undp.org/content/rba/en/home/presscenter/pressreleases/2021/afcfta-secretariat-and-undp-release-futures-report-tackling-valu.html>.

¹³ For more details on the Payment and Settlement System (PAPSS), see: African Export-Import Bank (Afreximbank); available at: <https://www.afreximbank.com/pan-african-payment-and-settlement-system-launched-by-president-akufo-addo-foreseeing-5-billion-annu->

<al-savings-for-africa/>.

¹⁴ For a detailed explanation of how to use the AfCFTA Non-tariff Barriers Reporting, Monitoring and Elimination Mechanism, see: System Manual for Public Users; available at: https://tradebarriers.africa/files/eng/public_user_manual.pdf

¹⁵ To access the African Trade Observatory, see: <https://ato.africa/en/>.

African Development Bank (AfDB), African women face an estimated financing gap of 42 billion US dollars across business value chains, including 15.6 billion US dollars in agriculture alone (AfDB, 2019). Likewise, women businesses confront barriers in accessing public procurement opportunities. It is important to note that the underlying barriers and constraints faced by women-led businesses differ. The challenge of access to finance, for example, was found to be greater for women-led SMEs in Ethiopia than for large firms, which were more affected by logistics, tax management, and bureaucratic obstacles to exporting (UNDP, 2018).

Promoting women's economic empowerment in inclusive AfCFTA implementation

Complementary measures and policy areas for operationalizing gender equality and driving women's economic empowerment for a more inclusive AfCFTA will require creating an enabling legal, policy, and regulatory environment for women's entrepreneurship. This includes through the introduction and effective implementation of national laws and regulatory frameworks that promote women's equal access to land, inheritance, property rights, financial services, employment, and education (ITC, 2021). Wider complementary measures to help women entrepreneurs overcome obstacles in accessing credit and finance could include collaboration with financial institutions on innovative financing instruments, ranging from micro to low-interest loans, to venture capital financing and angel investing (Korinek et al., 2021).

Access to finance is a critical lever for enhancing the capacity of women entrepreneurs to grow their businesses and expand into intra-African trade. However, this alone is not enough. It will also be important to address the information asymmetry that women face by providing AfCFTA programs, specifically targeted at smaller, women-led businesses, that create a better understanding of export procedures, export market analysis, and product development — meeting standards, packaging, branding, and marketing. These programs could be further enriched through a focus on women's entrepreneurship that combines traditional business and financial literacy with leadership, mentorship, and mindshift training. Beyond capacity building and training, deliberate interventions that expand women's linkages to diversified business networks, mentors and investors can positively influence women's economic opportunities and outcomes. Complementary measures should extend to encouraging the participation of women-owned and women-led businesses in AfCFTA-related public procurement. Precedent exists for this, with Kenya, South Africa, and other countries providing best practice on procurement reforms that advance women's economic inclusion and labor participation. Encouraging supplier diversity by sourcing from women-owned businesses, increasing women's access to public contracts and building their capacity to access public tenders could all serve as entry points for promoting the participation of women-owned businesses in public procurement (UN Women and Open Contracting Partnership, 2021).

It is worth underscoring the importance of a gender-responsive trade facilitation agenda in the context of the AfCFTA. Notably, an agenda that creates efficient and transparent customs processes, reduces clearance times and trade costs, and increases the involvement of women in trade facilitation decision mechanisms, including in AfCFTA Trade Facilitation National Committees, can act as a catalyst for women-led businesses in intra-African trade. Digital trade facilitation measures, such as single windows, electronic certificates of origin, and automated processing of trade declarations, can be particularly important for smaller women-led businesses, which are disproportionately affected by cumbersome procedures. At the same time, the automation of the border process reduces formalities; and in so doing, it protects women micro-entrepreneurs from potential harassment and discrimination (Korinek et al., 2021). Deliberate interventions that promote ecosystems of support between corporate firms and smaller women-led businesses will play an increasingly important role in the AfCFTA. Larger firms can help smaller women-led businesses to access regional markets by creating sourcing, production, and distribution opportunities, as well as by becoming certified suppliers of corporate supply chains.

Small-scale cross-border traders

Small-scale cross-border trade, often referred to as informal cross-border trade, is intrinsically woven into Africa's economic, social, and trading landscape. According to some estimates, it accounts for between 7 and 16 per cent of formal intra-African trade flows, and between 30 and 72 per cent of formal trade between neighboring countries (Gaarder et al., 2021). Women are driving small-scale cross-border trade, making it a catalyst for women's economic empowerment. Studies conducted at various border locations across sub-Saharan Africa show that female small-scale cross-border traders are disproportionately exposed to a number of gender-specific constraints and border obstacles. A UNECA-Afreximbank pilot informal cross-border trade data collection exercise along the Abidjan-Lagos corridor identified limited knowledge of trade regulations and procedures, sexual harassment, corruption, and extortion, limited access to finance and poorly maintained border infrastructure, as particularly acute cross-border trade challenges faced by women traders (UNECA et al., 2020).

Recognizing the importance of small-scale trade to regional trade, the Common Market for Eastern and Southern Africa (COMESA) and the East Africa Community (EAC) have implemented simplified trade regimes (STRs) and a range of complementary trade facilitation measures. The STR targets small-scale cross-border traders who regularly carry out low-value consignments, and seeks to boost their participation in cross-border and intra-regional trade.¹⁶ While STRs have emerged as one of the most beneficial trade

¹⁶ For a more detailed discussion on the design of the COMESA and EAC STRs, see: Bayat (2021). Unlocking the Potential of Women Cross-Border Traders in Africa: Considerations for a Simplified Trade Regime; available at: <https://www.africa.undp.org/content/rba/en/home/library/reports/futures-report-2021.html>.

facilitation instruments for small-scale cross-border traders in the COMESA and EAC regions, traders still confront a range of obstacles at some border crossings (Afrieximbank, 2020). In addition, STR implementation is not consistent across the RECs. This includes the threshold values per consignment, as well as the ›common lists‹ that identify goods eligible for clearance under the STR. Lastly, awareness of the benefits of STRs remains low, especially among female cross-border traders, while language constitutes an additional barrier (EASSI, 2020; Fundira, 2018).

