

The African Union should halt African Continental Free Trade Area (AfCFTA) Negotiations and launch of trading on 1st July 2020.

At its 12th Extraordinary Summit held in Niger, Niamey on 7th July 2019, the African Union Heads of State and Government agreed that trading under the AfCFTA regime commences on 1st July 2020. To actualize this directive, the Assembly directed that the following six (6) initiatives be concluded:

- ✦ AfCFTA product-specific rules of origin covering 90 per cent of tariff lines;
- ✦ A Continental Online Mechanism for Reporting, Monitoring and Elimination of Non-Tariff Barriers.
- ✦ A Pan-African Payments and Settlements System.
- ✦ An Online Portal for Trade in Goods Tariff Negotiations.
- ✦ The AfCFTA Mobile and web-based Application;
- ✦ The African Trade Observatory¹.

Subsequently, the 33rd Ordinary Session of the Assembly of Heads of State and Government of the AU met in Addis Ababa on February 2020 and directed that Member States finalize at least eleven (11) important matters both at national and regional level before 1st July 2020. These are:

- ✦ Finalization of outstanding negotiations on Rules of Origin;
- ✦ Preparation and Submission of Schedule of Tariff Concessions for Trade in Goods;
- ✦ Preparation and submission of Schedules of Specific Commitments for Trade in Services;
- ✦ Preparation of Regulatory Frameworks for Services Sectors (All);
- ✦ Domestication of the AfCFTA Agreement including gazetting of Schedules of Tariff Concessions and Specific commitments;
- ✦ Production and dissemination of trading documents;
- ✦ Designation of AfCFTA National Focal Points to AfCFTA Implementation Institutions;
- ✦ Establishment of AfCFTA national implementation committees and development of the AfCFTA national strategies and Related institutions;
- ✦ Put in place customs management systems and procedures and undertake Policy and Legislative Alignment and Complementary and Facilitation Measures;
- ✦ Undertake popularization of the AfCFTA and capacity building activities;
- ✦ Coordination of implementation & Monitoring of the AfCFTA².

Furthermore, the Assembly directed that Member States finalise Phase 2 negotiations by December 2020 which includes Investment, Intellectual Property and Competition Policy. It was also agreed that negotiations on Electronic Commerce immediately commence after Phase 2.

Due to the COVID-19 Pandemic, negotiations on these outstanding issues have decelerated. To-date, the 11 directives and the 6 initiatives are yet to be addressed with barely two months to the 1st July 2020 deadline. Negotiations for Phase 2 are also yet to commence. However, in spite of all this, there are calls to stick to the deadline of commencing trading under the AfCFTA come 1st July 2020 and to fast-track negotiations on Electronic Commerce using online videoconferencing platforms.

The *demandeurs* argue that adhering to the 1st July deadline will lead to trading in essential goods and services such as pharmaceuticals and personal protective equipment needed to fight the pandemic; and that it would a symbolic victory in a time of crisis.

Our observations

In order to make AfCFTA negotiations and implementation more meaningful and beneficial to all AU Member States and actors like MSMEs, Farmers, Fisherfolks, Workers, and small-scale producers, it is important to provide for more time to finalise all the aforementioned pending issues as mandated by the AU Assembly.

The argument of expediting the negotiations to allow for trading in essential goods and services needed to fight the pandemic such as pharmaceuticals and personal protective equipment is untenable. This is because, according to UNECA, the whole of Africa is critically dependent on imported medicinal and pharmaceutical products, with every

¹. Decision 7 of the Assembly. Available at:

https://au.int/sites/default/files/decisions/37553-ext_assembly_au_dec_1-3_xii_e.pdf

² https://au.int/sites/default/files/decisions/38180-assembly_au_dec_749-795_xxxiii_e.pdf

single African country a net importer of these products. As much as 94% of Africa's total stock of pharmaceuticals are imported³.

The proposal that a special resolution on E-Commerce negotiations be issued so as to promote "anti COVID-19" trade among AU Member States is also debatable. This proposal goes against the directive of the 33rd Ordinary Session of the Assembly of Heads of State and Government⁴ mandating Member States to undertake negotiations on E-Commerce under Phase 3, upon conclusion of Phase 2 negotiations. Furthermore, negotiating E-Commerce hastily to update the AfCFTA rulebook at such an early stage of the development of the internet in Africa would lock in the status quo, engender the widening digital divide, favour only a few corporations, and prepare the African market for an onslaught of foreign goods purchased online. This is against the reality that any E-Commerce outcome in the AfCFTA must promote African businesses, SMEs and create an enabling environment for African consumers and sellers alike.

The proposal for continuing negotiations on outstanding issues under Phase 1 and Phase 2 online through videoconferencing platforms and online written submissions is not a feasible solution given the rate of Internet Usage in Africa which is still abysmally low at 28.2%⁵. The limited access to steady, cost-effective data by many African Government officials still on lockdown to go online to conduct negotiations virtually will be a challenge. It is for this very reason that the Africa Group in the WTO has taken a decision not to use "virtual platforms" or written-response procedures to negotiate⁶. Therefore, going ahead with virtual negotiations will not only exclude key stakeholders i.e. civil society, private sector, farmers, fisherfolk, women and youth groups, Trade Unions among others, but also government officials in many African countries.

The *demandeurs'* claim that there is a silver lining in COVID-19 for Africa to prepare itself in pursuing a "Made-In-Africa" industrial revolution ignores the longstanding structural and systemic challenges facing Africa in its struggle for structural transformation and industrialization. These challenges as identified in the programme for Boosting Intra-Africa Trade (BIAT) have been increased by the COVID-19 pandemic. The hasty launch of the AfCFTA without addressing these critical challenges will not fulfil the intended objectives of structural transformation of African economies. On the contrary, it will simply contribute to creating a bigger African market for further domination by foreign products and investors over African products and investors, and bigger producers over smaller ones.

Proposals on a way forward:

Against this background, we the undersigned Civil Society call upon the AU Member States and the AU Commission to:

- ✚ Halt the launch and all AfCFTA related negotiations in order to allow for AU Member States to focus their efforts and resources on mitigating against COVID-19. This will also give more time for multi-stakeholder consultations. While we support information sharing through virtual means, this should not involve any binding decisions, or lead to negotiations or decision-making on substantive issues on the AfCFTA.
- ✚ Re-assess the timelines for the AfCFTA negotiations and implementation given the pending issues in Phase 1 and the gravity of the issues in Phase 2 and 3.
- ✚ Create space at the national, regional and continental level for African citizens, and their socio-economic groupings i.e. workers, farmers, traders, producers, MSMEs, civil society, private sector to participate effectively in a democratic and transparent process and ensure the reflection of their concerns and views in the negotiations.
- ✚ Publish and avail to stakeholders Information on the AfCFTA texts in a timely and accessible manner to enable their input and effective participation at national, regional, and continental levels.

The undersigned Civil Society Organisations:

³ ECA, " Healthcare and economic growth" (2019). Available at:

https://www.uneca.org/sites/default/files/uploaded-documents/ABHF2019/healthreport_executive_summary.pdf

⁴ 33rd Ordinary Session of the Assembly of Heads of State and Government of the African Union.

⁵. International Telecommunication Union (ITU), Measuring Digital development, Facts and Figures 2019. <https://www.itu.int/en/ITU-D/Statistics/Documents/facts/FactsFigures2019.pdf>

⁶ <https://twn.my/title2/twe/2020/697.pdf>