Although the AfCFTA Agreement does not refer explicitly to small-scale cross-border trade, the AfCFTA offers a promising path for empowering the majority of female small-scale traders. Building on the interventions of STRs at the REC level, consideration should be given to institutionalizing a gender-responsive approach to the design of an AfCFTA STR that goes hand in hand with women’s economic empowerment. The list of products under a gender-responsive AfCFTA STR should include commodities commonly traded by women cross-border traders. This ›common list‹ should be more extensive than the lists of the COMESA and EAC STRs, and should include more manufactured goods (UNECA et al., 2019). Increasing the threshold level could further incentivize traders to engage in trade below the duty-free amount. Implementation would best be effected at the level of the RECs and bilaterally between neighboring Member States (UNECA et al., 2019), with Member states being provided with gender-sensitive guidelines. A gender-responsive AfCFTA STR should be central to an empowering trade facilitation agenda. Key trade facilitation best practices at the REC level that have addressed gendered barriers to trade and improved the trading environment for women traders should be scaled up in the AfCFTA.

Promoting women’s economic empowerment in inclusive AfCFTA implementation

Complementary measures and policy areas for operationalizing gender equality and driving women’s economic empowerment for a more inclusive AfCFTA could entail the adoption of a gender-responsive AfCFTA STR. The STR should be designed in close consultation with women traders, cross-border associations and other stakeholders that play a critical role in addressing issues of women’s empowerment. Trade Information Desks (TIDs) could help to support implementation of the STR, including through assisting small-scale cross-border traders with their STR paperwork (UNECA, 2021a). Information dissemination on the STR, as well as on opportunities created through the AfCFTA for trading in higher value-added products and integrating into value-added segments of regional value chains, would assist women small-scale traders who tend to have lower literacy levels and who experience lack of access to trade-related information as a distinct constraint. Other complementary measures that include dedicated lanes for women could alleviate delays at border posts, particularly for women traders travelling with infants, while the establishment of Gender Desks would help to prevent gender-based violence and harassment. As women small-scale traders are disproportionately disadvantaged by inadequate border infrastructure,

complementary measures that promote sustainable health and sanitation facilities, safe and affordable public transportation, improved security lighting, border markets, and cold storage facilities would facilitate their trading activities.

Digital tools offer strong potential for improving efficiency and enhancing the participation of women in cross-border trade. Research published by UNECA demonstrates how female traders, in particular, can benefit from cashless cross-border payments, mobile banking systems, and other digital solutions that limit the risk of physical contact, harassment, bribery, corruption, and confiscation of goods at the border (UNECA, 2020). Underlying the importance of trade facilitation, is the need to ensure that all interventions are supported by improvements in data collection on small-scale cross-border trade. Establishing a gender-responsive AfCFTA STR, which is buttressed by equally targeted gender-responsive trade facilitation measures, is important for creating higher levels of protection for small-scale cross-border traders, including facilitating their transition to and integration into the formal economy.

2.2. GENDER MAINSTREAMING IN AfCFTA PHASE II NEGOTIATIONS

Ensuring that women can access and fully benefit from the opportunities created by the AfCFTA Agreement requires mainstreaming gender across all protocols and their associated annexes and appendices that are an integral part of the Agreement. As noted in the introduction above, preparatory work for negotiations for the Phase II Protocols to the AfCFTA Agreement on Intellectual Property Rights, Competition Policy, Investment and Digital Trade commenced in 2021 and will continue in earnest in 2022. It is worth emphasizing that Phase II issues do not exist in isolation but interact with gender, as women face multiple barriers preventing them from benefiting from the opportunities for greater inclusion and empowerment in these areas. As a first step, deliberately integrating a gender dimension in Phase II negotiations could inform the design of more inclusive provisions, addressing the specific needs and realities of women. This would also impact the formulation of gender-sensitive domestic policies that create new opportunities and remove barriers to women’s economic empowerment in AfCFTA implementation. In addition to the above, a separate AfCFTA Protocol on Women in Trade will be developed. While a full discussion of the inclusion of gender-related provisions across all Phase II Protocols is beyond the scope of this Policy Brief, some preliminary observations are included in this section.

In the case of traditional intellectual property issues (patents, trademarks, copyright), inclusive gains are significant and can help women who make up the majority of entrepreneurs in sub-Saharan Africa to protect their goods or services. Women are the main custodians of traditional and indigenous knowledge that is essential for food security and health care. This knowledge, however, is rarely patented or protected by intellectual property rights, nor is it developed for commercial purposes or export (Williams, 2003). In her article Using Intellectual Property Law to Promote Human Flourishing for

'Market Women' Osei-Tutu illustrates how stronger intellectual property rights contribute to an empowering entrepreneurial environment, including for informal women-owned enterprises. Distinctive trademarks can support women micro-entrepreneurs to develop their business brand, while copyrights and patents protect innovations and creative works, including those of micro and informal enterprises (Osei-Tutu, 2018).

One of the ways intellectual property is regulated on the African continent is through national intellectual property laws. African countries that are members of the World Trade Organization (WTO) are bound by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), while harmonized rules have been advanced, including through regional bodies such as the African Regional Intellectual Property Organization (ARIPO), the Organisation Africaine de la Propriété Intellectuelle (OAPI), and the Pan-African Intellectual Property Organization (PAIPO). Notwithstanding the existence of an expanding intellectual property regime, many women-led SMEs in Africa experience lack awareness and knowledge of intellectual property protection as a distinct barrier to trade. Likewise, administrative complexities and the attendant registration costs and enforcement of intellectual property rights tend to disproportionately impact these enterprises (Ncube, 2020).

Integrating gender-related provisions into the AfCFTA Protocol on Intellectual Property Rights can extend the benefits of the intellectual property system to women and women-led businesses. One way of achieving this could be to include provisions that protect and recognize women's contribution to traditional knowledge and local innovation. Targeted areas of cooperation for women could include capacity building, knowledge generation, and skills enhancement on intellectual property protections, as well as related cooperation on the design of information centers and access points at borders, where women can obtain advice on intellectual property rights.¹⁷

Competition policy nurtures and supports new industries, especially SMEs. If competition is not regulated as businesses seek to maximize profits, various anticompetitive practices may emerge, including cartels, vertical restraints, and abuse of dominance (UNECA et al., 2019). While the gender dimension of competition policy may not be as well defined as that of intellectual property, Santacreu-Vasut and Pike (2019) argue that there is a bidirectional relationship between gender and competition. Competition policy helps reduce gender inequality by tackling anticompetitive behavior and reducing prices in markets that women buy from, particularly in markets that facilitate greater market participation. In the context of the AfCFTA, competition policy will become more important as markets open for wider par-

ticipation and value addition, creating new opportunities for the majority of micro and small women-owned and women-led businesses to benefit from larger-scale production and participation in higher value-added segments of regional value chains. At the same time, the opening up of markets risks extending anticompetitive conduct to other African subregions (Das Nair, 2020). As the above overview indicates, women-owned businesses tend to be disproportionately impacted by various structural barriers to entry and expansion, and this includes cross-border anticompetitive practices. Das Nair (2020) illustrates how the abuse of dominance prevents new businesses, including women-owned businesses, from participating in value chains, while cartels prevent new producers or suppliers from entering and growing within a market. This, and other forms of anticompetitive conduct, create additional barriers to entry into entrepreneurship, and constrain women's ability to grow their businesses.

Integrating gender-related provisions into the AfCFTA Protocol on Competition Policy could help reduce preexisting gender inequalities. These provisions could include encouraging capacity building for women-led businesses on how to challenge anticompetitive conduct through competition authorities and other formal systems and promoting public-private partnerships that support the participation of local and regional women suppliers in value chains. Where there are clear negative effects of anticompetitive conduct, such as in cartel activity, binding commitments to cooperate on investigations and timely prosecutions of cases involving multinational firms and firms that export to the continent, should be included in the AfCFTA Competition Protocol.¹⁸

Evidence confirms that investment, particularly foreign direct investment (FDI), has a gender dimension. This may be through the expansion of labor-intensive sectors and the recruitment of women in those sectors, which has direct economic effects as well as indirect spillover effects on women's life expectancy, education, and income. Notable negative effects associated with FDI include the displacement of local businesses and unreasonable profit repatriation (Dawar, 2021). The AfCFTA Protocol on Investment offers an opportunity to influence the practices and policies of investors. Gender-related provisions as part of negotiated outcomes for the AfCFTA Protocol on Investment, could range from cooperation on the promotion of skills and technology transfer and linkages, especially with women-led micro, small and medium-sized enterprises, to requiring AfCFTA State Parties to advance corporate social responsibility and develop responsible business practices that promote gender equality. The treatment of investors could also be addressed, for example through an explicit provision that prohibits gender-based discrimination against investors.¹⁹

¹⁷ Presentation by Ms. Caroline B Ncube, Professor and research chair in Intellectual Property, Innovation & Development at the Department of Commercial Law at the University of Cape Town, South Africa. Also see Ncube (2020) for a more detailed discussion of the opportunities inherent in the AfCFTA Protocol on Intellectual Property Rights to support women-led SMEs.

¹⁸ For a more detailed explanation on how the AfCFTA Protocol on Competition Policy could empower women-owned businesses, see: Das Nair (2020).

¹⁹ For example, Art. 8.10 s2(d) of the Canada and European Union Comprehensive Economic and Trade Agreement prohibits gender discrimination against foreign investors.

The AfCFTA can be a powerful catalyst for Africa’s digital transformation, including through digital trade and e-commerce. This presents significant opportunities for women entrepreneurs, such as easier entry into higher-value-added sectors that have traditionally been male dominated, increased market access, and higher levels of flexibility to enable women to juggle work and family responsibilities (IFC, 2021). Notwithstanding the opportunities, research by the International Finance Corporation (IFC) identifies various barriers that militate against women’s effective engagement in e-commerce and ability to conduct financial activities. These include: legal constraints, lack of access to finance, digital connectivity, logistics constraints, digital skills, social and cultural norms, and limited access to payment systems for mobile banking. Barriers can loom even larger in the face of a growing gender digital divide that has been identified as a particular constraint to women’s participation in e-commerce (Bayat, 2019).

According to the International Telecommunications Union (ITU) Facts and Figures 2020, only 20 per cent of women in Africa have access to the Internet, as compared to 37 per cent of men. Women are also less likely than men to own or use a mobile telephone, which is the most common means of accessing the Internet in developing countries. Despite the increase in mobile phone usage, sub-Saharan Africa has the widest gender gaps in mobile ownership and mobile Internet use at 37 per cent. The Mobile Gender Gap Report (2020) which reviewed findings from across 15 low- and middle-income countries confirms that for women in Africa, lack of literacy and digital skills are the greatest barrier to mobile Internet use, followed by affordability (GSMA, 2021 & 2020). While digitalization presents new opportunities for women’s economic empowerment, an online presence poses greater safety and security-related risks for women. Online abuse that includes harassment, stalking, defamation of character, and sexual abuse has considerable implications for the ability of women entrepreneurs to effectively participate in e-commerce (Ismail et al., 2021).

Gender-related provisions as part of negotiated outcomes for the Protocol on Digital Trade could focus on various areas of cooperation to close the gender digital divide. This could include through increasing women and girls’ access to digital skills and literacy initiatives as well as through programs and policy frameworks that recognize digital harassment, and make it easy and safe to report online abuse and other threats that prevent women from accessing and using the internet (GSMA, 2020). Provisions centered on sharing of experiences in the design and implementation of approaches to help women-owned businesses increase their exports through digital trade and e-commerce platforms, could also be considered.

2.3. AfCFTA PROTOCOL ON WOMEN IN TRADE

The AfCFTA Agreement does not go as far as some of the more progressive approaches to gender and trade, such as those demonstrated in treaties and associated acts of the

Regional Economic Communities (RECs)²⁰ (UNECA, 2021b). The constitutive treaty of the AfCFTA Agreement contains an explicit reference to the importance of gender equality for the development of international trade and economic cooperation in the Preamble, while Article 3(e) emphasizes the need to promote and attain sustainable and inclusive socioeconomic development, gender equality, and structural transformation of the State Parties, as one of the general objectives of the AfCFTA. In addition, Article 27 (2)(d) of the Protocol on Trade in Services contains an explicit reference to improving women’s export capacity, with State Parties agreeing, where possible, to mobilize resources, in collaboration with development partners, and implement measures to improve the export capacity of micro, small and medium-sized operators, women and youth service suppliers. While not targeted at women directly, there are several key provisions in the Protocols on Trade in Goods and Trade in Services and related annexes that are relevant for women. Implemented through a gender lens,²¹ these provisions could help mitigate trade and other barriers that impede women’s access to economic opportunities and participation (Bayat, 2021).

The explicit incorporation of gender equality into the text of the AfCFTA Agreement paves the way for a more focused approach to promoting gender equality and advancing women’s economic empowerment across all AfCFTA processes. Efforts are currently underway to ensure the full and equal participation of women in continental trade integration. Building on trade agreements at the REC level, an AfCFTA Protocol on Women in Trade will be developed. The AfCFTA Secretariat, based in Accra, Ghana, has commenced preparatory work and is supported in this endeavor by UN partners, including the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and the United Nations Development Programme (UNDP). In collaboration with the AfCFTA Secretariat, the two agencies helped solicit the views of women in trade at country level. As a result, the departure point of negotiations for the Protocol on Women in Trade will be solution driven and informed by the voices of African women (UNDP, 2021). A series of national stakeholder consultations were held over the course of 2021, while a comprehensive regional online survey was launched to better understand the challenges and opportunities for women and women-led businesses in the AfCFTA. These efforts will culminate in a Women in Trade Conference, to be convened by the AfCFTA Secretariat in 2022. The objective of the Conference is to hear directly from women in different economic roles and across sectors on how a dedicated Protocol can eliminate barriers to trade for women and enable them to benefit from the opportunities created by the AfCFTA Agreement.

²⁰ For a more detailed discussion of gender mainstreaming in REC instruments, see: UNECA (2021b).

²¹ See Bayat (2021) for a more detailed explanation of applying a gender lens to the implementation of key provisions in the Protocols on Trade in Goods and Trade in Services to drive women’s economic empowerment outcomes.

The Protocol on Women in Trade is an exciting development that offers a direct path for mitigating trade barriers for women and accelerating women's economic empowerment, and ultimately inclusivity in AfCFTA implementation. To be truly transformative, however, the Protocol should adopt a holistic approach that links economic empowerment to policy reforms and complementary measures that address women's empowerment in a more fundamental way. For example, cooperation provisions that require specific actions to be undertaken to increase women's access to education, skills development and training, as well as to finance, digital technologies and public procurement, should be reflected alongside other effective enablers for empowering women such as increased access to affordable childcare, protection of physical safety and healthcare. Likewise, it will be important for the AfCFTA Women in Trade Protocol to make explicit reference to regional and international instruments that promote and protect the rights of women and girls in Africa, with corresponding provisions that require State Parties to eliminate gender discriminatory laws, regulations, and practices.

To overcome the major shortcomings that are generally associated with existing trade agreements,²² it will be important to ensure that commitments are binding and for the Protocol on Women in Trade to set out how gender-related commitments would be implemented or enforced, with a clearly defined resource mobilization plan. Clear accountability and monitoring mechanisms to monitor the impact of the AfCFTA on women's economic empowerment and broader inclusive socioeconomic development goals would result in more transformative outcomes for women. Last but not least, gender-inclusive stakeholder consultations — especially at grassroots level — are critical for ensuring that provisions in the Protocol on Women in Trade respond to the main interests, aspirations, and needs expressed by women in Africa. Integral to the consultative process is the need to understand the various areas for empowering women in formal and informal employment and in multiple economic roles, as opposed to focusing exclusively on women as entrepreneurs.

²² For a more detailed discussion of three major shortcomings associated with trade agreements, see Bahri (2021). Also see Dommen (2021).

3

TOWARDS THE DESIGN OF GENDER-RESPONSIVE AfCFTA POLICY REFORMS AND COMPLEMENTARY MEASURES

The AfCFTA Agreement offers a major opportunity for empowering women in different economic roles; however, gains will not be automatic. While negotiated at the continental level, implementation will take place at the national level. As AfCFTA State Parties turn to implementing the Agreement, there is a need to ensure that gender equality considerations are effectively operationalized as part of an inclusive approach to implementation. The proposed strategy to achieve this involves gender mainstreaming in the design of national AfCFTA implementation strategies and action plans (Bayat, 2021). In this case, gender mainstreaming provides a contextually relevant analytical framework for considering the impact of the AfCFTA on women at the national level. The approach has been designed to help African governments and policymakers — as the primary target audience — to identify gender inequalities and structural barriers to women’s economic empowerment, as well as to develop corresponding policies and complementary measures to support the removal of barriers, which will enable women to access higher-skilled jobs and upgrade into higher-productivity activities in the AfCFTA.²³

Gender mainstreaming seeks a better understanding of the gender impact of trade in agriculture, manufacturing, and services, which are expected to gain new opportunities through the AfCFTA. Particular attention is paid to sectors with high female labor participation, as well as nontraditional sectors and products with high export growth and employment creation potential. Emphasis is placed on identifying structural inequalities and barriers to women’s economic empowerment, as well as gender-distinct trade barriers that confront women in different economic roles. There will be a number of context-specific economic empowerment interventions, informed by relevant gender and trade-related information and statistics, emerging at the end of the gender mainstreaming process. These interventions are integrated into each country’s AfCFTA action plan, which contains a list of strategic objectives, as well as key activities, detailed actions, focal points, timelines, and resources to guide AfCFTA implementation.

Gender mainstreaming in national AfCFTA implementation strategies and action plans provide guidance for the design of AfCFTA policy reforms and complementary measures that reduce the risk of exacerbating existing gender inequalities in AfCFTA implementation. For instance, gender mainstreaming can highlight the required educational and ICT policies, as well as specialized professional and technical training for women to move into more competitive sectors and higher-skilled jobs. The process can also help identify opportunities in key regional value chains with positive socioeconomic impact — particularly in creating productive employment and decent jobs for women in the aftermath of COVID-19. Additionally, it can identify targeted trade facilitation measures that reduce the impediments and cost of trading across borders for women-owned businesses in the formal and informal sector, as well as for women small-scale cross-border traders. Opportunities are created through the gender mainstreaming process to build an ecosystem of partners, including African governments and policymakers, private sector, civil society, and development partners, who come together in support of a range context-specific interventions identified in each country’s AfCFTA action plan for implementation.

Recognizing the importance of policy coherence, gender mainstreaming promotes alignment and coordination between AfCFTA and related trade policies and other domestic policies on gender equality, labor, agriculture, education, and social development. Systems for engagement and consultation between the government ministries responsible for national policy areas that will impact on women’s participation in the AfCFTA along with other key actors are intrinsic to the gender mainstreaming process. Stakeholders from civil society, including grassroots women’s organizations, women’s groups, associations of small traders, cooperatives, and representatives from the private sector, particularly women’s business associations, can bring critical perspectives and experiences to this process — both as groups that will be directly affected by the AfCFTA and as actors working toward more inclusive AfCFTA implementation. Trade unions, and women trade unionists, in particular, are well placed to highlight the gender-based discrimination that women face in the labor market and in employment.

²³ The approach to gender mainstreaming in AfCFTA National Strategies has been designed in accordance with specific components and elements set out in the United Nations Economic Commission for Africa’s (UNECA) proposed AfCFTA National Strategy framework. For a more comprehensive overview of the process for gender mainstreaming in AfCFTA National Strategies, see Bayat (2021).

It is important to note that gender mainstreaming in a country's AfCFTA National Strategy does not preclude other gender impact assessments and analyses of the AfCFTA and related trade policies. Indeed, separate and comprehensive national, regional, and continental assessments are encouraged as a means of facilitating a better understanding of the potential impact of the AfCFTA as well as what is required to drive transformative change, in particular for women at risk of being left behind.²⁴ Last but not least, one of the key challenges to promoting women's economic empowerment and the design of a gender-responsive AfCFTA and related trade policies will be the lack of reliable and disaggregated data breaking down the inequalities women face in various economic roles. Dedicated efforts will therefore be required to address the absence of gender and trade data and statistics that remains fundamental to more informed policymaking and technical support.

²⁴ On this, see Dommen (2021) for a more comprehensive examination of the different approaches to assessing the gendered impacts of trade and trade policy.

4

RECOMMENDATIONS FOR A WHOLE AGREEMENT APPROACH TO GENDER MAINSTREAMING IN THE AfCFTA

The AfCFTA will not deliver on the anticipated benefits of inclusive socioeconomic growth and sustainable development if women are left behind. To ensure fair and more beneficial outcomes for all, the AfCFTA Agreement must be designed and implemented in the most inclusive way possible. Prioritizing a whole agreement approach to mainstreaming gender in the AfCFTA can help operationalize gender equality considerations and drive women's economic empowerment for the realization of inclusive AfCFTA implementation. A whole agreement approach will not result from one specific, isolated intervention, but from a comprehensive and integrated approach that involves multiple areas, sectors and stakeholders. This may be best achieved by mainstreaming gender across all AfCFTA protocols and their associated annexes and appendices that form an integral part of the AfCFTA Agreement. In the context of Phase I implementation of the AfCFTA Agreement, this includes assessing the gender impact of the AfCFTA for broad sectors that are affected most by trade in goods, including agriculture and manufacturing, and trade in services. Particular attention will need to be given to the differential impact of the AfCFTA for women in multiple economic roles, including for women-owned and women-led businesses — both informal and formal — and for small-scale cross-border traders.

It is important to note that AfCFTA and related trade policies are not enough. If the objective is to operationalize gender equality and drive women's economic empowerment for a more inclusive AfCFTA, then gender-responsive AfCFTA policy reforms, complementary measures, and other targeted interventions will need to address legal, social and cultural barriers to full gender equality. AfCFTA State Parties should create an enabling legal, regulatory, and institutional environment by enacting, strengthening, and enforcing laws and regulatory frameworks that ensure equality and prohibit discrimination against women, while ensuring that harmful sociocultural norms are addressed. Complementary measures that increase women's access to finance, ICT and digital technologies, should be considered alongside education, skills development, and training in new areas that are critical for the future of work. Retraining and reskilling the labour force, particularly through targeted complementary measures that consider the implications of new employment trends for gender equality and women's empowerment, can facilitate women's access to new opportunities in more competitive sectors and segments

of regional value chains and higher-skilled jobs created through the AfCFTA.

Gender mainstreaming in the Phase II implementation of the AfCFTA Agreement should extend to the negotiations and drafting of Phase II Protocols. This would inform the design of explicit gender-related provisions that can serve as entry points for promoting women's economic empowerment objectives in the context of intellectual property rights, competition policy, investment, and digital trade. Moreover, a dedicated AfCFTA Protocol on Women in Trade can empower the participation of women in intra-African trade, including through provisions that serve as effective enablers for addressing women's economic empowerment in a holistic and integrated manner. A whole agreement approach to gender mainstreaming in the AfCFTA must be participatory and provide for the meaningful participation of women's business associations, gender experts, and civil society in AfCFTA national, regional, and continental forums. Grassroots women's organizations play an important role in ensuring that the negotiations, design, and implementation of the AfCFTA Agreement reflect the interests, needs, and visions of women, especially more vulnerable groups who are often the hardest to reach. At the same time, men will need to be fully engaged as allies in the achievement of women's economic empowerment in the AfCFTA.

Gender training for trade negotiators to create a stronger understanding of the links between trade and gender should be encouraged in the context of a whole agreement approach, alongside closer collaboration between trade and gender ministries. In addition, it will be important to increase the participation and representation of women and gender ministry representatives in national AfCFTA agenda-setting and negotiating delegations. A whole agreement approach to gender mainstreaming in the AfCFTA goes beyond the economic case for gender equality and emphasizes the promotion of gender equality and the economic empowerment of women as basic human rights that must be established for a peaceful and prosperous Africa. It is therefore imperative that African countries address the underlying human rights issues that prevent women from realizing their full and equal economic potential.

All Africans have a stake in empowering women in the AfCFTA. Inherent in the COVID-19 crisis that has permanently reshaped our world are opportunities for AfCFTA State Parties to come together, and to re-imagine and transform the trading paradigm. Prioritizing a whole agreement approach to mainstreaming gender in the AfCFTA that operationalizes gender equality considerations and drives women's economic empowerment accelerates progress toward inclusive AfCFTA implementation, as an imperative for more resilient, just and equitable African economies of the future.

REFERENCES

- Afreximbank (2022): Pan-African Payment and Settlement System Launched by President Akufo-Addo Foreseeing \$5 billion Annual Savings for Africa; available at: <https://www.afreximbank.com/pan-african-payment-and-settlement-system-launched-by-president-akufo-addo-foreseeing-5-billion-annual-savings-for-africa/>.
- Assembly of the African Union. Assembly/AU/Dec.751(XXXIII). 2020: Decision on the African Continental Free Area (AfCFTA). Doc Assembly/AU/4(XXXIII)
- Assembly of the African Union. Thirteenth Extraordinary Session (on the AfCFTA). 2020: Decision on the Start of Trading under the African Continental Free Trade Area (AfCFTA)
- ACET (2021): The Role of the AfCFTA in Promoting a Resilient Recovery; available at: <https://acetforafrica.org/publications/policy-briefs-and-discussion-papers/the-role-of-the-afcfta-in-promoting-a-resilient-recovery-in-africa/>
- ATPC (2021): Takeaways from the expected impact of AfCFTA's implementation; available at: https://www.uneca.org/sites/default/files/key-messageanddocuments/en_afcfta-infographics-11.pdf
- Bahri A (2021): Making Trade Agreements Work for Women Empowerment: How Does It Help, What Has Been Done and What Remains Undone? Latin American Journal of Trade Policy 11 (2021). University of Chile
- Bayat, N. (2019): Harnessing e-commerce in Africa and Women's Human Rights. Digital Trade in Africa: Implications for Inclusion and Human Rights. UNECA-FES-OHCHR; available at: https://geneva.fes.de/fileadmin/user_upload/documents/2019/2019_07_Digital_Trade_Africa.pdf
- Bayat N (2021): Advancing gender-equitable outcomes in AfCFTA Implementation; available at: https://www.uneca.org/sites/default/files/key-messageanddocuments/22May_Final_WhitePaper_Advancing_gender_equitable_outcomes.pdf
- Das Nair, R (2020): Competition, regional integration, and women-owned businesses in the context of the African Continental Free Trade Area (AfCFTA); available at: https://www.shetrades.com/application/files/3316/0760/5833/SheTrades_AfCFTA_-_Policy_Brief_-_Competition_regional_integration_and_women-owned_businesses_-_ENGLISH.pdf
- Dommen, C (2021): Mainstreaming Gender in Trade Policy: Practice, evidence, and ways forward; available at: <https://www.iisd.org/system/files/2021-11/mainstreaming-gender-in-trade-policy.pdf>
- Dawar, K (2021): A Guide to gender in Investment Agreements; available at: https://www.bkp-development.com/images/reports/Gender_in_investment_agreements_Final.pdf
- Doumbouya SF (2020): Trade Services in the AfCFTA; available at: https://www.shetrades.com/application/files/afcfta_pub/shetrades-policy-brief-trade-in-services-english.pdf
- Eyerusalem, Siba (2019): Empowering Women Entrepreneurs in Developing Countries; available at: www.brookings.edu/research/empowering-women-entrepreneurs-in-developing-countries/
- Fundira, T. (2018): Informal cross-border trading- review of the simplified trade regimes in East and Southern Africa. Tralac Trade Brief. No.US18TB03/2018. Stellenbosch: Tralac
- EASSI, 2020: COVID-19: The Escalation of NTBs in the EAC and the impact on Women Traders; available at: <https://eassi.org/wp-content/uploads/2020/11/THE-ESCALATION-OF-NTBs-IN-THE-EAC-AND-THEIMPACT-ON-WOMEN-TRADERS-DURING-COVID-19-PANDEMIC.pdf>
- FAO, 2022: Seizing the opportunities of the African Continental Free Trade Area for the economic empowerment of women in agriculture. FAO.
- GSMA (2020): Mobile Gender Gap Report (2020); available at: <https://www.gsma.com/mobilefordevelopment/wp-content/uploads/2020/05/GSMA-The-Mobile-Gender-Gap-Report-2020.pdf>
- GSMA (2021): Mobile Gender Gap Report (2021); available at: <https://www.gsma.com/r/wp-content/uploads/2021/07/The-Mobile-Gender-Gap-Report-2021.pdf>
- Gondwe and Mpagalille (2022): Gender-related impacts of COVID-19 in African LDCs. UNCTAD Research Paper No. 78. UNCTAD/SER.RP/2021/21 IFC (2020): Women and E-commerce in Africa; available at: <https://www.ifc.org/wps/wcm/connect/47361305-6ebe-431a-8dd9-db2290919823/202105-digital2equal-women-and-e-commerce-africa.pdf?MOD=AJPERES&CID=nCGRGTr>
- ILO (2018): Women and Men in the Informal Economy: A Statistical Picture. International Labour Organisation. Geneva
- Ismail Y et.al. (2021): Mainstreaming Gender in Key E-commerce Policy Areas: Possible Lessons for AfCFTA; available at: http://www.cuts-geneva.org/pdf/eAfCFTA-Study-Mainstreaming_Gender_in_E-Commerce.pdf
- ITC (2021): Twelve Lessons in Gender Lens Investing. ITC, Geneva
- ITC (2021): From Design to Evaluation: Making Trade Policy Work for Women; available at: https://www.shetrades.com/outlook/upload/publications/documents/ITC_Making%20Trade%20Policy%20Work%20for%20Women.pdf
- ITC (2015): Unlocking Markets for Women to Trade; available at: <https://www.shetrades.com/outlook/upload/publications/documents/women-intrade.pdf>
- ITU (2020): Measuring Digital development Facts and figures 2020; available at: <https://www.itu.int/en/ITU-D/Statistics/Documents/facts/Facts-Figures2020.pdf>
- Korinek, J, Moisé, E., & Tange, J (2021): Trade and gender: A Framework of analysis, in: OECD Trade Policy Papers, No. 246; available at: www.oecd-ilibrary.org/trade/trade-and-gender_6db59d80-en
- McKinsey Global Institute (2019): The Power of Parity: Advancing Women's Equality in Africa; available at: <https://www.mckinsey.com/featured-insights/gender-equality/the-power-of-parity-advancing-womens-equality-in-africa>
- Ministry of Industry and UNDP Ethiopia (2018): A Study on Women in Manufacturing in Ethiopia: Opportunities, Challenges and Strategic Interventions; available at: <https://16dayscampaign.org/wp-content/uploads/2019/02/A-Study-on-Women-in-Manufacturing-in-Ethiopia.pdf>
- Ncube, N (2020): Intellectual Property and the African Continental Free Trade Area (AfCFTA), available at: https://www.shetrades.com/application/files/6716/3179/0248/SheTrades_AfCFTA_Policy_Brief_Intellectual_Property_ENG.pdf
- Santacreu-Vasut, Estefania and Pike, Chris (2019): Competition Policy and Gender, Concurrences N° 4-2019; available at: SSRN: <https://ssrn.com/abstract=3487726> or <http://dx.doi.org/10.2139/ssrn.3487726>
- UNECA (2020): Facilitating cross-border trade through a coordinated African response to COVID-19; available at: <https://hdl.handle.net/10855/43789>
- UNECA (2021a): Enhancing the quality of informal cross-border trade in the Economic Community of West African States; available at: <https://repository.uneca.org/bitstream/handle/10855/46372/b1199650x.pdf?sequence=1&isAllowed=y>
- UNECA (2021b): Gender-responsive implementation of the Agreement Establishing the African Continental Free Trade Area: defining the role of the regional economic communities. Addis Ababa
- UNECA (2017): Women's Economic Empowerment: Boosting Female Entrepreneurship in Africa. E.ECA/CGSD/2/7.
- UNECA-AUC (2018): African Continental Free Trade Area Ques-

tions & Answers; available at: https://au.int/sites/default/files/documents/36085-doc-qa_cfta_en_rev15march.pdf

UNECA-FES Geneva Office and OHCHR (2017): The Continental Free Trade Area (CFTA) in Africa – A Human Rights Perspective; available at: <https://www.uneca.org/publications/continental-free-trade-area-cfta-africa-%E2%80%93-human-rights-perspective>

UN (2016): Entrepreneurship for Development; available at: https://unctad.org/system/files/official-document/a71d210_en.pdf

UNDP (2021): Futures Report: Highlighting Value Chains That Can Boost Made in Africa; available at: <https://www.africa.undp.org/content/rba/en/home/presscenter/pressreleases/2021/afcfata-secretariat-and-undp-release-futures-report-tackling-valu.html>

UNDP (2021): Stakeholders Seek Inputs from Women Traders to Integrate Views into Planned AfCFTA Protocol on Women in Trade; available at: www.ss.undp.org/content/south_sudan/en/home/presscenter/press-releases/2021/afcfata-women-crossborder-traders-consultations-unwom-en-undp.html

UNIDO (2019): Guide to Gender Analysis and Gender Mainstreaming the Project Cycle; available at: https://www.unido.org/sites/default/files/files/2021-06/Gender_mainstreaming_Guide_1_Main%20guide.pdf; https://www3.weforum.org/docs/WEF_51129_WP_Global_Value_Chain_Policy_Series_Gender_report_2018.pdf

UNCTAD (2008): Mainstreaming gender in trade policy: Expert meeting on Expert Meeting on Mainstreaming Gender in Trade Policy. TD/B/C.I/EM.2/2/Rev.1. Geneva

UNCTAD (2014): Virtual institute teaching material on trade and gender. Volume 1: Unfolding the links

UNCTAD (2016): Trade as Tool for the Economic Empowerment of Women. UNCTAD/B/C.I/EM.8/2. United Nations, Geneva

UN Women (2019): Opportunities for Women Entrepreneurs in the Context of the African Continental Free Trade Area (AfCFTA); available at: <https://africa.unwomen.org/sites/default/files/Field%20Office%20Africa/Attachments/Publications/2019/Opportunities%20for%20Women%20Entrepreneurs%20in%20the%20Context%20of%20the%20African%20Continental%20Free%20Trade%20Area%20AfCF.pdf>

UN Women and Open Contracting Partnership (2021): Empowering Women through Public Procurement and Enabling Inclusive Growth; available at: <https://www.unwomen.org/sites/default/files/2021-11/Empowering-women-through-public-procurement-and-enabling-inclusive-growth-en.pdf>

Williams, M (2003): Gender Mainstreaming in the Multilateral Trading System: A handbook for policy-makers and other stakeholders. Commonwealth Secretariat

Women Watch (2011): Gender equality and trade policy; available at: https://unctad.org/en/docs/ditc_gender_2011d02.pdf

WEF (2018): System Initiative on Shaping the Future of International Trade and Investment. Global Value Chain Policy Series Gender; available at: https://www3.weforum.org/docs/WEF_51129_WP_Global_Value_Chain_Policy_Series_Gender_report_2018.pdf

WEF (2018): The Future of Jobs Report 2018; available at: http://www3.weforum.org/docs/WEF_Future_of_Jobs_2018.pdf

World Bank Group (2019): Profiting from Parity: Unlocking the Potential of Women's Businesses in Africa. Washington, DC: World Bank

World Bank Group (2020): The African Continental Free Trade Area; available at: <https://www.worldbank.org/en/topic/trade/publication/the-african-continental-free-trade-area>

World Bank and World Trade Organization (2020): Women and Trade: The Role of Trade in Promoting Gender Equality; available at: <https://www>.

[worldbank.org/en/topic/trade/publication/women-and-trade-the-role-of-trade-in-promoting-womens-equality](https://www.worldbank.org/en/topic/trade/publication/women-and-trade-the-role-of-trade-in-promoting-womens-equality)

Zhuawu and Hilary Enos-Edu H (2021): The African Continental Free Trade Area: An Opportunity for Boosting Women in Trade; available at: https://thecommonwealth.org/sites/default/files/inline/THT-177_UPDF.pdf

ABOUT THE AUTHOR

Nadira Bayat has worked extensively on the gender dimension of the African Continental Free Trade Area (AfCFTA), both as Gender and Trade Expert with UN Women as well as with the United Nations Economic Commission for Africa (UNECA), where she led the approach to gender mainstreaming in AfCFTA national and regional implementation strategies

FES GENEVA

The FES office in Geneva serves as a liaison office between UN agencies, other Geneva-based international organizations and FES field offices as well as partners in developing countries to strengthen the voice of the Global South. It contributes to the debates in »International Geneva« on trade and sustainable development, decent work and social policies, human rights, economic and social rights in particular, as well as on peace and security.

IMPRINT

Published by:

Friedrich-Ebert-Stiftung e.V.
Godesberger Allee 149
53175 Bonn
Germany

Email: info@fes.de

Register no.: VR2392
Bonn Register of Associations
Bonn Local Court

President: Martin Schulz
Secretary General: Dr Sabine Fandrych

Issuing Department: Division for International Cooperation /
Department Global and European Policy

Responsible: Hajo Lanz | Director | FES Geneva
Chemin du Point-du-Jour 6bis | 1202 Geneva | Switzerland
Phone: +41-22-733-3450 | Fax: +41-22-733-3545
<https://geneva.fes.de>

Contact/Order: Christiane.Heun@fes.de

Editing: Carla Welch
Typesetting: Anne Eichhorn
mail@anne-eichhorn.de

The views expressed in this publication are not necessarily those of the Friedrich-Ebert-Stiftung. Commercial use of media published by the Friedrich-Ebert-Stiftung (FES) is not